



Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Upon motion of Supervisor Salinas, seconded by Supervisor Potter and carried by those members present, the Board of Supervisors hereby:

- a. Agreed, as Chief Elected Official for the Monterey County local workforce development area, to the contracts with the Monterey County Office for Employment Training and the Monterey/Santa Cruz Building Trades Council Training & Education Fund, effective September 1, 2016 through September 30, 2017, for provision of Proposition 39 (The California Clean Energy Jobs Act) Pre-Apprenticeship Support, Training, and Placement Grant services; and
- b. Approved and authorized the Executive Director of the Monterey County Workforce Development Board to sign these contracts.

PASSED AND ADOPTED on this 27th day of September 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on September 27, 2016.

Dated: October 5, 2016
File ID: 16-1059

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN
THE MONTEREY COUNTY WORKFORCE DEVELOPMENT BOARD AND MONTEREY COUNTY
FOR SERVICES RENDERED BY THE MONTEREY COUNTY OFFICE FOR EMPLOYMENT
TRAINING PURSUANT TO THE PROP 39 2.0 PRE-APPRENTICESHIP TRAINING
IMPLEMENTATION GRANT**

This Memorandum of Understanding (MOU) is made and entered into, effective the 1st day of September 2016 by the Monterey County Workforce Development Board, hereinafter called "MCWDB" and the Monterey County Office for Employment Training, hereinafter called "OET".

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purpose

The purpose of this MOU is to establish a cooperative and mutually beneficial relationship among the undersigned parties. This MOU sets forth the responsibilities of the parties as they relate to the Proposition 39 2.0 Pre-Apprenticeship Training Implementation grant (the Implementation Grant) from the State of California Workforce Development Board funded under the California Clean Energy Jobs Act (SB 73-Chapter 20, Statutes of 2013).

MCWDB is the lead agency for this proposal and has formed partnerships with the workforce boards of Santa Cruz and San Benito counties. MCWDB is the fiscal agent for the grant. This grant is intended to bolster the economic competitiveness of the Monterey Bay region by implementing an energy efficiency focused "earn-and-learn" job training and placement program, targeting disadvantaged and-disconnected job seekers, specifically returning veterans, women, and at-risk youth, ages 18-25.

2. Term

The term of this MOU, with respect to the Implementation Grant, commences on September 1, 2016 and terminates on September 30, 2017.

3. Operational and Fiscal Provisions

The total Implementation Grant award is \$400,000, to serve a total of 55 participants. Grant funds will be administered through MCWDB for the implementation of activities specified as follows:

MCWDB will:

- a. Convene all project partners for the purposes of confirming site locations, establishing a timeline for Multi-Craft Core Curriculum (MC3) training to begin, and convening an advisory panel.
- b. Convene at least one (1) Advisory Panel per training cohort for a maximum of four (4) meetings during the project.
- c. Develop outreach and recruitment materials for use in all counties.
- d. Lead the evaluation of the Implementation Grant to include identifying lessons learned/best practices.
- e. Appoint staff to administer the grant and retain up to \$49,744 for staff time and administrative costs (includes 10% of the overall grant award).

- f. Review all invoices and reports received from OET, verify compliance with the grant requirements and this MOU, and forward all invoices for reimbursement to the Fiscal Division of the MCWDB for payment.
- g. Reimburse OET for up to \$115,181 for activities associated with the Implementation Grant.
- h. Develop an agreement with the Monterey/Santa Cruz Counties Building & Construction Trades Council for the provision of MC3 curriculum.
- i. Track grant expenditures, prepare and submit reports to the State of California, and monitor Implementation Grant activities to ensure compliance with the grant terms and conditions outlined in the grant application.

OET will:

- a. Conduct outreach to eligible adults including Veterans and women, and at-risk youth (ages 18-25).
- b. Enroll a total of 25 participants (approximately 6-7 per training cohort) in the program's three to four training cohorts as outlined in Attachment B: Participant Plan.
- c. Ensure that all participants receive both ACT WorkKeys Ready 101 skill remediation training and pre-assessments.
- d. Ensure that all participants receive ACT WorkKeys post-testing.
- e. Provide Intensive, Supportive, and Retention services as outlined in Attachment A: Program Model.
- f. Provide data collection and reporting necessary to complete an evaluation of the project.
- g. Maintain financial accounts, records, and data related to this MOU in accordance with federal and/or state requirements and maintain those books, accounts, records and data for three (3) years after termination of this MOU. For the duration of this MOU, and for a period of three (3) years thereafter, either party's representatives and representatives of the California Workforce Development Board, and the Auditor General of the State of California shall have the right to examine these books, accounts, records, data and other information relevant to this MOU for the purpose of auditing and verifying statements, invoices, bills and revenues pursuant to this MOU.
- h. Use Attachment E: Invoice for Reimbursement and follow the County of Monterey Travel Policy when submitting requests to MCWDB for travel cost reimbursements. For specific receipts required for travel cost reimbursements, OET shall reference the County of Monterey Travel Policy online at: www.co.monterey.ca.us/auditor/pdfs/travelpolicy2008.pdf. The MCWDB will reimburse for only those travel expenses allowed by the County of Monterey Travel Policy only and at the current IRS allowable rate. The current IRS mileage rate allowance is \$.54 per mile.

Project funds allocated to Santa Cruz County are outlined below:

Grant Activities:	Amount Awarded
OET Staff Salaries	\$49,535
Staff Travel	\$680
Tools & Supplies (\$300 per participant x 25 participants)	\$7,500
Supportive Services (up to \$2,300 per participant x 25 participants)	\$57,466
Total OET Budget	\$115,181

The entire project budget is included for the OET's reference in Attachment C: Detailed Project Budget.

4. General Provisions

- a. OET agrees to comply with Attachment D: WIOA Certifications and Assurances, attached to this MOU.
- b. This MOU constitutes the entire agreement and understanding between the parties, and supersedes any prior or contemporaneous agreement, or understandings, if any, with regard to the purposes of this MOU. Any changes or modifications shall be accomplished only by a written amendment to this MOU, executed by the duly authorized representatives of the parties.
- c. In the event of a dispute arising out of the performance of this MOU, the parties may send a written notice of dispute to the other party. Within seven (7) business days of receipt of such notice, the notified party shall respond and agree to a meeting for the purpose of negotiating a settlement or procedure for settlement of the dispute. Any notice to be given to the parties hereunder shall be addressed as follows (until notice of a different address is given to the parties):

MCWDB
Joyce Aldrich, Executive Director
Monterey County Workforce Development Board
730 La Guardia Street, 2nd Floor
Salinas, CA 93905
Phone (831) 759-6644
aldrichj@co.monterey.ca.us

OET
Dave Spaur, Director
Monterey County Economic Development Department
168 West Alisal Street
Salinas, CA 93901
Phone (831) 755-5390
spaurd@co.monterey.ca.us

Notice shall be deemed satisfied within one (1) business day if provided by personal service, by electronic transmission or by facsimile. Notice shall be deemed satisfied within three (3) business days if provided by certified mail.

- d. If any provision of this Agreement, or the application thereof to any person, place, or circumstances, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.
- e. This Agreement shall be interpreted and applied according to the laws of California.


PER SIGNATURE, WE AGREE TO THE PROVISIONS OF THIS MOU.

Monterey County Board of Supervisors
Chief Elected Official
Monterey County Workforce Development Area



Chair, Monterey County Board of Supervisors

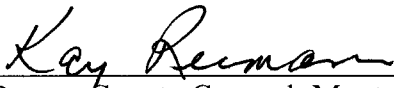
10-25-16
Date



Joyce Aldrich, Executive Director
Monterey County Workforce Development Board

10/5/16
Date

Approved as to form:



Deputy County Counsel, Monterey County

9/13/16
Date

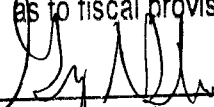
Monterey County,
Acting through its Office for Employment Training



Monterey County Contracts Purchasing Officer

10-17-16
Date

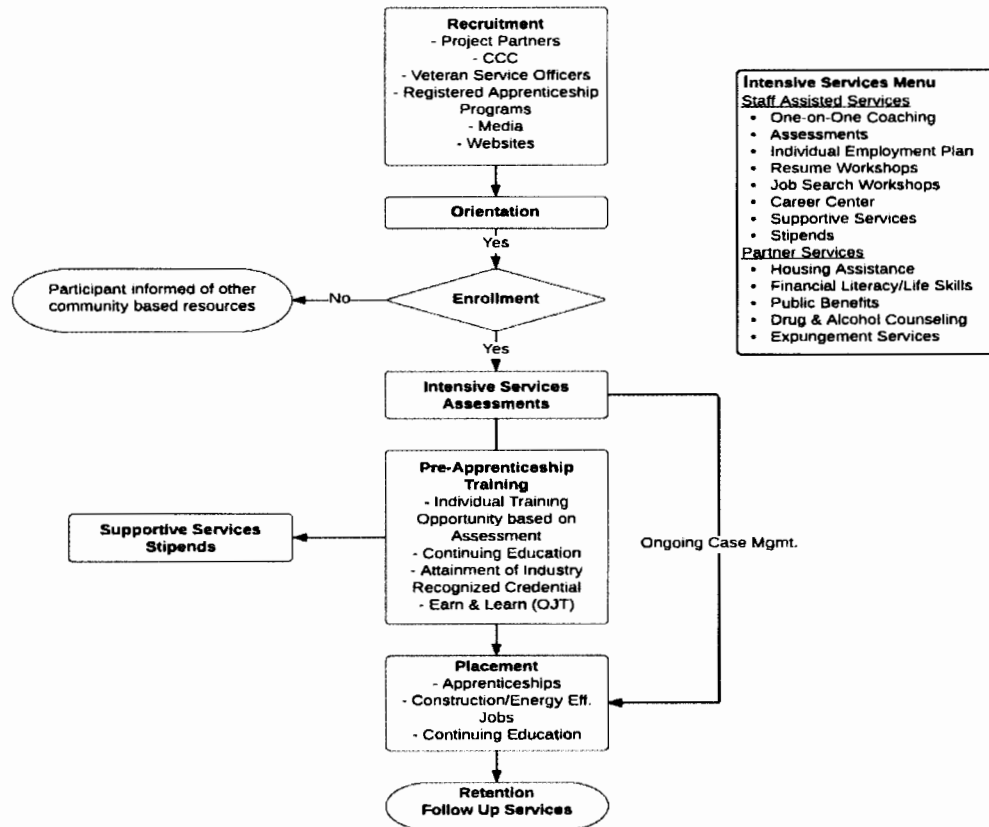
Reviewed as to fiscal provisions



Auditor-Controller
County of Monterey 9-14-16

Attachment A: Program Model

WIOA Proposition 39 Pre-Apprenticeship Program Model



Attachment B: Participant Plan for Monterey Bay Region Prop 39 2.0 Implementation Grant

	Q1	Q2	Q3	Q4	Q5	Q6	TOTAL
1. Participants to be Served	0	15	15	15	10	0	55
Total Youth to be Served		8	5	10	3	0	26
Total Veterans to be Served		4	8	3	2	0	17
Total Women to be Served	0	3	2	2	5	0	12
2. Enrollment in MC3 Pre-Apprenticeship Training	0	15	15	15	10	0	55
3. Completion of MC3 Pre-Apprenticeship Training		0	25	0	0	25	50
4. Attained Industry-Identified Certificate or Credential (MC3)			20			25	45
5. Placement in State-Approved Apprenticeship			12			9	21
Indicate Craft: electrician			3			2	5
Indicate Craft: carpenters			3			2	5
Indicate Craft: laborers			3			2	5
Indicate Craft: construction equipment operators			2			2	4
Indicate Craft: cement masons/brick layers			1			1	2
6. Placement in Postsecondary Education			4			4	8
7. Placement in Construction/Energy Efficiency Employment			5			5	10
8. Placement in Other Industry Employment			3			5	8
9. Retention in Employment/Apprenticeship			18			21	39
10. Average Income (\$/hour)			\$19			\$19	\$19

Attachment C: Budget Detail for Monterey Bay Region Prop 39 2.0

BUDGET LINE #1 - Staff Salary and Fringe Benefits				
List job titles of staff working on project	Salaries charged to project	Fringe Benefits charged to project	FTEs %	<u>Amount Requested</u>
Management Analyst III - Monterey	\$5,800	\$3,944	<u>7%</u>	\$ 9,744.00
WDB Director - Santa Cruz County	\$829	\$563	<u>1%</u>	\$ 1,392.00
WDB Director - San Benito County	\$829	\$563	<u>1%</u>	\$ 1,392.00
Sr. Analyst - Santa Cruz County	\$4,143	\$2,817	<u>6%</u>	\$ 6,960.00
WDB Rep II - Monterey County	\$29,485	\$20,050	<u>40%</u>	\$ 49,535.00
WDB Rep II - Santa Cruz County	\$29,485	\$20,050	<u>40%</u>	\$ 49,535.00
WDB Rep II- San Benito County	\$2,949	\$2,005	<u>5%</u>	\$ 4,954.00
Staff Subtotals	\$ 73,520.00	\$ 49,992.00	<u>100%</u>	\$ 123,512.00
BUDGET LINE #	EXPENSE ITEM	NARRATIVE DETAIL		<u>Amount Requested</u>
2	Staff Travel	Travel to and from training site to meet with		\$ 1,500.00
3	Communications			
4	Facilities Rent			
5	Facilities Utilities			
6	Facilities Maintenance			
7	Office Supplies -- detail major			
8	Testing/Instructional Materials -- detail major			
9	Equipment Purchases with grant funds -- list, briefly state purpose/need/cost of each item.			
10	Equipment lease/use-charge costs paid with grant funds -- list, briefly state purpose/need/total lease or use-charge cost of each item, total (to equal Budget line 10 entry).			
11	Tools and Supplies (detail per participant cost)	\$300 per participant for tools, etc.		\$ 16,500.00

12	Support Services -- (detail each type of cost, and amount per participant)	55 participants to be served. Stipends of \$2,300 (maximum) per participant will be awarded based on specific goals	\$ 126,432.00
13	Indirect costs -- Provide rate, direct cost(s) to which authorized to be applied, approving cognizant agency and date of approval. Show how total was calculated.		
14	"Other" Costs - Identify and detail the nature of each such cost to be paid with grant funds.)	Ten (10) percent Admin charge allocation	\$ 40,000.00
		admin related activities	
"Other" Subtotal			\$40,000.00
15	Subcontract - Identify detail, main functions/activities, cost of each subcontract and timelines of grant agreements.	Apprenticeship Program training	\$ 92,056.00
		through M/SC Counties Building and Trades	
		Council Education & Training Fund	
"Subcontract" Subtotal			\$92,056.00
Total Amount Requested			\$400,000.00

EXHIBIT D

GENERAL CONDITIONS, ASSURANCES AND CERTIFICATIONS WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

The following applies to all programs and/or projects funded under the Workforce Innovation and Opportunity Act (WIOA) conducted by Monterey County, acting through its Office for Employment Training (OET), which is hereinafter referred to as "PROVIDER".

