

FORM APPROVED COUNTY COUNSEL  
 BY: GREGORY P. PRIAMOS DATE 1/28/16

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

617



**FROM:** Economic Development Agency/Workforce Development Division

**SUBMITTAL DATE:**  
 January 28, 2016

**SUBJECT:** Subcontract, Program Years 2015/17 for Employment Training Panel/University of California Riverside, Extension, All Districts, [\$75,362] State of California Employment Training Panel 100%

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the project is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 and Section 15061(b)(3);
2. Accept \$75,362 in State of California Employment Training Panel funding:

(Continued)

Robert Field  
 Assistant County Executive Officer/EDA

| FINANCIAL DATA  | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost: | POLICY/CONSENT (per Exec. Office)   |
|-----------------|----------------------|-------------------|-------------|---------------|---|
| COST            | \$ 75,362            | \$ 0              | \$ 75,362   | \$ 0          | Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/> |
| NET COUNTY COST | \$ 0                 | \$ 0              | \$ 0        | \$ 0          |   |

**SOURCE OF FUNDS:** State of California Employment Training Panel 100%

**Budget Adjustment:** No  
 For Fiscal Year: 2015/16-2017/18

**C.E.O. RECOMMENDATION:**

APPROVE

BY:   
 Imelda Delos Santos

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley  
 Nays: None  
 Absent: None  
 Date: February 9, 2016  
 xc: EDA

Kecia Harper-Ihem  
 Clerk of the Board  
 By:   
 Deputy

Prev. Agn. Ref.: | District: All | Agenda Number:

FISCAL PROCEDURES APPROVED  
 PAUL ANGULO-CRA AUDITOR-CONTROLLER  
 BY:   
 Esteban Hernandez

A-30  Positions Added  
 4/5  Change Order  
 Vote

**RECOMMENDED MOTION:** (Continued)

3. Approve the contract award of \$61,043 to the University of California Riverside, Extension as a grant partner for the Employment Training Panel, with the balance of \$14,319 dedicated to Economic Development Agency Workforce activities in support of grant administration; and
4. Authorize the Assistant County Executive Officer/EDA, or designee to negotiate and execute the agreements as approved by County Counsel.

**BACKGROUND:**

**Summary**

The Employment Training Panel (ETP) is a State of California employer-supported program that funds incumbent worker training programs with the goal of retaining employees in companies that face out-of-state competition. Since 2004, the Economic Development Agency (EDA) has received ETP funding and partnered with the University of California Riverside, Extension (UCR) to retain over 900 existing employees of local manufacturers.

As a result of the program's ongoing success, EDA submitted a proposal to retrain 114 employees and was awarded the grant at the November 5, 2015 Employment Training Panel meeting. EDA was awarded \$75,362 for fiscal years 2015/16 and 2017/18. EDA is responsible for the administration of the agreement and will subcontract with UCR and other service providers as needed to provide the retraining services.

**Impact on Citizens and Businesses**

ETP Training funds will assist local area businesses in upgrading the skills of their workers through training that leads to higher-paying, sustainable employment. ETP training funds keep current employees up to date on the cutting edge of technology. ETP targets firms threatened by out-of-state competition or who compete in the global economy.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

In fiscal years 2015/16 and 2017/18, \$75,362 will be allocated for the Employment Training Panel Project. EDA expects to spend these funds in FY 2015/16. The performance period for this project is 12/31/15 through 12/30/17. No costs will be incurred by the County and no budget adjustment is required.

**University of California Riverside, Extension (UCR) Agreement**

This Agreement, made and entered into this December 31, 2015, by and between University of California Riverside, Extension (UCR) (herein referred to as "SUBCONTRACTOR"), and the Riverside County Economic Development Agency/Workforce Development Division, (herein referred to as "COUNTY").

WHEREAS, the COUNTY has entered into an Employment Training Panel (ETP) Agreement with the State of California, hereinafter referred to as the "Grantor," pursuant to Federal Employment and Training Programs-Employment Training Panel Funds; and

WHEREAS, the SUBCONTRACTOR is a University of California and has the expertise, special skills, knowledge and experience to perform the duties set out herein.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Description of Services: SUBCONTRACTOR shall provide all services as outlined and specified in Exhibit A, attached hereto and by this reference incorporated herein.

- A. Period of Performance: This Agreement shall be effective as of December 31, 2015, and continue in effect through December 30, 2017 unless terminated as specified in Paragraph F on page 5. It is mutually agreed and understood that the obligation of the COUNTY is limited by, and contingent upon, the availability of ETP funds for the reimbursement of SUBCONTRACTOR'S expenditures during this period of performance. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify SUBCONTRACTOR in writing, via facsimile, or certified mail, return receipt requested, that this Agreement shall be deemed terminated and have no further force and effect. In the event of such termination, SUBCONTRACTOR shall be entitled to reimbursement for services provided prior to and up to termination notification.
- B. Compensation: The COUNTY shall pay the SUBCONTRACTOR for services performed and expenses incurred in accordance with the terms of Exhibit B, attached hereto and by this reference incorporated herein. The total amount of compensation paid to the SUBCONTRACTOR under this Agreement shall not exceed the sum of \$61,043 (sixty-one thousand forty three dollars) unless a written amendment to this Agreement is executed by both parties prior to performance of additional service. Upon completion and a retention period of 90 days, as outlined in Exhibit A, the SUBCONTRACTOR shall submit an invoice and signed attendance sheets, as documentation for payment. Upon receipt of invoice and required documentation, COUNTY agrees to pay the invoice within forty-five (45) calendar days. SUBCONTRACTOR shall invoice one hundred percent (100%) at the end of the 90 day retention period in accordance with COUNTY Policy #16-01, or its successor, Exhibit D attached hereto and incorporated herein and by this reference. SUBCONTRACTOR understands this is a condition for reimbursement.
- C. Hold Harmless-Independent SUBCONTRACTOR: It is understood and agreed that SUBCONTRACTOR is an independent SUBCONTRACTOR and that no relationship of employer employee exists between the parties hereto. SUBCONTRACTOR shall not be entitled to any benefits payable to employees of COUNTY, including COUNTY Workers' Compensation Benefits. COUNTY is not required to make any deductions from the compensation payable to SUBCONTRACTOR under the provisions of this Agreement; and as an independent

SUBCONTRACTOR, SUBCONTRACTOR hereby holds COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties hereto that SUBCONTRACTOR, in the performance of their obligation hereunder is subject to the control or direction of COUNTY merely as to the result to be accomplished by the services to be performed and not as to the means and methods for accomplishing the results.

- D. Insurance: SUBCONTRACTOR shall indemnify and hold COUNTY, its officers, agents and employees, free and harmless from any liability whatsoever, including wrongful death, based or asserted upon any acts or omission of SUBCONTRACTOR, relating to or in any way connected with or arising from the accomplishment of the work by SUBCONTRACTOR. SUBCONTRACTOR further agrees to protect, indemnify and defend at its expense, including attorney fees, COUNTY, its officers, agents and employees in any legal action(s) or claim(s).

Without limiting or diminishing the SUBCONTRACTOR obligation to indemnify or hold the COUNTY harmless, SUBCONTRACTOR shall procure and maintain or cause to be maintained, at SUBCONTRACTOR'S sole cost and expense, evidence for coverage listed below within ten (10) days following execution of this Agreement.

1. Worker's Compensation

If SUBCONTRACTOR has employees as defined by the State of California, SUBCONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California.

2. Commercial General Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, cross liability coverage and employment practices liability, covering claims which may arise from or out of SUBCONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY, its Agencies, Workforce Investment Board (WIB), and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

3. Vehicle Liability

*NOTE: Vehicle Liability-If SUBCONTRACTOR uses vehicles in the performance of this agreement and does not transport participants, paragraph 3a applies. If SUBCONTRACTOR uses hired or chartered transportation, and transports participants, then 3b and 3c applies.*

- a. If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then SUBCONTRACTOR shall maintain vehicle liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. The Policy shall name the COUNTY, its Agencies, WIB, and appointed officials, agents or representatives as Additional Insured.
- b. SUBCONTRACTOR shall maintain vehicle liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate

limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. The policy shall name the COUNTY, its Agencies, as Additional Insured.

- c. If SUBCONTRACTOR elects to transport participants in any manner other than public transportation the SUBCONTRACTOR agrees to maintain, or have their SUBCONTRACTOR providing transportation maintain, vehicle liability insurance with a limit of at least \$5,000,000 per occurrence combined single limit and such insurance shall name the COUNTY, its Agencies, and representatives as Additional Insured.

4. General Insurance Provisions-All Lines

- a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A:VIII (A:8) unless such requirements are waived, in writing, by the COUNTY Risk Manager. If the COUNTY'S Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one (1) policy term.
  - 1) The SUBCONTRACTOR shall cause its insurance carrier(s) to furnish the COUNTY with either: 1) a properly executed original ACCORD Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the COUNTY Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) shall provide no less than thirty (30) days written notice be given to the COUNTY prior to any material modification, cancellation or expiration, or reduction in coverage of such insurance. In the event of material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless the COUNTY receives, prior to such effective date, another properly executed original ACCORD Certificate of Insurance and original copies of endorsements or certified original policies, including all Endorsements and attachments thereto evidencing coverage and the insurance required herein is in full force and effect.
  - 2) SUBCONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so, on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.
- b. The COUNTY'S Reserved Rights, if during the term of this Agreement or any extension thereof, there is a material change in the Scope of Services; or, there is a material change in the equipment to be used in the performance of the Scope of Work, which will add to additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or , the term of this Agreement including any extensions thereof exceeds five (5) years, the COUNTY reserves the right to adjust the types of insurance coverage's currently required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if in the COUNTY

Risk Manager's reasonable judgment, the amount or type of insurance carried by the SUBCONTRACTOR has become inadequate. The requested changes by the COUNTY shall be in line with insurance industry standards and subject to SUBCONTRACTOR'S review and acceptance.

- c. It is understood and agreed to by the parties hereto and the insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary, insurance and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- d. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.
- e. SUBCONTRACTOR agrees to notify the COUNTY of any claim(s) by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

5. Self-Insured:

- a. The SUBCONTRACTOR'S must declare its insurance self-insured retention for coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the COUNTY Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and a the election of the COUNTY'S Risk Manager, SUBCONTRACTOR carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- b. The SUBCONTRACTOR may satisfy the insurance requirements set forth herein by showing that it is a member of a joint powers entity created pursuant to California Government Code §6500, et seq., which provides insurance or self-insurance to the SUBCONTRACTOR for the risks and to the entities set forth herein for which the SUBCONTRACTOR has agreed to provide insurance.

E. Indemnification: The SUBCONTRACTOR shall indemnify and hold harmless the COUNTY of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnities) from any liability whatsoever, based or asserted upon any services of the SUBCONTRACTOR, its officers, employees, SUBCONTRACTOR'S, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of the SUBCONTRACTOR, its officers, employees, SUBCONTRACTOR'S, agents or representatives Indemnitors from this Agreement. SUBCONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the indemnities in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by SUBCONTRACTOR, SUBCONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no

manner whatsoever limits or circumscribes SUBCONTRACTOR'S indemnification to indemnities as set forth herein.

SUBCONTRACTOR'S obligation hereunder shall be satisfied when SUBCONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe SUBCONTRACTOR'S obligations to indemnify and hold harmless the indemnities herein from third party claims.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the SUBCONTRACTOR from indemnifying the indemnities to the fullest extent allowed by law.

