

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

SUMMARY PAGE

This AGREEMENT is entered into this 18th day of October, 2021, by the **CITY OF SAN JOSE**, a municipal corporation ("CITY"), and, **BAY AREA MEDICAL ACADEMY, INC.** a California Corporation ("CONTRACTOR").

Project: Eligible Training Provider List ("ETPL") Youth Workshop
 Adult Cohort Youth Training
 Adult Workshop

Description: CONTRACTOR will provide educational instruction to enrolled clients looking for a career change or wishing to upgrade their skills to increase their employability.

Funding Source: WIOA; other DOL Grants; Non-Federal Grants

Amount Not to Exceed: Part of \$915,674 Pool Amount – WIOA ETPL & Cohort
 Part of \$ 412,000 Pool Amount – NDWG ETPL & Cohort
 Part of \$ 340,000 Pool Amount – Workshops
 Total: \$ 1,327,674 Pool Amount

Payment Terms: See Exhibit C

Agreement Term: Start Date: 7/1/2021 End Date: 06/30/2023

PARTIES TO AGREEMENT:	CONTRACTOR	CITY
Name:	BAY AREA MEDICAL ACADEMY, INC.	CITY OF SAN JOSE
Address for Legal Notice:	530 Bush Suite 201 San Francisco, CA 94108	Office of Economic Development, work2future Division 5730 Chambertin Drive San José, CA 95118
Attention:	Simonida Cvejic	Monique Melchor, Director
Email Address:	simonida@bamasf.com	Monique.melchor@sanjoseca.gov
Telephone No.:	415217-0077	(408) 794-1108
Contact Person: Title: Telephone No.: Email:	Simonida Cvejic Business Development Manager 415217-0077 simonida@bamasf.com	Colleen Brennan Contracts Manager 408-794-1139 Colleen.brennan@sanjoseca.gov
Taxpayer ID:	20-3702238	
City Business License/ Tax No.:	0011774719	
Type of Entity:	California Corporation	
State of Incorporation or Residency:	CA	

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT LIST & SIGNATURE PAGE

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT A: MANDATORY SCOPE OF SERVICES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT A-1: ETPL SCOPE OF SERVICES
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT A-2: ADULT COHORT SCOPE OF SERVICES
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT A-3: ADULT WORKSHOP SCOPE OF SERVICES
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT A-4: YOUTH WORKSHOP SCOPE OF SERVICES
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT A-5: YOUTH TRAINING SCOPE OF SERVICES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT B: BUDGET SUMMARY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT C: MANDATORY COMPENSATION EXHIBIT
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT C-1: ETPL COMPENSATION
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT C-2: ADULT COHORT COMPENSATION
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT C-3: ADULT WORKSHOP COMPENSATION
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT C-4: YOUTH WORKSHOP COMPENSATION
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT C-5: YOUTH TRAINING COMPENSATION
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT D: MONITORING, EVALUATION AND REPORTING REQUIREMENTS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT E: GENERAL WIOA PROVISIONS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXHIBIT F: EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION AND COMPLIANCE WITH THE CHILD ABUSE AND NEGLECT REPORTING ACT*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EXHIBIT G: INSURANCE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	CERTIFICATION 1.1: DEBARMENT AND SUSPENSION
<input checked="" type="checkbox"/>	<input type="checkbox"/>	CERTIFICATION 1.2: LOBBYING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	CERTIFICATION 1.3: ADA ACCESSIBILITY**

* applicable if CONTRACTOR employees or volunteers perform services in a position i) having supervisory or disciplinary authority over minors; or ii) requiring contact with children.

** not applicable to ETPL contractors; applicable if subrecipient contractor offers services to clients in location(s) other than CITY America's Job Center of California ("AJCC") Centers

The Exhibits and Certifications marked above are attached hereto and incorporated herein. I certify that I have read and hereby consent to all the terms and provisions contained in the attached AGREEMENT, including without limitation, all Exhibits and Certifications.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

WITNESS THE EXECUTION HEREOF the day and year first hereinabove written.



Approved as to Form:

Attorney
Arlene Silva
Deputy City Attorney IV U
arlene.silva@sanjoseca.gov
Arlene Silva
Arlene Silva (10/15/2021)
Email: arlene.silva@sanjoseca.gov

Simonida Cvejić
simonida@bamasf.com (10/12/2021)
Email: simonida@bamasf.com

Sarah Zarate
Sarah Zarate (10/18/2021)
Email: sarah.zarate@sanjoseca.gov

THIS AGREEMENT is made by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and the person or entity identified as CONTRACTOR on the SUMMARY PAGE at the beginning of this AGREEMENT (hereinafter "CONTRACTOR").

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. RECITALS

- A. CITY is the recipient of a State of California Workforce Innovation and Opportunity Act Grant pursuant to the Workforce Innovation and Opportunity Act ("WIOA") to serve WIOA-eligible clients within the San José Silicon Valley Workforce Development Area ("Local Area").
- B. The Local Area is comprised of the cities of San José, Gilroy, Campbell, Los Gatos, Saratoga, Morgan Hill, Monte Sereno, Los Altos Hills, and unincorporated areas of Santa Clara County.
- C. The San José Silicon Valley Workforce Development Board ("WDB") has oversight over federal and state workforce development funds that are allotted to the Local Area pursuant to the WIOA.
- D. CITY, through the Office of Economic Development, is the fiscal agent for WDB. The Mayor of San José acts as Chief Local Elected Official for the Local Area.
- E. CITY enters into this AGREEMENT to provide services to WIOA clients through CITY's America's Job Center of California ("AJCC") locations in San José, North San José, Gilroy, and other locations approved by CITY.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

- F. CONTRACTOR shall provide occupational and/or basic skills classroom training (“TRAINING PROGRAM”) services to clients determined eligible under the WIOA regulations.
- G. The total amount of funds allocated by CITY are subject to appropriation by the City Council of the City of San José (“City Council”) and the WDB. Any subsequent fiscal year funds are subject to appropriation by the City Council and the WDB.
- H. CITY's work2future Director (“DIRECTOR”), including the DIRECTOR's authorized designees, is charged with the administration of this AGREEMENT.
- I. References to WIOA and applicable regulations, policies, guidelines, Office of Management and Budget (“OMB”) circulars, and field memoranda promulgated by United States Department of Labor (“DOL”), the State of California and CITY in this AGREEMENT include legislation which may replace WIOA and all other applicable federal, state and local rules, regulations, laws, policies, guidelines, circulars, and field memoranda.

SECTION 2. SCOPE OF SERVICES

CONTRACTOR shall provide those services as specified in EXHIBIT A, and its sub-exhibits thereunder, entitled “SCOPE OF SERVICES” (“SERVICES”) which is attached hereto and incorporated herein.

