

**THIRD AMENDMENT TO THE AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO AND
SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT**

THIS THIRD AMENDMENT TO THE AGREEMENT, entered into this ____ day of _____, 20____, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into an Agreement with San Mateo Community College District on January 19, 2004, for the purpose of providing biotechnology classes to dislocated workers in San Mateo County; and

WHEREAS, the County and the Contractor entered into a First Amendment to the Agreement to extend the term and the amount to provide a class to train an additional twenty (20) participants in the field of biotechnology; and

WHEREAS, the County and the Contractor entered into a Second Amendment to the Agreement to increase the amount and for the purposes of 1) adding an additional biotechnology class, and 2) starting a bridge program for transitioning foster youth and residents of East Palo Alto and Daly City; and

WHEREAS, the parties wish to further amend the Agreement to increase funding for the purpose of adding three new courses: 1) Bio-Manufacturing Quality Control, 2) Health Careers Gateway and 3) Gateway Program.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Section 1: Exhibits is hereby amended to read as follows:

Exhibit A:	Revised 05/06: Description of Services for Bio-Manufacturing Certificate Program
Exhibit A-1:	Revised 05/06: Description of Services for Gateway Program
Exhibit A-2:	Description of Services for Bio-Manufacturing Quality Control

Exhibit A-3: Description of Services for Healthcare Careers Gateway
Exhibit B: Revised 05/06: Payment Schedule
Exhibit C: WIA Program Specific Requirements
Attachment H: Multi-Class Budget
Attachment I: 504 Compliance
Attachment J: Equal Benefits Compliance Declaration

2. Exhibit A revised 04/05 is hereby deleted and replaced with Exhibit A revised 05/06 which is attached hereto and incorporated by reference herein.
3. Exhibit A-1 is hereby deleted and replaced with Exhibit A-1 revised 05/06 which is attached hereto and incorporated by reference herein.
4. Exhibit A-2 is hereby added and attached hereto and incorporated by reference herein.
5. Exhibit A-3 is hereby added and attached hereto and incorporated by reference herein.
6. Exhibit B, Exhibit B-1 revised 04/05 and Exhibit B-4 are hereby deleted and replaced with Exhibit B revised 05/06 which is attached hereto and incorporated by reference herein.
7. Exhibit C is hereby added and attached hereto and incorporated by reference herein.
8. Exhibit B-2, B-3 and B-5 are hereby deleted and replaced with Attachment H.
9. Section 2: Services to be performed by Contractor is hereby amended to read as follows:

In consideration of the payments set forth herein and in **Exhibit B revised 05/06 and Attachment H**, Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in **Exhibits A revised 05/06, A-1 revised 05/06, A-2, and A-3.**

10. Section 3: Payments is hereby amended to read as follows:

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in **Exhibits A revised 05/06, A-1 revised 05/06, A-2, and A-3**, County shall make payments to Contractor based on the rates and in the manner specified in **Exhibit B revised 05/06**. The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. **This Third Amendment increases the amount of the Agreement for the purpose of funding two (2) Bio-Manufacturing Quality Control classes at a**

cost of seventy seven thousand two hundred seventy three dollars (\$77,273), one (1) Healthcare Careers Gateway class at the cost of twenty eight thousand three hundred five dollars (\$28,305), one (1) Gateway Program class at the cost of eighty four thousand one hundred thirty five dollars (\$84,135), one (1) Bio-Manufacturing Certificate Program class at the cost of seventy three thousand one hundred ninety-five dollars (\$73,195) and two (2) On-Demand workshops at the cost of fourteen thousand nine hundred and fifty-two (\$14,952) for a total increase of two hundred seventy two thousand and eight hundred and sixty dollars (\$277,860) for a total Agreement obligation of seven hundred two thousand eight hundred thirty dollars (\$707,830).

11. Paragraph G: Compliance with Contractor Employee Jury Service Ordinance is hereby added to section 11: Non-Discrimination and reads as follows:

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees regular pay the fees received for jury service.

12. All other terms and conditions of the Agreement dated January 19, 2004, as amended, between the County and Contractor shall remain in full force and effect.
13. This Third Amendment, including any exhibits and attachments hereto, constitutes the entire understanding of the parties hereto with respect to the third amendment to the parties' agreement and correctly states the rights, duties, and obligations of each party as of this document's date. Any understandings, promises, negotiations, or representations between the parties concerning the third amendment that are not expressly stated in this document are not binding. All subsequent modifications to this Third Amendment shall not be effective unless set forth in a writing executed by both parties.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Jerry Hill, President
Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT

Contractor's Signature

Date: _____

Description of Services
Bio-Manufacturing Certificate Program
San Mateo Community College District
January 19, 2004 through June 30, 2006

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the following biotech training classes as described below:

A. Bio-Manufacturing Course Descriptions

The Bio-Manufacturing Certificate Program includes a twelve week daytime classroom and laboratory instructional design that meets on MWF from 9:00 am to 2:00 pm. The program prepares graduates for work in Biotechnology, Pharmaceutical Manufacturing, and Manufacturing Quality Control. These positions include Bio-processing Technicians, Labeling and Packaging Operators, Instrument and Media Prep Technicians, Quality Control Specialist and positions in manufacturing pharmaceuticals. Graduates perform tasks such as preparing buffer solutions, operating filtration and column chromatography, cleaning and preparing glassware, operating autoclaves, performing under sterile conditions and utilizing Good Manufacturing Practices (GMPs).

The faculty in this discipline will collaborate with other programs in the region to maximize the knowledge and employment opportunities for the participants.

B. Course Deliverables

1. Participants will complete twelve (12) weeks of training earning nine (9) units of college credit and will be eligible for entry-level employment at biotechnology corporations in the region.
2. The twelve (12) week class will include a total of two hundred and four (204) hours of instruction for each participant.
3. There must be a minimum of twenty (20) participants for the start-up of class.
4. Considering that drop-outs may occur, the Contractor must maintain a class size of at least twelve (12) participants for class to continue.

