



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-9

For the meeting of: May 24, 2016

Date: April 28, 2016

To: Board of Supervisors

From: Amy Nilsen, County Administrative Officer *AN*

Subject: Resolution accepting Program Year 2016-17 Title I Workforce Innovation and Opportunity Act sub-grant and delegating signature authority.

RECOMMENDATIONS:

That the Board of Supervisors:

1. Adopts the attached Resolution (Attachment 1), accepting Program Year 2016-17 Title I Workforce Innovation and Opportunity Act (WIOA) Sub-grant, Registration Number K7102030;
2. Authorizes and directs the Chair of the Board to sign the seven copies of the sub-grant Agreement (Attachment 2);
3. Authorizes and directs the County Administrative Officer, or designee, to sign fiscal documents, utilizing these funds, such as contracts, after review and approval by County Counsel and Risk Manager, as per the Separation of Duties Assignment adopted September 27, 2005;
4. Authorizes and directs the Workforce Development Board (WDB) Executive Director, or designee, to sign administrative documents as required by the State of California Employment Development Department, and as per the Separation of Duties Assignment adopted on September 27, 2005; and
5. Directs the Clerk of the Board to return the signed original Sub-grant Agreement (seven copies)

Prepared by Cynthia Harrington, Economic Development Coordinator

CAO Approval

[Signature]

REVIEW:

Auditor _____ County Counsel _____ Human Resources _____ Other _____

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. C-2; C-10

Meeting of: 09-27-05; 01-19-16

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Fennell* Seconded by Supervisor *Bass*

Ayes *Sundberg, Fennell, Lovelace, Bohn, Bass*

- Nays
- Abstain
- Absent

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *May 24, 2016*
By: *[Signature]*

Kathy Hayes, Clerk of the Board

to the WDB Executive Director for submission to the state.

SOURCE OF FUNDING:

Formula and discretionary funds granted through the WIOA, U.S. Department of Labor, and State of California Employment Development Department

DISCUSSION:

President Barack Obama signed the Workforce Innovation Opportunity Act (WIOA) into law on July 22, 2014. WIOA supersedes the Workforce Investment Act (WIA) of 1998. WIOA took effect on July 1, 2015.

Your Board is the Chief Elected Official for the Local Workforce Innovation Area (LWIA), which is the County of Humboldt. Your Board appoints the Humboldt County Workforce Development Board (HC-WDB), as required under WIOA, to oversee workforce funding in the LWIA. Title I WIOA Sub-grant from the California Employment Development Department (CA-EDD) provides annual funding for these WIOA programs. As the Chief Elected Official, your Board must approve receipt of these funds and adopt a resolution authorizing the Chair of the Board to sign the Sub-grant Agreement before the funds can be utilized. Original signatures from the Chair of the Board must be obtained on seven copies of the Sub-grant Agreement, which is attached.

All WIOA funds received during the fiscal year are governed by the WIOA Sub-grant Agreement. The initial funding allotted through this Sub-grant Agreement is \$381,561 for youth programs. As new allocations are announced or new discretionary grants are approved, the additional funds will be unilaterally added throughout the year.

For the management of these funds and programs, your Board delegated signature authority in the Separation of Duties Assignment on September 27, 2005 to the Community Development Services Director for fiscal documents (contracts, grant reports, etc.) and to the Workforce Development Board (WDB) Executive Director for grant applications and administrative documents, as is required by CA-EDD. The Community Development Services Director has been changed through Board resolution to the County Administrative Officer. The signature delegation requested at this time reinforces and reiterates your original separation of duties and current signature authority.

The Department of Health and Human Services Employment Training Division (DHHS-ETD) operates the WIOA adult and dislocated worker programs, a portion of the rapid response program, a portion of the youth program, and the one-stop career center (The Job Market) as a member of the operator's consortium. Under WIOA, the one-stop operator must be selected by the WDB, with your Board's concurrence, through a fair and open procurement process (a Request for Proposals (RFP)). An RFP was released on August 21, 2015. On January 19, 2016, your Board approved to designate DHHS-ETD, College of the Redwoods, and Redwood Community Action Agency to act as the consortium to operate the one-stop career center.

Based upon previous successful operation of these programs and substantial need in the county for these programs, staff recommends that these funds be accepted and the Chair of the Board be authorized and directed to sign the Sub-grant Agreement.

FINANCIAL IMPACT:

Administrative costs are covered by 10% of the total WIOA funds set aside for administration and if costs exceed that amount, they will be covered by the Economic Development trust fund.

The initial amount of the Title I WIOA Sub-grant Agreement is \$381,561. This amount is the Youth formula funding and represents approximately one-quarter of the annual total of Humboldt County's formula funding allocation. Once the state plan and state budget for 2016-17 have been approved by the Governor, the remaining formula funds for youth, adults, dislocated workers and rapid response, along with discretionary grants will be added unilaterally into the Sub-grant Agreement. The funds provide training and re-employment services for eligible youth, adults and dislocated workers in the county and for business services.