SECTION 3. TERM OF AGREEMENT

The term of this AGREEMENT shall commence on the Start Date and shall expire on the End Date as set forth in the SUMMARY PAGE, unless extended or sooner terminated in accordance with Section 9 of this AGREEMENT, entitled “TERMINATION”. Regardless of the date of execution of this AGREEMENT, it is effective as of the Start Date. CONTRACTOR shall not receive payment for work performed prior to the Start Date.

SECTION 4. COMPENSATION

- A. CITY agrees to pay CONTRACTOR for SERVICES in amounts (“COMPENSATION AMOUNT”) subject to the terms and conditions set forth in EXHIBIT C, and its sub-exhibits thereunder, entitled “COMPENSATION,” which is attached hereto and incorporated herein.
- B. CITY will not pay for unauthorized services rendered by CONTRACTOR or for claimed services which CONTRACTOR has not provided as required by this AGREEMENT.
- C. CONTRACTOR shall comply with all of the terms and conditions of this AGREEMENT, including the SUMMARY PAGE and all Exhibits and Certifications attached hereto, regardless of whether the CITY's funding source is from sources other than those received under WIOA. If CONTRACTOR fails to comply with any of the terms and conditions of this AGREEMENT, including the SUMMARY PAGE and all Exhibits and Certifications attached hereto, CONTRACTOR shall reimburse CITY from sources other than those received from CITY.
- D. DIRECTOR may, without prior notice to CONTRACTOR, at any time in his or her absolute discretion, elect to suspend or terminate payment to CONTRACTOR, in whole or in part,

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

terminate work or expenditures by CONTRACTOR under this AGREEMENT, or not make any particular payment under this AGREEMENT or take any other action available in the event of any of the following occurrences:

1. If CONTRACTOR (with or without knowledge) has made any material misrepresentation of any nature with respect to any information or statements furnished to CITY in connection with this AGREEMENT.
2. If there is pending litigation with respect to the performance by CONTRACTOR of any of its duties or obligations under this AGREEMENT which may materially jeopardize or adversely affect the undertaking of or the carrying out of SERVICES.
3. If CONTRACTOR, without having obtained CITY approval, has taken any action pertaining to SERVICES which requires CITY approval.
4. If CONTRACTOR makes improper use of the COMPENSATION AMOUNT.
5. If CONTRACTOR fails to comply with any of the terms and conditions of this AGREEMENT including without limitation, CONTRACTOR's failure to carry out the SERVICES or other obligations as described in any Exhibit to this AGREEMENT.
6. If CONTRACTOR submits to CITY any report which is incorrect or incomplete in any material respect, or is untimely.

SECTION 5. INDEPENDENT CONTRACTOR

It is understood and agreed that CONTRACTOR, in the performance of this AGREEMENT, shall not act nor is it at any time authorized to act, as the agent or representative of CITY in any matter. CONTRACTOR further agrees that it will not in any manner hold itself out as the agent or representative of the CITY or act in such a fashion as would give the impression to a reasonable person that CONTRACTOR is acting in such a capacity.

It is understood and agreed that CONTRACTOR and CONTRACTOR's employees, in the performance of the work and services agreed to be performed by CONTRACTOR, shall act as and be an independent contractor and not an agent or employee of CITY; and as an independent contractor, CONTRACTOR shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONTRACTOR and CONTRACTOR's employees hereby expressly waive any claim it/they may have to any such rights.

SECTION 6. SUBCONTRACTING/ASSIGNABILITY

The parties agree that the expertise and experience of CONTRACTOR are material considerations for this AGREEMENT. CONTRACTOR shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONTRACTOR's obligations hereunder, without the prior written consent of CITY. In the event CITY determines that any of the rights, duties or obligations under this AGREEMENT have been subcontracted or assigned to another contractor by CONTRACTOR, without the written consent of CITY, then CITY may exercise its right to take any appropriate remedy identified in Section 9, entitled "TERMINATION", including, without limitation, termination of the entire AGREEMENT.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

SECTION 7. INDEMNIFICATION AND HOLD HARMLESS

CONTRACTOR shall defend, indemnify and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONTRACTOR's officers, employees or agents. The acceptance of said services and duties by CITY shall not operate as a waiver of such right of indemnification. CONTRACTOR's obligations under this indemnification provision shall survive the expiration or termination of this AGREEMENT.

SECTION 8. INSURANCE REQUIREMENTS

CONTRACTOR agrees to have and maintain the policies set forth in EXHIBIT G, entitled "INSURANCE," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the CITY's Risk Manager as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CONTRACTOR agrees to provide CITY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

SECTION 9. TERMINATION

This AGREEMENT may be terminated in whole or in part under any of the following circumstances:

- A. Termination for Convenience. CITY may, through DIRECTOR, terminate this AGREEMENT without cause by giving CONTRACTOR thirty (30) calendar days written notice.
- B. Termination for Cause. Each of CONTRACTOR's obligations under this AGREEMENT shall be deemed material. If CONTRACTOR fails to perform any of its obligations under this AGREEMENT, or any other agreement with CITY, CITY may terminate this AGREEMENT upon ten (10) days advance notice ("Notice Period") to CONTRACTOR, specifying CONTRACTOR's breach and providing CONTRACTOR with the opportunity to cure the specified breach within the Notice Period or, in those instances where the specified breach cannot reasonably be cured within the Notice Period, the opportunity to commence to cure the specified breach. In the event CONTRACTOR fails to cure or to commence to cure the specified breach within the Notice Period, this AGREEMENT shall be terminated. Without limiting the generality of the foregoing, the occurrence of any one of the following events shall constitute a default of this AGREEMENT for which CITY may exercise its right of termination:
 - 1. CONTRACTOR's breach of any of the representations or warranties contained in this AGREEMENT;
 - 2. The occurrence of any of the events set forth in Section 4 for suspension or termination of CITY's payment of SERVICES.
- C. In the event of termination under this Section, CONTRACTOR shall have the following obligations:

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

1. No later than thirty (30) days following the date of termination, CONTRACTOR shall refund to CITY any unused portion of the COMPENSATION AMOUNT, except that CONTRACTOR shall have no obligation to refund to CITY any portion of the COMPENSATION AMOUNT spent as of the date of termination in accordance with the terms of the AGREEMENT. CONTRACTOR shall also provide CITY with a written report detailing the expenditures, if any, from the COMPENSATION AMOUNT, including an accounting of its administrative expenses to the date of termination.

Nothing in this AGREEMENT shall be deemed to be a waiver of CITY's right to recover from CONTRACTOR any portion of the COMPENSATION AMOUNT that has not been spent in accordance with this AGREEMENT. Upon receipt, CONTRACTOR will be paid for services performed and reimbursable expenses incurred in compliance with the terms of this AGREEMENT to date of termination.