- F. Termination: This Agreement may be terminated without cause by either party by giving a thirty (30) day written notice of intention to terminate, and may be terminated for cause by either party by giving five (5) day written notice of intention to terminate. Notwithstanding any of the provisions of this Agreement, SUBCONTRACTOR'S rights under this Agreement shall terminate (except for compensation earned prior to the date of termination) upon SUBCONTRACTOR'S bankruptcy, or in the event of fraud, dishonesty, or a willful or material breach of this Agreement by SUBCONTRACTOR or, at COUNTY'S election, in the event of SUBCONTRACTOR'S unwillingness or inability for any reason whatsoever to perform the duties hereunder.
- G. Conflict of Interest: The SUBCONTRACTOR and its employees will be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates therefore, in administering the Agreement SUBCONTRACTOR will exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends or associates.
- H. Administration: Heidi Marshall, Director of Workforce Development shall administer this Agreement on behalf of COUNTY.
- I. Assignment: This Agreement shall not be assigned by SUBCONTRACTOR, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported assignment of this Agreement by SUBCONTRACTOR without the prior written consent of COUNTY will be deemed void and of no force or effect.
- J. Code of Conduct: The Service Provider agrees to comply with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, and all applicable federal and state laws and regulations, guidelines, and interpretations issued hereto in the execution of the duties and responsibilities under the Agreement.
- K. Alteration: No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
- L. License and Certification: SUBCONTRACTOR verifies, upon execution of this Agreement, possession of a current and valid license in compliance with any local, state, and federal laws and regulations relative to the Scope of Services to be performed under Exhibit A, and that service(s) will be performed by properly trained and licensed staff.

- M. Confidentiality: SUBCONTRACTOR shall observe all federal, state and COUNTY regulations concerning confidentiality of records. SUBCONTRACTOR shall refer all requests for information to COUNTY.
- N. Work Product: All original reports, preliminary findings, or data assembled or compiled by SUBCONTRACTOR under this Agreement become the property of the COUNTY. The COUNTY reserves the right to authorize others to use or reproduce such materials. Therefore, such materials may not be circulated in whole or in part, nor released to the public, without the direct authorization of the COUNTY.
- O. Jurisdiction, Venue, Attorney Fees: This Agreement is to be construed under the laws of the State of California. The parties agree to the jurisdiction and venue of the Superior court in the COUNTY of Riverside, State of California.
- P. Waiver: Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term thereof. Failure on the part of the COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof or stopping COUNTY from enforcement hereof.
- Q. Debarment: Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510 (Lower Tier). The SUBCONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the SUBCONTRACTOR is unable to certify to any of the statements in this certification, SUBCONTRACTOR shall attach an explanation to this Agreement.
- R. Severability: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- S. Funding Restrictions: The SUBCONTRACTOR shall assure funds are used exclusively for activities that are authorized under ETP. Co-mingling and/or diverting of funds to support the activities of other programs are not authorized. Documentation supporting expenditures will be kept on file at the SUBCONTRACTOR'S office and made available at all times for audit and monitoring purposes. Funding of this Agreement is contingent on the availability of federal or state funds and continued federal or state's authorization for program activities and is subject to amendment or termination due to lack of funds or authorization.
- T. Monitoring and Reporting: The SUBCONTRACTOR will comply with controls, recordkeeping and accounting procedure requirements of ETP and County regulations to ensure the proper accounting for funds paid under this Agreement. At such times and in such form, the COUNTY may require statements, records, reports, data and information pertaining to this Agreement be maintained on file for purpose of an audit or examination. Retention of all records for four (4) years after the COUNTY makes final payment and all other pending matters are closed, is required.



- U. Fraud and Abuse: The SUBCONTRACTOR shall establish and implement appropriate internal management procedures to prevent fraud, abuse and criminal activity. Further, the SUBCONTRACTOR shall establish a reporting process to ensure that the COUNTY is notified immediately of any allegation of fraud, abuse or criminal activity or any suspected or proven fraud, abuse or criminal acts committed by staff or participants. If the allegation is of any emergency and/or fiscal nature, it shall be reported to the COUNTY'S Program Operations Unit at (951) 955-3100, and immediately thereafter, a written report shall be submitted. Proof of such report will be maintained in the SUBCONTRACTOR'S file.
- V. Record Retention: SUBCONTRACTOR agrees to retain all records pertaining to this Agreement for a period of three (3) years after termination of this Agreement. If, at the end of three (3) years, there is an ongoing litigation or an audit involving those records, the SUBCONTRACTOR shall retain the records until the resolution of such litigation or audit is completed. The State and the COUNTY reserve the right to monitor and visit, announced or unannounced, the SUBCONTRACTOR'S facilities at any time during normal business hours.
- W. Failure to Perform: Should SUBCONTRACTOR be unable to continue to provide services under the responsibilities outlined in Exhibit A, SUBCONTRACTOR and the COUNTY agree to meet and confer to modify the Scope of Work to ensure program success
- X. Notices: All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one (1) day after their deposit in the United States Mail, postage prepaid:

COUNTY:

Riverside County Economic Development Agency/Workforce Division  
1325 Spruce Street, Suite 110  
Riverside, CA 92507  
Attention: Heidi Marshall, Director, Workforce Development

SUBCONTRACTOR:

University of California Riverside  
1200 University Avenue  
Riverside, CA 92507  
Attention: Bobbi McCracken, AVC Business and Financial Services and Controller

If the name of the person designated to receive the notices, correspondence or communication, or the address of such person is changed, written notice shall be given within five (5) working days of said change.

- Y. Entire Agreement: This Agreement constitutes the entire agreement between the parties. Any modifications to the terms of this Agreement must be in writing and signed by the parties herein.

IN WITNESS HEREOF, the parties hereto have caused their duly representatives to execute this Agreement.

COUNTY:

SUBCONTRACTOR:

By: Heidi Marshall

By: Bobbi McCracken

Title: Director of Workforce Development

Title: AVC Business and Financial Services  
and Controller

Date

Date

COUNTY Counsel  
Approval

FORM APPROVED COUNTY COUNSEL

BY: *Neal R. Kipnis*  
NEAL R. KIPNIS

*12/16*  
DATE

A. SUBCONTRACTOR Roles and Responsibilities:

1. The SUBCONTRACTOR agrees to provide training to qualified businesses located in California and within the limitations set forth in the COUNTY contract with ETP.
2. The SUBCONTRACTOR will provide training in the following disciplines/curriculum. Training will be from 8 to 200 hours in duration.
  1. Continuous Product Improvement
  2. Lean Manufacturing
  3. Manufacturing Skills
  4. Computer Skills
  5. Business Skills
  6. Communication Skills
  7. Management Skills
  8. Literacy Skills
  9. Hazardous Materials
  10. HazWoper
  11. OSHA 10
  12. OSHA 30
3. The SUBCONTRACTOR shall not proceed with any training activities until it receives written authorization from the COUNTY to start training.
4. All marketing activities will be coordinated through the COUNTY. The SUBCONTRACTOR may recruit employers to participate in the ETP training program subject to the employer meeting the eligibility requirements of ETP. The SUBCONTRACTOR shall not negotiate or offer any financial deposit agreements without the written authorization of COUNTY.
5. The SUBCONTRACTOR agrees to provide all materials, books, videos and staff to accomplish the training.
6. The SUBCONTRACTOR will assist the COUNTY in completing all required ETP paperwork and documents that consists of enrollment and attendance records during the course of the training. The SUBCONTRACTOR shall submit required paperwork on a timely basis for all enrollments, completions and retentions. The required paperwork for each payment point shall be submitted to the COUNTY prior to making payment to the SUBCONTRACTOR. The SUBCONTRACTOR shall conduct formal assessments of training needs of the individual participating employers in a specific industry and design curricula based on these assessments. The formal assessments shall be submitted to COUNTY prior to the start of each class.
7. The SUBCONTRACTOR agrees to notify COUNTY of any trainees who discontinue training before the completion of the scheduled training.
8. SUBCONTRACTOR is expected to provide all of the training specified in the agreement.
  1. Provide training to a group of employers
  2. May provide on-site training that provides all training at the individual participating employer's worksite, or center-based training that provides none or only some training at the participating employers worksite

3. Insure participating employers complete a Certification Statement (ETP 100E)
4. Provide to SUBCONTRACTOR a completed (ETP100B) listing eligible employers

**B. County Roles and Responsibilities:**

1. COUNTY shall be responsible for the overall administration of the contract between ETP and the COUNTY. These responsibilities include, but not limited to: verifying company eligibility, verifying the eligibility of the trainees, enrolling trainees, preparing and tracking training, reporting ETP training activities of the SUBCONTRACTOR and the preparation of invoices.
2. COUNTY will provide facilities and staff for all SUBCONTRACTOR onsite training to support the ETP contract.
3. COUNTY will provide monthly reports to the SUBCONTRACTOR detailing plan versus actual training performance.
4. COUNTY will use its best efforts to recruit eligible businesses so that the training goals can be attained. Recruitment activities will be coordinated with the SUBCONTRACTOR. COUNTY will provide staff to perform telephone and field sale activities.



RIVERSIDE COUNTY  
ECONOMIC DEVELOPMENT AGENCY

***POLICIES & PROCEDURES***

Date: December 5, 2003

Number: 16-01 Rev. 12/05/03

**SUBJECT:** EXPENDITURE REPORTING/INVOICING PROCEDURES

**PURPOSE:** Revisions to April 30, 2003 version which provides guidance and direction to Economic Development Agency (EDA) Workforce Development Center (WDC) agreement holders and staff on appropriate invoicing, required substantiating documentation and processing time for such contractual reimbursements. Revisions are underscored.

**REFERENCES:** Workforce Investment Act, §§183(a)(b), 184(a)(1)(2)(3), 185(a)(1)(3), (c)(1)(3), and 199A(c)

Workforce Investment Act, Financial Technical Assistance Guide, July 2002

Office of Management & Budget (OMB) Circular A-87, A-21, A-122

20 CFR 667.300(c)(3)

County of Riverside Board of Supervisors Policy D-1

Contractual Agreement Assurances and Certifications Section  
Compliance with Laws and Regulations

Implements material provisions of Policies and Procedures Draft No. 01-03, dated March 15, 2001

California Employment Development Division Bulletin WIAB03-16, August 19, 2003

Supersedes Field Memorandum No. 00-03, dated April 27, 2000

Supersedes Field Memorandum No. F01-01, dated July 1, 2001

Revises and renames EDA Policy and Procedures No. 16-1, Invoicing Procedures dated April 30, 2003

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DISTRIBUTION: WDB; SP; 0-SP; ADMIN; PPD; FISCAL; PROG. COMP.; CUST.SERV.

## LWIA IMPOSED

**REQUIREMENTS:** Locally imposed requirements are indicated in ***bold, italic*** type.

**EFFECTIVE DATE:** January 1, 2004

## BACKGROUND:

The United States Department of Labor (DOL), through the State of California, provides funding to the Riverside County Local Workforce Investment Area (LWIA) on a cost reimbursement basis. As a result, this form of funding is the basis used to finance the agreements entered into between the LWIA and the agreement holders. Cost reimbursement agreements are defined as those agreements in which the costs, as listed within the specific agreement budget, expended by the agreement holders in providing the goals and services of that agreement are reimbursed in accordance with the terms and schedule of that agreement. An invoice, with required substantiation, shall be submitted demonstrating timely accruals, as required within the agreement. This policy describes the manner in which the invoice and attachments must be completed and submitted.