This sub-grant agreement supports business and workforce development, a Core Role in the Board's Strategic Framework.

OTHER AGENCY INVOLVEMENT:

Employment Training Division of the Department of Health and Human Services
College of the Redwoods
Redwood Community Action Agency

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could choose not to accept these funds. This alternative is not recommended because declining these funds would make services unavailable to several hundred county residents.

ATTACHMENTS:

Attachment 1: Resolution Accepting Program Year 2016-17 Title I Workforce Innovation and Opportunity Act Sub-grant, and Delegating Signature Authority

Attachment 2: Sub-grant Agreement (seven copies)

ATTACHMENT 1

Resolution Accepting Program Year 2016-17 Title I Workforce Innovation and Opportunity Act
Sub-grant and Delegating Signature Authority

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of May 24, 2016

RESOLUTION NO. 16-59

RESOLUTION ACCEPTING PROGRAM YEAR 2016-17 TITLE I W.I.O.A. SUB-GRANT AGREEMENT, REGISTRATION NUMBER K7102030; AUTHORIZING THE CHAIR OF THE BOARD TO SIGN THE SUB-GRANT; AND DELEGATING SIGNATURE AUTHORITY FOR FISCAL DOCUMENTS TO THE COUNTY ADMINISTRATIVE OFFICER AND FOR ADMINISTRATIVE DOCUMENTS TO THE WORKFORCE DEVELOPMENT BOARD (WDB) EXECUTIVE DIRECTOR

WHEREAS, the State of California has requested that the County of Humboldt sign the Workforce Innovation and Opportunity Act Sub-grant Agreement Number K7102030 in order to receive funds under Title 1 of the Workforce Innovation and Opportunity Act for Fiscal Year 2016-2017 ("Sub-grant Agreement"); and

WHEREAS, the State of California requires the Humboldt County Board of Supervisors ("Board") to adopt a resolution approving the Sub-grant Agreement and authorizing a designated position rather than a named individual to execute and administer the Sub-grant Agreement; and


WHEREAS, the Board is willing to authorize the County Administrative Officer, or designee, to execute and administer all fiscal documents associated with this Sub-grant Agreement, after review and approval by County Counsel and the Risk Manager; and

WHEREAS, the Board is willing to authorize the WDB Executor Director, or designee, to execute and administer all administrative documents and grant applications as required by the State of California Employment Development Department.

NOW THEREFORE, BE IT RESOLVED that this Board does hereby:

1. Approve and accept the Workforce Innovation and Opportunity Act Sub-grant Agreement, Registration Number K7102030.
2. Authorize and direct the Chair of the Board to sign this Sub-grant Agreement.
3. Authorize the County Administrative Officer, or designee, to execute and administer all fiscal documents associated with this Sub-grant Agreement, after review and approval by County Counsel and the Risk Manager.
4. Authorize the WDB Executor Director, or designee, to execute and administer all administrative documents and grant applications as required by the State of California Employment Development Department.

Dated: May 24, 2016


MARK LOVELACE, Chair
Humboldt County Board of Supervisors

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of May 24, 2016

RESOLUTION NO. 16-59

Adopted on motion by Supervisor Fennell, seconded by Supervisor Bass, and the following vote:

AYES: Supervisors Sundberg, Fennell, Lovelace, Bohn, Bass
NAYS: Supervisors --
ABSENT: Supervisors --
ABSTAIN: Supervisors --

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By ANA HARTWELL
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California

ATTACHMENT 2

Sub-grant Agreement (7 copies)

WIOA SUBGRANT AGREEMENT

HUMBOLDT COUNTY

SUBGRANT NO: K7102030
 MODIFICATION NO: New
 SUBRECIPIENT CODE: HUM
 UNIQUE ENTITY NO: 612416045

PASS-THROUGH ENTITY:
 State of California
 Employment Development Dept.
 Central Office Workforce
 Services Division
 P.O.Box 826880, MIC 69
 Sacramento, CA 94280-0001

SUBRECIPIENT: HUMBOLDT COUNTY
 520 E STREET
 EUREKA, CA 95501

GOVERNMENTAL
 ENTITY: Yes

This Subgrant Agreement is entered into by and between the State of California, Employment Development Department, hereinafter the Pass-through Entity, and the **HUMBOLDT COUNTY**, hereinafter the Subrecipient. The Subrecipient agrees to operate a program in accordance with the provisions of this Subgrant and to have an approved Workforce Innovation and Opportunity Act (WIOA) Local Plan for the above named Pass-through Entity filed with the Pass-through Entity pursuant to the WIOA. This modification consists of this sheet and those of the following exhibits, which are attached hereto and by this reference made a part hereof:

- Funding Detail Chart
- General Provisions
- Youth Formula Rd 1

ALLOCATION(s) The Pass-through Entity agrees to reimburse the Subrecipient not to exceed the amount listed hereinafter 'TOTAL'	PRIOR AMOUNT INCREASE/DECREASE: TOTAL:	\$0.00 \$381,561.00 \$381,561.00
TERM OF AGREEMENT From:4/1/2016 To: 6/30/2018	Terms of Exhibits are as designated on each exhibit	
PURPOSE: To initiate Program Year (PY) 2016-17 WIOA Subgrant and incorporate WIOA Youth formula funding under grant code 301. Term of these funds is from 04/01/2016 - 06/30/2018.		
APPROVED FOR PASS-THROUGH ENTITY(EDD) (By Signature)	APPROVED FOR SUBRECIPIENT (By Signature) 	
Name and Title JOSÉ LUIS MÁRQUEZ CHIEF CENTRAL OFFICE WORKFORCE SERVICES DIVISION	Name and Title Mark Lovelace Chair Humboldt County Board of Supervisors	
I hereby certify that to my knowledge, the budgeted funds are available for the period and purpose of expenditures as stated herein	This agreement does not fall within the meaning of Section 10295 of Chapter 2 of Part 2 of Division 2 of the Public Contract Code of the State of California and pursuant to 58 OPS Cal. Atty. Gen 586, is exempt from review or approval of the Dept. of General Services and the Dept. of Finance	
Signature of EDD Accounting Officer	Signature of EDD Contract Officer	

Budget Item: 7100 Fund: 0869 Budgetary Attachment: No
 Chapter: 010 Statute: 2015 FY: 15/16

SUBGRANT AGREEMENT
FUNDING DETAIL SHEET

SUBGRANT NO:K7102030
MODIFICATION NO:New

HUMBOLDT COUNTY

I. Allocation

Funding Source	Prior Amount	Increase	Decrease	Adjusted Allocation
WIA/WIOA Formula				
96107 301 Youth Formula Rd 1 04/01/2016 to 06/30/2018 Prog/Element 61/00 Ref 101 Fed Catlg 17.259	\$0.00	\$381,561.00	\$0.00	\$381,561.00
Total WIA/WIOA Formula	\$0.00	\$381,561.00	\$0.00	\$381,561.00
Grand Total:	\$0.00	\$381,561.00	\$0.00	\$381,561.00

NARRATIVE

SUBGRANT NO:K7102030
MODIFICATION NO: 0

SUBRECIPIENT:HUMBOLDT COUNTY
FAIN NO: AA-28305-16-55-A-6
FEDERAL AWARD DATE: 4/20/2016
FUNDING SOURCE: Youth Formula Rd 1 - 301

TERM OF THESE FUNDS: 04/01/2016 - 06/30/2018

Use of funds added by this modification is limited to this period and additionally limited by the recapture provisions applicable to this funding source. The state may at its discretion recapture funds obligated under this exhibit, if expenditure plans are not being met.

PROGRAM NARRATIVE

The purpose of this action is to initiate this Local Area's new Program Year (PY) 2016-17 Workforce Innovation and Opportunity Act (WIOA) Title I subgrant agreement and to incorporate WIOA Youth formula funding into Grant Code (GC) 301. The amount in GC 301 represents this Local Area's entire youth formula allocation for PY 2016-17. The term date for these funds is April 1, 2016 to June 30, 2018. The Local Area will operate the WIOA program in accordance with the approved Workforce Innovation and Opportunity Plan on file in the Central Office Workforce Services Division of the Employment Development Department, P.O. Box 826882, MIC 50, Sacramento, CA 92480-0001.

This exhibit adds to and does not replace the terms and conditions of any other exhibit included in this agreement which terms and conditions remain in full force and effect.

WIOA (2015)

WIOA SUBGRANT AGREEMENT

1. Compliance

In performance of this subgrant agreement, Subrecipient will fully comply with:

- a). The provisions of the Workforce Innovation and Opportunity Act (WIOA), and all legislation, regulations, directives, policies, procedures and amendments issued pursuant thereto;
- b). All State legislation and regulations to the extent permitted by federal law and all policies, directives and/or procedures, which implement the WIOA.
- c). Title 2, Code of Federal Regulations Part 200 (Uniform Guidance)
- d). Title 2, Code of Federal Regulations Part 2900 (DOL Exceptions)
- e). The provisions of Public Law 107-288, Jobs for Veterans Act, as the law applies to DOL job training programs.
- f). Subrecipient will ensure diligence in managing programs under this subgrant agreement, including performing appropriate monitoring activities and taking prompt corrective action against known violations of the WIOA. Subrecipient agrees to conform to the provisions of the WIOA and the contract requirements as referenced in Uniform Guidance, and DOL Exceptions.