1. COMPLIANCE

In performance of this MOU, PROVIDER will fully comply with:

- a. The provisions of the Workforce Innovation and Opportunity Act (WIOA) of 2014 ; the Office of Management and Budget (OMB) Uniform Administrative Requirements, Allowable Costs, Cost Principles, and Audit Requirements for Federal Awards, Final Rule at 2 Code of Federal Regulations (CFR), Chapter I and Chapter II, Part 200, et al (here after referred to as Uniform Guidance 2 CFR Part 200); and the Department of Labor's (DOL) exceptions at 2 CFR Chapter II, Part 2900, et al. (here after referred to as DOL Exceptions 2 CFR Part 2900); and all regulations, legislation, directives, policies, procedures and amendments issued pursuant thereto.
- b. All State legislation and regulations to the extent permitted by Federal law and all policies, directives and/or procedures, which implement the WIOA.
- c. The provisions of Public Law 107-288, Jobs for Veterans Act, as the law applies to DOL job training programs.
- d. PROVIDER will ensure diligence in managing programs under this MOU, including performing appropriate monitoring of its activities and taking prompt corrective action against known violations of the WIOA. PROVIDER agrees to conform to the provisions of the WIOA and the contract requirements as referenced in Uniform Guidance 2 CFR Part 200, Appendix II and DOL Exceptions 2 CFR Part 2900, Appendix II to Part 200.

2. CERTIFICATIONS / ASSURANCES

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

- a. **Corporate Registration:** PROVIDER, if it is a corporation, certifies it is registered with the Secretary of State of the State of California.
- b. **American's Disabilities Act (ADA):** PROVIDER agrees to comply with the American's Disabilities Act (ADA) of 1990, which, prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C.12101 et seq.)
- c. **False Claims Act:** PROVIDER, by signing this MOU, agrees to assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets. PROVIDER shall assure that all annual, final fiscal reports, monthly claims, invoices, and vouchers, it submits for the purpose of requesting payment will include a certification, signed by an official who is authorized to legally bind PROVIDER, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise." (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- d. **Authority to Bind PROVIDER:** PROVIDER shall furnish the Monterey County Workforce Development Board (WDB) in writing, a list of persons authorized by the Board of Supervisors to execute on behalf of PROVIDER: MOUs, modifications to MOUs, invoices or other documents as may be required by the WDB.
- e. **Sectarian Activities:** PROVIDER certifies that this MOU does not provide for the advancement 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 whatsoever, as specified by Article XVI, Section 5, of the Constitution, regarding separation of church and state.

- f. **National Labor Relations Board:** PROVIDER (if not a public entity), by signing this MOU, does swear under penalty of perjury, that no more than one final unappealable finding of contempt of court by a Federal court has been issued against PROVIDER within the immediately preceding two-year period because of PROVIDER's failure to comply with an order of a Federal court, which orders PROVIDER to comply with an order of the National Labor Relations Board (PCC10296).
- g. **Prior Findings:** PROVIDER, by signing this MOU, does swear under penalty of perjury, that it has not failed to satisfy any major condition in a current or previous MOU with the 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.
- h. **Drug-Free Workplace Certification:** By signing this MOU, PROVIDER hereby certifies under penalty of perjury under the laws of the State of California that PROVIDER will comply with the requirements of the Drug-Free Workplace Act of 1990 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.
 - (2) Establish a Drug-Free Awareness Program to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The person's or organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
 - (3) Every PROVIDER employee who works on this MOU will:
 - a. Receive a copy of the PROVIDER's drug-free policy statement; and
 - b. Agree to abide by the terms of the PROVIDER's drug-free policy statement as a condition of employment on the MOU.
- i. **Child Support Compliance Act:** In accordance with the Child Support Compliance Act, PROVIDER recognizes and acknowledges: The importance of child and family support obligations and shall fully comply with the 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 PROVIDER is fully complying with the earnings assignment orders of all PROVIDER's employees and is providing the names of all new PROVIDER's employees to the New Employee Registry maintained by the State of California Employment Development Department (EDD).
- j. **Debarment and Suspension Certification:** By signing this MOU, PROVIDER hereby certifies under penalty of perjury under the laws of the State of California that PROVIDER will comply with regulations implementing Executive Order 12549, Debarment and Suspension, Uniform Guidance 2 CFR Part 200, Appendix I, and that PROVIDER, to the best of its knowledge and belief, certifies that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
 - (2) Have not, within a three-year period preceding this MOU, been convicted of or had a civil judgment rendered against it 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. Nor shall PROVIDER have, within a three-year period preceding this MOU, been convicted of or had a civil judgment rendered against it for 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 Section 2 of this Debarment and Suspension Certification.
 - (4) Have not, within a three-year period preceding this MOU, had one or more public transactions (Federal, State or local) terminated for cause or default. Where PROVIDER is unable to certify to any of the statements in this Debarment and Suspension Certification, it shall attach an explanation to this MOU.

- k. **Mandatory Disclosures:** All WIOA and Wagner-Peyser recipients of Federal awards must disclose, as required at 2 CFR 200.113, in a timely manner, in writing to the Federal awarding agency or the WDB, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 (Remedies for noncompliance), including suspension or debarment.
- l. **Lobbying Certification:** By signing this MOU PROVIDER hereby assures and certifies to compliance with the lobbying restrictions which are codified in the DOL regulations at Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR 2900, as follows:
- (1) No Federal appropriated funds have been paid, by or on behalf of PROVIDER, 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, or cooperative MOU, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative MOU.
 - (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, and officer or employee of Congress, or an employee of a Member of Congress, in connection with this MOU, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - (3) PROVIDER shall require that the language of the lobbying restrictions be included in the award documents for MOU transactions over \$100,000 (per OMB) at all tiers (including MOUs, contracts, and subcontracts, under grants, loan, or cooperative MOUs), 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 the Lobbying 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.
- m. **Priority Hiring Considerations:** If this MOU includes services in excess of \$200,000, PROVIDER shall give priority consideration in filling vacancies in positions funded by the MOU to qualified recipients of aid under Welfare and Institutions Section Code 11200 in accordance with Public Contract Code §10353.
- n. **Sweatfree Code of Conduct:** All PROVIDERS that contract for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, or supplies furnished to the State pursuant to the contract have been laundered or produced, in whole or in part, by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. PROVIDER further declares under penalty of perjury that it will adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108. PROVIDER agrees to cooperate fully in providing reasonable access to PROVIDER's records, documents, agents or employees, or premises if reasonably required by authorized officials of the WDB, State of California EDD, the Department of Industrial Relations, or the Department of Justice to determine PROVIDER's compliance with the requirements of the Sweatfree Code of Conduct.
- o. **Unenforceable Provision:** In the event that any provision of this MOU is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this MOU have force and effect and shall not be affected hereby.
- p. **Non-discrimination Clause / Affirmative Action / Equal Employment Opportunity:**
- (1) The conduct of the parties to this MOU will be in accordance with Title VI of the Civil Rights Act of 1964, and the Rules and Regulations promulgated hereunder and the provisions of WIOA Section 188.
 - a. As a condition to the MOU of financial assistance from the DOL under WIOA, PROVIDER assures that it will comply fully with the non-discrimination and equal opportunity provisions of the following laws:

- i. Section 188 of the WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA financially assisted program or activity;
 - ii. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
 - iv. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
 - v. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.
- b. PROVIDER also assures that it will comply with Uniform Guidance 2 CFR Part 200, DOL Exceptions 2 CFR Part 2900, and all other regulations implementing the laws listed above. This assurance applies to PROVIDER's operation of the WIOA financially assisted program or activity, and to all MOUs that PROVIDER makes to carry out the WIOA financially assisted program or activity. PROVIDER understands that the United States has the right to seek judicial enforcement of this assurance.
- c. This PROVIDER shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the MOU.
- (2) PROVIDER will take affirmative action to assure that no individual will be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration or in connection with any services or activities authorized under the WIOA in violation of any applicable nondiscrimination law, including laws prohibiting discrimination on the basis of age, race, sex, color, religion, national origin, disability, political affiliation or belief. All complaints alleging discrimination must be filed and processed according to the procedures in the applicable DOL nondiscrimination regulations.
- (3) PROVIDER will assure that discriminatory job orders will not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ). See, generally, 42 U.S.C. 2000(e)-2(e), 29 CFR parts 1604, 1606, 1625. (3)
- (4) PROVIDER will assure that employment testing programs will comply with 41 CFR part 60-3 and 29 CFR part 32 and 29 CFR 1627.3(b)(iv).
- (5) PROVIDER agrees to conform to non-discrimination and equal opportunity requirements and procedures, including the WDB's grievance and complaint procedures in compliance with the WIOA, the Uniform Guidance 2 CFR Part 200, DOL Exceptions 2 CFR Part 2900, Federal regulations and State statutes, regulations and policy. (Reference WDB Policy 2005-10 – Grievance and Complaint Procedures and policy attachments; <http://www.montereycountywb.org/policies/policies/>)
- (6) PROVIDER will be governed by WIOA procedures relating to complaints alleging violations of the WIOA, regulations, other MOUs under the WIOA including terms and conditions of employment. Participants will be notified in writing, upon enrollment into employment or training, of the WIOA complaint procedures including notification of their right to file a complaint and instructions on how to do so. Complaint procedures include: (1) the right to file a complaint, (2) the opportunity to resolve complaints informally, (3) written notice of hearings, and (4) a final decision within sixty (60) days of the date of filing.
- (7) PROVIDER will comply with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, DOL."
- (8) PROVIDER shall ensure equal employment opportunity based on objective personnel policies and practices for recruitment, selection, promotion, classification, compensation, performance evaluation, and employee management relations.

- q. **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, including funds expended pursuant to this MOU, shall be used by a recipient or subrecipient 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 PROVIDERs providing goods and services as defined in Uniform Guidance 2 CFR Part 200 and the DOL Exceptions 2 CFR Part 2900. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the States, the compensation levels for programs involved including DOL Employment and Training Administration programs. See Training and Employment Guidance Letter #05-06 for further clarification at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.

The incurrence of costs and receiving reimbursement for these costs under this MOU certifies that PROVIDER has read the above special condition and is in compliance.

- r. **Federal Funding Accountability and Transparency Act (FFATA):** As required by FFATA, recipients of Federal awards are required to report sub-award and executive compensation information. By signing this MOU PROVIDER hereby assures and certifies to comply with the provisions of FFATA, which includes requirements referenced in Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900.
- s. **Air or Water Pollution Violation:** Under State laws, PROVIDER shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to any cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of Federal law relating to air or water pollution.
- t. **Clean Air Act and Federal Water Pollution Control Act:** All MOUs between the WDB and PROVIDER of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

3. STANDARDS OF CONDUCT

PROVIDER hereby assures that in administering this MOU, it shall comply with the standards of conduct hereinafter set out, for maintaining the integrity of the MOU and avoiding any conflict of interest in its administration.

- a. **General Assurance:** Every reasonable course of action will be taken by PROVIDER in order to maintain the integrity of the expenditure of public funds and to avoid favoritism and questionable or improper conduct. This MOU will be administered in an impartial manner, free from efforts to gain personal, financial, or political gain. PROVIDER agrees to conform to the non-discrimination requirements as referenced in WIOA Section 188.
- b. **Conflict of Interest:** An executive or employee of PROVIDER, an elected official in the area or a member of the WDB will not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed, in whole or in part, by PROVIDER or the WDB: supplies, materials, equipment or services purchased with MOU funds will be used solely for purposes allowed under this MOU. No member of PROVIDER or the WDB 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. For the purpose of this MOU, a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial interest in or a tangible personal benefit from a firm considered for a contract, subcontract, or MOU. (Reference 2 CFR Part 200.318(c)(1)(2) – Conflict of Interest) If a non-Federal entity, has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears unable to be impartial in conducting a procurement action involving a related organization. (Reference 2 CFR Part 200.318(c)(2))

- c. **Buy-American:** PROVIDER agrees that, as stated in sec. 502 of WIOA, all funds authorized in WIOA and the Wagner- Peyser Act must be expended on only American made equipment and products, as required by the Buy American Act (41 U.S.C. 8301–8305).
- d. **Nepotism:** PROVIDER certifies that it shall not hire nor permit the hiring of any person in a position funded under this MOU if a member of the person's immediate family is employed in an administrative capacity. For the purpose of this MOU, the term "immediate family" means spouse (common law or otherwise), child, mother, father, brother, sister, brother/sister-in-law, son/daughter-in-law, mother/father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, or such other relationship which would give rise to a substantial appearance of impropriety if the person were to be hired by PROVIDER. The term "administrative capacity" means persons who have overall administrative responsibility for a program, including but not limited to, selection, hiring, or supervisory responsibilities.
- e. **Procurement:** PROVIDER must comply with the WDB procurement policy and procedures which reflect applicable local, State and Federal laws and regulations, and the standards identified in Uniform Guidance 2 CFR Part 200.318 – General Procurement Standards. (Reference WDB Policy 2013-01 – Procurement Standards and policy attachments; <http://www.montereycountywib.org/policies/policies/>)

4. COORDINATION

- a. PROVIDER will, to the maximum extent feasible, coordinate all programs and activities supported under this part with other core programs under the WIOA, including the WIOA (Adult, Dislocated Worker and Youth formula programs); Wagner-Peyser Act employment services; Adult Education and Literacy Act programs; Rehabilitation Act Title I programs; Job Corps program, YouthBuild program, Native American programs, Migrant and Seasonal Farmworker programs, and other employment and training programs at the local level. In addition to the core programs, for individuals with multiple needs to access services, PROVIDER will, to the maximum extent feasible, coordinate with the following partner programs required to provide access through the America's Job Center of California or One-Stop Career Center: Career and Technical Education (Perkins), Community Development Block Grants, Indian and Native American programs, HUD Employment and Training programs, Local Veterans' Employment Representatives and Disabled Veterans' Outreach program, National Farmworker Jobs program, Senior Community Service Employment program, Temporary Assistance for Needy Families (TANF), Trade Adjustment Assistance programs, and Unemployment Compensation programs.
- b. PROVIDER shall not accept referrals for participant positions funded under this MOU from any agency which charges a fee to either the individual being referred or the employing agency for the services rendered. Charges incurred in violation of this clause shall be the sole responsibility of PROVIDER, and shall not be charged to either this MOU or the participant under this MOU.