2. Upon termination, CONTRACTOR shall immediately deliver to CITY any and all copies of materials used or developed including, but not limited to, all data collection forms, reports, studies and other work performed whether or not completed by CONTRACTOR or CONTRACTOR's subcontractor, if any, under this AGREEMENT.

D. DIRECTOR is authorized to terminate this AGREEMENT on CITY's behalf.

E. CITY may, at its sole option, pursue a course correction process with CONTRACTOR to address issues with CONTRACTOR's performance under this AGREEMENT. However, CITY is under no obligation to pursue a course correction prior to exercising its rights to suspend payment to CONTRACTOR or to terminate this AGREEMENT. Nothing in this AGREEMENT shall be construed so as to deprive CITY of its rights and remedies at law or in equity against CONTRACTOR.

SECTION 10. GOVERNING LAW

CITY and CONTRACTOR agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 11. COMPLIANCE WITH LAWS

CONTRACTOR shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments. Without limiting the generality of the preceding sentence, CONTRACTOR shall comply with the provisions of CITY's Business Tax Ordinance in Chapter 4.76 of the San José Municipal Code.

SECTION 12. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY

CONTRACTOR agrees that, in the performance of this AGREEMENT, CONTRACTOR shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the policy can be found on the CITY's website at the following link: <http://www.sanjoseca.gov/index.aspx?nid=1774>.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

- a. Use of recycled and/or recyclable products in daily operations (i.e. 30, 50, or 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.); and
- b. Use of Energy Star compliant equipment; and
- c. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.); and
- d. Internal waste reduction and reuse protocol(s); and
- e. Water and resource conservation activities within facilities, including bans on individual serving bottled water and use of compostable food service products, etc.

SECTION 13. APPLICANT/CLIENT REPORTS

CONTRACTOR agrees that it shall provide to CITY information regarding applicants or clients who applied for or received services under this AGREEMENT as needed for reporting and tracking required by WIOA and other applicable federal and state laws. Such information shall be reported in a format that does not identify the individual applicant or client. Contractor training information or reports assembled by CITY from information provided by CONTRACTOR, including, but not limited to, the number of clients enrolled; the number of clients that have completed training; and the number of clients who have entered employment in the area in which they have been trained is the property of CITY without restriction or limitation upon their use including the publication of such information.

SECTION 14. RECORDS

CONTRACTOR shall be solely responsible to implement internal controls and record keeping procedures that comply with this AGREEMENT and all applicable laws. CONTRACTOR's administrative, programmatic and financial records pertaining to the TRAINING PROGRAM, or the AGREEMENT collectively, must sufficiently support the determination that expenditures are allowable. CONTRACTOR shall retain all records pertinent to this AGREEMENT for a period of three (3) years from the date of final payment for each fiscal year. CONTRACTOR shall retain such records beyond three (3) years so long as any litigation, audit, dispute or claim is pending.

SECTION 15. MONITORING/AUDITS

CONTRACTOR's books, documents, papers, records, or other pertinent documents (including computer, audit, evaluation, monitoring, inspection, photocopying, or transcription) relating to the services identified in this AGREEMENT shall be accessible to the State of California, the CITY, the federal government, and other government agencies as provided in 29 C.F.R. Sections 95.48(d) and 97.36(i)(10), or as otherwise required by law. The right to access encompasses all CONTRACTOR records regardless of funding sources (including sources) to determine compliance with the AGREEMENT. This right also includes timely and reasonable access to CONTRACTOR's personnel for the purposes of interviews and discussion. CONTRACTOR shall turn over copies of these records to authorized federal, state, and CITY representatives upon reasonable notice.

CONTRACTOR shall comply with any audits by appropriate monitoring agencies at CONTRACTOR's sole expense. The CITY shall monitor the CONTRACTOR a minimum of once per year, which shall include a desk review and an annual site visit. CONTRACTOR shall submit an audit report within thirty (30) days in the event the AGREEMENT is terminated, voluntarily or involuntarily, before the end of the term. CONTRACTOR shall pay to CITY, from neither CITY

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

nor TRAINING PROGRAM funds, the full amount of liability resulting from disallowances or other audit or monitoring exceptions which are attributed to CONTRACTOR's error, omission, or violation of any provision of this AGREEMENT.

EXHIBIT D, "MONITORING, EVALUATION AND REPORTING REQUIREMENTS" sets forth additional standards regarding the CITY's right to audit, and CONTRACTOR's obligation to deliver to the CITY reports which may include but are not limited to audited financial reports, training, workshop and customer service. CONTRACTOR further agrees that CONTRACTOR shall preserve all records related to the performance of this AGREEMENT and that CITY's right to examine or audit the CONTRACTOR's records, facilities or activities shall continue as specified in **EXHIBIT D**.

SECTION 16. WAIVER

CONTRACTOR agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by CONTRACTOR shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 17. CONFLICT OF INTEREST

CONTRACTOR shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. CONTRACTOR shall comply with the applicable provisions of the Political Reform Act of 1974, as amended, relating to conflicts of interest (codified in California Government Code Section 87000, et seq.), with the conflict of interest provisions of Government Code Section 1090, et seq. and with CITY's Code of Ethics, set forth in City Council Policy 0-15. CONTRACTOR will promptly advise CITY of the facts and circumstances concerning any disclosures made to it or any information obtained by it relating to conflicts of interest.

SECTION 18. GIFTS

- A. CONTRACTOR is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in San José Municipal Code ("SJMC") Chapter 12.08.
- B. CONTRACTOR agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by CONTRACTOR. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in Section 9 of this AGREEMENT.

SECTION 19. DISQUALIFICATION OF FORMER EMPLOYEES

CONTRACTOR is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in SJMC Chapter 12.10 ("Revolving Door Ordinance"). CONTRACTOR shall not utilize either directly or indirectly any officer, employee, or agent of CONTRACTOR to perform

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 20. NOTICES

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, to the respective parties addressed as referenced on the SUMMARY PAGE of this AGREEMENT.

