

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND  
JobTrain**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_,  
20 14, by and between the COUNTY OF SAN MATEO, hereinafter called  
"County," and JobTrain, hereinafter called "Contractor";

W I T N E S S E T H:

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

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of WIA Youth Programs and Services.

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

**1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services

Exhibit B—Payments and Rates

Exhibit B1—Budget

**2. Services to be performed by Contractor**

In consideration of the payments set forth herein and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth herein and in Exhibit A.

**3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed four hundred thousand dollars (\$400,000).

**4. Term and Termination**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2014, through June 30, 2015.

This Agreement may be terminated by Contractor, the Nicole Pollack, or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

**5. Availability of Funds**

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

**6. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

**7. Hold Harmless**

7.1 General Hold Harmless. Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following: (A) injuries to or death of any person, including Contractor or its employees/officers/agents; (B) damage to any property of any kind whatsoever and to whomsoever belonging; (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

#### 7.2 Intellectual Property Indemnification.

Contractor hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets ("IP Rights") except as otherwise noted by this Agreement. Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**8. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

**9. Insurance**

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Workers' Compensation and Employer's Liability Insurance.** Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, (a) that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) that it will comply with such provisions before commencing the performance of work under this Agreement.
- (2) **Liability Insurance.** Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or by an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability ..... \$1,000,000
- (b) Motor Vehicle Liability Insurance ..... \$1,000,000
- (c) Professional Liability ..... \$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

**10. Compliance With Laws**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

**11. Non-Discrimination and Other Requirements**

- A. *General non-discrimination.* No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.
- B. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.
- C. *Section 504 of the Rehabilitation Act of 1973.* Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.
- D. *Compliance with County's Equal Benefits Ordinance.* With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- Contractor complies with Chapter 2.84 by:
- offering the same benefits to its employees with spouses and its employees with domestic partners.
  - offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
  - Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
  - Contractor does not comply with Chapter 2.84, and a waiver must be sought.

- E. *Discrimination Against Individuals with Disabilities.* The Contractor shall comply fully with the nondiscrimination requirements of 41 C.F.R. 60-741.5(a), which is incorporated herein as if fully set forth.
- F. *History of Discrimination.* Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:
- No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
  - Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.
- G. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:
- i) termination of this Agreement;
  - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
  - iii) liquidated damages of \$2,500 per violation; and/or
  - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this Section and/or to set off all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations within

30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

**12. Compliance with County Employee Jury Service Ordinance**

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that a contractor shall have and adhere to a written policy providing that its employees, to the extent they live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code."

**13. Retention of Records, Right to Monitor and Audit**

(a) Contractor shall maintain all required records for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit of County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: Contractor shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State, and local agencies, and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representatives, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

**14. Merger Clause & Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated herein by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision,



requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

**15. Controlling Law and Venue**

The validity of this Agreement and of its terms or provisions, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

**16. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

**In the case of County, to:**

Name/Title: Donna Tucker, Workforce and Economic  
Development Analyst  
Address: 2500 Middlefield Road  
Telephone: 650-599-5985  
Facsimile: 650-306-8942  
Email: dxtucker@smcgov.org

**In the case of Contractor, to:**

Name/Title: Nora Sobolov, Executive Director, JobTrain  
Address: 1200 O'Brien Drive  
Telephone: 650-330-6400  
Facsimile: 650-330-6401  
Email: nsobolov@jobtrainworks.org

**17. Electronic Signature**

If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County:  If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor:  If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

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

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
President, Board of Supervisors, San Mateo  
County

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

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board

Nora Sobolov

  
\_\_\_\_\_  
Contractor's Signature

Date: May 14/2014

(Revised 7/1/13)

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**Exhibit A**  
**Description of Services**  
**JobTrain**  
**July 1, 2014 through June 30, 2015**

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the following services:

*This Agreement will serve Workforce Investment Act (WIA) eligible youth ages fourteen to twenty one. JobTrain will deliver comprehensive year round youth employment, training or education related services through a partnership of providers to serve in and out-of-school youth.*

In providing WIA Youth employment and training related services, the contractor will:

- Comply with all WIA regulations, directives, and amendments.
  
- Comply with the ten required WIA youth program elements listed below. Note that these elements may change at any time per State requirements. Any changes to the WIA youth program elements during the term of this Agreement will be submitted to the Contractor in writing.
  
- Implement changes within ninety days of notification.
  
- Maintain and manage participant case files and Job Training Automation (JTA) or system data records. Contractor will ensure that case files and system records are accurate, complete and will include the following easily identifiable and accessible information:
  - A unique participant number that identifies them
  - WIA eligibility determination, documentation and related information
  - Individual service and program strategies and details based on their needs
  - Notes, follow-up as required
  
- Attend and participate in quarterly service provider and partner meetings that will review WIA Youth performance scorecard, referrals, expenditures, program or service issues, etc. A quarterly schedule will be distributed to providers after the contract service agreement is executed.
  