5. SUBCONTRACTING

- a. PROVIDER will not assign a contract resulting from this MOU or any portion thereof to a third party without the prior written consent of the WDB, and any attempted assignment or subcontract without such prior written consent may cause immediate termination of the MOU.
- b. Upon approval from the WDB, any of the work or services specified in this MOU which will be performed by other than PROVIDER will be evidenced by a written MOU specifying the terms and conditions of such performance.
- c. PROVIDER 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.
- d. The system for awarding contracts will contain safeguards to insure PROVIDER does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds within the last two years.

6. RESOLUTION

A county, city, district or other local public body must provide the WDB and the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an MOU, authorizing execution of this MOU. Preferably resolutions should authorize a designated position rather than a named individual.

7. FUNDING

- a. It is mutually understood between the parties that this MOU may have been written before ascertaining the availability of congressional and legislative appropriation of funds. The parties hereby enter into this MOU in

advance of confirmation of the availability of funds for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the MOU was executed after that determination was made.

- b. This MOU is valid and enforceable only if (1) sufficient funds are made available by the State Budget Act of the appropriate State fiscal years covered by this MOU for the purposes of this program and; (2) sufficient funds are made available to the State by the United States Government for the fiscal years covered by this MOU for the purposes of the programs described in the scope of services. In addition, this MOU is subject to any additional restrictions, limitations, or conditions enacted by the Congress and Legislature or any statute enacted by the Congress and Legislature which may affect the provisions, terms, or funding of this MOU in any manner.
- c. At the expiration of the terms of this MOU or upon termination prior to the expiration of this MOU, funds not obligated for the purpose of this MOU will be immediately remitted to the WDB, and shall no longer be available to PROVIDER.
- d. The WDB retains the right to suspend financial assistance, in whole or in part, to protect the integrity of the funds or to ensure proper operation of the program, providing PROVIDER is given prompt notice and the opportunity for an informal review of the WDB's decision. The Executive Director of the WDB or his/her designee will perform this informal review and will issue the final administrative decision within 60 days of receiving the written request for review. Failure on the part of PROVIDER to comply with the provisions of this MOU, or with the WIOA or regulations, when such failure involves fraud or misappropriation of funds, may result in immediate withholding of funds.

8. FISCAL ACCOUNTABILITY

- a. PROVIDER shall establish and maintain a sound financial management system, based upon generally accepted accounting principles. An integral part of the required financial management system is a system of internal accounting controls that will provide reasonable assurance that WIOA assets are safeguarded against loss from unauthorized use or disposition, and that accounting transactions affecting WIOA fund accountability are properly charged and recorded by administrative and program cost categories to permit the preparation of accurate and supportable financial reports.
- b. PROVIDER will comply with controls, record keeping and fund accounting procedure requirements of WIOA, Federal and State regulations, and directives to ensure the proper accounting for program funds paid to PROVIDER by the WDB through a cost reimbursement process.
- c. This MOU provides for the reimbursement of allowable costs that are identified and approved in the MOU budget, and incurred in the operation of the programs specified in the scope of services. Back-up documentation is required from PROVIDER to justify reimbursement payments made under this MOU.
- d. All expenditures must be reported on an accrual basis of accounting.
- e. No cost shall be allowed under this MOU which is not specifically identified in PROVIDER's approved budget. PROVIDER shall not transfer funds between cost categories or adjust designated "total budget" line items without prior written approval by the WDB (applicable to cost reimbursement contracts only). Invoices for reimbursement submitted by PROVIDER that include designated total line item expenditures above the total budget for that designated line item will not be paid until the cost overrun is reconciled. All limitations on expenditures specified in Federal and State fiscal requirements shall apply to this MOU.
- f. PROVIDER shall not charge nor receive compensation under this MOU for any services or expenses unless said services or expenses are directly and exclusively related to the purpose of this MOU. In addition, payment may not be received by PROVIDER from any other source for said services or expenses. Moreover, funds shall not be allowed for cost incurred before or after the effective dates of this MOU. PROVIDER shall not use WIOA funds as security or payment for obligations or as loans for activities of other funded programs.
- g. PROVIDER'S personnel whose time is charged to the budget under this MOU shall be paid on a pro-rata basis commensurate with the percentage of time devoted to the programs specified in the scope of services. Personnel costs including salary shall be reasonable. Employees of PROVIDER shall be compensated using WIOA funds under this MOU only for work performed under the terms of this MOU.
- h. The WDB shall not pay, and PROVIDER shall not request, payment for any accrued employee fringe benefits (including vacation and sick time), which were not accrued by PROVIDER's employees during the term of this MOU.

- i. In accordance with the requirements at 2 CFR 200.400(g), PROVIDER may not earn or keep any profit resulting from WIOA funds paid under this MOU, or other federal financial assistance.
- j. Any excess of revenue over costs incurred for services provided by PROVIDER must be included in program income. (WIOA secs. 194(7)(A)–(B)). Interest income earned on funds received under WIOA and Wagner-Peyser Act must be included in program income. (WIOA sec.194(7)(B)(iii)) Accordingly, these funds may be retained by PROVIDER to underwrite additional training or training related services pursuant to the project or program that generated them, consistent with the purposes of WIOA. When PROVIDER ultimately discontinues the provision of all WIOA training and/or services described in this MOU, program income remaining shall be returned to the WDB.
- k. PROVIDER shall make available to the WDB, upon request, a complete and detailed record or cost allocation of any expenses that are, in whole or in part, supported with program funds. This detailed account shall include percentages and total contributions from both WIOA and non-WIOA sources. Shared expenses may include, but are not necessarily limited to the following: staff salaries, facilities, equipment, etc.
- l. Travel expenses when permitted should be made at the agency rate per mile, but the rate cannot exceed the amount allowed by the Monterey County travel expense reimbursement policy, located online at: http://www.co.monterey.ca.us/auditor/pdfs/county_travel_business_expense_policy_12-5-12.pdf

9. PAYMENT OF AUTHORIZED EXPENDITURES

- a. Subject to receipt of funds from the State, the WDB agrees to reimburse PROVIDER for expenditures authorized in the MOU budget. Financial reports and invoices are due to the fiscal unit of the WDB by the 15th working day of each month and shall include all obligations, expenditures and accruals incurred during the previous month, unless otherwise specified by the WDB. Late submission of financial reports and invoices are subject to withholding of payment due to non-compliance with PROVIDER'S MOU to submit timely and accurate reports and invoices. The WDB's Fiscal Unit shall pay the certified invoice within 30 days of receiving the certified invoice. Financial information reported on claims must be directly linked to records maintained by PROVIDER which support actual delivery of services as outlined in the existing MOU between PROVIDER and the WDB. The WDB shall be the sole judge of what constitutes adequate supporting documentation.
- b. PROVIDER shall be paid in accordance with the MOU and budget, not to exceed the maximum amount specified. Any cost incurred by PROVIDER over and above the maximum amount obligated by the MOU and budget shall be at the sole risk and expense of PROVIDER.

10. PERFORMANCE ACCOUNTABILITY

- a. PROVIDER, commencing as of the date of execution of this MOU by both parties, shall perform all the functions set forth in the MOU scope of services. Adequate performance under this MOU is essential and PROVIDER shall measure its performance results against goals and performance standards provided by this MOU. Measured performance below goals standards will constitute noncompliance with the terms of this MOU.
- b. It is the responsibility of PROVIDER to bring to the attention of the WDB areas of performance which are below goals and standards and, with respect to each such area, prepare a corrective action plan or a statement justifying modification of operational plans. In addition, upon receipt of any monitoring report or other communication identifying areas of concern, a corrective action plan must be submitted to the WDB within the time frame identified in the report. A corrective action plan shall consist of the following:
 - (1) Specific Actions to be taken
 - (2) The objective of each action
 - (3) Completion dates
 - (4) Person(s) responsible
 - (5) Result(s) to be accomplished
- c. PROVIDER shall submit all corrective plans to the WDB for written approval. If approved, PROVIDER shall keep the WDB aware of progress, on a continuing basis, until the corrective action plan results are accomplished. The WDB reserves the right to require modifications to the corrective action plan, satisfactory to the WDB, in the event of failure by PROVIDER to achieve the specified results.

- d. Failure of PROVIDER to satisfy administrative standards and/or performance goals may result in the immediate reduction of service levels to new applicants and/or enrollees by WDB. Such reduction will be accompanied by a proportionate decrease in obligated MOU funds.

11. MAINTENANCE OF EFFORT

PROVIDER shall comply with the following maintenance of effort requirements:

- a. PROVIDER warrants that participant positions funded through this MOU are in addition to those that would otherwise be financed by PROVIDER without assistance under WIOA.
- b. Participant positions funded through this MOU shall: (1) result in an increase in employment opportunities over those that would otherwise be available; (2) not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-over time work, wages or employment benefits; (3) not impair existing contracts for service or result in a substitution of Federal funds for other funds in connection with work that would otherwise be performed; (4) not substitute public service and/or work experience positions for existing jobs.
- c. PROVIDER will not terminate, layoff or reduce the working hours of an employee for the purpose of hiring an individual with funds available under WIOA.
- d. PROVIDER will not hire any person using funds available under WIOA when any other person is on layoff for the same or substantially equivalent job.

12. AMENDMENTS

This MOU may be unilaterally modified by the WDB, under the following circumstances:

- a. There is a decrease in Federal or State funding levels.
- b. Funds awarded to PROVIDER have not been expended in accordance with the budget included in the approved PROVIDER'S plan. This will occur if, after consultation with PROVIDER, the WDB has determined, in a manner consistent with State and Federal law, regulations and policies, that funds will not be spent in a timely manner.
- c. There is a change in State and Federal law or regulation requiring a change in the provisions of this MOU.

Except as provided above, the MOU may be amended only in writing by the mutual MOU of both parties.

13. REPORTING

- a. PROVIDER will compile and submit reports of activities, performance and expenditures by the specified dates prescribed by the WDB. All expenditure reports must be submitted upon the accrual basis of accounting. Failure to adhere to the reporting requirements of this MOU will result in funds not being paid to PROVIDER by the WDB.
- b. PROVIDER shall submit to the WDB all required reports on a timely basis as delineated by the WDB. PROVIDER shall submit written monthly status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken or other reports determined to be necessary by the WDB. These reports are due to the WDB, as requested in writing. PROVIDER also shall submit on a timely basis all required MOU supplemental documents.

14. TERMINATION

This MOU may be terminated, in whole or in part, for either of the two following circumstances:

- a. **Termination for Convenience:** Either the WDB or PROVIDER may request a termination, in whole or in part, for convenience. PROVIDER will give a ninety (90) calendar day advance notice in writing to the WDB. The WDB will give a ninety (90) calendar day advance notice in writing to PROVIDER.
- b. **Termination for Cause:** The WDB may terminate this MOU, in whole or in part, when it has determined that PROVIDER has substantially violated a specific provision of the WIOA regulations, the Uniform Guidance, or implementing State legislation and corrective action has not been taken.

All notices of termination must be in writing and be delivered personally or by deposit in the U.S. Mail postage prepaid, "Certified Mail-Return Receipt Requested", and will be deemed to have been given at the time of personal delivery or of the date of postmark by the U.S. Postal Service.

Notices to the WDB will be addressed to:

Joyce Aldrich, Executive Director
Workforce Development Board (WDB)
730 La Guardia Street
Salinas, CA 93905

Notices to PROVIDER will be addressed to:

David Spaur, Director
Economic Development Department
168 West Alisal Street
Salinas, CA 93905

15. RECORDS MAINTENANCE & RETENTION

- a. If participants are served under this MOU, PROVIDER will use the Monterey County's Virtual Job Center <https://www.ajccmontereycounty.org> and/or CalJOBS <https://www.caljobs.ca.gov>, online case management systems as prescribed by the County of Monterey.
- b. PROVIDER will retain all records pertinent to this MOU for a period of three (3) years from the date of final payment of this MOU. If, at the end of three (3) years, there is litigation or an audit involving those records, PROVIDER will retain the records until the resolution of such litigation or audit. (Refer to Uniform Guidance, Subpart D, Part 200.333-200.337.)
- c. The WDB, the State of California, and/or the U.S. DOL, or their designee (refer to Uniform Guidance, Subpart F, Part 200.500-200.521) will have access to and right to examine, monitor and audit all records, documents, conditions and activities related to programs funded by this MOU. For purposes of this section, "access to" means that PROVIDER shall at all times maintain within the State of California a complete set of records and documents related to programs funded by this MOU. PROVIDER shall comply with this requirement regardless of whether it ceases to operate or maintain a presence within the State of California before the expiration of the MOU. PROVIDER'S performance under the terms and conditions herein specified will be subject to an evaluation by the WDB of the adequacy of the services performed, timeliness of response and a general impression of the competency of PROVIDER'S organization and its staff.
- d. Portable Document Format (PDF), electronic, machine readable information or paper documentation is allowed for the purpose of records maintenance and retention, as long as there are appropriate and reasonable internal controls in place to safeguard against any inappropriate alteration of records. (Reference Uniform Guidance 2 CFR 200.335 – Methods for Collection, Transmission and Storage of Information) To the extent possible, PROVIDERS should use the Virtual Job Center and/or CalJOBS systems as prescribed by the WDB, as both a reporting and a case management tool.

16. AUDITS

- a. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted in accordance with 2 CFR Part 200.514.
- b. PROVIDER will maintain and make available to auditors, at all levels, accounting and program records including supporting source documentation and cooperate with all auditors. PROVIDER must follow the audit requirements (single audit or program-specific audit requirement) of Uniform Guidance 2 CFR, Part 200 and DOL Exceptions 2 CFR Part 2900.
- c. Auditors performing monitoring or audits of PROVIDER will immediately report to the WDB any incidents of fraud, abuse or other criminal activity in relation to this MOU, the WIOA or its regulations.

17. DISALLOWED COSTS

- a. Except to the extent that the State determines it will assume liability, PROVIDER will be liable for and will repay the WDB, any amounts expended under this MOU found not to be in compliance with the WIOA including, but not limited to, disallowed costs. Such repayment will be from funds (Non-Federal), other than those received under the WIOA. Payment of any disallowed costs must be made within 30 days of notification of the disallowed costs, unless otherwise specified by the WDB.

- b. PROVIDER shall be notified of all final determinations made by the WDB regarding audit reports, independent monitoring reports, and WDB administrative findings by a final determination letter.
- c. If PROVIDER fails to refund any disallowed cost within 30 days, the WDB may, at its sole discretion, terminate any and all MOUs with PROVIDER effective immediately thereon.