C. Workshops and Related Services

1. The Contractor shall provide two (2) on-site workshops and individual resume/interview preparation services as described below:

- a) Resume Preparation Workshops and Individual Resume/Interview Preparation Services for thirty (30) students enrolled in the Spring 2006 Bio-manufacturing class. Workshop preparation services include the design and production of materials.
2. The Contractor shall provide on-site resume/interview preparation services to individuals receiving on-site Rapid Response workshops on an as needed basis as described below:
- a) Resume/Interview preparation services will be delivered on demand (upon request of designated County staff) at \$250 per hour not to exceed \$10,000.

B. Schedule of Classes/Workshop Services:

Actual class dates are to be determined and mutually agreed upon by the County and the Contractor, but must be completed prior to the completion date shown below.

The Contractor shall submit a report upon completion of each class outlining the official grade of each student and attendance.

Session	Class Code	*Completed by
Spring 2004	BT3	December 30,2004
Fall 2004	BT4	December 30,2004
Spring 2005	BT5	June 30,2005
Fall 2005	BT6	June 30,2006
Spring 2006	BT7	June 30,2006
Spring 2006 Workshop Services	BT7	March 31, 2006
Spring 2006 On-Demand Workshop Services	BT7	June 30,2006

* Completion dates are based on dates that funding for these classes will expire.

**Description of Services
Gateway Program
San Mateo Community College District-Skyline
January 19, 2004 through June 30, 2006**

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the following Gateway Program classes as described below:

A. Gateway Program Course Description

This program is designed:

- to prepare students to satisfy math and English pre-requisites needed for enrollment in bioscience or other allied health degree programs,
- to equip students with the necessary English and math skills needed to succeed in bioscience or allied health studies,
- to nurture the soft skills needed to succeed in college and the workplace such as consistent and punctual attendance and appropriate preparation for the task at hand, and
- as a Learning Community to enrich the learning experience and foster better student outcomes. In higher education, curricular learning communities are classes that are linked or clustered during a program term, often around an interdisciplinary theme, and enroll a common cohort of students. Faculty plans the program collaboratively.

Course includes:

- **ENGLISH – READING:** The reading and English courses are remedial courses two-levels below transfer-level. Course content and context will be contextualized to address the learning needed to succeed in an allied health program and at work in an allied health profession.
- **MATH:** The math course is a basic skills class that leads to Elementary Algebra, a basic requirement for entrance into allied health degree programs.
- **LEARNING SKILLS:** The learning skills class provides either individualized or small group instruction by tutors or instructional aides to address problems in English, reading, and math. In addition to one-on-one and small group tutorial, this class provides computer assisted learning programs and on-line tutorials.

- **CAREER PREPARATION:** The Career Class is a comprehensive approach to life and career planning that includes self-assessment, career exploration, and job seeking strategies.

Enrollment in this learning community will satisfy the financial aid requirement for being enrolled fulltime in a course of study. Students will thus be academically eligible for state and federal financial aid. (There may be other requirements, such as timely application, family need, or residency status.)

The faculty in this discipline will collaborate with other programs in the region to maximize the knowledge and employment opportunities for the participants.

B. Course Deliverables

1. Participants will complete seventeen (17) weeks of training earning thirteen to fifteen (13-15) variable units of college credit and will be eligible for training in the biomanufacturing program.
2. The seventeen (17) week class will include a total of two hundred and eight (208) hours of instruction for each participant.
3. There must be a minimum of twenty (20) participants for the start-up of class.
4. Considering that drop-outs may occur, the Contractor must maintain a class size of at least sixteen (16) participants, or eighty percent (80%) for class to continue.

C. Schedule of Classes

The start date of classes is to be determined and mutually agreed upon by the County and the Contractor.

The Contractor shall submit a report upon completion of each class outlining the official grade of each student and attendance.

Session	Class Code	*Completed by
Spring 2005	G1	June 30, 2005
Summer 2005	G2	June 30, 2006
Spring 2006	G4	June 30, 2006

* Completion dates are based on dates that funding for these classes will expire.

Description of Services
Bio-Manufacturing Quality Control
San Mateo Community College District
January 19, 2004 through June 30, 2006

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the Bio-Manufacturing Quality Control Classes as shown below:

A. Bio-Manufacturing Quality Control Course Description

Skyline will develop and deliver an introductory course, Biology 680 - Quality Control for Bio-manufacturing, to prepare students for entry into quality control measurement in Bio-manufacturing.

The course places emphasis on providing basic knowledge and skills in quality control to complement those acquired in Bio-manufacturing classes. The course targets students with a background in Bio-manufacturing or quality control in related industries. Students will be introduced to the techniques and methods for performing quality control measurements in the Biomanufacturing setting.

The faculty in this discipline will collaborate with other programs in the region to maximize the knowledge and employment opportunities for the participants. Students will be introduced to the techniques and methods for performing quality control measurements in the Biomanufacturing setting. This Curriculum is developed by the Science Math and Technology Division of Skyline College.

B. Course Deliverables

1. Participants will complete three (3) weeks of training earning 3.5 units of college credit and will be eligible for entry-level employment at biotechnology corporations in the region.
2. The three (3) week class will include a total of eighty-one (81) hours of instruction (48 lecture and 27 lab hours, plus one hour per week by arrangement) for each participant.
3. There must be a minimum of ten (10) participants for the start-up of class during fall 2005 and ten (10) students during spring 2006.
4. Considering that drop-outs may occur, the Contractor must maintain a class size of at least eight (8) participants for class to continue.

C. Schedule of Classes

The start date of classes is to be determined and mutually agreed upon by the County and the Contractor.

The Contractor shall submit a report upon completion of each class outlining the official grade of each student and attendance.

Session	Class Code	*Completion Date
Fall 2005	BT6	June 30, 2006
Spring 2006	BT7	June 30, 2006

* Completion dates are based on dates that funding for these classes will expire.