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 21. VENUE

In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 22. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS

This AGREEMENT, including the SUMMARY PAGE and all Exhibits and Certifications attached hereto, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in the SUMMARY PAGE or any of the Exhibits and Certifications attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT A

MANDATORY SCOPE OF SERVICES

A. CONTRACTOR Responsibilities

1. CONTRACTOR shall not charge clients a fee for placement or referral services.
2. No workshops/TRAINING PROGRAMS under this AGREEMENT shall involve political activities.
3. Clients enrolled in workshops/TRAINING PROGRAMS shall not be employed on the construction, operation or maintenance of any part of any facility that is used for sectarian instruction or religious worship. In addition, the employment or training of clients in sectarian activities is prohibited.
4. CONTRACTOR shall not require clients to apply for or access student loans or incur personal debt as a condition of participation in the workshops/TRAINING PROGRAMS.
5. CONTRACTOR shall establish and distribute a written description of its procedures for resolving workshop/TRAINING PROGRAM complaints to all clients enrolled in workshops/TRAINING PROGRAMS. Said procedure shall be subject to approval by the CITY, and shall comply with all applicable WIOA laws and regulations.
6. CONTRACTOR shall prepare and submit client and fiscal records as required by CITY in accordance with CITY and WIOA procedures.
7. In the event of pandemic or other unforeseen emergency circumstances in which CONTRACTOR must suspend or amend services, CONTRACTOR shall submit written documentation to CITY within five (5) working days of such suspension or amendment describing the actions taken to mitigate the circumstance.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT A-1
ETPL SCOPE OF SERVICES

A. CONTRACTOR Responsibilities

1. CONTRACTOR shall provide TRAINING PROGRAMS in demand occupations, as identified by the State of California Labor Market information or other additional labor market research, to those WIOA clients eligible for a TRAINING PROGRAM. No TRAINING PROGRAM shall exceed eighteen (18) months per client.
2. CONTRACTOR shall comply with the Workforce Innovation and Opportunity Act Eligible Training Provider List ("ETPL") Policy and Procedures issued by the State of California Employment Development Department ("EDD") in October 2015 (available at http://www.edd.ca.gov/jobs_and_training/pubs/wsd15-07.pdf), ("Policy and Procedures"), which governs the operation of the ETPL in California, including but not limited to initial eligibility requirements as follows:

"Initial eligibility procedures for the ETPL apply to all training providers. Initial eligibility is based on the following:

 - a. Meeting State minimum performance criteria, as described in this document; and
 - b. Training must be for occupations in priority industry sectors based on the State plan or local area plans. Training must result in completion of an industry-recognized credential, national or state certificate, or degree, including all industry appropriate competencies, licensing and/or certification requirements. Training programs and/or providers must have industry-appropriate accreditation status."
3. Training programs must result in an industry-recognized credential, national or state certificate, or degree ("CREDENTIAL") To ensure compliance with the ETPL eligibility requirement in Section 2 (b) above, CONTRACTOR shall use the California Occupational Guide for the training occupation available at <https://www.labormarketinfo.edd.ca.gov/OccGuides/Search.aspx>, The Occupational Guide for the occupation must state that the CREDENTIAL is necessary to obtain employment in the Occupation. CONTRACTOR shall make all WIOA clients aware of CREDENTIAL that the WIOA client's training results in, and the testing procedure for the CREDENTIAL. CONTRACTOR will enter CREDENTIAL information into the CalJobs system as required by the Policy and Procedures.
4. If CREDENTIAL requirements include a period of experience in the TRAINING PROGRAM field prior to attaining the CREDENTIAL, CONTRACTOR shall inform WIOA clients of the experience requirements for the CREDENTIAL.
5. CONTRACTOR agrees to submit to CITY a copy of CONTRACTOR's completion certificate and additional supporting documentation if requested by CITY, upon successful completion of a TRAINING PROGRAM for each client funded under

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

this AGREEMENT. Such document(s) shall be submitted to CITY within thirty (30) days of completing training.

6. There shall be no increases in TRAINING PROGRAM costs, including the costs of tuition, books, supplies, registration fees, and exam fees, if applicable (“TRAINING COSTS”), without written notice of CITY approval. In the event CONTRACTOR wishes to seek an increase in TRAINING COSTS or wishes to provide additional TRAINING PROGRAMS, CONTRACTOR shall submit a written request to CITY via email to the ETPL coordinator listed in the CalJobs system after all TRAINING PROGRAM information has been entered into the CalJobs system.
7. CONTRACTORS that are private postsecondary schools must be either approved by or have exempt status with the Bureau for Private Postsecondary Education (“BPPE”). CONTRACTORS approved by BPPE shall provide a copy of all written documentation of approval and any approval status changes that CONTRACTOR receives from BPPE no later than ten (10) days after receipt. CONTRACTORS with BPPE exempt status shall provide their current documentation of exempt status to CITY upon request.
8. CONTRACTORS approved by BPPE shall provide a copy of their Annual Report, required by California Education Code Section 94934, to CITY upon request.
9. CONTRACTORS including those that are not subject to BPPE approval shall collect and report performance data as required the Policy and Procedures.
10. DELISTING OF CONTRACTOR’S TRAINING PROGRAMS

CONTRACTOR’s TRAINING PROGRAMS may be removed from the ETPL for any of the following reasons, as indicated in the Policy and Procedures:

1. The private postsecondary provider approved by BPPE has not complied with the BPPE Annual Performance Reporting requirement. [Title 5 California Code of Regulations Division 7.5](#)
2. A WIOA participant has not enrolled in the training program during the previous two (2) Program Years (July 1 through June 30). The nominating Local Boards’ determination to retain a provider eligible for delisting under this criteria will be given priority over this provision.
3. The school has lost its accreditation from WASC.
4. The provider has not achieved the minimum performance criteria for subsequent eligibility and has not been approved for a waiver of subsequent eligibility by the Local Board.

B. Training Enrollment Procedures

1. CONTRACTOR’S TRAINING PROGRAMS shall be listed on the State of California’s ETPL and, if approved by the WDB, listed in WDB Local Active Training Vendor List.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

CONTRACTOR shall coordinate all organizational changes and TRAINING PROGRAM changes with CITY.

1. Clients view the ETPL list of TRAINING PROGRAMS offered. The final selection of a TRAINING PROGRAM is subject to the client's choice. CITY does not warrant, nor does it make any representations that any clients will be referred to CONTRACTOR or enrolled in CONTRACTOR's TRAINING PROGRAM.
2. An Individual Training Account ("ITA") shall be completed by CONTRACTOR and approved by CITY prior to enrollment of a client in a TRAINING PROGRAM. CITY will not compensate CONTRACTOR for any training provided to a client prior to the CITY-approved ITA.
3. CONTRACTOR shall use the CalJobs system to coordinate processes including, but not limited to, client referrals, ITA, enrollments, monitoring clients in TRAINING PROGRAMS, and to generate invoices for payment of TRAINING PROGRAM services rendered.
4. CONTRACTOR or authorized representative will be notified by e-mail when a client would like to arrange to visit their facilities. Should a client select the CONTRACTOR's TRAINING PROGRAM and CONTRACTOR agrees to accept the client, CONTRACTOR shall complete and submit an ITA to CITY for approval. CONTRACTOR will be notified to confirm CITY's approval of the ITA for the selected TRAINING PROGRAM.