18. CONFLICTS

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

19. PROPERTY

- a. All property, whether finished or unfinished documents, data, studies and reports prepared or purchased by PROVIDER under this MOU, will be disposed of in accordance with the direction of the WDB. In addition, any tools and/or equipment furnished to PROVIDER by the WDB and/or purchased by PROVIDER with funds pursuant to this MOU, will be limited to the use within the activities outlined in this MOU and will remain the property of the DOL and/or the WDB. Upon termination of this MOU, PROVIDER will immediately return such tools and/or equipment to the WDB or dispose of them as prescribed by the WDB.
- b. All non-expendable property acquired with program funds provided, in whole or in part, under this MOU shall become property of the WDB at the time of acquisition and shall be returned to the WDB upon termination of the MOU and completion of the program or at such time as the WDB makes a request for such property. Non-expendable property is defined as property which will not be consumed or lose its identity during the MOU term, has a unit value in excess of \$1,000 at the time of purchase, and is expected to have a useful life of one year or more.
- c. PROVIDER shall obtain advance written approval of WDB for purchase of any non-expendable equipment having a unit purchase price of \$1,000 or more, and use expectancy in excess of one year.
- d. Property records for non-expendable property shall be accurately maintained by PROVIDER and shall reflect the following:
 - (1) a description of the property;
 - (2) acquisition date and costs;
 - (3) supplier; and
 - (4) percentage of the cost of the property purchased with funds from this MOU.
- e. PROVIDER shall insure that adequate safeguards are provided to prevent loss, damage or theft of the property. In the case of all suspected thefts and if there is any possibility of a criminal cause of the loss or damage, PROVIDER shall report the loss, damage, or theft to the police, unless the possible crime occurred in another jurisdiction, in which case PROVIDER shall report it to the law enforcement authorities with that jurisdiction and PROVIDER shall provide a copy of the law enforcement report to the WDB.

20. CONFIDENTIALITY REQUIREMENTS

The WDB and PROVIDER will exchange various kinds of information pursuant to this MOU. 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 County of Monterey, State of California EDD, California Department of Social Services, California Department of Education, California Department of Corrections and Rehabilitation, County Welfare Department(s), County IV-D Directors Office of Child Support, Office of the District Attorney, California Department of Mental Health, California Office of Community Colleges and Department of Alcohol and Drug Programs.

The WDB and PROVIDER agree that:

- a. Each party must recognize and safeguard personally identifiable information (PII) and information designated as sensitive in accordance with Uniform Guidance 2 CFR 200.303 – Safeguarding Personally Identifiable Information. PROVIDER must take reasonable measures to safeguard protected PII, as well as any

information that the WDB designates as sensitive. Both PROVIDER and the WDB must meet the requirements in Training and Employment Guidance letter (TEGL) 39-11, Guidance on the Handling and Protection of Personally Identifiable Information, located at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872.

- b. Each party shall keep all information that is exchanged between them in the strictest confidence and make sure information available to their respective employees is only on a "need-to-know" basis.
- c. Each party shall provide security sufficient to ensure protection of confidential information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect this information from reasonable unanticipated threats to the security or confidentiality of the information.
- d. PROVIDER agrees that information obtained under this MOU will not be reproduced, published, sold or released in original or in any other form for any purpose other than those specifically identified in this MOU.
 - (1) Aggregate Summaries: All reports and/or publications developed by PROVIDER based on data obtained under this MOU shall contain confidential data in aggregated or statistical summary form only. "Aggregated" refers to a data output that does not allow identification of an individual or employer unit.
 - (2) Publication: Prior to publication, PROVIDER shall carefully analyze aggregated data outputs to ensure the identity of individuals and/or employer units cannot be inferred pursuant to Unemployment Insurance Code Section 1094(c). Personal identifiers must be removed. Geographic identifiers should be specified only in large areas and as needed, and variables should be recorded in order to protect confidentiality.
 - (3) Minimum Data Cell Size: The minimum data cell size or derivation thereof shall be three participants for any data table released to outside parties or to the public.
- e. Each party agrees that no disaggregate data, identifying individuals or employers, shall be released to outside parties or the public.
- f. PROVIDER shall notify the WDB of any actual or attempted information security incidents, within 24 hours of initial detection, by telephone at (831)759-6644 or (831)796-6434. Information security incidents include, but are not limited to, any event (intentional or unintentional), that causes the loss, damage, or destruction, or unauthorized access, use, modification, or disclosure of information assets. PROVIDER shall cooperate with the WDB in any investigation of security incidents. The system or device affected by an information security incident and containing confidential data obtained in the administration of this program shall be immediately removed from operation upon confidential data exposure or a known security breach. It shall remain removed from operation until correction and mitigation measures are applied. If PROVIDER learns of a breach in the security of the system which contains confidential data obtained under this MOU, then PROVIDER must provide notification to individuals pursuant to Civil Code Section 1798.82.
- g. PROVIDER shall provide for the management and control of physical access to information assets (including personal computer systems, computer terminals, mobile computing devices, and various electronic storage media) used in performance of this MOU. This shall include, but is not limited to, security measures to physically protect data, systems, and workstations from unauthorized access and malicious activity; the prevention, detection, and suppression of fires; and the prevention, detection, and minimization of water damage.
- h. At no time will confidential data obtained pursuant to this MOU be placed on a mobile computing device or on any form of removable electronic storage media of any kind unless the data are fully encrypted.
- i. Each party shall provide its employees with access to confidential information with written instructions fully disclosing and explaining the penalties for unauthorized use or disclosure of confidential information 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.
- j. 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.
- k. 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.

- I. If the WDB or PROVIDER enters into an MOU with a third-party to provide WIOA services, the WDB and PROVIDER agree to include these data and security and confidentiality requirements in the MOU with that third-party. In no event, shall said information be disclosed to any individual outside of that third-party's authorized staff, subPROVIDER(s), service providers, or employees.
- m. PROVIDER may, in its program operations, allow an individual to register for resume-distribution services at the same time the individual enrolls in the Virtual Job Center or CalJOBS. PROVIDER shall ensure that it and all subPROVIDERs comply with the confidentiality requirements of this MOU and any other terms of this MOU that may be applicable. In addition, the following requirements must be adhered to by PROVIDER and its subPROVIDERs:
 - (1) All client information submitted over the Internet to PROVIDER and/or subPROVIDER(s) databases must be protected, at a minimum, by 128-bit Secure Socket Layer (SSL) encryption. Client's social security numbers must be stored in a separate database within PROVIDER and/or subPROVIDER(s) network of servers, and protected by a firewall and a secondary database server firewall or AES1 data encryption. If a PROVIDER and/or subPROVIDER(s) obtain confidential information, the MOU between PROVIDER and its subPROVIDER(s) must specifically state the purpose for the data collection and the term of records retention must be stated, and directly related, to the purpose and use of the information. In accordance with Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900, social security numbers and other client specific information shall not be retained for more than three years after a client completes services. PROVIDER and/or subPROVIDER(s) should extend this period, only if any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the three-year retention period. In this case, the records should be maintained until completion of the action and resolution of all issues arising from it, or until the close of the three-year retention period, whichever is later.
 - (2) Client information (personal information that identifies a client such as name and social security number) and/or demographic information of a client (such as wage history, address, and previous employment) shall not be used as a basis for commercial solicitation during the time the client or agency is using PROVIDER and/or subPROVIDER(s) services. Client information and/or demographic information shall not be used for any purposes other than those specific program purposes set forth in PROVIDER and subPROVIDER(s) MOU scope of services.
 - (3) PROVIDER must give an America's Job Center of California (Job Center) or One-Stop Career Center (One-Stop) client the option to use the Job Center or One-Stop services, including Virtual Job Center or CalJOBS, even if he or she chooses not to use any services of PROVIDER and/or subPROVIDER(s). This option shall be prominently, clearly, and immediately communicated to the client upon registration within the Job Center or One-Stop for the Virtual Job Center or CalJOBS. This obligation applies even if PROVIDER's and/or subPROVIDER's resume-distribution services, or any other services are offered to the client.
 - (4) PROVIDER and/or subPROVIDER(s) must clearly disclose all of its potential and intended uses of the client's personal and/or demographic information for the services the client seeks and for any other services PROVIDER and/or subPROVIDER(s) offers. PROVIDER and/or subPROVIDER(s) shall not use a client's personal and/or demographic information without the client's prior permission. A link to PROVIDER and/or subPROVIDER(s) privacy policy shall appear prominently on the registration screens that list the potential and intended uses of the client's personal and/or demographic information.
 - (5) When the WDB modifies State automated systems such as the CalJOBS or VOS systems, it shall provide reasonable notice of such changes to PROVIDER and/or subPROVIDER(s). PROVIDER shall be responsible to communicate such changes to its subPROVIDER(s) in the local area.
- n. 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.

Monterey County Workforce Development Board

Attachment E

**Prop 39 2.0: Training Implementation
SERVICE CASH INVOICE**

I. Date of Request:
II. Invoice #
III. Invoice Period: From: To:
IV. MOU # or Agreement #
V. Awardee Name
Full Address
Invoice Contact:

Phone number:
Email Address:

VI.	Current Expenditures	YTD Expenditures	Leveraged Expenditures	Is Leverage Funding Cash/ In-Kind	Leveraged YTD Expenditures
1. Staff:					
a) Salaries					
b) Fringe Benefits % of Salaries					
2. Staff Travel					
3. Communications					
4. Facility Rent					
5. Facility Utilities					
6. Facilities Maintenance					
7. Office Supplies -- detail major					
8. Testing/Instructional Materials -- detail major					
9. Equipment Purchases					
10. Equipment lease/use-charge					
11. Tools and Supplies (detail per participant cost)					
12. Support Services					
13. Indirect costs					
14. Total Costs listed in Item 14 of Budget Details					
15. Total Costs listed in Item 15 of Budget Details					
16.GRAND TOTAL	\$0.00	\$0.00	\$0.00		\$0.00

Leverage Funding Notes:

MOU Party Certification: I certify that to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purposes of this program.

Name:
Signature:

Title:
Date:

Monterey County Workforce Development Board - Fiscal Dept. Approval for Payment	
Name:	Signature:
Date:	

**AGREEMENT
BETWEEN
THE MONTEREY COUNTY WORKFORCE DEVELOPMENT BOARD AND THE
MONTEREY/SANTA CRUZ BUILDING TRADES COUNCIL TRAINING & EDUCATION FUND**

This Agreement is made and entered into, effective the 1st day of September 2016 by the Monterey County Workforce Development Board, hereinafter called "MCWDB" and the Monterey/Santa Cruz Building Trades Council Training & Education Fund, hereinafter called "PROVIDER".

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purpose

The purpose of this AGREEMENT is to establish a cooperative and mutually beneficial relationship among the undersigned parties. This AGREEMENT sets forth the responsibilities of the parties as they relate to the Proposition 39 2.0 Pre-Apprenticeship Training Implementation grant (the Implementation Grant) from the State of California Workforce Development Board funded under the California Clean Energy Jobs Act (SB 73-Chapter 20, Statutes of 2013).

MCWDB is the lead agency for this proposal and has formed partnerships with the workforce boards of Santa Cruz and San Benito counties. MCWDB is the fiscal agent for the grant. This grant is intended to bolster the economic competitiveness of the Monterey Bay region by implementing an energy efficiency focused "earn-and-learn" job training and placement program, targeting disadvantaged and disconnected job seekers, specifically returning veterans, women, and at-risk youth, ages 18-25.

2. Term

The term of this AGREEMENT, with respect to the Implementation Grant, commences on September 1, 2016 and terminates on September 30, 2017.

3. Operational and Fiscal Provisions

The total Implementation Grant award is \$400,000, to serve a total of 55 participants. Grant funds will be administered through MCWDB for the implementation of activities specified as follows:

MCWDB will:

- a. Convene all project partners for the purposes of confirming site locations, establishing a timeline for Multi-Craft Core Curriculum (MC3) training to begin, and convening an advisory panel.
- b. Convene at least one (1) Advisory Panel per training cohort for a maximum of four (4) meetings during the project.
- c. Develop outreach and recruitment materials for use in all counties.
- d. Lead the evaluation of the Implementation Grant to include identifying lessons learned/best practices.
- e. Appoint staff to administer the grant and retain up to \$49,744 for staff time and administrative costs (includes 10% of the overall grant award).
- f. Review all invoices and reports received from the PROVIDER, verify compliance with the grant requirements and this AGREEMENT, and forward all invoices for reimbursement to the Fiscal Division of the MCWDB for payment.

- g. Reimburse PROVIDER for up to \$92,056 for activities associated with the Implementation Grant project.
- h. Develop an AGREEMENT with the PROVIDER for the provision of MC3 training. Track grant expenditures, prepare and submit reports to the State of California, and monitor the Implementation Grant activities to ensure compliance with the grant terms and conditions outlined in the grant application.

PROVIDER will:

- a. Train a minimum of 55 enrolled participants in the MC3 as identified in Exhibit B: Participant Plan. Participants will be referred to PROVIDER from the San Benito, Santa Cruz, and Monterey County workforce development boards as outlined in Exhibit A: Program Model.
- b. Participate in scheduled Advisory Panel meetings (an estimated 3-4 during the duration of the AGREEMENT).
- c. Provide data collection and reporting necessary to complete an evaluation of the project.
- d. Maintain financial accounts, records, and data related to this AGREEMENT in accordance with federal and/or state requirements and maintain those books, accounts, records and data for three (3) years after termination of this AGREEMENT. For the duration of this AGREEMENT, and for a period of three (3) years thereafter, either party's representatives and representatives of the California Workforce Development Board, and the Auditor General of the State of California shall have the right to examine these books, accounts, records, data and other information relevant to this AGREEMENT for the purpose of auditing and verifying statements, invoices, bills and revenues pursuant to this AGREEMENT.
- e. Use Exhibit E: Invoice for Reimbursement and follow the County of Monterey Travel Policy when submitting requests to MCWDB for travel cost reimbursements. For specific receipts required for travel cost reimbursements, PROVIDER shall reference the County of Monterey Travel Policy online at: www.co.monterey.ca.us/auditor/pdfs/travelpolicy2008.pdf. The MCWDB will reimburse for only those travel expenses allowed by the County of Monterey Travel Policy and at the current IRS allowable rate. The current IRS mileage rate allowance is \$.54 per mile.

Project funds allocated to the PROVIDER are outlined below:

Grant Activities:	Amount Awarded
PROVIDER Training Personnel	\$92,056

The entire project budget is included for the PROVIDER's reference in Exhibit C: Detailed Project Budget.