**Description of Services
Healthcare Careers Gateway
San Mateo Community College District-Skyline
January 19, 2004 through June 30, 2006**

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the following Healthcare Careers Gateway classes as described below:

A. Healthcare Careers Gateway Course Description

This course introduces students to the skills, attributes, and basic knowledge required for entry into the health care profession including: medical terminology, medical administrative and clinical procedures, and math calculations used in health care. The course provides a foundation for future health career classes.

The faculty in this discipline will collaborate with other programs in the region to maximize the knowledge and employment opportunities for the participants.

B. Course Deliverables

1. Participants will complete ten (10) weeks of training earning four (4) units of college credit and will be eligible for entry-level employment at biotechnology corporations in the region.
2. The ten (10) week class will include a total of seventy-five (75) hours of instruction for each participant.
3. There must be a minimum of twenty (20) participants for the start-up of class.
4. Considering that drop-outs may occur, the Contractor must maintain a class size of at least sixteen (16) participants, or eighty percent (80%) for class to continue.

C. Schedule of Classes

The start date of classes is to be determined and mutually agreed upon by the County and the Contractor.

The Contractor shall submit a report upon completion of each class outlining the official grade of each student and attendance.

Session	Class Code	*Completion Date
Spring 2006	G3	June 30, 2006

* Completion dates are based on dates that funding for these classes will expire.

Payment Schedule
San Mateo Community College District
January 19, 2004 through June 30, 2006

In consideration of the services provided by Contractor in Exhibit A revised 05/06, A-1 revised 05/06, A-2, and A-3, County shall pay Contractor based on the following fee schedule:

A. Bio-Manufacturing Certificate Program:

County shall pay Contractor after completion of each class and upon receipt of invoice and report outlining the official grade of each student and attendance.

Session/Class Code	*Completed by	Total Cost per Session	Contract Information
Spring 2004 (BT3)	December 30, 2004	\$58,000	Original
Fall 2004 (BT4)	December 30, 2004	\$58,000	Original
Spring 2005 (BT5)	June 30, 2005	**\$73,195	1 st Amendment
Fall 2005 (BT6)	June 30, 2005	**\$73,195	2 nd Amendment
Spring 2006 (BT7)	June 30, 2006	**\$73,195	3rd Amendment
Spring 2006 (BT7) Workshop	March 31, 2006	\$4,952	3rd Amendment
Spring 2006 (BT7) Workshop	June 30, 2006	up to \$10,000	3rd Amendment

*All invoices must be submitted prior to the Completion Date. Completion Date is based on expiration of funding for each session.

** Prices are higher for the Fall and Spring 2005 and Spring 2006 sessions as Contractor had additional funding that paid for a portion of the Spring 2004 and Fall 2004 sessions therefore reducing the price to the County.

B. Gateway Program

County shall pay Contractor after completion of each class and upon receipt of invoice and report outlining the official grade of each student and attendance.

Session/Class Code	*Completed by	Total Cost per Session	Contract Information
Spring 2005 (G1)	June 30, 2005	**\$89,587	2 nd Amendment
Summer 2005 (G2)	June 30, 2005	\$77,993	2 nd Amendment
Spring 2006 (G4)	June 30, 2006	***\$84,135	3rd Amendment

*All invoices must be submitted prior to the Completion Date. Completion Date is based on expiration of funding for each session.

** Prices are higher for Spring 2005 due to start up costs.

*** Prices are higher for the Spring 2006 due to an increase in the cost of services.

C. Bio-Manufacturing Quality Control

County shall pay Contractor after completion of each class and upon receipt of invoice and report outlining the official grade of each student and attendance.

Session/Class Code	*Completed by	Total Cost per Session	Contract Information
Fall 2005 (BT6)	June 30, 2006	**\$44,136	3rd Amendment
Spring 2006 (BT7)	June 30, 2006	\$33,137	3rd Amendment

*All invoices must be submitted prior to the Completion Date. Completion Date is based on expiration of funding for each session.

** Cost for Fall 2005 is higher due to program start-up costs.

D. Healthcare Careers Gateway

County shall pay Contractor after completion of each class and upon receipt of invoice and report outlining the official grade of each student and attendance.

Session/Class Code	*Completed by	Total Cost per Session	Contract Information
Fall 2005 (G3)	June 30, 2006	\$28,305	3rd Amendment

*All invoices must be submitted prior to the Completion Date. Completion Date is based on expiration of funding for each session.

E. Total Agreement Obligation

Total services under this Agreement shall not exceed \$707,830.

**EMPLOYMENT AND TRAINING ADMINISTRATION
WORKFORCE INVESTMENT ACT
PROGRAM SPECIFIC REQUIREMENTS**

GENERAL PROVISIONS

Section 1: Compliance

In performance of this agreement, Contractor will fully comply with:

- a. The provisions of the WIA and all regulations, directives, policies, procedures and amendments issued pursuant thereto and/or legislation, regulations, policies, directives, and/or procedures which may replace WIA;
- b. The Family Economic Security Act (FESA), California Unemployment Insurance Code Section 15000 et. seq., to the extent permitted by federal law; all State regulations and Governor's policies, directives and procedures issued pursuant to FESA; and legislation, regulation, policy and/or procedures which may replace FESA.
- c. Contractor will ensure diligence in managing programs under this agreement including the carrying out of the appropriate internal monitoring activities and in taking prompt corrective action against known violations of the WIA.
- d. All State legislation and regulations to the extent permitted by federal law and all policies, directives and/or procedures, which implement the WIA.

Section 2: Certifications

Except as otherwise indicated, the following certifications apply to all Contractors.

- a. Corporate Registration – Contractor, if it is a corporation, certifies it is registered with the Secretary of the State of California.
- b. Sectarian Activities – Contractor certifies that this agreement does not provide for the advancement of or aid to any religious sect, church or creed, or sectarian purpose nor does it help to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination whatever, as specified by Article XVI, Section 5 of the Constitution, regarding separation of church and state.
- c. Prior Findings – Contractor, by signing this agreement, does swear under penalty of perjury, that it has not failed to satisfy any major condition in a current or previous contract or grant with the Department of Labor (DOL) or the State of California and has not failed to satisfy conditions relating to the resolution of a final finding and determination, including repayment of debts.