- Any other related services to be delivered that are mutually agreed upon by the County Manager's Office and Jobtrain.

<b>Number</b>	<b>WIA Program Elements</b>
<b>1</b>	Tutoring, study skills training, completion of secondary school
<b>2</b>	Alternative secondary school offerings
<b>3</b>	Summer employment opportunities
<b>4</b>	Paid and unpaid work experiences
<b>5</b>	Occupational skill training
<b>6</b>	Leadership development opportunities
<b>7</b>	Supportive services
<b>8</b>	Adult mentoring
<b>9</b>	Follow-up service
<b>10</b>	Comprehensive guidance and counseling

**Enrollments/Performance Outcomes/Report Schedule:**

1. Enrolled participants must meet the performance outcomes outlined below. The contractor will provide quarterly reports that include the number of enrollments and performance in the youth measures outlined below.

<b><u>WIA Youth Performance Measures</u></b>	<b><u>FY 2014-15 Target</u></b>
Placement in Employment & Education	<b>68%</b>
Attainment of a Degree or Certificate	<b>63%</b>
Literacy & Numeracy Gains	<b>40%</b>
<b>Total enrollments</b>	<b>25</b>

2. Contractor will provide quarterly reports out of JTA or related system that show the number of enrollments and the WIA Youth Performance measures according to the following report schedule. Reports will be submitted via email to the Workforce and Economic Development Analyst at [dxtucker@smcgov.org](mailto:dxtucker@smcgov.org).

<b>Quarter</b>	<b>By when</b>
<u>July through September</u>	<u>October 15<sup>th</sup></u>
<u>October through December</u>	<u>January 15<sup>th</sup></u>
<u>January through March</u>	<u>April 15<sup>th</sup></u>
<u>April through June</u>	<u>July 15<sup>th</sup></u>

### **Exhibit B**

In consideration of the services provided by Contractor in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

1. Contractor will invoice the County in July, 2014 for an amount not to exceed \$43,260.00. This invoice will include new start up costs for the program. The remaining 11 invoices for August through June 30, 2015 will not exceed \$32,430.00 per month based on the budget shown in Attachment B1 of this Agreement. The aggregate 12 months of invoices will not exceed \$400,000.00.
2. Invoices will be submitted monthly to the County by the fifteenth of the following month. Terms are net 30.
3. Total services under this Agreement may not exceed \$400,000.
4. In the event that additional WIA youth funding becomes available in the current fiscal year, the County will notify the contractor if performance and contract requirements have been met. The County will then request a new plan, target enrollments and a new budget from the contractor. Then, the County and the contractor will negotiate terms for an amendment that will include new target enrollments, a new plan for services, and a new budget. The amendment will be executed by the Contractor and the County.
5. Invoices must be submitted to:  
Diana Lao, Senior Accountant  
County of San Mateo  
County Manager's Office  
Workforce and Economic Development  
2500 Middlefield Rd.  
Redwood City, CA 94063  
[DLao@smcgov.org](mailto:DLao@smcgov.org)  
650-599-5118

**Exhibit B1**

**JobTrain**

**WIA Youth Collaboration Budget FY 15:**

*Personnel Salary Costs*

Youth		
Coordinator/Counselor	\$ 28,080	
WIA Manager/Director		7,072
Digital Media Instructor		27,040
GED Instructor		27,040
Culinary Arts Instructor		27,040
Program Assistant		37,440

153,712

*Benefits (29% of Salary Costs)*

44,576

198,288

*Program Expenses*

Vocational Training		15,609
Supportive Services		4,500
Assessment Test Fees		450
Outreach/Recruitment		900
Incentives and Rewards for Students		450

21,909

*Direct Operating Expenses*

Office Supplies		1,800
Telephones		1,039
Mileage/Travel for staff		600

3,439

*Subtotal*

223,636

*Indirect Cost @10%*

22,364

**Total JobTrain program costs**

**\$ 246,000**

**Employment Costs for youth work experience**

TeenForce (Recruitment, work readiness training, skills development, job placement, follow-up)		107,000
QEPA (Summer Employment Program, 6 wks, \$9/hr: Interviews, soft skills training, mentoring, pre and post test)		21,000
JobTrain (Case Management & Internships: 3-5 interns*, \$8-10/hr, 15-30 hrs/wk for 6 weeks)*		26,000

**Total Employment costs youth work experience**

**\$ 154,000**

**Total Expenses:**

**\$400,000**