## POLICY

***Each agreement holder, and any subtier agreement holder shall invoice the County of Riverside on or before the 10<sup>th</sup> of each month for all agreement costs incurred during the previous month. Agreement holders shall attach all backup source documentation as defined for each agreement holder in support of each invoice. This requirement is a condition for reimbursement. The invoice shall be submitted to EDA Planning and Development (PD) Unit for initial processing on a monthly basis. If the 10<sup>th</sup> falls on a weekend or holiday, then the invoice is due on the previous workday. The processing of invoices submitted after the 10<sup>th</sup> of the month will experience delays. Invoices not submitted monthly are considered late, will not go through the normal payment cycle and will be processed accordingly. No invoices will be paid after the annual fiscal closeout.***

***If the agreement holder cannot meet the required invoicing time frame, then the agreement holder must notify the assigned Project Administrator to modify the billing terms in the agreement for submission of monthly accruals and invoices.***

## PROCEDURES

The appropriate invoice form with instructional guidelines will be provided upon execution of each agreement and may be obtained on the Internet at [www.rivcojobs.com](http://www.rivcojobs.com). When submitting an invoice, the agreement holder shall use the following invoicing procedures:

## I. Completing the Invoice

The cover page (page 1) of the Invoice shall be completed as follows:

1. Insert agreement holder's name and address into the appropriate space(s).
2. Insert the invoice number (assigned by the agreement holder) and the agreement number (located on the front of the executed agreement).
3. Insert the duration of the executed agreement and reporting period.
4. Circle appropriate program type and funding title. (Exception: youth invoice)
5. Insert expenditure summary total. This is the total of worksheets B and B1 of the invoice. (Worksheets B, B1, C, C1 and E for youth invoice). These figures are inserted in the current period box on the front page of the invoice expenditure summary block. The Program-to-Date total may not exceed the total annual contract budget amounts.
6. Insert totals for current month expenses less any cash advance not reimbursed to EDA. Insert estimated cash need for next period if necessary. Note: This is not encouraged on a regular basis and if requested, the cash advance worksheet must be completed.
6. Insert the period of time for which actual expenditures are being reported. If the agreement is funded by more than one funding source or contains cost elements to be reported, then separate reporting pages must be completed for each funding title and/or reportable cost element.
7. The certification statement will be read. The person who prepared the invoice form applies his/her signature, phone number, and date submitted in the appropriate spaces. The person who approves the invoice applies his/her signature, name, and title in the appropriate spaces.

**NOTE: The person approving the invoice must be different from the person preparing the invoice.**

## II. Completing the Invoice Worksheets

### A. Budget Columns

Insert budget figures from the agreement into the budget columns.

## **B. Expenditures To Be Reported**

Insert the actual expenditures to be reported into the current billing period columns. If the agreement is funded by more than one funding source and/or contains cost elements to be reported, then separate reporting pages must be completed for each funding title and/or reportable cost element. Expenditures to be reported include, but are not limited to, the following:

1. Participant Wages-If applicable, insert participant wages for the current period.
2. Participant Benefits-If applicable, insert participant benefit amounts as identified in the agreement budget.
3. Staff Costs-Insert the allocated salaries for each staff position identified in the agreement budget.
4. Staff Benefits-Insert actual benefits amount allocated as identified in the agreement budget.
5. Reimbursable Expenditures-Insert expenditures, as well as accrued expenditures to the end of the reporting period.

## **C. Cash/In-Kind/Match Reporting**

If the agreement budget includes a match requirement, the agreement holder shall report and submit detail on the appropriate Cost Reimbursement invoice page monthly. In-Kind claims are those services provided to the program that DO NOT represent actual cost incurred by the agreement holder but that benefit the program. Example: donated time, office space, etc. Cash-match claims are actual costs incurred by the agreement holder for the benefit of the program but are paid from non-federal funding sources.

## **D. Accrual Worksheet**

The Code of Federal Regulations Part 20, §667.300 (c) (3) states: "...Reported expenditures and program income, including any profits earned, must be on the accrual basis of accounting and cumulative by fiscal year of appropriation. If the recipient's accounting records are not normally kept on the accrual basis of accounting, the recipients must develop accrual information through an analysis of the documentation on hand."

Therefore, in compliance with the regulation cited above, all expenditures are to be reported on an accrual basis. The accrual worksheet is to be completed to report accrued, allowable expenditures for the current report period. In the event that an agreement holder is not current in expenditure reporting or if



agreement holder cannot meet the required invoicing timeframe, an accrual worksheet must be completed and submitted on or before the 10<sup>th</sup> day of each month to include all allowable program costs (actual and estimated) beginning from the date of the most recently submitted expenditure report (invoice) through the end of the current reporting period. An explanation of the basis for the accrual must be included. If the 10<sup>th</sup> falls on a weekend or holiday, then the information is due the previous working day. Agreement holders cannot be paid for submitting accruals. Actual invoices must be submitted for payment.

In addition, EDA will maintain an accrued expenditure report in order to monitor compliance with this requirement. Failure to meet this requirement is subject to elements described in section IV C, Penalties.

#### **E. Request for Cash Advance Worksheet**

The agreement holder may, but is not required to, request an advance equal to one month's estimated expenditures (by line item) up to the amount of the line item budget. This is done in order to maintain a sufficient cash flow while waiting for actual expenditures to be reimbursed and is accomplished by completing the worksheet. An explanation of the basis for estimate must be included. Requests must also meet requirements of the EDA cash advance policy and procedures.

**NOTE:** Cash advances cannot be granted on line items that do not appear on the most current, approved agreement budget.

#### **H. Completed Invoice**

The completed and signed invoice is submitted for payment to:

**EDA Workforce Development Division  
Planning and Development Unit  
1151 Spruce Street  
Riverside, CA 92507**

### **III. Supporting Documentation Requirement**

#### **A. Audit Requirement**

Agreement holders receiving federal funds from all sources in an amount equal to or over the dollar amount threshold as indicated in the Office of Management and Budget (OMB) Circular A-133, or its successor, will be required to submit a copy of the current month's general ledger, or its equivalent, and payroll register(s) with each month's invoice.

## **B. No Audit Requirement**

For those agreement holders receiving federal funds in an amount not requiring an audit per OMB Circular A-133, or its successor, a photocopy of the supporting invoice documentation must be submitted for at least the first three invoices of the agreement term or until satisfactory compliance with the acceptable documentation requirements has been met.

When it has been determined that satisfactory compliance has been met, EDA PD staff will then consider the agreement holder to be in a “**sound financial management status.**” The agreement holder then will only be required to submit a copy of the current month’s general ledger, or its equivalent, and payroll register(s) with each month’s invoice thereafter. The agreement holder will receive correspondence from EDA PD staff acknowledging the “sound financial management status.”

## **IV. Verification of Expenditures**

### **A. Fiscal Reviews**

Fiscal monitoring reviews will be done to verify expenditures billed are reasonable, necessary, allowable *and timely*. If backup documentation cannot be provided to support expenses invoiced, the agreement holder may be responsible for repayment of costs. EDA PD staff will conduct a yearly fiscal monitoring and retains the right to conduct more than one fiscal monitoring visit yearly as necessary.

### **B. Special Status**

**If at any time during fiscal reviews it is determined invoices have not been submitted monthly and/or expenditures are not substantiated, the agreement holder will be required to submit backup documentation for a three-month invoicing period and is considered to be on “special status” until such time that all expenditures are submitted or substantiated accordingly.** Correspondence of such status will be submitted to the agreement holder by EDA PD staff. If the agreement holder is able to provide resolution prior to the end of the three-month period, the agreement holder may be released from the “special status.” EDA PD staff will submit correspondence to this effect.

### **C. Penalties**

*Failure to meet reporting requirements may result in withholding of reimbursement of expenditures and/or deobligation of funds. In addition, if it has been determined the agreement holder has not been submitting invoices on a monthly basis, they are considered to be on special status, and future funding may incur up to a 10% penalty for future contract amounts.*

Agreement holders will receive a warning letter on the first occurrence of an untimely invoice. Untimely invoices, thereafter, will incur a 2% penalty, up to a maximum of five occurrences. Any untimely invoice after the fifth occurrence will incur the full 10% penalty or an amount decided at the discretion of the Workforce Development Administrator. Failure to submit monthly invoices timely may also effect scoring of the past performance component for future bidding. Percentages are cumulative. See table.

| Late Invoice Occurrences and Penalty Fees |  |
|---|--|
| First Occurrence                          | Warning Notification                                     |
| Second "                                  | 2% Penalty   |
| Third "                                   | 4% Penalty   |
| Fourth "                                  | 6% Penalty   |
| Fifth "                                   | 8% Penalty   |
| Sixth or more                             | 10% or Discretion of Workforce Development Administrator |

#### **D. Accessibility**

All appropriate documentation as indicated in the Description of Acceptable Back up Documentation section of this Expenditure Reporting, Invoicing and Required Documentation policy must be maintained by the agreement holder and be accessible for review by EDA PD staff upon request. The U.S. Inspector General, the Secretary of Labor, the State of California and the County of Riverside reserve the right to conduct a compliance audit or monitoring of the agreement holder's program at any time during normal business hours.

The County of Riverside reserves the right to monitor and visit, announced or unannounced, the agreement holder's program, including visits to all locations, offices and training sites at any time during normal business hours.

The U.S. Department of Labor, the Office of the Inspector General, the State of California and the County of Riverside shall have access and the right to monitor and/or evaluate all conditions and activities in the agreement and to investigate/audit all records, books, papers or documents related to the conduct of programs funded by the county.

#### **V. Description of Acceptable Back Up Documentation**

The different types of payment documentation include: canceled checks; checks written and the bank statement showing they cleared; and, general ledgers or the equivalent. Invoice payments that cover more than one month must be requested for reimbursement at a monthly allocation rate. Journal vouchers transferring expenditures from one funding source to another must be supported by the originating source documents. In addition, all documentation must identify

allocation across all funding sources. The following list is a description of acceptable substantiating forms of invoice documentation:

**A. Staff Salaries and Benefits**

The agreement holder shall provide payroll register(s) for the current billing period(s) and source documentation supporting the payroll register (i.e. time cards, time study, etc.). Payroll expenses (i.e. payroll benefits, manual payroll checks, etc.) not reported on the payroll register, paid invoice(s), payment request forms or journal vouchers shall be submitted.

**B. Staff Mileage**

Completed mileage logs that specify name of staff person traveling, miles traveled, date of travel, destination and purpose of trip.

**C. Conference/Training and Other Travel Costs**

An agreement holder must follow the specific requirements in their **written** policies and procedures for travel, training, and conferences. In the absence of an operating manual, the amounts specified in County of Riverside Board of Supervisors Policy D-1 (attachment) shall be followed. Further, if the fiscal requirements at the federal, state, or county levels are more stringent than the agreement holder's, the agreement holder must follow those specific requirements.

A completed and approved travel expense claim form must be submitted containing name of staff person, purpose of trip, destination, and both staff and approval signatures, along with the following documentation as applicable:

1. Airfare-Paid invoice to travel agency or photocopy of paid airline ticket billed to staff person for whom the claim has been submitted.
2. Meals-Itemized meal receipt(s). If meals are included in the cost of the training, additional meals purchased will not be reimbursed unless justification can be provided.
3. Lodging-Hotel bill showing all reimbursable expenses billed to staff person for whom the claim has been submitted.
4. Mileage-Completed mileage logs that specify name of staff person traveling, miles traveled, date of travel, destination, and purpose of trip.
5. Agenda and Registration Brochure-Training/Conference information and/or agenda indicating the date, time, and place training/conference was/is to be held and the information to be presented.

6. Other Travel Costs

Travel expense claim, invoice(s), and/or statement(s) for alternate travel costs (i.e. toll roads, Metrolink, Fast Track, etc.) identifying staff person by name, date, and reason for travel.

D. Payroll Services

Paid invoice(s) or payroll service documentation.

E. Insurance and Bonding

Paid invoice(s) or deposits made to bonding accounts.

F. Printing Services and Photocopy Costs

Printing Services

Outside vendor services (i.e. PIP, Kinkos, etc.): Paid invoice(s) and item(s) printed, unless the items are too voluminous, then the cover page and table of contents will suffice.