- d. *Debarment and Suspension Certification:* By signing this agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California the Contractor will comply with regulations implementing Executive Order 12549, Debarment and Suspension, 29 C.F.R. Part 98.510, that the prospective participant (i.e., grantee), to the best of its knowledge and belief, that it and its principals:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transitions by any federal department or agency.
 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes, or commission of embezzlement, theft, forgery bribery, falsification, or destruction of records, making false statements, or receiving stolen property.
 3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph 2 of this certification.
 4. Have not within a three year period preceding this agreement had one or more public transactions (federal, State, or local) terminated for cause of default.
 5. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.
- e. *Drug-Free Workplace Certification:* By signing this agreement, the Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq. And 29 CFR Part 98) and will provide a drug-free workplace by taking the following actions:
1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8350(a).
 2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - the dangers of drug abuse in the workplace;

- the person’s or organization’s policy of maintaining a drug-free workplace;
 - any available counseling, rehabilitation and employee assistance programs; and,
 - penalties that may be imposed upon employees for drug abuse violations.
3. Provide, as required by Government Code Section 8355©, that every employee who works on the proposed contract:
- will receive a copy of the company’s drug-free policy statement; and,
 - will agree to abide by the terms of the company’s statement as a condition of employment on the contract.
- f. *Lobbying Restrictions:* By signing this agreement the Contractor hereby assures and certifies to the lobbying restrictions which are codified in the DOL regulations at 29 CFR Part 93.
1. No federal appropriated funds have been paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this federal contract, grant loan, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this federal contract, grant, loan, and cooperative agreement, the undersigned shall complete and submit Standard Form-LLL (exhibit 1), “Disclosure Form to Report Lobbying” in accordance with its instructions.
 3. The undersigned shall require that the language of this certification be included in the award documents for subgrant/contract transactions over \$100,000 (per OMB) at all tiers (including subgrants, contract and subcontracts, under grants, loan or cooperative agreements), and that all subrecipients shall certify and disclose accordingly.
 4. This certification is a material representation of fact upon which reliance is placed when this transaction is executed. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and U.S. Code. Any person who fails to file the required certification shall be subject to a

civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

- g. *National Labor Relations Board*: The Contractor (if not a public entity), by signing this agreement, does swear under penalty of perjury, that no more than one final unappeasable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of Contractor failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.
- h. *Union Activities*: Contractor, by signing this Grant, hereby acknowledges the applicability of Governmental Code 16645 through 16649 to this Agreement. Furthermore, Contractor, by signing this agreement, hereby certifies that:
 - 1. No state funds disbursed by this agreement will be used to assist, promote or deter union organizing.
 - 2. Contractor shall account for state funds disbursed for a specific expenditure by this agreement, to show those funds were allocated to that expenditure.
 - 3. Contractor shall, where state funds are not designated as described in (2) above, allocate, on a pro-rata basis, all disbursements that support the program.
 - 4. If Contractor makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no state funds were used for those expenditures, and that Contractor shall provide those records to the Attorney General upon request.
- i. *Child Support Compliance Act*: In accordance with the Child Support Compliance Act, the Contractor recognizes and acknowledges:
 - 1. The importance of child and family support obligations and shall fully comply with applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and that to the best of its knowledge is fully complying with the earning assignment orders of all employees and is providing the names of all new employees to the New Employee Registry maintained by the California Employment Development Department (EDD).
- j. Contractor certifies that it will comply with the requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (P.L. 91-646) which provides for fair and equitable

treatment of persons displaced as a result of Federal and Federally assisted program.

- k. Contractor certifies that it will comply with the provisions of Hatch Act, which limits the political activity of certain State and local government employees as appropriate. No program under the Act may involve political activity.
- l. If the amount of the Agreement exceeds \$100,000, the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to Section 306 of the Clean Air Act and 508 of the Clean Water Act.
- m. Contractor certifies that it possesses the legal authority to apply for the funding; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the Contractor's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the application to act in connection with the application and to provide such additional information as may be required.
- n. Contractor will maintain appropriate standards for health and safety in work and training situations.
- o. Contractor will ensure that any and all construction laborers and mechanics employed under this agreement shall be paid wages in accordance with the Davis-Bacon Act as amended (40U.S.C. 276a-276a-7), and will be covered by labor standards pursuant to the Davis-Bacon Act.
- p. Contractor certifies that all training, instructional and on-the-job, shall only be for occupations for which the County of San Mateo has determined that there is a reasonable expectation for employment in the area in which the participant intends to seek employment.
- q. Contractor certifies that no program shall impair existing contracts for services or collective bargaining agreements, except that WIA-funded programs which would be inconsistent with the terms of a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization and employer concerned. No funds under this agreement shall be used to assist, deter, or promote union organization.
- r. Contractor certifies that no participant shall be employed or job opening filled (1) when any other individual is on layoff from the same or substantially equivalent job, or (2) when the employer has terminated the employment of a regular employee or otherwise reduced its work force with the intention of filling the vacancy created by hiring a participant whose wages are subsidized under the Act. No currently employed

worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits).

- s. Contractor certifies that no participant who is engaged in a WIA funded program may be charged a fee for placement or referral services.
- t. Contractor certifies that no funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.
- u. Contractor will consult with the appropriate labor organizations and/or employer representatives in the design, operation or modification of the programs under this agreement.
- v. Contractor certifies that it will comply with the mandatory standards and policies related to energy efficiency, which are contained in the State energy conservation plan issued in compliance with the Energy Policy Conservation Act (Public Law 96-163).