4. General Provisions

- a. PROVIDER agrees to comply with Exhibit D: WIOA Certifications and Assurances, attached to this AGREEMENT.
- b. This AGREEMENT constitutes the entire agreement and understanding between the parties, and supersedes any prior or contemporaneous agreement, or understandings, if any, with regard to the purposes of this AGREEMENT. Any changes or modifications shall be

accomplished by a written amendment to this AGREEMENT executed by the duly authorized representatives of the parties.

- c. In the event of a dispute arising out of the performance of this AGREEMENT, the parties may send a written notice of dispute to the other party. Within seven (7) business days of receipt of such notice, the notified party shall respond and agree to a meeting for the purpose of negotiating a settlement or procedure for settlement of the dispute. Any notice to be given to the parties hereunder shall be addressed as follows (until notice of a different address is given to the parties):

MONTEREY COUNTY

Joyce Aldrich
Executive Director, Monterey County Workforce Development Board
Monterey County Economic Development Department
730 La Guardia Street, 2nd Floor Salinas,
CA 93905
831-759-6644
831-796-3324

PROVIDER

Ron Chesshire, Chief Executive Officer
Monterey/Santa Cruz Building Trades Council Training & Education Fund
10300 Merritt Street
Castroville, California 95012
(831)869-3073
(832)633-0570 (Fax)

Notice shall be deemed satisfied within one (1) business day if provided by personal service, by electronic transmission or by facsimile. Notice shall be deemed satisfied within three (3) business days if provided by certified mail.

d. Indemnification

Provider shall indemnify, defend, and hold harmless the MCWDB and County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Provider and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the MCWDB or the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the MCWDB and the County. The Provider shall reimburse the MCWDB and the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Provider is obligated to indemnify, defend and hold harmless the MCWDB and the County under this Agreement.

The MCWDB and the County shall indemnify, defend, and hold harmless the Provider, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by the MCWDB or the County and/or its

agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the Provider. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the Provider. The MCWDB or the County shall reimburse the Provider for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the MCWDB or the County is obligated to indemnify, defend and hold harmless the Provider under this Agreement.

e. Insurance

Evidence of Coverage: Prior to commencement of this Agreement, each party shall provide a "Certificate of Insurance" or letter of self-insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition each party upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's, Contracts/Purchasing Department, unless otherwise directed. The Provider shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Provider.

Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

Insurance Coverage Requirements: Without limiting each party's duty to indemnify, each party shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

- 1) Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Providers, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- 2) Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- 3) Workers' Compensation Insurance, if either party employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.
- 4) Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for

malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, each party shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Other Insurance Requirements

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date each party completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for each party and additional insureds with respect to claims arising from each subProvider, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subProvider showing each subProvider has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of each party's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by each party's insurance. The required endorsement form for Commercial General Liability Additional Insured is **ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000)**. The required endorsement form for Automobile Additional Insured endorsement is **ISO Form CA 20 48 02 99**.

Prior to the execution of this Agreement by the County, each party shall file certificates of insurance or proof of self-insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that each party has in effect the insurance required by this Agreement. Each party shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Each party shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement. Provider shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify PROVIDER and PROVIDER shall have five calendar days to send in the certificate, evidencing

no lapse in coverage during the interim. Failure by PROVIDER to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

f. If any provision of this Agreement, or the application thereof to any person, place, or circumstances, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

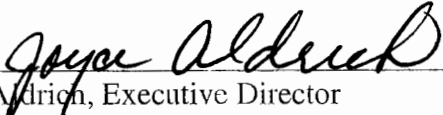
g. This Agreement shall be interpreted and applied according to the laws of California.

PER SIGNATURE, WE AGREE TO THE PROVISIONS OF THIS AGREEMENT.

Monterey County Board of Supervisors
Chief Elected Official
Monterey County Workforce Development Area

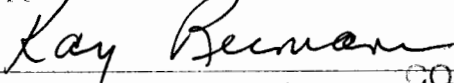

Chair, Monterey County Board of Supervisors

9-27-16
Date


Joyce Aldrich, Executive Director
Monterey County Workforce Development Board

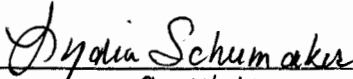
10/13/16
Date

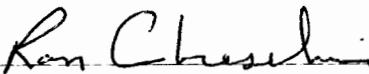
Approved as to form:


Deputy County Counsel, Monterey County
COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

9/13/16
Date

PROVIDER

By: 
9-14-16

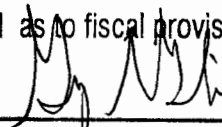

Ron Chesshire, Chief Executive Officer
Monterey/Santa Cruz Building Trades Council Training & Education Fund

8-29-2016
Date


Andy Hartmann, Business Manager/Financial Secretary
Monterey/Santa Cruz Building Trades Council Training & Education Fund

8-29-2016
Date

Reviewed as to fiscal provisions


Auditor-Controller
County of Monterey 9-14-16

Approved as to form:

PROVIDER Counsel

Date

Exhibit A: Program Model

WIOA Proposition 39 Pre-Apprenticeship Program Model

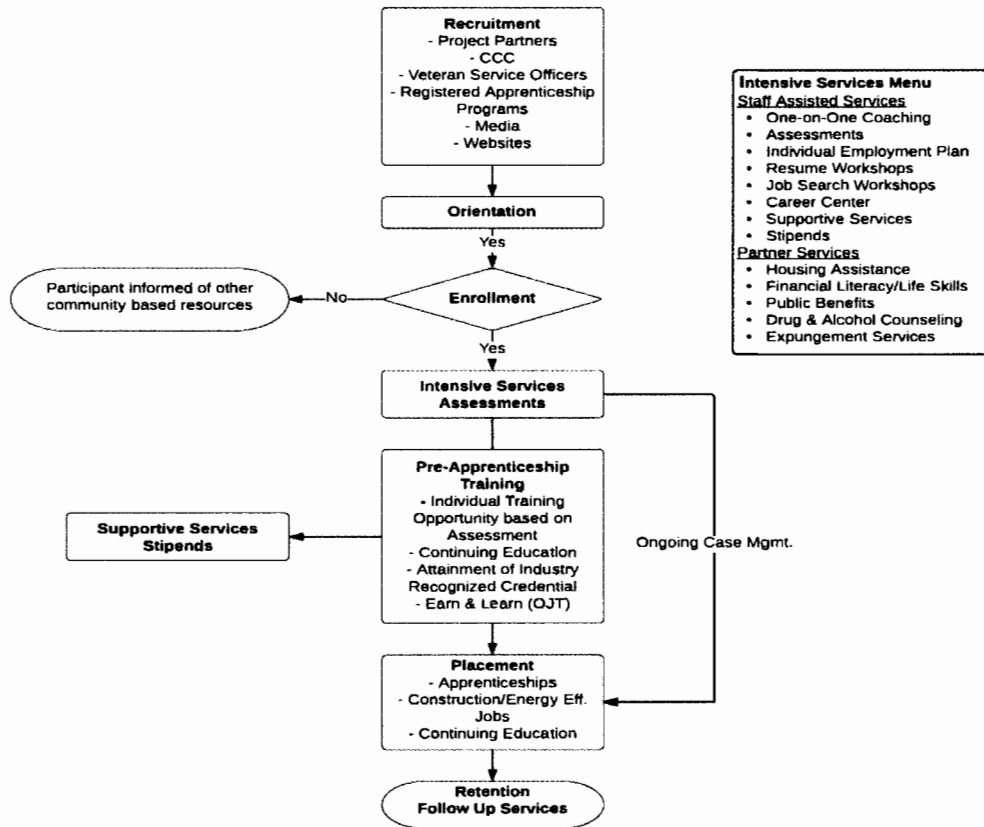


Exhibit B: Participant Plan for Monterey Bay Region Prop 39 2.0 Implementation Grant

	Q1	Q2	Q3	Q4	Q5	Q6	TOTAL
1. Participants to be Served	0	15	15	15	10	0	55
Total Youth to be Served		8	5	10	3	0	26
Total Veterans to be Served		4	8	3	2	0	17
Total Women to be Served	0	3	2	2	5	0	12
2. Enrollment in MC3 Pre-Apprenticeship Training	0	15	15	15	10	0	55
3. Completion of MC3 Pre-Apprenticeship Training		0	25	0	0	25	50
4. Attained Industry-Identified Certificate or Credential (MC3)			20			25	45
5. Placement in State-Approved Apprenticeship			12			9	21
Indicate Craft: electrician			3			2	5
Indicate Craft: carpenters			3			2	5
Indicate Craft: laborers			3			2	5
Indicate Craft: construction equipment operators			2			2	4
Indicate Craft: cement masons/brick layers			1			1	2
6. Placement in Postsecondary Education			4			4	8
7. Placement in Construction/Energy Efficiency Employment			5			5	10
8. Placement in Other Industry Employment			3			5	8
9. Retention in Employment/Apprenticeship			18			21	39
10. Average Income (\$/hour)			\$19			\$19	\$19

Exhibit C: Budget Detail for Monterey Bay Region Prop 39 2.0

BUDGET LINE #1 - Staff Salary and Fringe Benefits				
List job titles of staff working on project	Salaries charged to project	Fringe Benefits charged to project	FTEs %	<u>Amount Requested</u>
Management Analyst III - Monterey	\$5,800	\$3,944	7%	\$ 9,744.00
WDB Director - Santa Cruz County	\$829	\$563	1%	\$ 1,392.00
WDB Director - San Benito County	\$829	\$563	1%	\$ 1,392.00
Sr. Analyst - Santa Cruz County	\$4,143	\$2,817	6%	\$ 6,960.00
WDB Rep II - Monterey County	\$29,485	\$20,050	40%	\$ 49,535.00
WDB Rep II - Santa Cruz County	\$29,485	\$20,050	40%	\$ 49,535.00
WDB Rep II- San Benito County	\$2,949	\$2,005	5%	\$ 4,954.00
Staff Subtotals	\$ 73,520.00	\$ 49,992.00	100%	\$ 123,512.00
BUDGET LINE #	EXPENSE ITEM	NARRATIVE DETAIL		<u>Amount Requested</u>
2	Staff Travel	Travel to and from training site to meet with		\$ 1,500.00
3	Communications			
4	Facilities Rent			
5	Facilities Utilities			
6	Facilities Maintenance			
7	Office Supplies -- detail major			
8	Testing/Instructional Materials -- detail major			
9	Equipment Purchases with grant funds -- list, briefly state purpose/need/cost of each item.			
10	Equipment lease/use-charge costs paid with grant funds -- list, briefly state purpose/need/total lease or use-charge cost of each item, total (to equal Budget line 10 entry).			
11	Tools and Supplies (detail per participant cost)	\$300 per participant for tools, etc.		\$ 16,500.00

12	Support Services -- (detail each type of cost, and amount per participant)	55 participants to be served. Stipends of \$2,300 (maximum) per participant will be awarded based on specific goals	\$ 126,432.00
13	Indirect costs -- Provide rate, direct cost(s) to which authorized to be applied, approving cognizant agency and date of approval. Show how total was calculated.		
14	"Other" Costs - Identify and detail the nature of each such cost to be paid with grant funds.)	Ten (10) percent Admin charge allocation	\$ 40,000.00
		admin related activities	
"Other" Subtotal			\$40,000.00
15	Subcontract - Identify, detail, main functions/activities, cost of each subcontract and timelines of grant agreements.	Apprenticeship Program training	\$ 92,056.00
		through M/SC Building Trades	
		Council Training & Education Fund	
"Subcontract" Subtotal			\$92,056.00
Total Amount Requested			\$400,000.00

Exhibit D

GENERAL CONDITIONS, ASSURANCES AND CERTIFICATIONS WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

The following applies to all programs and/or projects funded under the Workforce Innovation and Opportunity Act (WIOA) 2014 conducted by the MONTEREY/SANTA CRUZ BUILDING TRADES COUNCIL TRAINING & EDUCATION FUND, which is hereinafter referred to as "PROVIDER".

1. COMPLIANCE

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

- a. The provisions of the Workforce Innovation and Opportunity Act (WIOA) of 2014 that supersedes the Workforce Investment Act (WIA) of 1998; the Office of Management and Budget (OMB) Uniform Administrative Requirements, Allowable Costs, Cost Principles, and Audit Requirements for Federal Awards, Final Rule at 2 Code of Federal Regulations (CFR), Chapter I and Chapter II, Part 200, et al (here after referred to as Uniform Guidance 2 CFR Part 200); and the Department of Labor's (DOL) exceptions at 2 CFR Chapter II, Part 2900, et al. (here after referred to as DOL Exceptions 2 CFR Part 2900); and all regulations, legislation, directives, policies, procedures and amendments issued pursuant thereto.
- b. All State legislation and regulations to the extent permitted by Federal law and all policies, directives and/or procedures, which implement the WIOA.
- c. The provisions of Public Law 107-288, Jobs for Veterans Act, as the law applies to DOL job training programs.
- d. PROVIDER will ensure diligence in managing programs under this agreement, including performing appropriate monitoring of its activities and taking prompt corrective action against known violations of the WIOA. PROVIDER agrees to conform to the provisions of the WIOA and the contract requirements as referenced in Uniform Guidance 2 CFR Part 200, Appendix II and DOL Exceptions 2 CFR Part 2900, Appendix II to Part 200.

This document contains the entire agreement of the parties and supersedes all negotiations, verbal or otherwise and any other agreement between the parties hereto. This agreement is not intended to and will not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between the Monterey County Workforce Development Board (MCWDB) and PROVIDER. PROVIDER represents and warrants it is free to enter into and fully perform this agreement.

2. CERTIFICATIONS / ASSURANCES

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

- a. **Corporate Registration:** PROVIDER, if it is a corporation, certifies it is registered with the Secretary of State of the State of California.
- b. **American's Disabilities Act (ADA):** PROVIDER agrees to comply with the American's Disabilities Act (ADA) of 1990, which, prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C.12101 et seq.)
- c. **False Claims Act:** PROVIDER, by signing this agreement, agrees to assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets. PROVIDER shall assure that all annual, final fiscal reports, monthly claims, invoices, and vouchers, for the purpose of PROVIDER requesting payment under this agreement, must include a certification, signed by an official who is authorized to legally bind PROVIDER, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise." (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- d. **Authority to Bind PROVIDER:** PROVIDER shall furnish the MCWDB in writing, a list of persons authorized to execute on behalf of PROVIDER: agreements, modifications to agreements, invoices or other documents as may be required by MCWDB. The above list should include signatures of all authorized individuals and be

certified by PROVIDER's governing body. In the event authority is delegated to a position (e.g., President, Vice President, Treasurer), rather than to an individual, the list of positions so authorized shall be furnished including signatures of current position holders.