In-House Printing Services

Printing/Reproduction Request form and item(s) requested to be printed (unless too voluminous), journal voucher, or printing services statement.

Photocopy Costs

A usage fee or per-copy charge can be assigned to either leased or owned equipment as long as the agreement holder is not billing for the expense through another budget line item (i.e. maintenance agreement, etc.). A log documenting direct usage is recommended and preferred if a per-copy charge is used.

G. Office Furniture and Equipment Purchases

Paid invoice(s)

If purchase was for a fixed asset (equipment with a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, including all costs related to the property's intended use) then packing slip(s) with signature of person receiving merchandise is required. Other information may be requested from the agreement holder to meet federal, state, and county imposed property management requirements.

**Note: All office furniture and/or office equipment purchases must be on the Equipment List as identified in the agreement holders contract. In addition, State of California EDD and EDA written approval for tenant improvements and purchases over \$5,000 must be obtained prior to purchase. Current County of Riverside EDA procurement procedures must be followed as presented in Procurement Standards Policy and Procedures, 18-01. A physical inventory may be taken at any time**

during the period the equipment is in the possession of an agreement holder (Code of Federal Regulations (CFR) Part 29 §97.32 (d)(1)). *This must be completed at least once every two years and reconciled with property records as required by CFR, Part 29 §97.32 (d) (2). In addition, all agreement holders must conduct a physical inventory of all property and equipment purchased with WIA funds annually, including subrecipients, and submit an accounting of property/equipment to EDA by date specified.*

#### H. Equipment Lease/Rental

##### Lease/Rental

Copy of the paid invoice or lease agreement outlining the monthly costs and payment schedule is required. Unless the equipment lease/rental is done on a less than arm's length transaction, it is considered a capital lease.

##### Capital Lease

A capital lease can only be applied to the agreement holder's contract on the use allowance method (annual rate not exceeding 6.66% of acquisition cost), depreciation method, or if equipment has been fully depreciated, a reasonable use allowance, if applicable, may be negotiated.

**Note: Amounts billed to an agreement holder's contract can be charged either by the use allowance or depreciation methodology. Adequate property management records must be maintained by the agreement holder to support the methodology used. When the depreciation method is used, adequate depreciation records indicating the amount of depreciation taken each period must be maintained as well.**

#### I. Equipment Repairs and Maintenance

Paid invoice(s) identifying specific equipment purchased, the maintenance agreement and length of coverage, or repairs performed.

#### J. Facility Rent/Lease

##### Rent/Lease

Paid invoice or, if no invoice is provided by the vendor, a copy of the lease/rental agreement outlining payment schedule. Agreement holder must maintain a current copy of the executed rental/lease agreement on file. If the equipment lease/rental is done on a less than arm's length transaction, then it is considered a capital lease.

##### Capital Lease

A capital lease can be applied to the agreement holder's contract on the use allowance method (annual rate not exceeding 2% of acquisition cost), depreciation method, or if the asset(s) has been fully depreciated, then a reasonable use allowance, if applicable, may be negotiated.

**Note: Amounts billed to an agreement holder's contract by either the use allowance or adequate property management records must support depreciation method. When the depreciation method is used, adequate depreciation records indicating the amount of depreciation taken each period must be maintained.**

**K. Utilities (not included and identified in the lease or rental agreement)**

Paid invoice(s) identifying physical location of service.

**L. Telephone**

Paid telephone and cell phone invoice(s), excluding the detail sheets of the phone statement.

**M. Postage**

Stamps

Pre-payment request form and receipt(s) for purchase of stamps and/or journal voucher and statements from central mail services. A log documenting direct usage is recommended and preferred.

Metered Postage

Prepayment request form for the postage meter replenishment and/or journal vouchers and statements from central mail service.

Outside Delivery Service

Paid invoice and detail page(s) identifying the cost being billed to the agreement holder's contract. [i.e., Federal Express (Fedex), United Parcel Service (UPS), etc.]

**N. Advertising and Outreach**

Advertising

Paid invoices for newspaper ad(s) with tear sheet, television or radio contract, containing all details such as dates, times, and script(s) attached.

Outreach

Expense claim with receipts. Reasons for reimbursement are to include details pertaining to each outreach, such as when, where, why, and how.

**Note: All advertising must be pre-approved through the Project Administrator assigned to the contract.**

**O. Subscriptions/Professional Dues**

Paid invoice(s) indicating delivery dates or period.

**P. Audit Fees**

Paid invoice(s). (Only allowable if the agreement holder is required to have an audit performed according to the OMB A-133 or its successor.)

**Q. Consumable Supplies**

Outside Vendor

Paid itemized invoice(s).

General Supply Department (GSA)

Supplies purchased through GSA need purchase request and/or signed shipping documents, whichever shows actual purchase price of items received.

**Note: Consumable supplies are paper, pencils, pens, paperclips, etc.**

**R. Janitorial Service**

Paid invoice(s) showing date(s) of service.

**S. Tenant Improvements**

Paid invoice(s) must be signed off by an architect, engineer, or designated contract administrator to verify the work billed for was completed. The vendor contracted to perform the work cannot sign off on his or her own work.

**Note: All tenant improvements must be part of the pre-award negotiations and must be substantiated with a description of the modifications required and all bids received by the agreement holder and/or estimates. Current EDA Procurement Standards Policy and Procedures 18-01 must be followed. Before tenant improvement(s) may commence, the agreement holder must submit all final bids selected for consideration to EDA PD staff for review. State of California EDD approval may be required. Therefore, the agreement holder must have written approval from EDA prior to the final selection of vendor/contractor. An executed copy of the signed contract must be sent to EDA PD staff assigned to the agreement. The agreement must contain a detailed outline of the work to be completed and the payment schedule within the agreement.**

**T. Training Materials**

Paid invoice(s) for materials used for training participants.

**U. Youth Incentives**

The Payment Request form with approved authorizing signature(s) indicating which funding stream dollars are to be applied against. Skills attainment



information indicating the date(s) participant attended. **Dollars will not be reimbursed for amounts paid higher than what is set forth in the Youth Incentive Policy and Procedures, number 19-09, June 18, 2003.**

**V. Indirect Staff Costs**

Indirect cost rates can be charged up to the maximum rate approved, but must be pre-approved by the agreement holder's assigned Project Administrator. The indirect cost letter from the authorizing authority must be maintained in the agreement holder's files at all times. If the approved rate changes at any point during the contracted period, the agreement holder must notify their assigned Project Administrator and submit a copy of the approval letter from the authorizing authority.

**VI. Payment Processing**

It is herein stated that scheduled processing time to issue payments is 45 calendar days from the date of receipt of a complete and accurate invoice form as reviewed and accepted by EDA PD unit, with such acceptance documented with a date stamp to reflect day of receipt.

**VII. Cost Allocation Plan Grid**

Agreement holders must provide a cost allocation plan grid prior to agreement execution. It must be maintained and updated to include any information regarding additional revenue or grants. Changes to the cost allocation plan grid must be communicated to the Project Administrator assigned to the contract upon receipt and no later than ten working days from date of change.

Please refer any questions or concerns regarding this Policy and Procedures to EDA Workforce Development's Program Development Manager.



Jerry Craig  
Workforce Development Administrator

jc/kf/lr/sk/ep/kmp  
Attachments

Payment Schedule

1. The COUNTY shall pay the SUBCONTRACTOR for training services provided in accordance with the terms of Exhibit A, attached hereto.

Types of Training Services to be provided:

Training will be from 8 to 200 hours in duration.

13. Continuous Product Improvement
14. Lean Manufacturing
15. Manufacturing Skills
16. Computer Skills
17. Business Skills
18. Communication Skills
19. Management Skills
20. Literacy Skills
21. Hazardous Materials
22. HazWoper
23. OSHA 10
24. OSHA 30

2. Payment shall be made as follows.

- A. The SUBCONTRACTOR may earn a fixed amount hourly rate (determined by the State of California Employment Training Panel) for each Company as follows:

| Company   | Hourly Rate/Per Trainee/Per Hours of Training |
|---|---|
| <b>Job #1-</b> A company in a priority industry that has more than 100 employees worldwide.       | \$ 15.58                                      |
| <b>Job #2-</b> A company is not in a priority industry and has more than 100 employees worldwide. | \$ 12.97                                      |
| <b>Job #3-</b> A company in a priority industry that has less than 100 employees worldwide.       | \$ 22.52                                      |

**Total Program Reimbursement Not to Exceed \$ 61,043**

*\*Priority industries identified in the ETP Strategic Plan include manufacturing and high technology (including high tech services, biotechnology, and multimedia entertainment) and construction. Priority industries are identified, via the company's NAICS code.*

ETP Agreement  
ET16-0213

Riverside County Economic Development Agency Training Project

This ETP Funding Agreement (Agreement) is entered into between the Employment Training Panel (ETP or Panel) and Riverside County Economic Development Agency (Contractor).

This Agreement is for the reimbursement of training costs by the Panel pursuant to its authority at Unemployment Insurance Code Section 10200 *et seq.* The term is from December 31, 2015 to December 30, 2017. Said reimbursement shall be disbursed from the Employment Training Fund in a total amount not to exceed \$75,362 (Approved Amount).

This Agreement consists of five Sections and four Exhibits, as shown below:

Section 1.     Recitals  
Section 2.     Representations  
Section 3.     Performance Standards  
Section 4.     Payment Details  
Section 5.     General Provisions

Exhibit A:     Chart 1  
Exhibit B:     Menu Curriculum  
Exhibit C:     Subcontracts  
Exhibit D:     Definitions

Exhibits A through D are hereby incorporated-by-reference as part of this Agreement, as if fully set forth herein.

1.   Recitals

The parties are entering this Agreement to promote a healthy labor market in California. The purpose of this Agreement is to reimburse training costs from the Employment Training Fund in keeping with ETP program goals at Unemployment Insurance Code Section 10200 *et seq.*

In entering this Agreement, the parties recognize the value of training, particularly the need for California employers to remain competitive in a global business environment. The parties agree that good and valuable consideration exists for this Agreement.

## 2. Representations

- 2.1 Legislative Appropriation: Contractor understands that payment under this Agreement is valid and enforceable only if sufficient funds are appropriated in the State Budget Act for the relevant Fiscal Year. Payment under this Agreement is subject to any additional restrictions, limitations or conditions imposed by the Legislature, in the Budget Act or otherwise. If sufficient funds are not appropriated or otherwise made available for disbursement from the Employment Training Fund as needed for this Agreement, the Panel's liability for payment shall be limited to available funds and payment shall be disbursed only for the actual hours of training delivered as of the date Contractor receives a Notice of unavailable funds from ETP.
- 2.2 Incremental Encumbrance: This Agreement shall be incrementally encumbered insofar as only a percentage of the total Amount Approved will be made available for payment in the first and subsequent Fiscal Year(s).
- 2.3 Development Fees: Contractor represents that ETP funds will not be used to pay for any fees or costs incurred prior to the Panel's approval of funding under this Agreement.
- 2.4 Criteria for Participating Employers: Contractor is aware that all participating employers must be subject to paying the Employment Training Tax for each trainee. Contractor is aware that all participating employers must face out-of-state competition, unless funded under Special Employment Training. Contractor is aware that all participating employers must have no more than a 20% turnover rate in the prior calendar year. Contractor is aware that training agencies are not eligible as Participating Employers.
- 2.5 Funding Limitations: Contractor is aware of Funding Limitations established by the Panel and published on the ETP Website as of the effective date of this Agreement. Contractor represents that it will adhere to these Limitations in its recruitment and selection of Participating Employers.
- 2.6 Confidentiality: The Panel represents that trainee Social Security Numbers will only be used to access trainee employment and wage history in the Unemployment Insurance data base maintained by the Employment Development Department. The Panel represents that trainee demographic information will only be used to compile statistical data, in the aggregate. The Panel represents that the Social Security Numbers and demographic information will be maintained in confidence using administrative, technical and physical safeguards. Contractor understands that it is solely responsible for obtaining this confidential information from the participating employers or trainees, along with any written release it deems necessary. ETP represents that there is no statutory or regulatory requirement for a written release.
- 2.7 In-Kind Contribution: Contractor represents that participating employers will make a financial commitment to training and will not use ETP funding to displace their own training resources. In addition, Contractor represents that In-Kind Contributions of at least \$55,857 will be made to the cost of training, through wages paid during the hours of training by participating employers and other valuations made in accordance with Title 22, California Code of Regulations (CCR), Section 4401.1.
- 2.8 Substantial Contribution: Contractor understands that its reimbursement will be reduced by either 15% or 30% for the purpose of making a Substantial Contribution to the cost of training if a participating employer(s) earned payment under a prior ETP Agreement, under

the standards set forth in Title 22, CCR, Section 4410. (See also Reimbursement Rate in Section 4.)