Section 3: Standards of Conduct

The following standards apply to Contractor:

- a. General Assurance – Every reasonable course of action will be taken by the Contractor in order to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This Agreement will be administered in an impartial manner, free from efforts to gain personal, financial or political gain. The Contractor, its executive staff and employees, in administering this Agreement, will avoid situations, which give rise to a suggestion that any decision was influenced by prejudice, bias, special interest or desire for personal gain. Contractor agrees to conform to the nondiscrimination requirements as referenced in WIA, Section 188.
- b. Employment of Former State Employees – Contractor will ensure that any of its employees who were formerly employed by the State of California in a position that could have enabled such individuals to impact policy regarding or implementation of programs covered by this agreement, will not be assigned to any phase of the activities conducted pursuant to this agreement for a period of not less than two years following the termination of such employment.
- c. Conducting Business Involving Relatives – No relative by blood, adoption or marriage of any executive or employee of the Contractor, will receive favorable treatment when considered for enrollment in programs provided by, or employment with, the Contractor.
- d. Conducting Business Involving Close Personal Friends and Associates – Executives and employees of the Contractor will be particularly aware of the varying degrees of influence that can be exerted by personal friends

and associates and, in administering the Agreement, will exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends and associates.

When it is in the public interest for the Contractor to conduct business with a friend or associate of an executive or employee of the Contractor, an elected official in the area or a member of the Work Force Investment Board (WIB), a permanent record of the transaction will be retained.

- e. Avoidance of Conflict of Economic Interest – An executive or employee of the Contractor, an elected official in the area or a member of a WIB, will not solicit or accept money or any other consideration from a third person for the performance of an act reimbursed in whole or part by the Contractor. Supplies, materials, equipment or services purchased with Agreement funds will be used solely for purposes allowed under this Agreement. No member of the Local Board will cast a vote on the provision of services by that member (or any organization, which that member represents) or vote on any matter which would provide direct financial benefit to that member (or immediate family of the member) or any business or organization which the member directly represents.
- f. The Contractor 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 thereto.
- g. Employment of Former State Employees: The Contractor will ensure that any of its employees who were formerly employed by the State of California in a position that could have enabled such individuals to impact policy regarding or implementation of programs covered by this agreement, will not be assigned to any part or phase of the activities conducted pursuant to this agreement for a period of not less than two years following the termination of such employment.

Section 4: Coordination

- a. Contractor will, to the maximum extent feasible, coordinate all programs and activities supported under this part with the other programs under the WIA, the Wagner-Peyser Act, Title 38 of the United States Code, and other employment and training programs at the State and local level.
- b. Contractor shall take appropriate steps to provide for increased participation of qualified special disabled and Vietnam-era veterans with special emphasis on qualified veterans who served in the Indo-China theater on or after August 5, 1964, and on or before May 7, 1975, assuring adequate training and employment opportunities for such veterans in its programs.
- c. Contractor shall, to the maximum extent feasible, coordinate services with the appropriate Veterans Administration Facilities in utilizing

apprenticeship and other on-the-job training activities under Section 1787 of Title 38 U.S. Code, and it shall consult with the appropriate apprenticeship agency concerning any training activities in apprenticeship occupations.

- d. Contractor shall take appropriate steps to provide for increased participation of women in non-traditional jobs.

Section 5: Property

- a. All property, finished or unfinished documents, data, studies and reports prepared or purchased by the Contractor under this Agreement, will be disposed of in accordance with the direction of the County. In addition, any tools and/or equipment furnished to the Contractor by the County and/or purchased by the Contractor with funds pursuant to this Agreement, will be limited to use within the activities outlined in this Agreement and will remain the property of the United States Government and/or the County of San Mateo. Upon termination of this agreement, Contractor will immediately return such tools and/or equipment to the County or dispose of them in accordance with the direction of the County of San Mateo.
- b. Contractor will follow the applicable federal regulations and state directives when purchasing supplies and equipment. Subgrantees will submit a written request and receive approval before making any purchase of an item with a base price of \$5,000 or greater.
- c. In the event of untimely delivery or defectiveness of County furnished property, Contractor will continue to be obligated to continue performance under this Agreement without any adjustment in cost to the County. Contractor shall at all times be liable for the loss or destruction of any County furnished property under this Agreement.
- d. Funds provided under the Agreement shall not be used for the purchase of real property or options to purchase.
- e. Contractor shall acquire, maintain and/or dispose of property purchased with funds received under this agreements, from pervious agreements and County purchased property located at the Contractor's site in accordance with the WIA Regulations for property purchased with WIA funds, and in accordance with County procedures for other property.
- f. Contractor must account for and control WIA and County property. Adequate records shall be maintained to reflect the location of such property at all times. Equipment shall not be removed from the premises without the prior written approval of the County.
- g. Contractor shall report loss, damage or theft of any property to the County and to the appropriate local authorities within two (2) hours of discovery. Property stolen, damaged or destroyed shall be replaced by Contractor

with non-federal funds. Contractor must ensure that title for any replacement equipment clearly rests with the County. In the event of untimely delivery of defectiveness of County furnished property, Contractor will continue to be obligated to continue performance under this agreement without any adjustment in cost to the County.

- h. WIA equipment is to be limited to use within the activities outlined in this agreement. If purchased for the purpose of providing training to WIA participants, equipment shall be used solely for the use of WIA unless the County has approved a shared agreement.

Section 5A: Intellectual Property Provisions

1. Federal Funding

In any agreement funded in whole or in part by the federal government, County may acquire and maintain the Intellectual Property rights, title, and ownership, which result directly or indirectly from the Agreement, except as provided in 37 Code of Federal Regulations part 401.14. However, pursuant to 29 CFR section 97.34 the federal government shall have a royalty-free, non-exclusive, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the worlds in any manner for governmental purposes and to have and permit others to do so.