- e. **Sectarian Activities:** PROVIDER certifies that this agreement does not provide for the advancement 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 whatsoever, as specified by Article XVI, Section 5, of the Constitution, regarding separation of church and state.
- f. **National Labor Relations Board:** PROVIDER (if not a public entity), by signing this agreement, does swear under penalty of perjury, that no more than one final unappealable finding of contempt of court by a Federal court has been issued against PROVIDER within the immediately preceding two-year period because of PROVIDER's failure to comply with an order of a Federal court, which orders PROVIDER to comply with an order of the National Labor Relations Board (PCC10296).
- g. **Prior Findings:** PROVIDER, 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 agreement with the 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.
- h. **Drug-Free Workplace Certification:** By signing this agreement, PROVIDER hereby certifies under penalty of perjury under the laws of the State of California that PROVIDER will comply with the requirements of the Drug-Free Workplace Act of 1990 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.
 - (2) Establish a Drug-Free Awareness Program to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The person's or organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
 - (3) Every PROVIDER employee who works on this agreement will:
 - a. Receive a copy of the PROVIDER's drug-free policy statement; and
 - b. Agree to abide by the terms of the PROVIDER's statement as a condition of employment on the agreement.
- i. **Child Support Compliance Act:** In accordance with the Child Support Compliance Act, PROVIDER recognizes and acknowledges: The importance of child and family support obligations and shall fully comply with the 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 PROVIDER is fully complying with the earnings assignment orders of all PROVIDER's employees and is providing the names of all new PROVIDER's employees to the New Employee Registry maintained by the State of California Employment Development Department (EDD).
- j. **Debarment and Suspension Certification:** By signing this agreement, PROVIDER hereby certifies under penalty of perjury under the laws of the State of California that PROVIDER will comply with regulations implementing Executive Order 12549, Debarment and Suspension, Uniform Guidance 2 CFR Part 200, Appendix I, and that PROVIDER, to the best of its knowledge and belief, certifies that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
 - (2) Have not, within a three-year period preceding this agreement, been convicted of or had a civil judgment rendered against it 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. Nor shall PROVIDER have, within a three-year period preceding this agreement, been convicted of or had a civil judgment rendered against it for 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 Section 2 of this Debarment and Suspension 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 or default. Where PROVIDER is unable to certify to any of the statements in this Debarment and Suspension Certification, it shall attach an explanation to this agreement.
- k. **Mandatory Disclosures:** All WIOA and Wagner-Peyser recipients of Federal awards must disclose, as required at 2 CFR 200.113, in a timely manner, in writing to the Federal awarding agency or the MCWDB, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 (Remedies for noncompliance), including suspension or debarment.
- l. **Lobbying Certification:** By signing this agreement PROVIDER hereby assures and certifies to compliance with the lobbying restrictions which are codified in the DOL regulations at Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR 2900, as follows:
- (1) No Federal appropriated funds have been paid, by or on behalf of PROVIDER, 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, 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, and officer or employee of Congress, or an employee of a Member of Congress, in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - (3) PROVIDER shall require that the language of the lobbying restrictions be included in the award documents for agreement transactions over \$100,000 (per OMB) at all tiers (including agreements, contracts, 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 the Lobbying 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.
- m. **Priority Hiring Considerations:** If this agreement includes services in excess of \$200,000, PROVIDER shall give priority consideration in filling vacancies in positions funded by the agreement to qualified recipients of aid under Welfare and Institutions Section Code 11200 in accordance with Public Contract Code §10353.
- n. **Sweatfree Code of Conduct:** All PROVIDERS that contract for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, or supplies furnished to the State pursuant to the contract have been laundered or produced, in whole or in part, by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. PROVIDER further declares under penalty of perjury that it will adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108. PROVIDER agrees to cooperate fully in providing reasonable access to PROVIDER's records, documents, agents or employees, or premises if reasonably required by authorized officials of the Monterey County WDB, State of California EDD, the Department of Industrial Relations, or the Department of Justice to determine PROVIDER's compliance with the requirements of the Sweatfree Code of Conduct.

- o. **Unenforceable Provision:** In the event that any provision of this agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this agreement have force and effect and shall not be affected hereby.
- p. **Non-discrimination Clause / Affirmative Action / Equal Employment Opportunity:**
 - (1) The conduct of the parties to this agreement will be in accordance with Title VI of the Civil Rights Act of 1964, and the Rules and Regulations promulgated hereunder and the provisions of WIOA Section 188.
 - a. As a condition to the agreement of financial assistance from the DOL under WIOA, PROVIDER assures that it will comply fully with the non-discrimination and equal opportunity provisions of the following laws:
 - i. Section 188 of the WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA financially assisted program or activity;
 - ii. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
 - iv. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
 - v. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.
 - b. PROVIDER also assures that it will comply with Uniform Guidance 2 CFR Part 200, DOL Exceptions 2 CFR Part 2900, and all other regulations implementing the laws listed above. This assurance applies to PROVIDER's operation of the WIOA financially assisted program or activity, and to all agreements that PROVIDER makes to carry out the WIOA financially assisted program or activity. PROVIDER understands that the United States has the right to seek judicial enforcement of this assurance.
 - c. This PROVIDER shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the agreement.
 - (2) PROVIDER will take affirmative action to assure that no individual will be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration or in connection with any services or activities authorized under the WIOA in violation of any applicable nondiscrimination law, including laws prohibiting discrimination on the basis of age, race, sex, color, religion, national origin, disability, political affiliation or belief. All complaints alleging discrimination must be filed and processed according to the procedures in the applicable DOL nondiscrimination regulations.
 - (3) PROVIDER will assure that discriminatory job orders will not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ). See, generally, 42 U.S.C. 2000(e)-2(e), 29 CFR parts 1604, 1606, 1625. (3)
 - (4) PROVIDER will assure that employment testing programs will comply with 41 CFR part 60-3 and 29 CFR part 32 and 29 CFR 1627.3(b) (iv).
 - (5) PROVIDER agrees to conform to non-discrimination and equal opportunity requirements and procedures, including MCWDB's grievance and complaint procedures in compliance with the WIOA, the Uniform Guidance 2 CFR Part 200, DOL Exceptions 2 CFR Part 2900, Federal regulations and State statutes, regulations and policy. (Reference WDB Policy 2005-10 – Grievance and Complaint Procedures and policy attachments; <http://www.montereycountywib.org/policies/policies/>)
 - (6) PROVIDER will be governed by WIOA procedures relating to complaints alleging violations of the WIOA, regulations, other agreements under the WIOA including terms and conditions of employment. Participants will be notified in writing, upon enrollment into employment or training, of the WIOA complaint procedures including notification of their right to file a complaint and instructions on how to do so. Complaint

procedures include: (1) the right to file a complaint, (2) the opportunity to resolve complaints informally, (3) written notice of hearings, and (4) a final decision within sixty (60) days of the date of filing.

(7) PROVIDER will comply with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, DOL."

(8) PROVIDER shall ensure equal employment opportunity based on objective personnel policies and practices for recruitment, selection, promotion, classification, compensation, performance evaluation, and employee management relations.

- q. **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, including funds expended pursuant to this agreement, shall be used by a recipient or subrecipient 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 PROVIDERS providing goods and services as defined in Uniform Guidance 2 CFR Part 200 and the DOL Exceptions 2 CFR Part 2900. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the States, the compensation levels for programs involved including DOL Employment and Training Administration programs. See Training and Employment Guidance Letter #05-06 for further clarification at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.

The incurrence of costs and receiving reimbursement for these costs under this agreement certifies that PROVIDER has read the above special condition and is in compliance.

- r. **Federal Funding Accountability and Transparency Act (FFATA):** As required by FFATA, recipients of Federal awards are required to report sub-award and executive compensation information. By signing this agreement PROVIDER hereby assures and certifies to comply with the provisions of FFATA, which includes requirements referenced in Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900.
- s. **Air or Water Pollution Violation:** Under State laws, PROVIDER shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to any cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of Federal law relating to air or water pollution.
- t. **Clean Air Act and Federal Water Pollution Control Act:** All agreements between MCWDB and PROVIDER of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

3. STANDARDS OF CONDUCT

PROVIDER hereby assures that in administering this agreement, it shall comply with the standards of conduct hereinafter set out, for maintaining the integrity of the agreement and avoiding any conflict of interest in its administration.

- a. **General Assurance:** Every reasonable course of action will be taken by PROVIDER in order to maintain the integrity of the 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. PROVIDER agrees to conform to the non-discrimination requirements as referenced in WIOA Section 188.
- b. **Conflict of Interest:** An executive or employee of PROVIDER, an elected official in the area or a member of the local Santa Cruz County WDB, the local San Benito County WDB, or Monterey County WDB will not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed, in whole or in part, by PROVIDER or MCWDB: supplies, materials, equipment or services purchased with agreement funds will be used solely for purposes allowed under this agreement. No executive or employee of PROVIDER or member of the local Monterey County WDB, San Benito County WDB or the Santa Cruz WDB

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. For the purpose of this agreement, a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial interest in or a tangible personal benefit from a firm considered for a contract, subcontract, or agreement. (Reference 2 CFR Part 200.318(c)(1)(2) – Conflict of Interest) If a non-Federal entity, has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears unable to be impartial in conducting a procurement action involving a related organization. (Reference 2 CFR Part 200.318(c)(2))

- c. **Buy-American:** PROVIDER agrees that, as stated in sec. 502 of WIOA, all funds authorized in WIOA and Wagner- Peyser must be expended on only American made equipment and products, as required by the Buy American Act (41 U.S.C. 8301–8305).
- d. **Nepotism:** PROVIDER certifies that it shall not hire nor permit the hiring of any person in a position funded under this agreement if a member of the person's immediate family is employed in an administrative capacity. For the purpose of this agreement, the term "immediate family" means spouse (common law or otherwise), child, mother, father, brother, sister, brother/sister-in-law, son/daughter-in-law, mother/father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, or such other relationship which would give rise to a substantial appearance of impropriety if the person were to be hired by PROVIDER. The term "administrative capacity" means persons who have overall administrative responsibility for a program, including but not limited to, selection, hiring, or supervisory responsibilities.
- e. **Procurement:** PROVIDER must comply with the MCWDB procurement policy and procedures which reflect applicable local, State and Federal laws and regulations, and the standards identified in Uniform Guidance 2 CFR Part 200.318 – General Procurement Standards. (Reference WDB Policy 2013-01 – Procurement Standards and policy attachments; <http://www.montereycountywib.org/policies/policies/>)

4. COORDINATION

- a. PROVIDER will, to the maximum extent feasible, coordinate all programs and activities supported under this part with other core programs under the WIOA, including the WIOA (Adult, Dislocated Worker and Youth formula programs); Wagner-Peyser Act employment services; Adult Education and Literacy Act programs; Rehabilitation Act Title I programs; Job Corps program, YouthBuild program, Native American programs, Migrant and Seasonal Farmworker programs, and other employment and training programs at the local level. In addition to the core programs, for individuals with multiple needs to access services, PROVIDER will, to the maximum extent feasible, coordinate with the following partner programs required to provide access through the America's Job Center of California or One-Stop Career Center: Career and Technical Education (Perkins), Community Services Block Grant, Indian and Native American programs, HUD Employment and Training programs, Local Veterans' Employment Representatives and Disabled Veterans' Outreach program, National Farmworker Jobs program, Senior Community Service Employment program, Temporary Assistance for Needy Families (TANF), Trade Adjustment Assistance programs, and Unemployment Compensation programs.
- b. PROVIDER shall not accept referrals for participant positions funded under this agreement from any agency which charges a fee to either the individual being referred or the employing agency for the services rendered. Charges incurred in violation of this clause shall be the sole responsibility of PROVIDER, and shall not be charged to either this agreement or the participant under this agreement.

5. SUBCONTRACTING

- a. PROVIDER will not assign a contract resulting from this agreement or any portion thereof to a third party without the prior written consent of the MCWDB, and any attempted assignment or subcontract without such prior written consent may cause immediate termination of the agreement.
- b. Upon approval from the MCWDB, any of the work or services specified in this agreement which will be performed by other than PROVIDER will be evidenced by a written agreement specifying the terms and conditions of such performance.
- c. PROVIDER 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.

- d. The system for awarding contracts will contain safeguards to insure PROVIDER does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds within the last two years.

6. RESOLUTION

A county, city, district or other local public body must provide the MCWDB and State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of this agreement. Preferably resolutions should authorize a designated position rather than a named individual.

7. FUNDING

- a. It is mutually understood between the parties that this agreement may have been written before ascertaining the availability of congressional and legislative appropriation of funds. The parties hereby enter into this agreement in advance of confirmation of the availability of funds for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the agreement was executed after that determination was made.
- b. This agreement is valid and enforceable only if (1) sufficient funds are made available by the State Budget Act of the appropriate State fiscal years covered by this agreement for the purposes of this program and; (2) sufficient funds are made available to the State by the United States Government for the fiscal years covered by this agreement for the purposes of the programs described in the scope of services. In addition, this agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress and Legislature or any statute enacted by the Congress and Legislature which may affect the provisions, terms, or funding of this agreement in any manner.
- c. At the expiration of the terms of this agreement or upon termination prior to the expiration of this agreement, funds not obligated for the purpose of this agreement will be immediately remitted to the MCWDB, and shall no longer be available to PROVIDER.
- d. The MCWDB retains the right to suspend financial assistance, in whole or in part, to protect the integrity of the funds or to ensure proper operation of the program, providing PROVIDER is given prompt notice and the opportunity for an informal review of the MCWDB's decision. The Executive Director of the Monterey County Workforce Development Board or his/her designee will perform this informal review and will issue the final administrative decision within 60 days of receiving the written request for review. Failure on the part of PROVIDER to comply with the provisions of this agreement, or with the WIOA or regulations, when such failure involves fraud or misappropriation of funds, may result in immediate withholding of funds.

8. FISCAL ACCOUNTABILITY

- a. PROVIDER shall establish and maintain a sound financial management system, based upon generally accepted accounting principles. An integral part of the required financial management system is a system of internal accounting controls that will provide reasonable assurance that WIOA assets are safeguarded against loss from unauthorized use or disposition, and that accounting transactions affecting WIOA fund accountability are properly charged and recorded by administrative and program cost categories to permit the preparation of accurate and supportable financial reports.
- b. PROVIDER will comply with controls, record keeping and fund accounting procedure requirements of WIOA, Federal and State regulations, and directives to ensure the proper accounting for program funds paid to PROVIDER by the MCWDB through a cost reimbursement process.
- c. This agreement provides for the reimbursement of allowable costs that are identified and approved in the agreement budget, and incurred in the operation of the programs specified in the scope of services. Back-up documentation is required by PROVIDER to justify reimbursement payments made under this agreement.
- d. All expenditures must be reported on an accrual basis of accounting.
- e. No cost shall be allowed under this agreement which is not specifically identified in PROVIDER's approved budget. PROVIDER shall not transfer funds between cost categories or adjust designated "total budget" line items without prior written approval by authorized WDB staff (applicable to cost reimbursement contracts only). Invoices for reimbursement submitted by PROVIDER that include designated total line item expenditures above the total budget for that designated line item will not be paid until the cost overrun is reconciled. All limitations on expenditures specified in Federal and State fiscal requirements shall apply to this agreement.