- 2.9 Job-related Training: Contractor represents that training will be in job-related skills.
- 2.10 Compensation During Retraining: Contractor is aware of the standards for compensating incumbent employees during "mandatory" training in accordance with state and federal work orders.
- 2.11 HUA Wage Modification: Contractor represents that post-retention wages will exceed pre-retention wages for trainees receiving the High Unemployment Area (HUA) wage modification, in accordance with Title 22, CCR, Section 4429(e).
- 2.12 Charges to Trainees: Contractor understands that it cannot charge tuition, fees, or costs to trainees for training funded under this Agreement without prior written approval by the Executive Director of ETP.
- 2.13 Tuition Reimbursement: Contractor represents that it will not charge, or will fully reimburse trainees for any tuition, fees, or costs they may have already paid for training that is funded by ETP.
- 2.14 Nondiscrimination: Contractor represents that participating employers will be "equal opportunity" employers compliant with all state and federal laws pertaining to fair employment practices.
- 2.15 Trainer Credentials: Contractor represents that training will only be delivered by instructors who are competent in the subject matter. Contractor represents that: a) instructors will satisfy certification and licensing requirements as may be applicable; b) any trainee who is also a trainer will complete all class/lab hours in each topic of training prior to delivery of training on that topic.
- 2.16 Responsibility: Contractor understands that it is directly responsible for the administration and delivery of all training funded under this Agreement.
- 2.17 Liaison: Contractor represents that it will fully inform all participating employers about their rights and obligations under the training project funded under this Agreement, and will periodically review their participation for compliance with the performance standards of this Agreement. Contractor represents that it will promptly inform ETP of any discrepancy or problem regarding the role or performance of participating employers under this Agreement.
- 2.18 Professional Employer Organization: Contractor understands that participating employers may only use the services of a PEO if, under their services agreement, they operate as co-employers. This means the participating employers must not fully relinquish the responsibility to pay wages; make benefit payments; and withhold, collect, report and remit payroll-related taxes, including the Employment Training Tax. Contractor understands that participating employers must retain the exclusive right to direct and control the work performed by trainees during retention, and to set the amount of their post-retention wages.
- 2.19 Misrepresentation: Contractor understands that any misrepresentation of material fact made by it or its agent to the Panel or ETP staff, whether set forth herein or otherwise, constitutes grounds for immediate termination of this Agreement.

- 2.20 Union Representation: Contractor represents that participating employers will be required to submit union letters of support for all trainees that are represented.
- 2.21 Permanent Full-Time Hire: Contractor understands that payment cannot be earned for any trainees unless they are hired on a permanent full-time basis by a participating employer, before starting retention (See Payments Section 4.4.4). However, trainees may begin training while still employed by a temporary employment agency, or while employed by a participating employer on a part-time basis.

3. Performance Standards

3.1 Payment Earned: Contractor shall not be entitled to retain the Progress Payments or Final Payment for any trainee unless it demonstrates compliance with the requirements set forth in this Agreement. (See definition of Payment Earned in Exhibit D.) Contractor must demonstrate compliance using ETP procedures, to the sole satisfaction of ETP.

3.2 Hours of Training: Reimbursable hours of training will vary depending on the method of delivery. Advanced Technology (AT) is considered a method of delivery for this purpose. Class/Lab includes Videoconference, Simulated Laboratory and Productive Laboratory. Class/Lab may be delivered by the E-Learning methodology.

3.2.1 Class/Lab/Videoconference: Reimbursement is for actual hours of attendance, within the range of hours for each Job Number as identified in Exhibit B, Menu Curriculum and in Exhibit A, Chart 1. Each trainee must attend training for the minimum number of hours for payment to be earned, and payment cannot be earned for attendance beyond the maximum number of hours.

3.2.2 Range of Hours: Reimbursement for retraining is capped at 200 total training hours per-trainee.

3.3 Retention: All trainees must be employed by a participating employer on a full-time basis, with wages reported in California, for the applicable hours and time period of retention by Job Number. Retention cannot begin until the end of all training per-trainee, and must be completed within the term of this Agreement.

Job Number: 1    Job Description: Priority/Retrainee

Job Number: 2    Job Description: Retrainee

Job Number: 3    Job Description: Priority/SB<100

Retention is at least 90 consecutive days full-time with one employer. Full-time employment means 35 hours per week.

3.4 Post-Retention Wage: All trainees must earn at least the Post-Retention Wage identified for the county or region in which trainees are employed. Health benefits (employer share-of-cost for medical, dental and vision care) may be included in wages.

Job Number: 1    Job Description: Priority/Retrainee

Job Number: 2    Job Description: Retrainee

Job Number: 3    Job Description: Priority/SB<100

Trainees must earn at least \$15.07 per hour for Riverside and San Bernardino Counties; \$16.02 per hour for Orange County; and \$15.97 per hour for Los Angeles County.

3.5 Trainee Eligibility: All trainees must meet the eligibility standards set forth in Unemployment Insurance Code Section 10201(c). Moreover, the Contractor's own employees are not eligible for training under this Agreement.

- 3.6 Managers and Supervisors: Managers and Supervisors must not exceed 20% of the total trainee population in Job Number(s) 1 & 2, as shown in Exhibit A, Chart 1. Otherwise, all trainees must be "frontline workers" within the meaning of Title 22, CCR, Section 4400(ee).
- 3.7 Top-Level Executives: Payment cannot be earned for Top-Level Executives who set company policy. Trainees employed in the occupation of President, Vice-President, Director, Chief Executive Officer, Chief Investment Officer, Chief Financial Officer, Chief Counsel, General Counsel, Chief Operating Officer and similar capacities are presumed to be Top-Level Executives. That presumption will be rebutted if the occupation(s) is identified in Exhibit A, Chart 1.
- 3.8 Enrollment: Eligibility for enrollment must be established prior to the start-of-training. To establish eligibility, Contractor must provide ETP with each trainee's Social Security Number. (See also Payments in Section 4.) Eligibility must be established, and enrollment must be reported, in the form and manner prescribed by ETP.
- 3.9 Multiple Enrollment: A trainee cannot be enrolled in the same Job Number more than once within the same project. A trainee can be enrolled in another Job Number, but only after having completed the minimum number of hours designated for the Job Number in which originally enrolled, and having satisfied the retention and minimum wage requirements applicable to the original Job Number. Thus, enrollment in another Job Number must follow Final Payment under the original Job Number.
- Upon enrollment in another Job Number, a trainee must again satisfy the retention and minimum wage requirements, as applicable. The retention requirement cannot be satisfied simultaneously for more than one Job Number.
- 3.10 Training Ratio: The trainer-to-trainee ratio must not exceed 1:20 for Class/Lab training.
- 3.11 Out-of-State Vendor: No training may be delivered by an out-of-state vendor without prior written approval by ETP. Contractor must provide ETP with written notice of proposed services by an out-of-state vendor at least seven working days in advance, in the form and manner prescribed by ETP.
- 3.12 Occupations: Training shall be funded only for trainees working in the occupations approved by the Panel for each Job Number, as shown in "Exhibit A, Chart 1."
- 3.13 Relocation: Contractor will be liable for repaying ETP for any training funds received, for any Participating Employer that relocates or closes the California facility at which training was provided to a location out-of-state; or transfers trainee jobs to a location out-of-state, within three years of termination of this Contract. The repayment demand will be made at the discretion of the Panel in accordance with the standards set forth in Title 22, CCR, Section 4446.5. The voluntary transfer by one or more employees to another facility located outside of California, absent facility relocation, does not constitute a relocation or closure under this Section.



#### 4. Payment Details

- 4.1 Reimbursement Rate: Contractor will be reimbursed at an hourly rate per trainee, based on the delivery method and type of training. (See definition of Reimbursement Rate, Exhibit D). All Laboratory, E-Learning, and Videoconference training is reimbursed at the Class/Lab rate.

If a participating employer is responsible for making a Substantial Contribution, the rate will be adjusted accordingly by either 15% or 30% accordingly to the standards in Title 22, CCR, Section 4410. (See Substantial Contribution in Section 2.)

In Job Number 1 the hourly rate is \$18 per-trainee for Class/Lab Training in accordance with the types of training identified in Exhibit B, Menu Curriculum.

In Job Number 2 the hourly rate is \$15 per-trainee for Class/Lab Training in accordance with the types of training identified in Exhibit B, Menu Curriculum.

In Job Number 3 the hourly rate is \$26 per-trainee for Class/Lab Training in accordance with the types of training identified in Exhibit B, Menu Curriculum.

- 4.2 Support Costs: Contractor will also be reimbursed up to \$4,842 for outreach and recruitment of participating employers by an 8% adjustment to the Program Costs for Job Number(s) 1-3. (See Contract Totals in Exhibit A, Chart 1 and definition of Program Costs in Exhibit D.)

- 4.3 Curriculum: ETP reimbursement is limited to the types of training approved for a given Job Number as shown in "Exhibit B: Menu Curriculum."

Literacy Skills is limited to 45% of the total training hours within the meaning of Title 22, CCR, Section 4420.

- 4.4 Payments: A trainee must be enrolled and must have completed at least 8 hours of training before any payments will be made. Payments may be made in three stages on a per-trainee basis, by Job Number.

4.4.1 The first Progress Payment (P1) will be approximately 25% of the Average-Cost-per Trainee, payable upon enrollment and after the first eight hours of training.

4.4.2 The second Progress Payment (P2) will be paid upon completion of all training hours. Progress Payment (P1) and (P2) combined cannot exceed 75% of the Actual Cost per trainee within the range of training hours specified in Chart 1 for each Job Number.

Trainees invoiced for P2 will be deemed to have entered into the retention period applicable to the Job Number in which originally enrolled.

4.4.3 The Final Payment (F) is payable at the end of retention, based on hours of training actually completed with reference to the minimum and maximum hours.

- 4.5 Wage Reporting: Contractor must report the actual hourly wage paid for each trainee at the completion of retention. This information is used by ETP to verify full-time employment.

