

**SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT  
AGREEMENT WITH  
San Mateo County on behalf of the Workforce Investment Board**

This Agreement is entered by and between the San Mateo County Community College District, a political subdivision of the State of California, having its principal business address at 3401 CSM Drive, San Mateo, CA 94402 (hereinafter called "District") and **San Mateo County on behalf of the Workforce Investment Board**, having its principal business address at 400 Harbor Boulevard, Building B, Belmont, CA 94002 (hereinafter called "Contractor").

WHEREAS, it is necessary and desirable that Contractor be engaged by District for the purpose of performing services hereinafter described;

NOW, THEREFORE, in consideration of the payments hereinafter set forth, Contractor shall perform services for District in accordance with the terms and conditions set forth herein and in Exhibit A attached hereto and by this reference made a part hereof, and, in consideration of the services rendered in accordance with all terms and conditions set forth herein and in Exhibit A, District shall make payment to Contractor in the manner specified in Exhibit A.

1. **TERM OF CONTRACT.** This Agreement shall commence on July 1, 2009 and terminate on February 14, 2012. Notwithstanding the foregoing, if any applicable law limits the permissible length of the term of this Agreement, then the term of this Agreement shall not extend beyond the length permitted by law.
2. **TERMINATION OF CONTRACT.** The District may, at any time from execution of Agreement, terminate this Agreement, in whole or in part, for the convenience of the District, by giving written notice specifying the effective date and scope of such termination. Termination shall be effective on a date not less than thirty days from notice. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the District and shall be promptly delivered to the District. In the event of termination, Contractor shall be paid for all work satisfactorily performed until termination, except where the contracting department determines the quality or quantity of the work performed is unacceptable. Such payment shall be that portion of the full payment, which is determined by comparing the work/services completed to the work/services required by the Agreement.

Contractor may terminate this Agreement upon thirty (30) days written notice to the District.

3. **AMENDMENTS.** This Agreement may be amended only by written instrument signed by both District and Contractor which writing shall state expressly that it is intended by the parties to amend the terms and conditions of this Agreement.
4. **GOVERNING LAW AND EXTENT OF AGREEMENT.** This Agreement, including all exhibits attached hereto and incorporated herein by reference, shall be construed in and governed by the laws of the State of California and constitutes the sole agreement of the parties hereto and correctly states the rights, duties and obligations of each party. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are of no force or effect. In the event of a conflict between the terms and conditions set forth herein and those in the exhibits attached hereto, the terms and conditions set forth herein shall prevail.

5. INDEPENDENT CONTRACTORS. It is understood that this is an Agreement by and between independent contractors and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture of association, or any other relationship whatsoever other than that of independent contractor. Except as District may specify in writing, Contractor shall have no authority, expressed or implied, to act on behalf of District in any capacity whatsoever. Contractor shall have no authority, expressed or implied, pursuant to this Agreement to bind District to any obligation whatsoever.
6. TIME OF PERFORMANCE. Time is of the essence and Contractor shall perform the services required by this Agreement in an expeditious and timely manner so as not to unreasonably delay the purpose of this Agreement.
7. FAIR EMPLOYMENT PRACTICES/EQUAL OPPORTUNITY ACTS. District is an equal opportunity employer. By entering into this Agreement, Contractor certifies that he/she is in compliance with the Equal Employment Opportunity Requirement of Executive Order 11246, Title VII of the Civil Rights Act of 1973, the California Fair Employment Practices Act and any other Federal or State laws and regulations related to Equal Employment Opportunity. Contractor's personnel policies shall be made available to District upon request.
8. OWNERSHIP OF PROPERTY. All tangible and intangible property developed, produced and/or provided by Contractor under this Agreement shall become the sole property of District. District's ownership of property developed, produced and/or provided under this Agreement includes, but is not limited to, any specifications, drawings, sketches, models, samples, tools, computer programs, technical information, confidential business information, scripts, customer or personnel information or data, written, oral or otherwise (all hereinafter referred to as "Information"), obtained by Contractor from District or developed by Contractor hereunder or in contemplation hereof shall remain or become the sole property of District. Any copyrightable works or other intellectual property developed in connection with this Agreement shall remain or shall become the sole property of District and, in accordance with Education Code section 72207, Contractor understands that the District's governing board may secure copyrights, in the name of the District, to all such works. If Contractor desires to make use of any such District work for any purpose not related to this agreement, Contractor must first secure prior written consent of District for such use. All copies of such Information in written, graphic or other tangible form shall be returned to District upon termination of this Agreement. Information shall be kept confidential by Contractor, shall be used only in performing hereunder, and may be used for other purposes only upon prior written approval of District Executive Vice Chancellor.
9. LICENSES, PATENTS, PERMITS. Prior to commencement of work/services to be performed under this Agreement, Contractor shall apply for, obtain and maintain in current status, at his/her own expense, any license, permit or approval required from any agency for the performance of said work/services, or forfeit any right to compensation under this Agreement.
10. LIABILITY AND INSURANCE. Contractor shall be responsible for all damages to persons or properties that occur as a result of Contractor's or Contractor's employees fault or negligence in connection with the performance of this Agreement.