- f. PROVIDER shall not charge nor receive compensation under this agreement for any services or expenses unless said services or expenses are directly and exclusively related to the purpose of this agreement. In addition, payment may not be received by PROVIDER from any other source for said services or expenses. Moreover, funds shall not be allowed for cost incurred before or after the effective dates of this agreement. PROVIDER shall not use WIOA funds as security or payment for obligations or as loans for activities of other funded programs.
- g. PROVIDER'S personnel whose time is charged to the budget under this agreement shall be paid on a pro-rata basis commensurate with the percentage of time devoted to the programs specified in the scope of services. Personnel costs including salary shall be reasonable. Employees of PROVIDER shall be compensated using WIOA funds under this agreement only for work performed under the terms of this agreement.
- h. MCWDB shall not pay, and PROVIDER shall not request, payment for any accrued employee fringe benefits (including vacation and sick time), which were not accrued by PROVIDER's employees during the term of this agreement.
- i. In accordance with the requirements at 2 CFR 200.400(g), PROVIDER may not earn or keep any profit resulting from WIOA funds paid under this agreement, or other federal financial assistance.
- j. Any excess of revenue over costs incurred for services provided by PROVIDER must be included in program income. (WIOA secs. 194(7)(A)–(B)). Interest income earned on funds received under WIOA and Wagner-Peyser must be included in program income. (WIOA sec.194(7)(B)(iii)) Accordingly, these funds may be retained by PROVIDER to underwrite additional training or training related services pursuant to the project or program that generated them, consistent with the purposes of WIOA. When PROVIDER ultimately discontinues the provision of all WIOA training and/or services described in this agreement, program income remaining shall be returned to the MCWDB.
- k. PROVIDER shall make available to the MCWDB, upon request, a complete and detailed record or cost allocation of any expenses that are, in whole or in part, supported with program funds. This detailed account shall include percentages and total contributions from both WIOA and non-WIOA sources. Shared expenses may include, but are not necessarily limited to the following: staff salaries, facilities, equipment, etc.
- l. Travel expenses when permitted should be made at the agency rate per mile, but the rate cannot exceed the amount allowed by the MCWDB. (Reference Monterey County travel expense reimbursement policy, located online at: http://www.co.monterey.ca.us/auditor/pdfs/county_travel_business_expense_policy_12-5-12.pdf)

9. PAYMENT OF AUTHORIZED EXPENDITURES

- a. Subject to receipt of funds from the State, MCWDB agrees to reimburse PROVIDER for expenditures authorized in the agreement budget. Financial reports and invoices are due to the fiscal unit of the Monterey County Workforce Development Board by the 15th working day of each month and shall include all obligations, expenditures and accruals incurred during the previous month, unless otherwise specified by the MCWDB. Late submission of financial reports and invoices are subject to withholding of payment due to non-compliance with PROVIDER'S agreement to submit timely and accurate reports and invoices. The WDB's Fiscal Unit shall pay the certified invoice within 30 days of receiving the certified invoice. Financial information reported on claims must be directly linked to records maintained by PROVIDER which support actual delivery of services as outlined in the existing agreement between PROVIDER and the MCWDB. The MCWDB shall be the sole judge of what constitutes adequate supporting documentation.
- b. PROVIDER shall be paid in accordance with the agreement and budget, not to exceed the maximum amount specified. Any cost incurred by PROVIDER over and above the maximum amount obligated by the agreement and budget shall be at the sole risk and expense of PROVIDER.

10. PERFORMANCE ACCOUNTABILITY

- a. PROVIDER, commencing as of the date of execution of this agreement by both parties, shall perform all the functions set forth in the agreement scope of services. Adequate performance under this agreement is essential and PROVIDER shall measure its performance results against goals and performance standards provided by this agreement. Measured performance below goals standards will constitute noncompliance with the terms of this agreement.
- b. It is the responsibility of PROVIDER to bring to the attention of the MCWDB areas of performance which are below goals and standards and, with respect to each such area, prepare a corrective action plan or a statement justifying modification of operational plans. In addition, upon receipt of any monitoring report or

other communication identifying areas of concern, a corrective action plan must be submitted to the MCWDB within the time frame identified in the report. A corrective action plan shall consist of the following:

- (1) Specific Actions to be taken
 - (2) The objective of each action
 - (3) Completion dates
 - (4) Person(s) responsible
 - (5) Result(s) to be accomplished
- c. PROVIDER shall submit all corrective plans to MCWDB staff for written approval. If approved, PROVIDER shall keep the MCWDB aware on a continued basis until the corrective action plan results are accomplished. The MCWDB reserves the right to require modifications to the corrective action plan, satisfactory to the MCWDB, in the event of failure by PROVIDER to achieve the specified results.
- d. Failure of PROVIDER to satisfy administrative standards and/or performance goals may result in the immediate reduction of service levels to new applicants and/or enrollees by the MCWDB. Such reduction will be accompanied by a proportionate decrease in obligated agreement funds.

11. MAINTENANCE OF EFFORT

PROVIDER shall comply with the following maintenance of effort requirements:

- a. PROVIDER warrants that participant positions funded through this agreement are in addition to those that would otherwise be financed by PROVIDER without assistance under WIOA.
- b. Participant positions funded through this agreement shall: (1) result in an increase in employment opportunities over those that would otherwise be available; (2) not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-over time work, wages or employment benefits; (3) not impair existing contracts for service or result in a substitution of Federal funds for other funds in connection with work that would otherwise be performed; (4) not substitute public service and/or work experience positions for existing jobs.
- c. PROVIDER will not terminate, layoff or reduce the working hours of an employee for the purpose of hiring an individual with funds available under WIOA.
- d. PROVIDER will not hire any person using funds available under WIOA when any other person is on layoff for the same or substantially equivalent job.

12. AMENDMENTS

This agreement may be unilaterally modified by the MCWDB, under the following circumstances:

- a. There is a decrease in Federal or State funding levels.
- b. Funds awarded to PROVIDER have not been expended in accordance with the budget included in the approved PROVIDER'S plan. This will occur if, after consultation with PROVIDER, the MCWDB has determined, in a manner consistent with State and Federal law, regulations and policies, that funds will not be spent in a timely manner.
- c. There is a change in State and Federal law or regulation requiring a change in the provisions of this agreement.
- d. An amendment is required to change PROVIDER'S name as listed on this agreement. Upon receipt of legal documentation of the name change, the MCWDB will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

Except as provided above, the agreement may be amended only in writing by the mutual agreement of both parties.

13. REPORTING

- a. PROVIDER will compile and submit reports of activities, performance and expenditures by the specified dates prescribed by the MCWDB. All expenditure reports must be submitted upon the accrual basis of accounting. Failure to adhere to the reporting requirements of this agreement will result in funds not being paid.
- b. PROVIDER shall submit to MCWDB all required reports on a timely basis as delineated by MCWDB. PROVIDER shall submit written monthly status reports covering such items as progress of work being

performed, milestones attained, resources expended, problems encountered and corrective action taken or other reports determined to be necessary by the MCWDB. These reports are due to the WDB staff, as requested in writing. PROVIDER also shall submit on a timely basis all required agreement supplemental documents.

14. TERMINATION

This agreement may be terminated, in whole or in part, for either of the two following circumstances:

- a. **Termination for Convenience:** Either the MCWDB or PROVIDER may request a termination, in whole or in part, for convenience. PROVIDER will give a ninety (90) calendar day advance notice in writing to the MCWDB. The MCWDB will give a ninety (90) calendar day advance notice in writing to PROVIDER.
- b. **Termination for Cause:** The MCWDB may terminate this agreement, in whole or in part, when it has determined that PROVIDER has substantially violated a specific provision of the WIOA regulations, the Uniform Guidance, or implementing State legislation and corrective action has not been taken.

All notices of termination must be in writing and be delivered personally or by deposit in the U.S. Mail postage prepaid, "Certified Mail-Return Receipt Requested", and will be deemed to have been given at the time of personal delivery or of the date of postmark by the U.S. Postal Service.

Notices to the MCWDB will be addressed to:
Joyce Aldrich, Executive Director
Monterey County Workforce Development Board
730 La Guardia Street
Salinas, CA 93905

Notices to PROVIDER will be addressed to:
Ron Chesshire, Chief Executive Officer
Monterey/Santa Cruz Counties Building & Construction Trades Council
10300 Merritt Street
Castroville, California 95012

15. RECORDS MAINTENANCE & RETENTION

- a. If participants are served under this agreement, PROVIDER will use the Monterey County's Virtual Job Center <https://www.ajccmontereycounty.org> and/or CalJOBS <https://www.caljobs.ca.gov>, online case management systems as prescribed by the MCWDB.
- b. PROVIDER will retain all records pertinent to this agreement for a period of three (3) years from the date of final payment of this agreement. If, at the end of three (3) years, there is litigation or an audit involving those records, PROVIDER will retain the records until the resolution of such litigation or audit. (Refer to Uniform Guidance, Subpart D, Part 200.333-200.337.)
- c. The MCWDB, State of California, and/or the U.S. DOL, or their designee (refer to Uniform Guidance, Subpart F, Part 200.500-200.521) will have access to and right to examine, monitor and audit all records, documents, conditions and activities related to programs funded by this agreement. For purposes of this section, "access to" means that PROVIDER shall at all times maintain within the State of California a complete set of records and documents related to programs funded by this agreement. PROVIDER shall comply with this requirement regardless of whether it ceases to operate or maintain a presence within the State of California before the expiration of the agreement. PROVIDER'S performance under the terms and conditions herein specified will be subject to an evaluation by the MCWDB of the adequacy of the services performed, timeliness of response and a general impression of the competency of PROVIDER'S organization and its staff.
- d. Portable Document Format (PDF), electronic, machine readable information or paper documentation is allowed for the purpose of records maintenance and retention, as long as there are appropriate and reasonable internal controls in place to safeguard against any inappropriate alteration of records. (Reference Uniform Guidance 2 CFR 200.335 – Methods for Collection, Transmission and Storage of Information) To the extent possible, PROVIDERS should use the Virtual Job Center and/or CalJOBS systems as prescribed by the MCWDB, as both a reporting and a case management tool.

16. AUDITS

- a. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted in accordance with 2 CFR Part 200.514.

- b. PROVIDER will maintain and make available to auditors, at all levels, accounting and program records including supporting source documentation and cooperate with all auditors. PROVIDER must follow the audit requirements (single audit or program-specific audit requirement) of Uniform Guidance 2 CFR, Part 200 and DOL Exceptions 2 CFR Part 2900.
- c. Auditors performing monitoring or audits of PROVIDER will immediately report to the MCWDB any incidents of fraud, abuse or other criminal activity in relation to this agreement, the WIOA or its regulations.

17. DISALLOWED COSTS

- a. Except to the extent that the State determines it will assume liability, PROVIDER will be liable for and will repay the MCWDB, any amounts expended under this agreement found not to be in compliance with the WIOA including, but not limited to, disallowed costs. Such repayment will be from funds (Non-Federal), other than those received under the WIOA. Payment of any disallowed costs must be made within 30 days of notification of the disallowed costs, unless otherwise specified by MCWDB.
- b. PROVIDER shall be notified of all final determinations made by the MCWDB regarding audit reports, independent monitoring reports, and WDB administrative findings by a final determination letter.
- c. If PROVIDER fails to refund any disallowed cost within 30 days, MCWDB may, at its sole discretion, terminate any and all agreements with PROVIDER effective immediately thereon.

18. CONFLICTS

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

19. PROPERTY

- a. All property, whether finished or unfinished documents, data, studies and reports prepared or purchased by PROVIDER under this agreement, will be disposed of in accordance with the direction of the MCWDB. In addition, any tools and/or equipment furnished to PROVIDER by the MCWDB and/or purchased by PROVIDER with funds pursuant to this agreement, will be limited to the use within the activities outlined in this agreement and will remain the property of the DOL and/or the MCWDB. Upon termination of this agreement, PROVIDER will immediately return such tools and/or equipment to the MCWDB or dispose of them as prescribed by the MCWDB.
- b. All non-expendable property acquired with program funds provided, in whole or in part, under this agreement shall become property of the MCWDB at the time of acquisition and shall be returned to the MCWDB upon termination of the agreement and completion of the program or at such time as the County makes a request for such property. Non-expendable property is defined as property which will not be consumed or lose its identity during the agreement term, has a unit value in excess of \$1,000 at the time of purchase, and is expected to have a useful life of one year or more.
- c. PROVIDER shall obtain advance written approval of MCWDB for purchase of any non-expendable equipment having a unit purchase price of \$1,000 or more, and use expectancy in excess of one year.
- d. Property records for non-expendable property shall be accurately maintained by PROVIDER and shall reflect the following:
 - (1) a description of the property;
 - (2) acquisition date and costs;
 - (3) supplier; and
 - (4) percentage of the cost of the property purchased with funds from this agreement.
- e. PROVIDER shall insure that adequate safeguards are provided to prevent loss, damage or theft of the property. In the case of all suspected thefts and if there is any possibility of a criminal cause of the loss or damage, PROVIDER shall report the loss, damage, or theft to the police, unless the possible crime occurred in another jurisdiction, in which case PROVIDER shall report it to the law enforcement authorities with that jurisdiction and PROVIDER shall provide a copy of the law enforcement report to the WDB.