2. Ownership

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

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

- 1) For the purposes of the definition of Intellectual Property, “works” means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, education materials, interactive videos, computer software and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purpose of producing those final products. “Works” does not include articles submitted to peer review or reference journals or independent research projects.
- (c) In the performance of this Agreement, Contractor may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of County’s Intellectual Property in existence prior to the effective date of this Subgrant. Except as otherwise set forth herein, Contractor shall not use any of County’s Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of County. Except as otherwise set forth herein, neither the Contractor nor the County shall give any ownership interest in or rights to its Intellectual Property to the other Party. If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to County, Contractor agrees to abide by all license and confidentiality restrictions applicable to County in the third-party’s license agreement.
 - (d) Contractor agrees to cooperate with County in establishing or maintaining County’s exclusive rights in the Intellectual Property, and in assuring County’s sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the agreement(s) to include all Intellectual Property provisions of **paragraphs one through nine**. Such terms must include, but are not limited to, the Contractor assigning and agreeing to assign to County all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the Contractor or County and which result directly or indirectly from this Agreement or any contract.
 - (e) Contractor further agrees to assist and cooperate with County in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce County’s Intellectual Property rights and interests.

3. Retained Rights/License Rights

- (a) Except for Intellectual Property made, conceived, derived from or reduced to practice by Contractor or County and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to County, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose of Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this subgrant, unless Contractor assigns all rights, titles and interest in the Intellectual Property as set forth herein.
- (b) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Subgrant, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of County or third party, or result in a breach or default of any provisions of **paragraph one through nine** or result in a breach of any provisions of law relating to confidentiality.

4. Copyright

- (a) Contractor agrees that for purposes of copyright law, all works (as defined in Ownership, Section 2, paragraph (b)1.) of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire." Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to County to any work product made, conceived, derived from, or reduced to practice by Contractor and which result directly or indirectly from this Agreement.
- (b) All materials, including, but not limited to, computer software, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or County and which result directly or indirectly from this Agreement may not be reproduced or disseminated without prior written permission from the County.

5. Patent Rights

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically

included in the Agreement's scope of work, Contractor hereby grants to County a license as described under **paragraph three** for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to County, without additional compensation, all its right, title and interest in and to such inventions and to assist County in securing United States and foreign patents with respect thereto.

6. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining County's prior written approval; and (ii) granting to or obtaining for County's, without additional compensation, a license, as described in **paragraph three**, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and County determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to County.

7. Warranties

(a) Contractor represents and warrants that:

- 1) It has secured and will secure all rights and licenses necessary for its performance of this Agreement
- 2) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign county. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
- 3) Neither Contractor's performance nor any part its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- 4) It has secured and will secure all rights and licenses necessary for Intellectual Property including, not limited to, consents, waivers or releases from all authors.

- 5) Of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites locations, property or props that may be used or shown.
- 6) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to County in this Agreement.
- 7) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- 8) It has no knowledge of any outstanding claims, licenses or other charges liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

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

8. Intellectual Property Indemnity

- (a) Contractor shall indemnify, defend and hold harmless the County and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnities") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim action, or proceeding, commenced or threatened) to which any of the Indemnities may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of County's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or County and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that was issued after the effective date of this Subgrant. County reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against County.
- (b) Should any Intellectual Property licensed by the Contractor to County under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonable and in good faith to preserve

County's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to County. County shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for County to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replace or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, County may be entitled to a refund of all monies paid under this Agreement, without restrictions or limitation of any other rights and remedies available at law or in equity.

- (c) Contractor agrees that damages alone would be inadequate to compensate County for breach of any term of this Intellectual Property provisions of **paragraphs one through nine** by Contractor. Contractor acknowledges County would suffer irreparable harm in the event of such breach and agrees County shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

9. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

Section 6: Termination

- a. Should Contractor fail to perform the covenants contained herein at the time and in the manner herein provided, the County may at that time or any time thereafter terminate this agreement upon written notice. In the event of such termination, County may immediately proceed with the work to be performed under this agreement in any manner deemed proper by the County. County may at its sole discretion, deduct from the total amount paid to Contractor under this Agreement all or part of the cost associated with completion of such work.
- b. In the event that invoices are in the County's opinion inconsistent with Exhibit B., Rate and Terms of Payment, or if other irregularities exist, County may withhold all or part of the funds under this Agreement until resolution of the inconsistencies/irregularities to County's satisfaction, provided that the County will not unreasonable withhold funds.
- c. All funds under this Agreement must be spent only in conformity with the Exhibits A, B and C attached hereto. County reserves the right to withhold funds, require re-planning or take appropriate actions in the event that expenditures are not consistent with the levels in the budget.

Section 7: Amendments

This agreement may be modified by the County upon written notice to the Contractor under the following circumstances:

- a. There is an increase or decrease in federal or State funding levels.
- b. A modification is required in order to implement an adjustment of modification to the plan of the program described in Exhibit A, Description of Services.
- c. Funds awarded to the Contractor have not been expended in accordance with the schedule included in the approved plan of the program described in Exhibit A. After consultation with the Contractor, the County has determined that funds will not be spent in a timely manner, and such funds are for that reason to the extent permitted by and in a timely manner consistent with State and federal law, regulations and policies, reverting to the County.
- d. There is a change in State or Federal law or regulation requiring a change in the provisions of this Agreement.
- e. County shall monitor this Agreement by evaluating the performance indicators described in Exhibit A. Contractor will make every effort to keep the performance indicators at the level agreed to in the Agreement; however, if any performance indicator falls below eighty percent (80%) for three (3) consecutive months, the contract may be renegotiated.
- f. Except as provided above, this Agreement may be amended only in writing by the mutual agreement of both parties.

Section 8: Management Information Systems Policies and Procedures

- a. Contractor shall comply with County Management Information System policies and procedures contained in the MIS Handbook as amended and revised, and any directive or other bulletin issued which clarifies or modifies County policies and procedures.
- b. If the Contractor conducts eligibility determination, Contractor shall assure that only eligible participants are enrolled in the program funded under this Agreement. Failure of this condition shall entitle County to recover disallowed costs incurred by any ineligible participant.