Contractor is self insured and a combination thereof, and maintain during the life of this Agreement, Comprehensive General Liability insurance which provides for injuries including accidental death, per any one occurrence in an amount not less than \$2,000,000 per occurrence and \$4,000,000 annual aggregate; property damage insurance in an amount not less than \$2,000,000 per occurrence; and business automobile liability insurance in an amount not less than \$2,000,000 including coverage for owned, non-owned and hired vehicles.

Certificates of Insurance for coverages required herein shall be filed with District's Executive Vice Chancellor *prior to the commencement of work*. The certificates shall provide that if the policy or policies be canceled by the insurance company or Contractor during the term of this Agreement, thirty (30) days written notice prior to the effective date of such cancellation will be given to District's Executive Vice Chancellor. The certificates shall also show the information that the San Mateo County Community College District is named on Contractor's Comprehensive General Liability and Property Damage policies as co-insured or added thereon by endorsement as a named insured or additional insured.

11. **WORKERS' COMPENSATION INSURANCE**. The Contractor shall have in effect, during the life of this Agreement that the Contractor has employees, Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor certifies awareness of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and certifies compliance with such provisions before commencing the performance of this work of the Agreement as set forth in California Labor Code section 1861.

Initial

I am aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of any work required under this Agreement with employees.

Initial (if applicable)

I have no employees and, therefore, will not submit a Certificate of Workers' Compensation.

12. **INDEMNIFICATION**. County/Contractor agrees to indemnify, save harmless, and defend District, its officers, agents, employees, and servants from any and all claims, suits or actions of every name, kind or description, in any way occasioned by or arising out of the County/Contractor's performance of this Agreement, but only in proportion to, and to the extent, that any such claims, suits or actions of every name, kind or description result from the negligence or willful misconduct of the County/Contractor, its officers, agents, and/or employees.

It is further agreed that District shall indemnify, save harmless, and defend County/Contractor, its officers, agents, employees and servants from any and all claims, suits or actions of every name, kind or description, in any way occasioned by or arising out of the District's performance of this Agreement but only in proportion to, and to the extent, that any and all such claims, suits or actions of every name, kind or description result from the negligence or willful misconduct of District, its officers, agents, employees and servants.

In the event of concurrent negligence of the County/Contractor, its officers, agents, employees and servants and District, its officers, agents, employees and servants, then the liability for any and all claims for injuries or damages to persons and/or property which arise out of the terms and conditions of this Agreement shall be apportioned under the California theory of comparative negligence as established presently, or as may be hereafter modified.

The duty to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein shall be construed to require either party hereto to indemnify the other party hereto, their officers, agents, employees and servants against any responsibility or liability in contravention of Section 2782 of the Civil Code.