20. INTELLECTUAL PROPERTY PROVISIONS

- a. **Federal Funding:** In any agreement funded, in whole or in part, by the Federal government, MCWDB may acquire and maintain the Intellectual Property rights, title, and ownership, which result directly or indirectly from the agreement, except as provided in 37 CFR Par 401.14. However, pursuant to Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900, 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 world in any manner for governmental purposes and to have and permit others to do so.
- b. **Ownership:**
 - (1) Except where MCWDB has agreed in a signed writing to accept a license, MCWDB 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 PROVIDER or MCWDB and which result directly or indirectly from this agreement.
 - (2) For the purpose of this agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copy rights, 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 the MCWDB, 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, country or jurisdiction.
 - a) For the purpose 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 a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational 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.
 - (3) In the performance of this agreement, PROVIDER may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this agreement. In addition, under this agreement, PROVIDER may access and utilize certain of MCWDB Intellectual Property in existence prior to the effective date of this agreement. Except as otherwise set forth herein, PROVIDER shall not use any of MCWDB's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of the MCWDB. Except as otherwise set forth herein, neither PROVIDER nor MCWDB shall give any ownership interest in or rights to its Intellectual Property to the other party. If, during the term of this agreement, PROVIDER accesses any third-party Intellectual Property that is licensed to MCWDB, PROVIDER agrees to abide by all license and confidentiality restrictions applicable to MCWDB in the third-party's license agreement.
 - (4) PROVIDER agrees to cooperate with MCWDB in establishing or maintaining PROVIDER's exclusive rights in the Intellectual Property, and in assuring MCWDB's sole rights against third parties with respect to the Intellectual Property. If PROVIDER enters into any agreements or subcontracts with other parties in order to perform this agreement, PROVIDER shall require the terms of the agreement(s) to include all Intellectual Property provisions of paragraph twenty-one (21). Such terms must include, but are not limited to, the subPROVIDER assigning and agreeing to assign to PROVIDER all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subPROVIDER, PROVIDER, or MCWDB, and which result directly or indirectly from this agreement or any subcontract.
 - (5) Pursuant to paragraph twenty-one (21) (b) (4) of the Intellectual Property Provisions, the requirement for the MCWDB to include all Intellectual Property Provisions of paragraph twenty-one (21) of the Intellectual Property Provisions in all agreements and subcontracts it enters into with other parties does not apply to agreements or subcontracts that are for customized and on-the-job training as authorized under 20 CFR 663.700-730.

- (6) PROVIDER further agrees to assist and cooperate with MCWDB 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 PROVIDER's Intellectual Property rights and interests.

c. Retained Rights / License Rights:

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by PROVIDER or MCWDB and which result directly or indirectly from this agreement, PROVIDER 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. PROVIDER hereby grants to MCWDB, 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 PROVIDER'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 agreement, unless PROVIDER assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent PROVIDER from using any ideas, concepts, know-how, methodology or techniques related to its performance under this agreement, provided that PROVIDER user does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of MCWDB or third-party, or result in a breach or default of any Intellectual Property provisions of paragraph twenty-one (21) or result in a breach of any provisions of law relating to confidentiality.

d. Copyright:

- (1) PROVIDER agrees that for purposes of copyright law, all works, as defined in Intellectual Property, paragraph twenty-one (21) (b) Ownership (2) (a), of authorship made by or on behalf of PROVIDER in connection with PROVIDER's performance of this agreement shall be deemed "works made for hire". PROVIDER further agrees that the work of each person utilized by PROVIDER in connection with the performance of this agreement will be a "work made for hire"; whether that person is an employee of PROVIDER or that person has entered into an agreement with PROVIDER to perform the work. PROVIDER shall enter into a written agreement with any such person that: (i) all work performed for PROVIDER shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all rights, title, and interest to the MCWDB to any work product made, conceived, derived from or reduced to practice by PROVIDER or MCWDB and which result directly or indirectly from this agreement. (Refer to Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900.)
- (2) 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 PROVIDER or MCWDB and which result directly or indirectly from this agreement may not be reproduced or disseminated without prior written permission from the MCWDB.

- e. Patent Rights:** With respect to inventions (refer to Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900), made by PROVIDER in the performance of this agreement, which did not result from research and development specifically included in PROVIDER's agreement scope of services, PROVIDER hereby grants to MCWDB a license as described under paragraph twenty-one (21) (c) 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 PROVIDER's agreement scope of services, then PROVIDER agrees to assign to MCWDB, without additional compensation, all its rights, title and interest in and to such inventions and to assist the MCWDB in securing United States and foreign patents with respect thereto.

- f. Third-Party Intellectual Property:** Except as provided herein, PROVIDER agrees that its performance of this agreement shall not be dependent upon or include any Intellectual Property of PROVIDER or third-party without first: (i) obtaining MCWDB's prior written approval; and (ii) granting to or obtaining for MCWDB, without additional compensation, a license, as described in paragraph twenty-one (21) (c), for any of PROVIDER 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 the MCWDB determines that the Intellectual Property should be included in or is required for PROVIDER's performance of this agreement, PROVIDER shall obtain a license under terms acceptable to the MCWDB.

g. Warranties:

(1) PROVIDER represents and warrants that:

- a) It has secured and will secure all rights and licenses necessary for is performance of this agreement.
- b) Neither PROVIDER'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 PROVIDER or MCWDB 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 country. There are currently no actual or threatened claims by any such third-party based on an alleged violation of any such right by PROVIDER.
- c) Neither PROVIDER's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- d) It has secured and will secure all rights and licensees necessary for Intellectual Property including, but not limited to, consents, waivers, or releases from all authors.
- e) 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.
- f) 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 MCWDB in this agreement.
- g) It has appropriate systems and controls in place to ensure that State and Federal 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.
- h) 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 PROVIDER's performance of this agreement.

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

h. Intellectual Property Indemnity:

- (1) PROVIDER shall indemnify, defend and hold harmless MCWDB and the County of Monterey and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") 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 indemnitees may be subject, whether or not PROVIDER is a party to any pending or threatened litigations, which arise out of or are related to (if) the incorrectness or breach of any of the representations, warranties, covenants or agreements of PROVIDER pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of MCWDB'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 PROVIDER or MCWDB 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 agreement. MCWDB reserves the right to participate in and/or control, at PROVIDER's expense, any such infringement action brought against MCWDB.
- (2) Should any Intellectual Property licensed by PROVIDER to MCWDB under this agreement become the subject of an Intellectual Property infringement claim, PROVIDER will exercise its authority reasonably and

in good faith to preserve MCWDB's right to use the licensed Intellectual Property in accordance with this agreement at no expense to MCWDB. MCWDB shall have the right to monitor and appear through its own counsel (at PROVIDER's expense) in any such claim or action. In the defense or settlement of the claim, PROVIDER may obtain the right for MCWDB to continue using the licensed Intellectual Property or, replace or modify the licensed Intellectual Property so that the replaced 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, MCWDB may be entitled to a refund of all monies paid under this agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

- (3) PROVIDER agrees that damages alone would be inadequate to compensate MCWDB and the County of Monterey for breach of any term of these Intellectual Property provisions of paragraph twenty-one (21) by PROVIDER. PROVIDER acknowledges MCWDB and the County of Monterey would suffer irreparable harm in the event of such breach and agrees MCWDB and the County of Monterey 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.

- i. **Survival:** The provisions set forth herein shall survive any termination or expiration of this agreement or any project schedule.

21. CONFIDENTIALITY REQUIREMENTS

The MCWDB and PROVIDER 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 MCWDB, State of California EDD, California Department of Social Services, California Department of Education, California Department of Corrections and Rehabilitation, County Welfare Department(s), County IV-D Directors Office of Child Support, Office of the District Attorney, California Department of Mental Health, California Office of Community Colleges and Department of Alcohol and Drug Programs.

The MCWDB and PROVIDER agree that:

- a. Each party must recognize and safeguard personally identifiable information (PII) and information designated as sensitive in accordance with Uniform Guidance 2 CFR 200.303 – Safeguarding Personally Identifiable Information. PROVIDER must take reasonable measures to safeguard protected PII, as well as any information that the MCWDB designates as sensitive. Both PROVIDER and MCWDB must meet the requirements in Training and Employment Guidance letter (TEGL) 39-11, Guidance on the Handling and Protection of Personally Identifiable Information, located at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872.
- b. Each party shall keep all information that is exchanged between them in the strictest confidence and make sure information available to their respective employees is only on a "need-to-know" basis.
- c. Each party shall provide security sufficient to ensure protection of confidential information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect this information from reasonable unanticipated threats to the security or confidentiality of the information.
- d. PROVIDER agrees that information obtained under this agreement will not be reproduced, published, sold or released in original or in any other form for any purpose other than those specifically identified in this agreement.
 - (1) **Aggregate Summaries:** All reports and/or publications developed by PROVIDER based on data obtained under this agreement shall contain confidential data in aggregated or statistical summary form only. "Aggregated" refers to a data output that does not allow identification of an individual or employer unit.
 - (2) **Publication:** Prior to publication, PROVIDER shall carefully analyze aggregated data outputs to ensure the identity of individuals and/or employer units cannot be inferred pursuant to Unemployment Insurance Code Section 1094(c). Personal identifiers must be removed. Geographic identifiers should be specified only in large areas and as needed, and variables should be recorded in order to protect confidentiality.
 - (3) **Minimum Data Cell Size:** The minimum data cell size or derivation thereof shall be three participants for any data table released to outside parties or to the public.

- e. Each party agrees that no disaggregate data, identifying individuals or employers, shall be released to outside parties or the public.
- f. PROVIDER shall notify the MCWDB of any actual or attempted information security incidents, within 24 hours of initial detection, by telephone at (831)759-6644 or (831)796-6434. Information security incidents include, but are not limited to, any event (intentional or unintentional), that causes the loss, damage, or destruction, or unauthorized access, use, modification, or disclosure of information assets. PROVIDER shall cooperate with the MCWDB in any investigation of security incidents. The system or device affected by an information security incident and containing confidential data obtained in the administration of this program shall be immediately removed from operation upon confidential data exposure or a known security breach. It shall remain removed from operation until correction and mitigation measures are applied. If PROVIDER learns of a breach in the security of the system which contains confidential data obtained under this agreement, then PROVIDER must provide notification to individuals pursuant to Civil Code Section 1798.82.
- g. PROVIDER shall provide for the management and control of physical access to information assets (including personal computer systems, computer terminals, mobile computing devices, and various electronic storage media) used in performance of this agreement. This shall include, but is not limited to, security measures to physically protect data, systems, and workstations from unauthorized access and malicious activity; the prevention, detection, and suppression of fires; and the prevention, detection, and minimization of water damage.
- h. At no time will confidential data obtained pursuant to this agreement be placed on a mobile computing device or on any form of removable electronic storage media of any kind unless the data are fully encrypted.
- i. Each party shall provide its employees with access to confidential information with written instructions fully disclosing and explaining the penalties for unauthorized use or disclosure of confidential information 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.
- j. 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.
- k. 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.
- l. If the MCWDB or PROVIDER enters into an agreement with a third-party to provide WIOA services, the MCWDB and PROVIDER agree 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, subPROVIDER(s), service providers, or employees.
- m. PROVIDER may, in its program operations, allow an individual to register for resume-distribution services at the same time the individual enrolls in the Virtual Job Center or CalJOBS. PROVIDER shall ensure that it and all subPROVIDERS comply with the Intellectual Property requirements of paragraph twenty-one (21) of this agreement, the confidentiality requirements of paragraph twenty-two (22) of this agreement and any other terms of this agreement that may be applicable. In addition, the following requirements must be adhered to by PROVIDER and its subPROVIDERS:
 - (1) All client information submitted over the Internet to PROVIDER and/or subPROVIDER(s) databases must be protected, at a minimum, by 128-bit Secure Socket Layer (SSL) encryption. Client's social security numbers must be stored in a separate database within PROVIDER and/or subPROVIDER(s) network of servers, and protected by a firewall and a secondary database server firewall or AES1 data encryption. If a PROVIDER and/or subPROVIDER(s) obtain confidential information, the agreement between PROVIDER and its subPROVIDER(s) must specifically state the purpose for the data collection and the term of records retention must be stated, and directly related, to the purpose and use of the information. In accordance with Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900, social security numbers and other client specific information shall not be retained for more than three years after a client completes services. PROVIDER and/or subPROVIDER(s) should extend this period, only if any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the three-year retention period. In this case, the records should be maintained until completion of the

action and resolution of all issues arising from it, or until the close of the three-year retention period, whichever is later.

- (2) Client information (personal information that identifies a client such as name and social security number) and/or demographic information of a client (such as wage history, address, and previous employment) shall not be used as a basis for commercial solicitation during the time the client or agency is using PROVIDER and/or subPROVIDER(s) services. Client information and/or demographic information shall not be used for any purposes other than those specific program purposes set forth in PROVIDER and subPROVIDER(s) agreement scope of services.
 - (3) PROVIDER must give an America's Job Center of California (Job Center) or One-Stop Career Center (One-Stop) client the option to use the Job Center or One-Stop services, including Virtual Job Center or CalJOBS, even if he or she chooses not to use any services of PROVIDER and/or subPROVIDER(s). This option shall be prominently, clearly, and immediately communicated to the client upon registration within the Job Center or One-Stop for the Virtual Job Center or CalJOBS. This obligation applies even if PROVIDER's and/or subPROVIDER's resume-distribution services, or any other services are offered to the client.
 - (4) PROVIDER and/or subPROVIDER(s) must clearly disclose all of its potential and intended uses of the client's personal and/or demographic information for the services the client seeks and for any other services PROVIDER and/or subPROVIDER(s) offers. PROVIDER and/or subPROVIDER(s) shall not use a client's personal and/or demographic information without the client's prior permission. A link to PROVIDER and/or subPROVIDER(s) privacy policy shall appear prominently on the registration screens that list the potential and intended uses of the client's personal and/or demographic information.
 - (5) When the MCWDB modifies State automated systems such as the CalJOBS or VOS systems, it shall provide reasonable notice of such changes to PROVIDER and/or subPROVIDER(s). PROVIDER shall be responsible to communicate such changes to its subPROVIDER(s) in the local area.
- n. 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.

Monterey County Workforce Development Board

**Prop 39 2.0: Training Implementation
SERVICE CASH INVOICE**

Exhibit E

I. Date of Request:
II. Invoice #
III. Invoice Period: From: To:
IV. MOU # or Agreement #
V. Awardee Name
Full Address
Invoice Contact:

Phone number:
Email Address:

VI.	Current Expenditures	YTD Expenditures	Leveraged Expenditures	Is Leverage Funding Cash/ In-Kind	Leveraged YTD Expenditures
1. Staff:					
a) Salaries					
b) Fringe Benefits % of Salaries					
2. Staff Travel					
3. Communications					
4. Facility Rent					
5. Facility Utilities					
6. Facilities Maintenance					
7. Office Supplies -- detail major					
8. Testing/Instructional Materials -- detail major					
9. Equipment Purchases					
10. Equipment lease/use-charge					
11. Tools and Supplies (detail per participant cost)					
12. Support Services					
13. Indirect costs					
14. Total Costs listed in Item 14 of Budget Details					
15. Total Costs listed in Item 15 of Budget Details					
16.GRAND TOTAL	\$0.00	\$0.00	\$0.00		\$0.00

Leverage Funding Notes:

Provider Certification: I certify that to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purposes of this program.

Name:
Signature:

Title:
Date:

Monterey County Workforce Development Board - Fiscal Dept. Approval for Payment	
Name:	Signature:
Date:	