Section 9: Accounting and Cash Management

- a. Contractor will comply with controls, record keeping and fund accounting procedure requirements of WIA, Federal and State regulations and directives to ensure the proper accounting for program funds paid under this agreement.
- b. Contractor shall maintain fiscal accounts in a manner sufficient to permit tracking of funds received and levels of expenditures. Records and books shall be audible and up to date at all times.
- c. Income (including interest income) generated as a result of the receipt of funds under this agreement will be utilized in accordance with the policy and procedure

established by the County. Contractor will account for any such income generated separately.

- d. Contractor shall immediately advise County of any improper or fraudulent use of funds under this Agreement, any misinformation supplied to County, or any circumstances giving rise to possible or apparent misuse of funds.
- e. Contractor may be required to establish a separate bank or trust account for funds received, and shall maintain a separate fund accounting for these funds.
- f. Contractors that are public or non-profit entities with a fixed unit price agreement shall use revenues in excess of costs, or so called "profits" for the following purposes:
 - 1. Add the "profit" to funds committed to the program and use it to further program objectives; or
 - 2. Deduct the "profit" from the fixed unit price performance billing in determining the net amount on which WIA share of billing will be used;
 - 3. Use the "profit" to satisfy the WIA matching requirements, if applicable.

In addition, Contractor shall:

- 1. Submit the amount of excess revenue or "profit" to San Mateo County WIB within 45 days after the end of the fiscal year; and
 - 2. Maintain the necessary financial records which account for the use of these funds, in anticipation of possible audit.
 - 3. Remit immediately to the San Mateo County WIB any excess revenue which will not be utilized within one year after the end of the fiscal year in which it was earned.
- g. Costs incurred before and after the effective dates of the Agreement will not be allowed.
 - h. Contractor shall report any additional or unexpected funds received in conjunction with the services provided under the terms of this Agreement to the County upon receipt of such funds or notification of award of such funds.

Section 10: Reporting

- a. Contractor will compile and submit reports of activities, expenditures, status of cash and closeout information by the specified dates as prescribed by the County.
- b. Contractor shall submit an invoice/report within 15 calendar days after the end of each month unless a different due date is granted in writing by the County Representative.

Section 11: Grievance and Complaint System

Contractor will establish and maintain a grievance and complaint procedure in compliance with WIA, Federal Regulations and State Statutes, Regulations and Policy and Peninsula Works MOU.

Section 12: Conflicts

- a. Contractor will cooperate in the resolution of any conflict with the U.S. Department of Labor which may occur from the activities funded under this Agreement.
- b. In the event of a dispute between the Contractor and the County over any part of this Agreement, the dispute may be submitted to non-binding arbitration upon the consent of both the Contractor and the County. An election for arbitration pursuant to this provision will not preclude either party from pursuing any remedy for relief otherwise available.

Section 13: Audits

- a. The Contractor shall maintain and make available to auditors, at all levels, accounting and program records including supporting source documentation and cooperate with all auditors.
- b. The Contractor and/or auditors performing monitoring or audits of the Contractor or its subcontracting service providers will immediately report to the County any incident of fraud, abuse or other criminal activity in relation to this Agreement, the WIA, or its regulations.
- c. Before any funds are issued under this Agreement the Contractor will submit, to the County, the findings of the most recent audit. The Contractor will demonstrate that its financial accounting systems are adequate to satisfy Federal audit requirements per Federal Register, 20CFR, Section 629.42, dated February 12, 1988.
- d. Contractors that are public school districts, community college districts, or non-profit organizations, receiving \$25,000 or more in federal funds will be required to arrange for a financial compliance audit, in accordance with OMB A-110, or A-128 as applicable. Private-for-profit contractors are required to have an audit in accordance with the Workforce Investment Act. This audit must be conducted by an independent CPA chosen through a proper selection process. The cost, or portion of the cost, of such an audit is an allowable expense under WIA if specifically provided for in the cost detail and made a part of this Agreement as reflected in Exhibit B for cost reimbursable agreements. For fixed price agreements the cost of the audit may be negotiated as part of the total fixed price. There will be no further reimbursement for audit costs beyond the fixed price unless specifically identified in the agreed upon budget as a cost reimbursable item. A copy of this audit report must be furnished to the

Workforce Investment Board within 15 days of the receipt of the audit report from the auditor.

WIA funds must be shown on the audit report separately and distinctly from the other funds of the Contractor and in accordance with the Federal catalog number. Any audit findings, questioned costs and disallowed costs affecting the WIA funds must be specifically reported and identified in the audit report.

e. Responsibility for Audit Exceptions

1. Audit exceptions are defined as any unfavorable finding in any audit of Contractor's performance under this Agreement. Contractor is aware and is hereby on notice that any and all failure to comply with the Act, all rules, regulations, and amendments promulgated thereunder, relevant Federal, State, and local statutes, rules, and regulations, including requirements of the County, may result in Contractor liability to repay part or all of the funds under this Agreement.
2. Contractor will notify County in writing immediately of any audit exception(s). County may at that time or anytime thereafter, give notice of intent to terminate this Agreement subject to satisfactory corrections within thirty (30) days.
3. Contractor agrees to correct and resolve all audit exceptions to County's satisfaction and agrees to give such response to County as County deems necessary regarding any audit exception. Contractor is aware and is hereby on notice that audit exceptions may result in County liability to the United States Department of Labor and the State of California, among others, for part or all of the funds provided under this Agreement and so agrees to pay to County the full amount of County liability resulting from said audit exceptions attributable to the Contractor.

Section 14: Disallowed Costs

Contractor will be liable for and will repay, to County, any amounts expended under this agreement found not to be in accordance with WIA including, but not limited to, disallowed costs. Such repayment will be from funds (non-Federal) other than those received under the WIA.

Section 15: Subcontracting

The system for awarding contracts will contain safeguards to ensure that the Contractor does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds or who have been debarred from receipt of federal funds.

Section 16: Educational Assistance Program Funds

Contractor shall report and pay to County any income received from student's Federal and State educational assistance grants, such as PELL grants, Supplemental Educational Opportunity Grants (SEOG), and other educational

assistance programs. Receipt of such income plus WIA funds for the same training services may constitute double billing unless the WIA expenses are properly reduced. The report and payment shall be made to the county within 15 calendar days after the month that the educational assistance grant is received by the Contractor.