13. ASSIGNABILITY. Contractor shall not assign this Agreement or any portion thereof to a third party without the prior written consent of District, and any attempted assignment without such prior written consent in violation of this paragraph 12 is null and void and automatically shall terminate this Agreement. In the event of any assignment, Contractor shall remain liable to District as principal for the performance of all obligations under this Agreement.
14. FAILURE TO PERFORM. If, at any time, in the opinion of District, Contractor fails to render services of proper quality or has failed to perform, keep, and observe any of the terms or conditions herein contained on the part of Contractor to be performed, kept, and observed, District may give Contractor written notice to correct such conditions or cure such default; and if any such condition or default shall continue for ten (30) days after said written notice, then, and in that event, this Agreement shall cease and expire. Thereupon District or its duly authorized representative may employ other parties or carry this Agreement to completion as District may deem proper.
15. FORCE MAJEURE. Neither party shall be responsible for delays or failure in performance resulting from acts beyond the control of such parties. Such acts shall include, but not be limited to, Acts of God, labor disputes, civil disruptions, acts of war, epidemics, fire, electrical power outages, earthquakes or other natural disasters.
16. DISPUTE RESOLUTION. Should any dispute arise out of this Agreement, the parties agree to meet in mediation and attempt to reach a resolution with the assistance of a mutually agreed upon mediator. The mediation process shall provide for the selection, within fifteen (15) days of either party notifying the other of the existence of a dispute, by both parties of a disinterested third person as mediator and shall be concluded within forty-five (45) days from the commencement of the mediation unless a time requirement is extended by stipulation of both parties.  
  
If a mediated settlement is reached, neither party shall be the prevailing party for the purposes of the mediated settlement. Each party agrees to bear an equal quota of the expenses of the mediator.  
  
Neither party shall be permitted to file legal action without first meeting in mediation and maintaining a good faith attempt to reach a mediated resolution.
17. SEVERABILITY. Should any part of this Agreement be declared through a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or to carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexercised portion, can be interpreted reasonably to give effect to the intentions of the parties.
18. WAIVERS. No waiver of default by District of any terms or conditions hereof to be performed, kept, or observed by Contractor shall be construed to be or act as a waiver of any subsequent default of any of the terms and conditions herein contained.
19. NOTICES. All notices to be given between the parties hereto shall be in writing and may be served by commercial express/overnight courier service or by depositing the same in the United States mail, postage prepaid and certified receipt requested and addressed to:

"DISTRICT"

San Mateo County Community College District  
James W. Keller, Executive Vice Chancellor  
3401 CSM Drive  
San Mateo, CA 94402

"CONTRACTOR"

San Mateo County on behalf of the Workforce Investment Board  
Fred Slone, Manager  
262 Harbor Boulevard, Building B  
Belmont, CA 94002

Either party by written notice to the other party may change the address of the notice or the names of the persons or parties to receive written notices.

- 20. EXPENDITURE OF PUBLIC FUNDS. Contractor agrees to comply with Government Code Section 8546.7 which provides that any contract involving expenditure of public funds in excess of \$10,000 requires that the contracting parties shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under the contract.
- 21. CAPTIONS. Any captions to or headings of the articles, sections, subsections, paragraphs, or subparagraphs of this Agreement are solely for the convenience of the parties, are not a part of this Agreement, and shall not be used for the interpretation or determination of validity of this Agreement or any provision hereof.
- 22. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.
- 23. EXECUTION. By their signatures below, each of the following represents that they have authority to execute this Agreement and to bind the party on whose behalf their execution is made.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate.

**SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT**

**CONTRACTOR**

By: \_\_\_\_\_  
James W. Keller, Executive Vice Chancellor

By: \_\_\_\_\_  
Richard S. Gordon  
President Board of Supervisors

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A - INVOICING**

Services shall be billed to “San Mateo County Community College District” and **become payable upon presentation of detailed invoice(s) specifying services provided and costs associated with those services during the activity period.** The following is a quarterly schedule for invoicing:

<i>Invoice</i>	<i>Invoice Date</i>	<i>For Activities During Period:</i>
1	10/1/2009	Through September 30 2009
2	1/1/2010	October 1 2009 - December 31 2009
3	4/1/2010	January 1 2010 - March 31 2010
4	7/1/2010	April 1 2010 - June 30 2010
5	10/1/2010	July 1 2010 - September 30 2010
6	1/1/2011	October 1 2010 - December 31 2010
7	4/1/2011	January 1 2011 - March 31 2011
8	7/1/2011	April 1 2011 - June 30 2011
9	10/1/2011	July 1 2011 - September 30 2011
10	1/1/2012	October 1 2011 - February 14 2012