- 4.6 Administrative Costs: The hourly reimbursement rate includes an allowance for training administration. Administrative costs funded by ETP shall not exceed 13% of payment earned for Retraining and 20% of payment earned for New-Hire training.
- 4.7 Invoicing: Contractor must submit timely and accurate invoices for the Progress Payments and Final Payment, using the form and manner prescribed by ETP. The Fiscal Closeout invoicing should be submitted to ETP no later than 30 days after this Agreement has terminated.
- 4.8 Fiscal Closeout: Payments will be made by invoice on a per-trainee basis. The total payments must be reconciled for all trainees taken as a whole at the time of Fiscal Closeout.
- 4.9 Suspend Payment: ETP may, at its sole discretion, suspend or withhold any payment if it appears Contractor has or will fail to perform its obligations under this Agreement. ETP shall give Contractor written Notice of the suspension/withhold and provide a reasonable opportunity for cure. This right to suspend or withhold payment is in addition to, and may be exercised concurrent with, termination.
- 4.10 Overpayment: The Progress Payments and Final Payment will not be earned until all performance standards and any other conditions of reimbursement have been satisfied. Contractor must promptly repay ETP for any overpayment identified at Final Closeout, or in a subsequent Audit. Repayment must include statutory interest computed from the first day of the month following the overpayment.
- 4.11 Unearned Payment: All unearned payments shall be returned to ETP with statutory interest computed from the first day of the month following the date the funds are received. If the Contractor petitions for bankruptcy, ETP shall be listed and scheduled as a creditor.
- 4.12 Liability Offset: Payments made or earned under this Agreement may be used to offset any outstanding financial liabilities owed under a prior Agreement at the sole discretion of ETP. This provision shall remain in full force and effect until the funds owed have been repaid, including statutory interest.

5. General Provisions

- 5.1 Party Intent: In the event of ambiguity, the intent of the parties shall be construed in accordance with the written proposal (ETP 130) and open-meeting discussions at the time the training proposal was considered by the Panel. In construing intent, the parties also agree to abide by the definitions set forth in Exhibit D of this Agreement. Otherwise, words and phrases shall be given their common English meaning. Section headings are for convenience only, and not to be used to determine any of the rights or obligations of the parties.

In the event of a material discrepancy between the text of this Agreement and Exhibit A, Chart 1, the latter shall prevail; but for wages in which case Post-Retention Wage in Section 3 shall prevail. All such discrepancies are subject to correction by Amendment.

- 5.2 Severability: If any provision of this Agreement is held illegal, invalid or unenforceable in whole or in part it shall be modified to the minimum extent necessary; and, the remaining provisions shall not be affected thereby.
- 5.3 Subcontractor Identification: Contractor must identify all subcontractors as they become known, prior to and during the term of this Agreement, in the form and manner prescribed by ETP. In so doing, Contractor must provide at least the following information: business name and address; contact person name, title, address, phone and email; description of services to be provided; and fees or rate payable.
- 5.4 Subcontract Terms: Contractor may subcontract with a third party for training or administrative services in connection with this Agreement. ETP shall not be named as a party on any subcontract. A subcontract for administrative services must be in writing, and must be filed with ETP prior to its effective date. A subcontract or oral agreement for training services must be disclosed and its terms made available to ETP upon demand. An administrative subcontract must incorporate the provisions set forth under "Exhibit C: Subcontracts." ETP reserves the right to monitor the delivery of services under any subcontract. Contractor shall use best efforts to correct performance problems identified by ETP as a result of monitoring.
- 5.5 Participating Employers: Contractor must identify all participating employers as they become known, prior to and during the term of this Agreement, in the form and manner prescribed by ETP. In so doing, Contractor must provide at least the following information: business name and address; contact person name, title, address, phone and email. Contractor may charge participating employers a refundable or nonrefundable deposit as specified in a mutual written Agreement signed by both parties, upon prior review and approval by ETP, as set forth in Title 22, CCR, Section 4409.1.
- 5.6 ETP Name: Any material used to promote this training project, and any other writing that uses the ETP name or logo, must be approved in advance by ETP.
- 5.7 Audits: ETP has the right, during normal business hours, to examine or audit any and all electronic or paper records, and documents related to the delivery of services, including accounting source payroll documents, under this Agreement to the extent it deems necessary. This right begins upon the effective date of this Agreement, and extends to 4 years from termination of this Agreement or 3 years from Fiscal Closeout or appeal resolution, whichever is later. Audits will be conducted in accordance with Generally Accepted Government Auditing Standards and may utilize statistical sampling with

extrapolation of an error rate.

- 5.8 Online Tracking: Contractor must use the ETP Online Class/Lab Tracking System to upload/enter attendance data. Contractor must upload/enter this data within 90 days of the date of training delivery.
- 5.9 Monitoring Access: Contractor shall ensure that ETP has access to its facilities or those of a participating employer or training vendor as needed to monitor performance under this Agreement. Contractor shall use best efforts to ensure that ETP also has access to trainers and trainees for the purpose of performance-related interviews. During the term of this Agreement, all Rosters and any other pertinent records of training delivery or cost must be maintained at the Contractor's central facility in California.
- 5.10 Rosters: Contractor must maintain the originals of all training attendance Rosters for a period of not less than 4 years from termination of this Agreement or 3 years from Fiscal Closeout or appeal resolution, whichever is later. All Rosters and any other pertinent records of training delivery or cost must be maintained at the Contractor's central facility in California.
- 5.10.1 Class/Lab: Contractor must obtain from the participating employers, and maintain (as stated above), the original Class/Lab Rosters in hard-copy signed by each trainee and instructor. There is no exception for participating employers using a Learning Management System or other electronic recordkeeping for the Class/Lab method of delivery, including Productive Lab.
- 5.11 Termination without Cause: Either party may terminate this Agreement without cause by serving written Notice at least 30 calendar days in advance.
- 5.12 Termination with Cause: ETP may terminate this Agreement immediately, without serving advance Notice, if it determines at its sole discretion that Contractor or its agent has engaged in fraud, misrepresentation or other egregious conduct in connection with this Agreement, or has violated any law pertinent in the course of meeting its obligations under this Agreement. In the alternative, ETP may terminate this Agreement for a defect in performance or related problem by serving written Notice at least 30 calendar days in advance, and giving Contractor at least that time period as an opportunity to cure the defect or problem, as determined in its sole discretion.
- 5.13 Indemnification: Contractor shall defend, indemnify and hold harmless ETP along with its Panel, officers, employees or agents from and against any and all claims, complaints, demands, actions, causes of action, liabilities, losses, damages, judgments, awards, fines, settlements, costs or expenses including reasonable attorney's fees arising under this Agreement (Claim). As used herein, the term Claim specifically encompasses proprietary software subscription or licensing rights. The provisions of this section shall apply to any Claim based on the action or omission of Contractor or its officers, employees, agents or vendors, whether joint or several. ETP shall provide Contractor reasonable assistance in the defense of any Claim. However, ETP reserves the right to defend against a Claim or settle a Claim on its own behalf. Contractor shall not defend or settle in the name of ETP without prior written consent by the signatory of this Agreement for ETP. The parties shall give each other prompt written Notice of any Claim.
- 5.14 Governing Laws: This Agreement shall be governed by the laws of the State of California. Contractor shall comply with all applicable federal, state and local laws.

- 5.15 Forum State: The parties agree that any legal action arising under this Agreement, including mediation or arbitration, shall take place in Sacramento, California.
- 5.16 Survival: The following provisions of this Agreement shall survive its termination: Relocation, ETP Name, Audits, Rosters, Indemnification, Governing Laws, Forum State, Successor Corporation, and Notices.
- 5.17 Waiver: No delay or failure by either party to exercise or enforce provision of this Agreement shall be considered a waiver thereof. In order to be valid, a waiver must be in writing. A single waiver shall not constitute a continuing or subsequent waiver.
- 5.18 Other Funds: Contractor shall immediately serve ETP with Notice of any other government funding that is or may be applied to the cost of training under this Agreement. Cost reimbursement by ETP under this Agreement cannot displace, but must supplement, any other government funding. ETP reserves the right to reduce payments or demand the return of overpayments that result from said displacement.
- 5.19 Assignment: Contractor shall not assign any rights in, nor delegate any obligations under this Agreement or any portion hereof, without prior written consent by ETP.
- 5.20 Successor Corporation: This Agreement shall be binding on and inure to the benefit of the surviving corporation or other business entity in the event of Contractor's merger. (Corporations Code Section 1107.) This Agreement shall be binding on and inure to the benefit of the surviving person or entity in the event a controlling interest in its assets or operations is purchased, acquired or transferred, in which case ETP may require the survivor to enter a written Assumption of Liability.
- 5.21 Entire Agreement: This is the entire Agreement between the parties and it supersedes any prior or contemporaneous communication or understanding between them (written or oral).
- 5.22 Modifications: Certain terms and conditions of this Agreement may be modified at the request of Contractor with the written approval of ETP so long as there is no increase in the approved amount of funding, and no change in the scope or intent of training.

Modifications are restricted to the following:

- a) Add or delete a Job Number except for Apprentices;
- b) Expand or reduce the Estimated Number of Trainees in a Job Number;
- c) Change the trainee Occupations in a Job Number except for Apprentices;
- d) Redistribute the Estimated Number of Trainees funding between Job Numbers;
- e) Add to or delete training courses identified in the Exhibit B, Menu Curriculum;
- f) Change or extend the term dates;
- g) Revise range of hours so long as there is no change to the per-trainee cap on hours;
- h) Add health benefits to wages or change the amount of health benefits to be included in wages;

- i) Correct a material discrepancy between the text of this Agreement and Exhibit A, Chart 1. (See Party Intent in Section 5)

If ETP approves a Modification pursuant to (a) through (i) above, it will prepare a written Modification indicating the effective date, and transmit a copy of same to Contractor. Modifications cannot be made after termination of this Agreement.

5.23 Amendment: With the exception of Modifications as provided for above, this Agreement may not be amended except in a writing that is signed by both parties. An Amendment or Modification can only be made based on the mutual agreement of the parties. Amendments cannot be made after termination of this Agreement.

5.24 Notices: All Notices in connection with this Agreement must be in writing, and shall be effective upon receipt. Notice of termination or material breach and final notice of overpayment must be delivered by certified U.S. Mail with return receipt requested, or by a commercial courier with receipt. Otherwise, Notices may be delivered by U.S. Mail, commercial courier, FAX or email. All Notices to ETP must be addressed to the manager of a regional office or the Sacramento headquarters office, as appropriate to the subject matter.

All Notices to Contractor must be addressed to the authorized representative identified below. This same representative is designated as the contact person for general inquiries by ETP.

The parties agree to keep each other informed as to any change in the contact information for their representatives.

Name and job title: Wendy Merlino, ETP Project Administrator

Email address: WMerlino@RivCoEDA.org

Mailing address with zip code: 1325 Spruce Street, Suite 110, Riverside, CA 92507

Phone number: 951-955-9742

Fax number: 951-955-3310

**Contractor and ETP agree to the terms and conditions in this Agreement by signature of their authorized representatives set forth below:**

Contractor

Heidi Marshall  
Signature/Date

Heidi Marshall, Director  
Printed Name/Title

ETP

Stewart Knox  
Signature/Date

Stewart Knox, Executive Director  
Printed Name/Title

FORM APPROVED COUNTY COUNSEL

BY: Neal R. Kipnis DATE: 11/19/16

**Exhibit A: Chart 1**

| Training Data |   |   |  | Payment Schedule |          |                          |  |             |             |                      |                             |
|---------------|---|---|--|------------------|----------|--------------------------|--|-------------|-------------|----------------------|-----------------------------|
| 1             | 2   | 3   | 4                                      | 5                | 6        | 7                        | 8  | 9           | 10          | 11                   | 12                          |
| Job           | Occupations   | Type of Training  | Estimated No. of Trainees <sup>1</sup> | Cls/Lab Hours    | CBT Hour | Average Cost Per Trainee | Pay 1 Entroll  | Pay 2 Compl | Pay 3 Hired | Pay 4 Post Retention | Post Retention <sup>2</sup> |
| I             | Administrative Staff, Managers, Manufacturing Engineers, Manufacturing Technicians, Mechanics, Production Staff, Supervisors, Technicians | MEC Priority Industries Retrainee   | 54                                     |                  |          | \$673                    | \$100.95   | VAR         | N/A         | VAR                  | \$15.07                     |
| 687           |   | <p><i>Menu Curriculum - Trainees will receive one or more of the following:</i></p> <ul style="list-style-type: none"> <li><i>Business Skills</i></li> <li><i>Computer Skills</i></li> <li><i>Continuous Improvement</i></li> <li><i>Hazardous Materials</i></li> <li><i>Literacy Skills</i></li> <li><i>Management Skills</i></li> <li><i>Manufacturing Skills</i></li> <li><i>OSHA 10</i></li> <li><i>OSHA 30</i></li> <li><i>Hazwoper</i></li> </ul> |  |                  |          |                          |  |             |             |                      |                             |
|               |   |   |  |                  |          |                          | <p><i>Job Max Total Amount: \$ 36,342.00</i></p> <p><i>Range of Hours: Min = 8 Max = 200 Weighted Avg = 35</i></p> |             |             |                      |                             |

ETP100CH (11/07)

<sup>1</sup> The number of trainees may exceed this figure, provided they receive at least the minimum number of training hours and there are sufficient funds available in the Job Number.  
<sup>2</sup> Post-Retention Wages may vary by county. See Section on Performance Standards, in this Agreement.