C. Coordination of Financial Assistance Funds

1. Pursuant to 20 C.F.R. Section 663.320, grant assistance, including Federal Pell Grants, must be utilized for training costs prior to funds authorized under this AGREEMENT. Funds authorized under this AGREEMENT shall be used to provide assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants. CONTRACTOR shall consider the availability of Federal Pell Grants and other sources of grants to pay for training costs so that WIOA funds provided for under this AGREEMENT supplement other sources of training grants.
2. CONTRACTOR shall report to CITY all financial assistance applications including, but not limited to, those for Federal Pell Grants, and resultant funds received which cover all or part of the training costs relative to all clients enrolled under this AGREEMENT. Any financial assistance funds received by CONTRACTOR on behalf of clients under this AGREEMENT for the specific purposes of training costs shall be immediately reported to CITY so that the corresponding Individual Training Account ("ITA") may be modified as appropriate.
3. Funds authorized under this AGREEMENT may be used while a client's application for a Federal Pell Grant is pending, except that if such client is subsequently awarded a Federal Pell Grant, funds used to underwrite the training for the amount the Pell Grant covers shall be reimbursed to CITY. If payment for such expenses has already been made by CITY to CONTRACTOR, appropriate

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

reimbursement shall be made to CITY from such Federal Pell Grant within thirty (30) days of receipt.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

**EXHIBIT B
BUDGET SUMMARY**

A. **Adult Cohort Training Budget Summary**

Fiscal Years 2021 and 2022

Adult Cohort Training budget will be in accordance with the terms contained in each CITY-approved TRAINING PROGRAM.

B. **Adult Workshop Budget Summary**

Fiscal Years 2021 and 2022

Line Item	Rate	Unit
Instructor-Led Workshops	\$150	Hour

C. **Youth Workshop Budget Summary**

Fiscal Years 2021 and 2022

Line Item	Rate	Unit
Instructor-Led Workshops	N/A	Hour

D. **Youth Training Budget Summary**

Fiscal Years 2021 and 2022

Training	Rate per Client
Youth Career Technical Training	N/A

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT C

MANDATORY COMPENSATION EXHIBIT

- A. CITY shall not be obligated under this AGREEMENT to pay CONTRACTOR for any expense that is not allowable. Allowable shall mean that the expense is: 1) actually incurred by CONTRACTOR; 2) reasonable and necessary for the purpose of providing services and conducting a TRAINING PROGRAM; 3) allocable to a WIOA cost category; and 4) authorized and permitted under federal, state and local laws and regulations.
- B. CITY shall pay CONTRACTOR for expenditures claimed to be allowable within forty-five (45) days after timely receipt of CONTRACTOR's properly completed and documented invoice, or as soon thereafter as is reasonable, provided CONTRACTOR complies with all terms and conditions of this AGREEMENT. No such payment shall mean or imply that CITY has made a final determination that an expenditure(s) by CONTRACTOR is allowable; nor shall any such payment waive or otherwise limit the rights of federal, state or CITY representatives to review CONTRACTOR's records and recover from CONTRACTOR payments which are not allowable.
- C. Failure to submit invoices within sixty (60) days of the incurred costs of training may result in the forfeiture of compensation.
- D. CITY shall in no event be obligated to use non-WIOA funds to support the TRAINING PROGRAMS provided for in this AGREEMENT. CONTRACTOR shall use funds under this AGREEMENT for WIOA-related services and shall not use WIOA funds for general employer costs that do not support or otherwise directly relate to the scope of contracted services.
- E. Any interest earned by CONTRACTOR on funds received under this AGREEMENT shall be WIOA Program Income ("Program Income"), if applicable. No part of the Program Income shall be commingled with other funds or used to support other programs. CITY shall have a lien upon any balance of Program Income funds, which shall have priority over all other liens or claims.
- F. CONTRACTOR shall use all Program Income to support the TRAINING PROGRAM, and shall separately account for it in compliance with 29 C.F.R. Section 95.24 (Nongovernmental Grantees) and 29 C.F.R. Section 97.25 (Governmental Grantees). 20 C.F.R. Section 667.200(a)(5) requires the addition method be used for Program Income earned under WIOA Title I grants. Any Program Income not used and accounted for shall be returned to CITY upon termination of this AGREEMENT.
- G. CONTRACTOR shall have available nonfederal resources, and resources other than those received from the CITY, readily convertible to cash in an amount to repay CITY all disallowed costs incurred in connection with this AGREEMENT, which resources shall be accessible to CITY during the entire retention period, and for one (1) year thereafter.
- H. CONTRACTOR shall submit invoices upon enrollment of a client into a TRAINING PROGRAM and upon the client's completion of the program as evidenced by a Certificate of Completion or other comparable document.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

- I. If CITY incurs expense due to CONTRACTOR's breach of any provision of this AGREEMENT, CONTRACTOR will reimburse CITY for such expense using funding from sources other than those received from or through the CITY.

- J. **Certification Required for Fiscal Reports or Invoices.** Pursuant to 2 C.F.R. § 200.415, annual and final fiscal reports or vouchers requesting payment under this AGREEMENT must include a certification, signed by an official who is authorized to legally bind CONTRACTOR, 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)."

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT C-1

ETPL COMPENSATION

- A. CONTRACTOR shall be compensated in accordance with the terms contained in each CITY-approved ITA which shall not exceed the maximum amount of \$6,000 per client unless an amount that is in excess of the \$6,000 maximum amount allowable under this AGREEMENT has been specifically authorized and approved in writing by CITY and is approved by CITY in the ITA prior to the commencement of a TRAINING PROGRAM. Exceptions are solely determined by CITY and the decision made shall be deemed final. CITY shall not, in any case, be obligated to compensate CONTRACTOR for training costs that exceed the maximum approved amount in the ITA.
- B. CONTRACTOR shall send client's attendance and progress report, on form provided by CITY, to CITY after the client's first week of training, then on a monthly basis until training is complete. CONTRACTOR must submit the attendance and progress record no later than the 15th day of the following month. CONTRACTOR shall send clients attendance and progress record to CITY at any time upon CITY's request in writing or by telephone.
- C. CONTRACTOR shall be compensated for training costs, including the costs of tuition, books, supplies, and registration fees up to the maximum amount approved in the ITA. CONTRACTOR shall include the cost of books in the total cost listed in the State of California EDD CalJOBSSM system.
- D. Payment for each CITY-approved ITA will be disbursed with the following percentages:
1. CONTRACTOR shall be paid eighty percent (80%) of the total training costs upon CITY's receipt of confirmation via CalJobs or other system identified by CITY, that the client is enrolled in the TRAINING PROGRAM identified in the client's ITA. A client is considered enrolled three (3) business days after the first day of class if the client attended the first day of class. If the client is unable to attend the first day of class and still wishes to enroll in the TRAINING PROGRAM, he or she must notify his or her case manager and CONTRACTOR that he or she intends on returning to the TRAINING PROGRAM by the next regularly scheduled classroom training day or within a reasonable amount of time as approved of by both the client's case manager and CONTRACTOR. CONTRACTOR must provide client's case manager with documentation of client attendance and any other expenditures claimed prior to submitting invoice for 80% payment. Documentation of attendance and any other expenditures must include client's signature.
 2. CITY shall pay CONTRACTOR twenty percent (20%) of the total training costs upon receiving a copy of client's certificate of completion.
- E. In the event that a client drops out or withdraws from the TRAINING PROGRAM prior to completing 90% of the total training hours, CONTRACTOR shall be reimbursed for training costs based on the actual hours the client attended the TRAINING PROGRAM. This includes unforeseen circumstances under which a training program cannot continue due to pandemic or other unforeseen circumstance.
1. In the event this amount is less than the amount of training costs already paid to CONTRACTOR at enrollment, CONTRACTOR shall reimburse CITY for the difference between these two amounts within thirty (30) days of receiving the

CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT

client's drop or withdrawal notice. For purposes of this AGREEMENT, the terms "drops out" or "withdraws" shall mean that the client has withdrawn from his or her TRAINING PROGRAM, either by notifying the CONTRACTOR that the client no longer intends on participating in the TRAINING PROGRAM or if the client misses three (3) consecutive classroom training days and has not notified his or her case manager and CONTRACTOR that he or she intends on returning to the TRAINING PROGRAM by the next regularly scheduled classroom training day or within a reasonable amount of time as approved of by both the client's case manager and CONTRACTOR.

2. If CONTRACTOR has not submitted the client's attendance and progress report for any month before the final day of the following month, the client will be considered to have dropped out as of the last attended date on the last received attendance and progress report.
3. If CONTRACTOR has listed the costs of books or tools separately from the tuition costs in the program's CalJobs record, the CITY will subtract the documented cost of books and tools already received by the client from the refund due the CITY, if and only if the following procedure has been followed:
 - a. CONTRACTOR must obtain an itemized receipt from the client for the books or tools, which has each item and its cost listed separately and is signed and dated by the client.
 - i. For books the receipt will include the full title of each book, e.g. "Accounting Fundamentals", not "Accounting books".
 - ii. For tools the receipt will include the name of each tool, e.g. "flat head screwdriver" not "construction tools".
 - b. CONTRACTOR must provide this receipt to the CITY when notifying CITY that client has dropped or withdrawn.
 - i. If CONTRACTOR has not provided this receipt to the CITY when notifying the CITY that client has dropped or withdrawn, then CITY will not reduce the reimbursement amount.
 - ii. If client has dropped or withdrawn without CONTRACTOR's having notified CITY, then CITY will not reduce the reimbursement amount.
4. The provisions in Section E 3 are effective as of the date of this AGREEMENT and will not apply to ITAs for programs that the client has dropped or withdrawn from prior to that date.
5. CITY will send invoice forms to CONTRACTOR via electronic signature system to complete and return to CITY for payment.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT D

MONITORING, EVALUATION AND REPORTING REQUIREMENTS

A. Fiscal Responsibilities of CONTRACTOR:

CONTRACTOR shall:

1. Appoint and submit to CITY the name of a fiscal contact who shall be responsible for the financial and accounting activities of the CONTRACTOR, including the receipt and disbursement of CONTRACTOR funds.
2. Establish and maintain a system of accounts that shall conform to generally accepted principles of accounting for budgeted funds. Such system of accounts shall be subject to review and approval of CITY.
3. Document all costs by maintaining complete and accurate records of all financial transactions, including but not limited to, contracts, invoices, time cards, cash receipts, vouchers, canceled checks, bank statements and/or other official documentation, evidencing in proper detail the nature and propriety of all charges.
4. Submit to CITY at such times and in such forms as CITY may require, such statements, records, reports, data, and information pertaining to matters covered by this AGREEMENT.

B. Records, Reports and Audits of CONTRACTOR:

1. Establishment and Maintenance of Records. CONTRACTOR shall maintain records, including but not limited to, books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to reflect properly:
 - a. All direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this AGREEMENT; and
 - b. All other matters covered by this AGREEMENT. Such records shall be maintained in accordance with requirements now or hereafter prescribed by the CITY.
2. Preservation of Records. CONTRACTOR shall preserve and make available its records:
 - a. for the period of three (3) years from the expiration date of this AGREEMENT; or
 - b. for such longer period, if any, as may be required by applicable law; or
 - c. if this AGREEMENT is completely or partially terminated, for a period of five (5) years from the date of any resulting final settlement.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

3. Examination of Records and Facilities. At any time during normal business hours, upon advance written notice and as often as may be deemed necessary, CONTRACTOR agrees that CITY, and/or any of its respective authorized representatives shall have access to and the right to examine any of its plants, offices and/or facilities engaged in performance of this AGREEMENT and all its records with respect to all matters covered by this AGREEMENT. CONTRACTOR also agrees that the CITY, or any of its authorized representatives, shall have the right to audit, examine, and make excerpts or transcripts of and from such records, and to make audits of all contracts and subcontracts, invoices, payrolls, records of personnel, conditions of employment, materials, and all other data relating to matters covered by this AGREEMENT. CITY may examine records or facilities pursuant to this Section throughout the term of this AGREEMENT and
 - a. for a period of five (5) years after final payment under this AGREEMENT; or,
 - b. for such longer period as may be required by applicable law; or
 - c. if this AGREEMENT is completely or partially terminated, for a period of five (5) years from the date of any resulting settlement.

4. Audits.
 - a. Independent Audit Reports.
 - (1) If CONTRACTOR expends \$750,000 or more in a year in Federal funds, CONTRACTOR shall submit an audit report that conforms to the requirements of OMB Circular A-133 for Non-Profit Institutions. Funds may be set aside in CONTRACTOR's budget in an amount equal to CITY's fair share of the CONTRACTOR's cost of an A-133 independent audit, if required.
 - (2) The audit report shall ascertain and determine that no services provided by the CONTRACTOR under this AGREEMENT are duplicative of services provided to another agency from which CONTRACTOR receives funding and are not being reimbursed from funding received from another agency.
 - (3) CONTRACTOR shall enter into an agreement with an outside auditor no later than sixty (60) days before the end of each Fiscal Year calling for the financial and compliance audit of CONTRACTOR's Fiscal Years that are covered by this AGREEMENT. The written agreement may be in the form of an engagement letter prepared by the auditor and approved by CONTRACTOR.
 - (4) The audit report must be completed and sent to the CITY's Office of Economic Development, work2future Division, within one hundred fifty (150) days of the end of each of the CONTRACTOR's Fiscal Years covered by this AGREEMENT. Acceptable forms

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

include: (i) an original, bound copy signed by the certified public accountant responsible for the work, OR (ii) a protected document file format (.pdf) emailed from the CONTRACTOR's certified public accountant. If this AGREEMENT expires or is terminated on a date that occurs after the period covered by the foregoing audit, CONTRACTOR shall deliver an audit report within two hundred and fifty (250) days after the expiration or termination of this AGREEMENT auditing the period not covered by the prior audit.