The sum of all invoices for a given calendar year shall not exceed the indicated value:

<b>Partner</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
San Mateo County <b>on behalf of the Workforce Investment Board</b>	\$96,000	\$96,000	\$48,000

**The total amount paid under this Agreement shall not exceed \$240,000**

Invoices shall be sent to: SMCCCD, Accounts Payable Office, 3401 CSM Drive, San Mateo, CA 94402 with a copy sent to: Barbara Lamson, Skyline College, 3300 College Drive, San Bruno CA 94066

## EXHIBIT B – PROJECT DESCRIPTION

Skyline College is implementing the Bay Area Clean Energy Careers (BayCEC), a clean energy workforce development project funded by the US Department of Labor Community Based Job Training Grant. The timeframe of the grant is 3 years, commencing on February 15, 2009 and terminating on February 14, 2012.

The following describes a subgrant designated in the grant award for the project's partner, San Mateo County, on behalf of the Workforce Investment Board, in the amount of \$240,000.

### Highlights of Grant Activities Include:

- 1) **Regional Collaborative** - Create a regional industry-education partnership of community colleges, Workforce Investment Boards (WIBs), non-profits and employers, to provide training and career pathways in selected clean energy careers. The partnership, located in the East Bay, the North Bay and the Peninsula, will work collaboratively to connect the needs of the community workforce with clean energy training and resources.
- 2) **Training Programs and Implementation** – Create and provide training in energy efficiency careers such as energy auditing and retrofitting for 75 candidates; environmental control technology (HVAC) for 50 candidates; and solar energy technology for 80 candidates. Special emphasis will be placed on transitioning 50 workers from the finance and retail industry to clean energy sales and customer service.
- 3) **Capacity Building** – Create clean energy career pathways to provide multiple entry and exit points into the energy efficiency, environmental control technology and solar energy technology, including training at the K-12 system, CBO training centers and community colleges. Specific mechanisms include WIB clean energy career recruitment systems; “Clean Energy Systems and Careers” coursework at high schools, ROP’s, and community colleges; faculty training in clean energy curriculum; and a bridge class for underprepared students.

The Market for Clean Energy in the United States is growing rapidly. Nationally and locally our labor force lacks the skills needed to support this industry. A 2006 study from the National Renewable Energy Laboratory identified the shortage of skills and training as a leading non-technical barrier to clean energy market growth. The study identified a number of critical unmet training needs, including; lack of reliable installation, maintenance, and inspection services; the shortage of key technical and manufacturing skills; and failure of the educational system to provide adequate training in new technologies. These National and State concerns about workforce adequacy are echoed in the Bay Area, where 73% of “green” employers stated in a recent survey that there was a shortage of qualified workers, with trained energy industry workers among the most in demand.

This subgrant provides funding to assist San Mateo County on behalf of the Workforce Investment Board with linking the BayCEC resources with potential clients. This program component will support the grant's goal of training a new workforce in clean energy.