Section 17: Disclosure of Confidential Information

County and Contractor agree to maintain the confidentiality of other information concerning applicants, participants, or their families, which may be obtained through application forms, interview, tests, reports from public agencies, counselors, or any other source. Without permission of the applicant or participant, such information shall be divulged only as necessary for purposes related to the performance or evaluation of the Agreement, and then only to person having responsibilities under the Agreement, including those furnishing services to the project under Contractor and to governmental authorities, to the extent necessary for the proper administration of law.

Section 18: Cash Advances

- a. An initial cash advance, not to exceed the projected expenses for up to a six-week period, may be paid to Contractor upon submission of a written request and justification of the need for the advance that is acceptable to the County. Any Contractor receiving a cash advance is required to establish an interest income account to which all interest earned on advances must be posted quarterly and paid to the County. Subsequent advances would only be made upon request, provision of similarly acceptable justification of need, and after a reconciliation of prior advance and earned benchmark payments.

To maintain the element of risk to the Contractor, no advance will be made for the last six weeks of the contract. Further, irrespective of any other policy provisions, the County will solely determine a Contractor's potential for earning any requested advances based on a review of actual, ongoing, performance and reserves the right **not to advance** or to alternatively require a performance bond, irrevocable line of credit, title to property or other collateral.

- b. Contractor agrees to comply with specific plan for repayment of cash advance as outlined in Exhibit B.
- c. For any Agreement in which unexpected funds resulting from cash advances remain upon completion or termination of this Agreement, such funds shall be returned to County within sixty (60) days of the termination of Agreement.

Section 19: Nondiscrimination Clause

- a. The conduct of the Contractor will be in accordance with Title VI of the Civil Rights Act of 1964, and the Rules and Regulations promulgated thereunder and the provisions of WIA, Section 188. In addition:

1. During the performance of this agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, pregnancy, disability and denial of family care leave. Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractor shall comply with the provisions of the Fair Employment and Housing Act (Governmental Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, and Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 1299(a-f), set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract or its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
2. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

Section 20: Subcontracting

- a. Any of the work or services specified in this agreement which will be performed by other than by the Contractor will be evidenced by a written agreement specifying the terms and condition of such performance.
- b. The Contractor will maintain and adhere to an appropriate system, consistent with federal, State and local law, for the award and monitoring of contracts which contain acceptable standards for insuring accountability.
- c. The system for awarding contracts will contain safeguards to ensure that the Contractor does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds within the last two years.

Section 21: Standards and Sanctions

- a. The Contractor is expected to make its best effort to achieve the standards set forth, and is subject to sanctions in the event that substantial compliance is not achieved.
- b. To the extent that the Contractor's performance adversely affects the County's performance, such sanctions will be applied to the Contractor in a manner consistent with Federal and State regulations.

Section 22: Confidentiality Requirements

The County and the Contractor will exchange various kinds of information pursuant to this agreement. That information will include data, applications, program files

and databases. These data and information are confidential when they define an individual or an employing unit. Confidential information requires special precautions to protect it from unauthorized use, access, disclosure, modification, and destruction. The sources of information may include, but are not limited to, the Employment Development Department, the California Department of Social Services, the California Department of Education, the County IV-D Directors Office of Child Support, the Office of the District Attorney, the California Department of Mental Health, the California Office of Community Colleges and the Department of Alcohol and Drug Programs.

The Contractor and the County agree that:

- a. Each party shall keep all information that is exchanged between them in the strictest confidence and make such information available to their own employees only on a "need-to-know" basis.
- b. Each party shall provide written instructions to all its employees with access to information provided by the other party of the confidential nature of the information and of the penalties for unauthorized use or disclosure found in section 1798.55 of the Civil Code, section 502 of the Penal Code, section 2111 of the Unemployment Insurance Code, section 10850 of the Welfare and Institutions Code and other applicable local, State and federal laws.
- c. Each party shall (where it is appropriate) store and process information in electronic format, in such a way that unauthorized persons cannot reasonably retrieve the information by means of a computer.
- d. Each party shall promptly return to the other party confidential information when its use ends, or destroy the confidential information utilizing an approved method of destroying confidential information: shredding, burning, or certified or witnessed destruction. Magnetic media are to be degaussed or returned to the other party.
- e. If the County or Contractor enters into an agreement with a third party to provide WIA services, the County or Contractor agrees to include these data and security and confidentiality requirements in the agreement with that third party. In no event shall said information be disclosed to any individual outside of that third party's authorized staff, subcontractor(s), service providers, or employees.
- f. Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and each party shall notify the other of any changes in that designation.

Section 23: Termination for Cause

- a. The County has the right to withdraw from this Agreement if it is determined that
Contractor has breached any section of this Agreement.

Attachment H



Category	Class Name				Subtotals
	Bio-Manufacturing Certificate Program FY 2004-06	Bio-Manufacturing Quality Control FY 2005-06	Healthcare Careers Gateway FY 2005-06	Dislocated Worker Gateway Program FY 2005-06	
Instructional Services	\$ 255,000.00	\$ 40,500.00	\$ 18,750.00	\$149,760	\$ 464,010.00
Institutional Support	\$ 48,875.00	\$ 9,773.00	\$ 3,465.00	\$70,455	\$ 132,568.00
Resume and Interview On-site Workshops	\$9,952.00				\$ 9,952.00
Fees and Books	\$ 30,100.00	\$ 2,000.00	\$ 3,100.00	\$ 18,000.00	\$ 53,200.00
Supplies	\$ 32,000.00	\$ 25,000.00	\$ 2,990.00	\$ 13,500.00	\$ 73,490.00
Subsidy	(\$30,390)				(\$30,390)
Subtotals	\$ 345,537.00	\$77,273	\$28,305	\$ 251,715.00	
TOTAL BUDGET					\$ 702,830.00