- (5) Should CONTRACTOR not enter into an agreement with an outside auditor or should an audit not be done on a timely basis, the CITY, at its discretion, may enter into an agreement with an independent auditor to do the audit at CONTRACTOR's expense.
 - (6) The CONTRACTOR shall submit to the CITY copies of management letters the auditor prepares for the CONTRACTOR as part of the audit engagement.
 - (7) All audits must be performed by Certified Public Accountants currently certified and licensed to practice in the State of California. CONTRACTOR must have Auditor's proof of current licensing on file in CONTRACTOR's office. CONTRACTOR must submit to the CITY's Office of Economic Development, work2future Division, a copy of Auditor's certification to practice in California with the audit.
- b. CITY Audits. The CITY may perform an independent audit. Such audits may cover programmatic as well as fiscal matters. CONTRACTOR will be afforded an opportunity to respond to any audit findings, and have the responses included in the final audit report. Costs of such audits will be borne by the CITY.
- c. Disallowed Costs. CONTRACTOR is liable for repayment of disallowed costs as determined by CITY. Disallowed costs may be identified through audits, monitoring or other sources. CONTRACTOR shall be afforded the opportunity to respond to any adverse findings that may lead to disallowed costs. CITY shall make the final determination of disallowed costs.

C. CONTRACTOR's Financials

1. City Council requires that each non-profit organization receiving \$320,000 or more in funds from the CITY (in the aggregate) during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and make available for public view on the internet, annual audited financial statements. The audited financial statements must be made available for view within six (6) months of the end of the organization's fiscal year (which period may be extended by the City Manager based upon a showing of hardship or other good cause) and must be submitted to the CITY's Office of Economic Development, work2future Division and posted on the organization's website at an easy access location. All audits must be performed by a certified public accountant currently licensed to practice in the State of

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

California, must conform to generally accepted auditing standards and otherwise be in a form acceptable to the CITY.

2. Non-profits shall be required to comply with this requirement at the time that the non-profit has entered into one or more grant agreements or subsidy agreements with the CITY which provide for the payment of an aggregate amount that equals or exceeds \$320,000 in grant and/or subsidy funds in any one fiscal year. Non-profits covered by this requirement must exert due diligence in determining when they have reached the aggregate funding threshold of \$320,000. The provisions of the financial posting requirements shall be interpreted broadly to effectuate the purpose of making available to the public information on recipients of substantial CITY funds. These provisions shall apply not only to grant agreements or operating agreements but shall also apply, without limitation, if any amendments to such agreements bring the total annual funding to equal or exceed \$320,000, and also to any other agreement with the CITY that are equivalent in purpose to a grant agreement or an operating subsidy agreement regardless of the title of the agreement.
3. This posting requirement shall remain in effect until an entire fiscal year passes in which the non-profit does not have contracts with the CITY which provide for grants and/or subsidies from the CITY in an aggregate amount equaling or exceeding \$320,000. Without limitation of any other remedy, CONTRACTOR's failure to comply with this requirement may be taken into consideration when evaluating CONTRACTOR's request for future grant funds or subsidies.
4. Organizations receiving an aggregate amount \$25,000 or more in funds from the CITY during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and submit to their City project director a completed Financial Dashboard. CITY's project director will provide a Financial Dashboard template upon request. The Financial Dashboard must be submitted via WebGrants within six (6) months from the end of CONTRACTOR's Fiscal Year.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT E
GENERAL WIOA PROVISIONS

A. General

CONTRACTOR shall comply with the applicable requirements of the Workforce Innovation and Opportunity Act (WIOA), and with applicable regulations, policies, guidelines, Office of Management and Budget (OMB) circulars, and field memoranda promulgated by United States Department of Labor (DOL), the State of California and CITY, and/or any legislation which may replace the WIOA, and all other applicable federal, state and local rules, regulations and laws.

B. Grievance Procedure

CONTRACTOR shall establish, seek CITY approval for, and distribute to all program participants a written description of its procedures for resolving program grievances and complaints. Said procedure shall be subject to approval by the CITY, and comply with applicable WIOA laws and regulations.

C. Nondiscrimination

CONTRACTOR is prohibited from discriminating on the ground of race, color, creed, religion, sex, sexual orientation, actual or perceived gender identity, marital status, family status (minor children or no minor children), national origin, ancestry, age, disability, political affiliation or belief, and for participants only, citizenship or participation in programs or activities funded under this AGREEMENT, in admission or access to, opportunity or treatment in, or employment in the administration of, or in connection with, any program or activity funded under this AGREEMENT.

As a condition to the award of financial payment under this program, CONTRACTOR assures, with respect to operation of this funded program or activity and all agreements or arrangements to carry out this program or activity, that it will comply fully with all nondiscrimination and equal opportunity statutes and regulations including, but not limited to, the following: Section 188 of the WIOA; Title VI and VII of the Civil Rights Act of 1964, as amended; Americans with Disabilities Act of 1990, as amended; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; Age Discrimination Act of 1975; California Fair Employment and Housing Act, Government Code Sections 12900 et seq.; California Labor Code Sections 1101, 1102, and 1102.5; Executive Orders 11246 and 11375 supplemented in Department of Labor Regulation 41 C.F.R. Part 60; 29 C.F.R. Part 37, and with all applicable requirements imposed by or pursuant to regulations implementing those laws. Federal, state, and local governments shall have the right to seek judicial enforcement of this nondiscrimination assurance.

D. Accessibility

CONTRACTOR shall comply with all applicable laws including, without limitation, the Americans with Disabilities Act ("ADA"), as it applies to CONTRACTOR, and those laws that govern health and safety and prevention of unhealthy conditions.

E. Prohibited Activities

CONTRACTOR shall comply with the applicable WIOA regulations prohibiting activities relating to political lobbying, sectarian, and pro- or anti- unionization activities. CONTRACTOR shall also

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

comply with reporting requirements related to fraud, abuse, or criminal activities and certifications regarding lobbying (CERTIFICATION 1.2); and debarment, suspension and other related matters (CERTIFICATION 1.1), to the extent these are applicable and in accordance with Executive Orders 12549 and 12689.