**EXHIBIT C - PROJECT OBJECTIVES**  
**FOR San Mateo County on behalf of the Workforce Investment Board**

*Dates are subject to change on agreement between SMCCCD and Contractor.*

1. **San Mateo County on behalf of the Workforce Investment Board** will actively participate in BayCEC meetings and communications where appropriate. (Q1 2009 through Q1 2012)
2. **San Mateo County on behalf of the Workforce Investment Board**, along other BayCEC partners, will assist Skyline College to complete quarterly, Mid-Program and Summative Evaluations. (Q3 2009 through Q1 2012)
3. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB, will work with Skyline College to complete Employer Outcome Reporting. (Q3 through Q4 2011)
4. **San Mateo County on behalf of the Workforce Investment Board** will assist Alameda WIB and Skyline College with wrap-around support services and case management services necessary to promote student success. (Q1 2009 through Q1 2012)
5. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB, will identify, assess, and refer candidates for BayCEC course programs including, but not limited to: Photovoltaic Installation, Energy Efficiency Auditing and Retrofit, HVAC/Environmental Control Systems and Solar Design, Estimation and Sales. (Q3 2009 through Q1 2011)
6. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB, will partner with potential employers to place trained graduates from BayCEC course programs including, but not limited to: Photovoltaic Installation, Energy Efficiency Auditing and Retrofit, HVAC/Environmental Control Systems and Solar Design, Estimation and Sales. (Q4 2009 through Q1 2011)
7. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB, will partner with industry and community based organizations to implement outreach to veterans, dislocated workers, and other clients to link them to BayCEC resources. (Q3 2009 through Q1 2011)
8. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB, will partner with industry and community based organizations to assess the capacity of the one stop centers. (Q1 through Q2 2009)
9. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB and Skyline College, will coordinate logistics, recruit candidates, and host sessions for the One Stop Resource Guide Training. (Q2 through Q3 2009)
10. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB and Skyline College, will review and provide input to content developed by SEI for the One Stop Resource Guide and Training Session. (Q2 through Q3 2009)
11. **San Mateo County on behalf of the Workforce Investment Board**, along with Alameda County WIB, will support outreach efforts and curriculum development as needed for the Introduction to Clean Energy courses for High School and Regional Occupational Program students and faculty. (Q3 2009 through Q2 2011)



**EXHIBIT D – ASSURANCES & SPECIAL CONDITIONS**  
**DEPARTMENT OF LABOR COMMUNITY-BASED JOB TRAINING GRANT**

The following conditions apply to contractors and sub-contractors to the San Mateo County Community College District (SMCCCD) for sub-awards granted under the Bay Area Clean Energy Careers Program (BayCEC) sponsored by the Department of Labor (DOL) Community-Based Job Training Grant. By signing the sub-award agreement, the Contractor certifies the organization has read and is in compliance with the following assurances and special conditions.

I. REGULATORY REQUIREMENTS

In signing this contract, the Contractor certifies and assures that it will fully comply with the following regulations and cost principles, including any subsequent amendments:

- A. Uniform Administrative Requirements.
  - a. 29 CFR Part 97, for State/Local Government and Indian Tribes; OR
  - b. 29 CFR Part 95, for Institutions of Higher Education, Hospitals or other Non-Profit Organizations and Commercial Organizations.
- B. Cost Principles.
  - a. OMB Circular A-87, for State/Local Government and Indian Tribes;
  - b. OMB Circular A-21, for Institutions of Higher Education; OR
  - c. OMB Circular A-122, for Non-Profit Organizations.
  - d. 48 CFR Part 31.
- C. Other Requirements (As Applicable).
  - a. 29 CFR Part 96 and 99, Single Audit Act
  - b. 29 CFR Part 93, Lobbying Certification
  - c. 29 CFR Part 37, Nondiscrimination and Equal Opportunity Requirements
  - d. 29 CFR Part 98,
  - e. 29 CFR Part 652 et al., Workforce Investment Act
  - f. Wagner-Peyser Act
  - g. Grant Award Document, Parts I through IV, and attachments.

II. ASSURANCES

- A. Federal Assistance: Contractor has the legal authority to apply for Federal Assistance, and the institutional managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
- B. Access to Records: Contractor will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- C. Conflict of Interest: Contractor will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- D. Timely Completion: Contractor will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

- E. Merit Systems: Contractor will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
- F. Equal Opportunity and Nondiscrimination: Contractor will comply with all Federal statutes relation to nondiscrimination. These include but are not limited to:
- a. Title VI of the Civil Rights Act of 1964 (P.L. 88.352) which prohibits discrimination on the basis of race, color, or national origin;
  - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of handicaps;
  - c. the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age;
  - d. the Drug Abuse Office and Treatment Act of 1972 (P.L. 92.255) as amended, relating to nondiscrimination on the basis of drug abuse;
  - e. the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 (P.L. 91.616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - f. 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd.3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - g. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) as amended, relating to nondiscrimination in the sale, rental or financing of housing;
  - h. any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
  - i. the requirements of any other nondiscrimination statute(s) which may apply to the application.
- G. Relocation Assistance: Contractor will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91.646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interest in real property acquired for project purposes regardless of Federal participation in purchases.
- H. Political Activities: Contractor will comply with the provisions of the Hatch Act (U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- I. Labor Standards: Contractor will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276 a 7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C.