**Exhibit A: Chart 1**

| Training Data |   |                  |  | Payment Schedule |          |                          |              |             |             |                      |                             |
|---------------|---|------------------|--|------------------|----------|--------------------------|--------------|-------------|-------------|----------------------|-----------------------------|
| 1             | 2   | 3                | 4                                      | 5                | 6        | 7                        | 8            | 9           | 10          | 11                   | 12                          |
| Job           | Occupations   | Type of Training | Estimated No. of Trainees <sup>1</sup> | Cls/Lab Hours    | CBT Hour | Average Cost Per Trainee | Pay 1 Enroll | Pay 2 Compl | Pay 3 Hired | Pay 4 Post Retention | Post Retention <sup>2</sup> |
| 2             | Administrative Staff, Managers, Manufacturing Engineers, Manufacturing Technicians, Mechanics, Production Staff, Supervisors, Technicians | MEC Retrainee    | 20                                     |                  |          | \$561                    | \$84.15      | VAR         | N/A         | VAR                  | \$15.07                     |

687

*Menu Curriculum - Trainees will receive one or more of the following:*

- Business Skills
- Computer Skills
- Continuous Improvement
- Hazardous Materials
- Literacy Skills
- Management Skills
- Manufacturing Skills
- OSHA 10
- OSHA 30
- Hazwoper

Job Max Total Amount: \$ 11,220.00

Range of Hours: Min = 8 Max = 200 Weighted Avg = 35

<sup>1</sup> The number of trainees may exceed this figure, provided they receive at least the minimum number of training hours and there are sufficient funds available in the Job Number.  
<sup>2</sup> Post-Retention Wages may vary by county. See Section on Performance Standards, in this Agreement.



Exhibit A: Chart 1

| Training Data |   |   |  | Payment Schedule |          |                          |              |             |             |                      |                             |
|---------------|---|---|--|------------------|----------|--------------------------|--------------|-------------|-------------|----------------------|-----------------------------|
| 1             | 2   | 3   | 4                                      | 5                | 6        | 7                        | 8            | 9           | 10          | 11                   | 12                          |
| Job           | Occupations   | Type of Training                          | Estimated No. of Trainees <sup>1</sup> | Cls/Lab Hours    | CBT Hour | Average Cost Per Trainee | Pay 1 Enroll | Pay 2 Compl | Pay 3 Hired | Pay 4 Post Retention | Post Retention <sup>2</sup> |
| 3             | Administrative Staff, Managers, Manufacturing Engineers, Manufacturing Technicians, Mechanics, Production Staff, Supervisors, Technicians | MEC Priority Industries Retrainee SB <100 | 40                                     |                  |          | \$695                    | \$139.00     | VAR         | N/A         | VAR                  | \$15.07                     |

Menu Curriculum - Trainees will receive one or more of the following:  
 Business Skills  
 Computer Skills  
 Continuous Improvement  
 Hazardous Materials  
 Literacy Skills  
 Management Skills  
 Manufacturing Skills  
 OSHA 10  
 OSHA 30  
 Hazwoper

687

Job Max Total Amount: \$ 27,800.00

Range of Hours: Min = 8 Max = 200 Weighted Avg = 25

Contract Totals

|                                 |     |          |
|---------------------------------|-----|----------|
| Program Cost                    |     | \$70,520 |
| Substantial Contribution        | (-) | \$0      |
| Multiple-Empl. Support          | (+) | \$4,842  |
| TOTAL ETP Funding               | (=) | \$75,362 |
| TOTAL Estimated No. of Trainees |     | 114      |

ETP100CH (11/07)

<sup>1</sup> The number of trainees may exceed this figure, provided they receive at least the minimum number of training hours and there are sufficient funds available in the Job Number.  
<sup>2</sup> Post-Retention Wages may vary by county. See Section on Performance Standards, in this Agreement.

**Exhibit A: Chart 1**

| Turnover Rate | Manager/Supervisor % | Health Benefits Inc. in Wage? |
|---------------|----------------------|-------------------------------|
| <=20%         | <=20%                | Yes                           |

Location of Training: Training will be provided at the Contractor's and/or participating employer training site(s) in California.

Ratios: The trainer-to-trainee ratio for class/lab training shall not exceed 1:20 for retrainees.

Health Benefits: Health Benefits will vary by participating employer. Health Benefits may be added to a trainee's wage to meet the ETP minimum hourly rates for retrainees in the following counties: \$15.97 per hour for Los Angeles County; \$16.02 per hour for Orange County; and, \$15.07 per hour for San Bernardino and Riverside Counties.

\*Turnover Rate: Turnover rate shall not exceed 20% annually for the participating employer's facility where training is being requested, unless the employer provides evidence that the proposed training will significantly decrease the turnover rate; or the employer has experienced a singular reduction in its workforce or other occurrence which adversely affected the turnover rate in the last calendar year; or if industry data supports a higher turnover rate.

\*\*Managers and Supervisors: Managerial percentage varies by participating employer. For participating employers with more than 100 employees in California and/or 250 employees worldwide (including parent companies, subsidiaries, and affiliates), the percentage of Managers and Supervisors shall not exceed 20% of the total number of trainees participating in this Agreement. This cap does not apply to small businesses in Job Number 3.

**Exhibit B: Menu Curriculum**

**Class/Lab Hours**

8-200

Trainees may receive any of the following:

**BUSINESS SKILLS**

- Project Management
- Construction Management
- Leadership Skills for Frontline Workers
- Communications
- Business Writing
- Customer Service
- Organizational Behavior

**COMPUTER SKILLS**

- Windows (Intermediate/Advanced)
- MS Project
- MS Office - Intermediate/Advanced (Beginning for small business only)
- Internet Usage (Small businesses only)
- Information Technology Security
- Shipping Solutions/Related Logistics Software

**CONTINUOUS IMPROVEMENT**

- Process Improvement
- Problem Solving/Decision Making
- Team Building
- Quality Control Concepts
- Total Quality Management (TQM) Tools
- Lean Manufacturing Concepts
- 5-S (Sort, Straighten Sweep, Standardize, Sustain)
- Internal Auditing
- Facilities Management and Operations
- Risk Management
- Energy Management
- Lean Six Sigma (Greenbelt)
- Project Scheduling
- New Product Development
- ISO 9000-9001/AS9100
- SMART Goals (Specific, Measurable, Attainable, Realistic, Timely)

**MANAGEMENT SKILLS (management trainees only)**

- Leadership Skills for Managers
- Motivating/Coaching
- Conflict Management
- Managing Differences
- Change Management
- Delegation Skills
  
- Teambuilding

- Coaching and Mentoring

### **MANUFACTURING SKILLS**

- Manufacturing Processes
- Construction Drawings for Building Trades
- Blue Print Reading
- Material Handling/Storage
- Equipment Operation
- Shop Math
- Variance Calculations
- Tolerances

### **\*LITERACY SKILLS**

#### Vocational English as a Second Language

- Communication Skills
- Reading, Writing, Speaking and Comprehending Simultaneously
- Introduction to and comprehension of short written work products
- Writing correct sentences as they relate to job functions
- Pronunciation Skills
- Reading and Comprehension Skills
- Speaking and Understanding Spoken English
- Work Related Communication Skills
- Completing Work Forms and writing notes
- Spelling, Phonics, and Capitalization
- Flow Charts
- Basics of Problem Solving
- Effective Listening Skills
- SMART Goals

\*Must be job related; hours capped at 45% of a trainee's total training hours

### **HAZARDOUS MATERIALS**

- Hazardous Materials Tables
- Hazardous Materials Classifications
- Packing
- Marking
- Labeling
- Loading and Storage
- Placarding
- Shipping Documents
- Hazardous Waste
- Incident Recording

### **HAZWOPER**

- HazWoper

**OSHA 10/30 (Certified OSHA Instructor)**

- OSHA 10 (requires completion of 10 hours)
- OSHA 30 (requires completion of 30 hours)

Safety Training cannot exceed 10% of total training hours per-trainee

Note: Reimbursement for retraining is capped at 200 total training hours per trainee, regardless of the method of delivery.

**Exhibit C: Subcontracts**

1. The Employment Training Panel (ETP) is not a party to this Agreement. ETP is not obligated in any manner for any liability that may arise out of this Agreement. No third party relationship is intended or created with ETP under this Agreement.
2. Consultant agrees that ETP has the right, during normal business hours, to examine or audit any and all records, books, papers and documents related to the delivery of services, including all accounting source payroll documents, under this Agreement to the extent ETP deems necessary.
3. Consultant agrees that ETP has the right, during normal business hours, to freely observe and monitor the delivery of services under this Agreement with or without the Consultant's presence. In particular, Consultant agrees that ETP has the right to interview trainees, trainers and training personnel.
4. Consultant agrees to maintain all records and other writings that pertain to the delivery of services under this Agreement for a period of no less than 4 years from termination or 3 years from Fiscal Closeout, whichever is later. This does not relieve Contractor of its responsibility under the ETP Agreement.
5. This Agreement shall be governed by the laws of the State of California. If ETP is named as a party in litigation, arbitration or other proceedings in connection with this Agreement, the exclusive venue and place of jurisdiction will be the County of Sacramento in the State of California.
6. In the event of any conflict or inconsistency between the terms of this Agreement and the ETP Agreement, the latter shall govern and prevail.
7. In no event shall the administrative fees paid under this Agreement with ETP funds exceed 13% of payment earned for Retraining. As used herein, "payment earned" means the amount of reimbursement the Contractor is entitled to retain based on ETP Fiscal Closeout. [Section 4400(r).]

**Note: These provisions must be incorporated into any Agreement (subcontract) between Contractor and a consultant for administration of the ETP-funded training project. These provisions need not be used verbatim, but any variation must be approved by the ETP Legal Office. Contractor means the party that holds the contract and Consultant means the party that is responsible for administrative services.**

### **Exhibit D: Definitions**

The parties agree that the following definitions shall govern performance under this Agreement. These terms are used in this Agreement, or may be referred to in the course of program administration by ETP.

Some definitions include references to regulations in Title 22 of the California Code of Regulations or to the Unemployment Insurance (UI) Code, as shown in brackets. The regulations and UI Code are available for review at the ETP website ([www.etp.ca.gov](http://www.etp.ca.gov)).

**Actual Cost-per-Trainee:** The amount of reimbursement payable on a per-trainee basis at Progress Payment 2 (P2) and the Final Payment (F), based on the actual number of training hours completed.

**Approved Amount:** The maximum amount of funding approved by the Panel. This amount is distinct from Payment Earned.

**Average Cost-per-Trainee:** The average cost of training for each trainee enrolled in a given Job Number based on the planned hours of training and the fixed fee rate. This cost is used to calculate the first Progress Payment (P1) at the time of enrollment.