F. Drug-Free Workplace

CONTRACTOR assures and certifies under penalty of perjury that it will comply with the requirements of the government-wide requirements for a drug-free workplace codified in DOL Regulations, including but not limited to, 29 C.F.R. Part 94 and the State of California's Drug-Free Workplace Act of 1990 (Government Code §§ 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code § 8355(a)(1).
2. Establish a Drug-Free Awareness Program as required by Government Code § 8355(a)(2) to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace; and
 - b. CONTRACTOR's policy of maintaining a drug-free workplace; and
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide, as required by Government Code § 8355(a)(3), that every employee who works on services under this AGREEMENT:
 - a. Will receive a copy of CONTRACTOR's drug-free policy statement; and
 - b. Will agree to abide by the terms of CONTRACTOR's statement as a condition of employment.
4. Failure to comply with these requirements may result in suspension of payments under this AGREEMENT or termination of this AGREEMENT or both, and CONTRACTOR may be ineligible for award of future agreements if CITY determines that either of the following has occurred:
 - a. False certification; and/or
 - b. Violation of the certification by failing to carry out the requirements as noted above.

G. Environmental

CONTRACTOR shall comply with all applicable standards, orders, and requirements relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), Section 306 of the Clean Air Act (42 U.S.C. § 7606), Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 C.F.R. Part 31).

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

H. Federal Ownership of Materials/Copyrights

The federal government reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes: (1) the copyright in any work developed under this AGREEMENT; and (2) any rights of copyright to which CONTRACTOR purchases ownership with WIOA grant funds received under this AGREEMENT. Further, the federal, state, and CITY governments shall have access to any report, preliminary findings or data assembled by CONTRACTOR under this AGREEMENT and the federal government shall retain ownership and patent rights to any discovery or invention under this AGREEMENT, as provided in 29 C.F.R. Section 95.48, Appendix A-5, 29 C.F.R. Section 97.34, and 29 C.F.R. Section 97.36(i)(8)-(9).

I. Buy American

CONTRACTOR agrees that in expending the COMPENSATION AMOUNT it will comply with the Buy American Act (41 U.S.C. §§ 8301 et seq.).

J. Salary and Bonus Limitations

In compliance with Public Law 109-234, none of the funds appropriated in Public Law 109-149 or prior Acts under the heading "Employment and Training" that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under Section 101 of Public Law 109-149. This limitation shall not apply to contractors providing goods and services as defined in OMB Circular A-133. Where states are recipients of such funds, states may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from sub recipients of such funds, taking into account factors including the relative cost-of-living in the states and the compensation levels for programs involved including Employment and Training Administration programs. See Training and Employment Guidance Letter number 5-06 for further clarification.

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

K. Additional Assurances

1. CONTRACTOR agrees to perform any and all other assurances required by any applicable law or regulation. CONTRACTOR further agrees to execute any additional writing required to evidence such assurances if requested to do so.
2. CONTRACTOR understands and agrees that the assurances contained in this AGREEMENT are material representations upon which CITY does and will continue to rely upon as the basis for entering into this AGREEMENT. CONTRACTOR understands and agrees that any act or omission which is inconsistent with these assurances shall be deemed a material breach of this AGREEMENT, and cause for immediate termination pursuant to Section 9 of this AGREEMENT, entitled "TERMINATION". CONTRACTOR shall immediately notify CITY of any change in facts or circumstances related to these assurances.
3. CONTRACTOR represents and warrants that the information contained in this AGREEMENT is true and accurate to the best of its knowledge; that it is duly

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

organized to operate under the laws of the State of California; that its signatory to this AGREEMENT is authorized to execute this AGREEMENT.

4. The purchase and disposition of property and supplies shall be governed by 20 C.F.R. Section 645.300, OMB Circular A-110, as revised and further amended, or 29 C.F.R. Parts 95 and 97, to the extent applicable. Real property shall not be purchased with WIOA funds. The purchase and disposition of capital equipment costing more than \$5,000 shall require CITY pre-approval. CONTRACTOR shall maintain inventories and safeguard all equipment purchased with WIOA funds.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

EXHIBIT G: INSURANCE

CONTRACTOR, at CONTRACTOR'S sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. ***Applicable only if vehicles used in the course of training and/or instructors driving to and from City of San José during instructions*** - The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. ***Applicable only if Professional training is being provided such as, but not limited to: Medical, Cosmetology (Beauty Shop or Barber Shop), Massage Therapy, Scientific, Legal, Real Estate, Accounting or other licensed training as necessary – Professional Liability Errors and Omissions.***

B. Minimum Limits of Insurance

CONTRACTOR shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers' Liability: Workers' Compensation limits as required by the California Labor Code and Employers' Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors and Omissions \$1,000,000 per occurrence/Aggregate Limit.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, employees, agents and contractors; or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

- a. The City of San José, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, leased or used by CONTRACTOR; and automobiles owned, leased, hired or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
 - b. CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of CONTRACTOR's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by CONTRACTOR shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
 - d. Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage shall contain a waiver of subrogation in favor of the City of San José, its officials, employees, agents and contractors
2. Workers' Compensation
- Coverage shall contain a waiver of subrogation in favor of the City of San José, its officials, employees, agents and contractors
3. All Coverages
- Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage

CONTRACTOR shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address (or any subsequent address as may be directed in writing by the Risk Manager): City of San José – Finance, Risk Management, 200 East Santa Clara Street, 14th Floor – Tower, San José, CA 95113-1905.

G. Subcontractors

CONTRACTOR shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

CERTIFICATIONS

**Cert. 1.1
DEBARMENT AND SUSPENSION CERTIFICATION**

Instructions for Certification

1. By signing and submitting this proposal, the prospective recipient of federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies to the federal government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of federal assistance funds shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective recipient of federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction”, “debarred”, “suspending”, “ineligible”, “lower tier covered transaction”, “participant”, “person”, “primary covered transaction”, “principal”, “proposal”, and “voluntarily excluded”, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective recipient of federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of federal assistance funds further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Non-Procurement Programs.

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -
Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 C.F.R. Section 98.510, Participants' Responsibilities (updated and amended at 29 C.F.R. § 98.300 et seq.). The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS FOR CERTIFICATION)

1. The prospective recipient of federal assistance funds certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective recipient of federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Simonida Cyejic

simonida@bamasf.com (10/12/2021)
Email: simonida@bamasf.com

SIGNATURE

DATE

NAME and TITLE of AUTHORIZED REPRESENTATIVE

ORGANIZATION

**CITY OF SAN JOSE
WORK2FUTURE TRAINING AGREEMENT**

**Cert. 1.2
LOBBYING CERTIFICATION
(For Contracts, Grants, Loans and Cooperative Agreements)**

The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any 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 federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. Section 1352. 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 such failure.


simonida@bamasf.com (10/12/2021)
Email: simonida@bamasf.com

SIGNATURE

DATE

NAME and TITLE of AUTHORIZED REPRESENTATIVE

ORGANIZATION