874, and the Contract Work Hours and Safety Standards Act (40.327-333), regarding labor standards for federally assisted construction subagreements.

- J. Flood Insurance: Contractor will comply, if applicable, with Flood Insurance Purchase Requirements of Section 102(A) of the Flood Disaster Protection Act of 1973 (P.L. 93.234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- K. Environmental Standards: Contractor will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91.190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with (EO) 11988; (e) assurance of project consistency with the approved State Management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176 (c) of the clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93.523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93.205).
- L. Wild and Scenic Rivers: Contractor will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the National Wild and Scenic Rivers System.
- M. Historic Preservation: Contractor will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a. 1 et seq.).
- N. Protection of Human Subjects: Contractor will comply with P.L. 93.348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- O. Laboratory Animal Welfare: Contractor will comply with the Laboratory Animal Welfare Act of 1966 (P.L.) 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- P. Lead-Based Paint Poisoning Prevention: Contractor will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
- Q. Audits: Contractor will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
- R. Contractor will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

### III. LOBBYING CERTIFICATION (29 CFR part 93)

SF-LLL, Disclosure of Lobbying Activities form (See EXHIBIT E) shall be completed by the reporting entity, where the Contractor or prime Federal recipient, at the initiation or receipt of a covered Federal Action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

### IV. SPECIAL CONDITIONS

- A. **Equipment:** Contractor must receive *prior approval* from the U.S Department of Labor, Employment and Training Administration (DOL/ETA) **Grant Officer** for the purchase and/or lease of any equipment with a *per unit acquisition cost of \$5,000 or more, and a useful life of more than one year*. This includes the purchases of Automatic Data Processing (ADP) equipment. The grant award does not give approval for equipment even if it is specified in a grantee's statement of work unless specifically approved in the grant award execution letter by the Grant Officer. If not, the Contractor must submit a detailed description list to the Federal Project Officer (FPO) for review within 30 days of the grant/agreement award date. Failure to do so will necessitate the need for approval of equipment purchase on an individual basis.
- B. **Program Income:** Contractor is authorized to utilize the addition method if any Program Income is generated throughout the duration of this grant/agreement. The Contractor is allowed to decut costs incidental to generating Program Income to arrive at a net Program Income [29 CFR Part 95.24(c)]; or [29 CFR Part 97.25(c)(g)(2)].
- C. **Pre-Award:** Contractor hereby agrees that any allowable costs incurred by the awardee pursuant to this grant/agreement, prior to the obligation of funds by the Department are *incurred at the Contractor's own risk*.
- D. **Consults:** **Consultant** fees paid under this grant/agreement shall be limited to \$500 per day without additional DOL Grant Officer approval.
- E. **Rebates:** Contractor agrees to advise the Grant Officer, in writing, of any *forthcoming* income resulting from lease/rental rebates or other rebates, interest, credits or any other monies or financial benefits to be received directly or indirectly as a result of or generated by these award dollars. Appropriate action must be taken to ensure that the Government is reimbursed proportionally from such income.
- F. **Publicity:** No funds provided under this grant shall be used for publicity or propaganda purposes, for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself. Nor shall grant funds be used to pay the salary or expenses of any grant or agreement Contractor or agent acting for such Contractor, related to any activity designed to influence legislation or appropriations pending before the Congress.
- G. **Public Announcements:** When issuing statements, press releases, requests for proposals, bid solicitation, and other documents describing project or programs funded in whole or in part with Federal money, **all Contractors** receiving Federal funds, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program. **Executive Order 12928:** In compliance with Executive Order 12928, the Grantee is strongly encouraged to provide subcontracting/subgranting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic Serving Institutions, and Tribal Colleges and Universities; and to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals.
- H. **Procurement:** Except as specifically provided, DOL/ETA acceptance of a proposal and an award of federal funds to sponsor any program(s) *does not* provide a waiver of any grant requirements and/or procedures. For example, the OMB circulars require an entity's procurement procedures must require that **all procurement transactions** shall be

conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the DOL/ETA's award does not provide the justification or basis to sole-source the procurement, i.e., avoid competition.