**Classroom Training:** Formal instruction in a classroom setting that is removed from the trainee's usual work environment, and provided on a regular basis under the constant and direct guidance of a trainer. [Section 4400(y)(1).]

**CNA to LVN:** Training designed to upgrade the skills of a Certified Nurse Assistant or similar caregiver under a Licensed Vocational Nurse program, leading to LVN licensure. [UI Code Section 10214.9.]

**Computer-Based Training (CBT):** Instruction provided through computer systems or software and delivered through an electronic medium such as the Internet, Intranet, LAN or CD-ROM. Trainees must participate from a suitable location in California. [Section 4400(ff).]

**Curriculum:** A list of approved training courses or modules under the Menu as shown in Exhibit B.

**E-Learning:** Instruction provided by a live trainer via a web-based system in real-time using interactive communication. This includes videoconference training. [Section 4400(y)(4).]

**Eligible Employers:** Employers are eligible for ETP funding if they are subject to payment of the Employment Training Tax. Employers that have elected an alternate method of financing liability for the payment of Unemployment Insurance benefits can only be eligible for the "incidental placement" of new hire trainees. There are other eligibility standards such as out-of-state competition, to be determined by the Panel on a case-by-case basis. [UI Code Section 10201(b).]

**Enrollment:** The process of registering a trainee with ETP as an eligible participant in ETP-funded training, once the first eight hours of training have been completed. Trainees are enrolled by Job Number. Once enrolled, they can participate in more than one approved course for that Job Number, on a sequential basis. [Section 4400(dd).]

**Entrepreneurial Training:** Training in business management and related skills for the owner of a business with 9 or fewer employees. [Section 4409.]

**ETP Minimum Wage:** The minimum hourly wage that must be paid to trainees at the end of the employment Retention period. [Section 4418.]

**Final Payment:** Final payment is the final 25% payment based on the number of training hours completed for each trainee. Final payments (F) may be authorized and paid for each trainee after completion of training and the required post-training retention period specified in the agreement. Each trainee must be employed full-time and must receive the minimum wage specified in the Agreement at the end of the employment retention period. Final Payments are reconciled with individual unearned progress payments and are not considered earned until the Fiscal Closeout of the Agreement.

**Fiscal Closeout:** The process by which ETP determines the actual amount of Payment Earned for all trainees, reconciling the Final Payment with the first two Progress Payments. ETP will give Contractor written Notice of any overpayment that results from Fiscal Closeout within a reasonable time after the term of this Agreement.

**Frontline Worker:** These are employees who directly produce goods or deliver services. In general they are eligible for overtime compensation, regardless of job title. Managers and Supervisors as defined below are not Frontline Workers. [Section 4400(ee).]

**Full-time:** Employment of at least 35 hours a week, with exceptions for special programs. [Section 4400(h).]

**Funding Limitations:** These are industries and occupations identified by the Panel as its lowest priority for funding, and thereby precluded from participation in an ETP funded program, as identified by the Panel on the ETP website Funding Limitations, as of the effective date of this Agreement.

**High Unemployment Area:** A county or other distinct region of California where the unemployment rate exceeds the state average rate by a given factor, based on data from the Labor Market Information Division (LMID) of the Employment Development Department. The trainees in a High Unemployment Area (HUA) may qualify for a lower minimum wage, a modified Retention period, and/or the waiver of other requirements on a case-by-case basis. [Section 4429.]

**Incidental Placement:** New Hire trainees may be placed with public, non-profit or other employers who are not subject to payment into the Employment Training Fund on an "incidental" basis not to exceed 20% of the total trainee population under a Multiple Employer Contract, as determined by the Panel case-by-case. New Hire trainees may also be placed with Temporary Staffing agencies, not to exceed 20% of total New Hire population. [UI Code Section 10201(b) and Section 4427.]

**In-Kind Contributions:** The cost incurred by an employer or participating employer under an ETP-funded project. These costs may be monetary, such as wages paid to trainees during the hours of training. Or, they may be non-monetary, such as the rental value of a facility or room that is made available for instructional purposes. [Sections 4400(l) and 4401.1.]



**Job Number:** The designation used to differentiate between categories of trainees, and types of training. By way of example, distinguishing factors include the minimum hours of training, the approved type of training, and the minimum post-retention wages.

**Literacy Training:** Basic, job-related skills including math, reading, and language skills necessary for the trainee's job performance and employment retention in a job with definite career potential and long-term security. [Section 4400(n).]

**Managers and Supervisors:** These are employees who primarily perform exempt job duties within the meaning of the federal Fair Labor Standards Act and state Labor Code Section 515, where "primarily" means more than one-half of the work time. In performing these duties, Managers and Supervisors must also: exercise discretion and independent judgment; influence policy; supervise at least two employees with the right to hire and fire; and earn no less than two times the state minimum wage.

**Mandatory Training:** Training is mandatory when the employer leads trainees to believe their continued employment would be adversely affected by not attending; the subject matter is directly related to the job duties; and the trainee does not produce goods or deliver services during training. Trainees must be paid their usual wages during mandatory training. This training is usually conducted during regular working hours. [See *Division of Labor Standards Enforcement Manual* at Section 46.6.5, at [www.dir.ca.gov](http://www.dir.ca.gov).]

**Multiple Barriers (MB):** Two or more barriers to full participation in the workforce. The barriers may include mental or physical disabilities, illiteracy, limited English proficiency, limited math skills or some similar impediment.

**Net New Jobs:** For purposes of funding under the Retrainee-Job Creation program, this means the number of permanent-full-time positions on the Contractor's payroll must be higher by at least the number of Job Creation trainees who complete retention, as it was at start-of-term for the ETP Agreement.

**New Hire:** Training in new vocational skills for persons who are unemployed at the start of training. The vocational skills may include job-related literacy training. [UI Code Section 20201(g); Section 4406.]

**Out-of-State Competition:** The Panel will not fund any retraining project, with the exception of Special Employment Training, unless it first determines that the trainee jobs are threatened by out-of-state competition. This determination is made on a case-by-case basis, using factors such as location of the corporate headquarters and revenue stream, except that a training project in manufacturing and certain other industry sectors classified under the North American Industrial Classification System, are deemed to meet this requirement. [Section 4416.]

**Payment Earned:** The amount of Reimbursement the Contractor is entitled to retain based on performance, and compliance with all other requirements set forth in this Agreement, as reconciled at the time of Fiscal Closeout. [Section 4400(r).]

**Post-Retention Wage:** The minimum hourly wage that must be paid to trainees at the end of the employment Retention period. [Section 4418.]

**Preceptor Training:** In "preceptor training" the trainee observes hands-on skills as performed by a licensed LVN, RN or other practitioner (i.e., preceptor). The trainer to trainee ratio is generally 1:1. During the second phase, the trainee performs the skills under the preceptor's close supervision.

**Priority Industry:** Industry sectors that are "targeted" for training funds. Manufacturing, aerospace, biotechnology, high technology and agriculture are typical Priority Industries. They are identified in the Panel's annual Strategic Plan. [UI Code Sections 10200(b) and 10205(d).]

**Productive Lab Training:** A type of practical Retraining whereby the instructor oversees an employee's use of special equipment or application of particular skills, in the actual work environment, resulting in the production of goods or delivery of services for profit. A Productive Lab Training Plan must be approved in advance by ETP. Productive Lab is more suitable to production than service delivery, and would only be approved for New Hire training on a case-by-case basis.

**Program Costs:** This means training costs and administrative costs, before the addition of Support Costs. The Support Costs are calculated as a percentage of training costs only.

**Progress Payments:** Progress payments are unearned cash flow payments authorized and paid at selected training and contract performance benchmarks. Progress payments may be paid after a trainee is enrolled and has completed 8 hours of training (P1), after a trainee has completed training (P2) and when a trainee is placed in qualifying employment with an eligible employer (P3) [New Hire participants only]. Progress payments may not exceed 75% of the cost per trainee based on the hours of training documented at completion of training. Progress payments are not considered earned until the completion of all contract performance requirements and reconciliation of payments at the Fiscal Closeout of the Agreement.

**Reimbursement Rate:** The flat rate per hour payable for different methods and types of training. In general, the rate differs between Class/Lab, Advanced Technology and Computer-Based Training, although special rates also apply to Priority Industry and Small Business training. There is a further distinction between rates for New Hire and Retraining. Rates include the cost of training and administration of the ETP-funded project. Rates are consolidated in a Job Number to determine the average cost per-trainee, and for other purposes related to payment disbursement. With a Multiple Employer Contract, the consolidated rate also includes Support Costs as applicable. [UI Code Section 10206(a) and Section 4411 (g).]

**Retention:** The period of full-time employment required for a trainee or group of trainees after the end of training. Typically, Retention is for 90 consecutive days, although this period may be modified on a case-by-case basis. [Sections 4400(v), 4429.]

**Retraining:** Job-related vocational training provided to existing employees.

**Roster:** The hard-copy record that must be signed by each trainee and instructor to demonstrate attendance. For CBT, the supervisor must also sign a hard-copy roster. ETP must approve the format of all Rosters.

**Seasonal Industry:** This industry must hire at least 50% of its workers on a cyclical basis, as in agricultural crop production. To be eligible for retraining reimbursement by ETP, employers and participating employers in this industry must have retained at least 50% of the same seasonal employees for at least one season. [UI Code Section 10214.5(d).]

**Simulated Lab Training:** A type of practical training whereby the instructor oversees the use of special equipment or application of particular skills in a simulated work environment. This type of training does not require a special training plan, as compared to Productive Lab Training.

**Small Business:** For purposes of the Small Business Reimbursement Rate and other special considerations, a small business means 100 or fewer full-time employees in California, but no more than 250 worldwide. The business must be domiciled in California, and independently owned and operated. [Section 4400(w).]

**Special Employment Training:** Certain types of training designed to satisfy the Panel's funding priorities are funded as Special Employment Training (SET) projects. There is no out-of-state competition requirement for SET. There are different wage requirements for the trainees who are eligible to participate in SET. There may be modifications to Retention, and/or waivers of other requirements for eligible trainees, on a case-by-case basis. [Section 4409.]

**Statutory Interest:** Interest assessed on overpayments. An adjusted annual rate charged from the first day of the month after Contractor received the overpayment from ETP. [Section 4447.]

**Support Costs:** Costs associated with recruiting participants and participating employers for training under a Multiple Employer Contact. These costs may also include assessment of eligibility, job search and placement. In general, these costs may not exceed 8% of the training costs. [Section 4411.]

**Trainee Eligibility:** In general, trainees are only eligible to participate in ETP-funded training if they are unemployed (New-Hire training), or employed by an Eligible Employer with wages reported in California (Retraining). There may be other eligibility standards, such as "multiple barriers" for special funding, to be determined by the Panel on a case-by-case basis. [UI Code Section 10201(c).]

**Turnover Rate:** Average annual turnover for full-time employees in the prior calendar year, used to measure job security. Not all separations from employment are included in calculating turnover (i.e., retirements are not included). [Section 4417.]

**Variable Reimbursement:** Flexible reimbursement based on a minimum and maximum number of training hours, per-trainee. Trainees may complete any number of hours within the range set forth under the Menu for a given Job Number. Trainees may be trained in one or all courses under the Menu, within the constraints of funding.

**Videoconference Training:** Classroom instruction provided by a live trainer that is broadcast to two or more locations in real time and interactive with interactive communication between each location through video, data, and audio. The standard trainer-to-trainee ratio (1:20) applies to each location. This training is paid at the class/lab rate as a form of E-Learning.

**Voluntary Training:** When training is voluntary on the part of employees, they are not required to be paid their usual wages during the hours of training. See definition of "mandatory training" above.