- I. Veteran's Priority Provisions: This program, funded by the U.S. Department of Labor is subject to the provisions of the "Jobs for Veterans Act" (JVA), Public Law 107-288 (38 USC 4215). The JVA provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services. Please note that to obtain priority services; a veteran must meet the program's eligibility requirements. Training and Employment Guidance Letter (TEGL) No. 5-03 (September 16, 2003) provided general guidance on the scope of the veterans priority statute and its effect on current employment and training programs. In addition to the TEGL, a series of questions and answers related to priority of service is posted at <http://www.doleta.gov/programs/VETs> for fifteen (15) programs administered by the Employment and Training Administration (ETA). The Planning Guidance and Instructions for Submission of Two Years of the Strategic Five-Year State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act, issued at 70 FR 19206 (April 12, 2005), required states to describe the policies and strategies in place to ensure, pursuant to the Jobs for Veterans Act that priority of service is provided to veterans (and certain spouses) who otherwise meet the eligibility requirements for all employment and training programs funded by the U. S. Department of Labor and administered by ETA. In addition, the states were required to provide assurances that they will comply with the Veterans' Priority Provisions established by the Jobs for Veterans Act (38 USC 4215). If the grantee is a state, then the state is bound by their approved state plans.
- J. Salary and Bonus Limitations: In compliance with Public Law 109-234, none of the funds appropriated in Public Law 109-149 or prior Acts under the heading 'Employment and Training' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109-149. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A-133. Where States are recipients of such funds, states may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from sub-recipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs. See Training and Employment Guidance Letter number 5-06 for further clarification.
- K. Intellectual Property Rights: The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes; i) the copyright in all products developed under the grant, including a sub-grant or contract under the grant or sub-grant; and ii) any rights of copyright to which the grantee, sub-grantee or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or licensing fee associated with such copyright material, although they may be used to pay costs for obtaining a copy which are limited to the developer/seller costs of copying and shipping. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income is added to the grant and must be expended for allowable grant activities. If applicable, the following needs to be on all products developed in whole or in part with grant funds: "This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use, by an organization and/or personal use by an individual for non-commercial purposes, is permissible. All other uses require the prior authorization of the copyright owner."
- L.

**EXHIBIT E – LOBBYING CERTIFICATION (29 CFR PART 93)  
INSTRUCTIONS FOR COMPLETION OF SF-LLL,  
DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, where subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal Action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g. the first subawardee of the prime is the 1<sup>st</sup> tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks “Subawardee”, then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Includes prefixes, e.g. “RFP-DE-90-0001.”

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
  
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
  
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
  
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
  
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
  
14. Provide a specific and detailed description of services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officials(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contracted.
  
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
  
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
 (see reverse for public burden disclosure)

1. Type of Federal Action:  a. Contract b. Grant c. Cooperative agreement d. Loan e. Loan guarantee f. Loan insurance	2. Status of Federal Action:  a. bid/offer/application b. initial award c. post-award	3. Report Type:  a. Initial filing b. material changes For Material Change Only: year _____ quarter date of last report
4. Name and Address of Reporting Entity_Prime_Subawardee Tier _____, if known  Congressional District, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:  Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description:  CFDA Number, if applicable:	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI)  (Attach Continuation Sheet(s) SF-LLL-A, if necessary)	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)  (Attach Continuation Sheet(s) SF-LLL-A, if necessary)	
11. Amount of Payment (check all that apply)  ___ actual ___ planned \$  12. Form of Payment (check all that apply): ___ a. cash ___ b. in-kind; specify Nature _____ value	13. Type of Payment (check all that apply)  ___ a. retainer ___ b. one-time fee ___ c. commission ___ d. contingent fee ___ e. deferred ___ f. other, specify	
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment included in Item 11:  (attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheets(s) SF-LLL-A attached: ___ YES ___ NO		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: Print Name: Title:  Telephone Number: _____ Date:	



**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(see reverse for public burden disclosure)

(Continuation Sheet)

Reporting Entity

Page \_\_\_ Page