This subgrant agreement contains the entire agreement of the parties and supersedes all negotiations, verbal or otherwise and any other agreement between the parties hereto. This subgrant agreement is not intended to and will not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between the Pass-through Entity and the Subrecipient. Subrecipient represents and warrants it is free to enter into and fully perform this subgrant agreement.

2. Certification/Assurances

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

- a). Corporate Registration: The Subrecipient, if it is a corporation, certifies it is registered with the Secretary of State of the State of California.
- b). The Subrecipient agrees to comply with the Americans with Disabilities Act (ADA) of 1990, which, prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to ADA. (42 U.S.C.12101 et seq).
- c). Sectarian Activities: The Subrecipient certifies that this subgrant agreement does not provide for the advancement or aid to any religious sect, church or creed, or sectarian purpose nor does it help to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination whatsoever, as specified by Article XVI, Section 5, of the Constitution, regarding separation of church and state.
- d). National Labor Relations Board: The Subrecipient (if not a public entity), by signing this subgrant agreement, does swear under penalty of perjury, that no more than one final unappeasable finding of contempt of court by a federal court has been issued against the Subrecipient within the immediately preceding two-year period because of Subrecipient's failure to comply with an order of a federal court, which orders the Subrecipient to comply with an order of the National Labor Relations Board (PCC10296).

- e). Prior Findings: Subrecipient, by signing this subgrant agreement, does swear under penalty of perjury, that it has not failed to satisfy any major condition in a current or previous subgrant agreement with the DOL or the State of California and has not failed to satisfy conditions relating to the resolution of a final finding and determination, including repayment of debts.
- f). Drug-Free Workplace Certification: By signing this subgrant agreement the Subrecipient hereby certifies under penalty of perjury, under the laws of the State of California, that the Subrecipient will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
- (1). Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - (2). Establish a Drug-Free Awareness Program as required to inform employees about:
 - the dangers of drug abuse in the workplace;
 - the person's or organization's policy of maintaining a drug-free workplace;
 - any available counseling, rehabilitation and employee assistance programs;and,
 - penalties that may be imposed upon employees for drug abuse violations.
 - (3). Every employee who works on this subgrant agreement will:
 - receive a copy of the company's drug-free policy statement; and,
 - agree to abide by the terms of the company's statement as a condition of employment on the subgrant/contract.
- g). Child Support Compliance Act: In accordance with the Child Support Compliance Act, the Subrecipient recognizes and acknowledges:
- (1). The importance of child and family support obligations and shall fully comply with applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the California Family Code; and that to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Employee Registry maintained by the California Employment Development Department (EDD).
- h). Debarment and Suspension Certification: By signing this subgrant agreement, the Subrecipient hereby certifies under penalty of perjury under the laws of the State of California that the Subrecipient will comply with regulations implementing Executive Order 12549 (Debarment and Suspension), 29 CFR Section 98.50, and 2 CFR Section 200.213; that the Subrecipient to the best of its knowledge and belief, that it and its principals:
- (1). Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
 - (2). Have not within a three year period preceding this subgrant agreement been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.
 - (3). Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses enumerated in Section 2 of this certification.
 - (4). Have not within a three year period preceding this subgrant agreement had one or more

public transactions (federal, state or local) terminated for cause of default.

Where the Subrecipient is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

- i). **Lobbying Restrictions:** By signing this subgrant agreement, the Subrecipient hereby assures and certifies to the lobbying restrictions in 2 CFR Section 200.450 and in 29 CFR Part 93.
- (1). No federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this federal contract, grant loan, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - (2). If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress, in connection with this subgrant 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 the lobbying restrictions be included in the award documents for subgrant agreement transactions over \$100,000 (per OMB) at all tiers (including subgrant agreements, contracts and subcontracts, under grants, loan, or cooperative agreements), and that all Subrecipients shall certify and disclose accordingly.
 - (4). This certification is a material representation of fact upon which reliance is placed when this transaction is executed. Submission of the Lobbying Certification is a prerequisite for making or entering into this transaction imposed by 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 failure.
- j). **Priority Hiring Considerations:** If this subgrant includes services in excess of \$200,000, the Subrecipient shall give priority consideration in filling vacancies in positions funded by the subgrant to qualified recipients pursuant to California Public Contract Code Section 10353.
- k). **Sweatfree Code of Conduct:**
- 1). All Subrecipients contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Subrecipient further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and California Public Contract Code Section 6108.
 - 2). The Subrecipient agrees to cooperate fully in providing reasonable access to the Subrecipient's records, documents, agents or employees, or premises if reasonably required by authorized officials of the Pass-through Entity, the California Department of Industrial Relations, or the Department of Justice to determine the Subrecipient's compliance with the requirements of the Sweatfree Code of Conduct.
- l). **Unenforceable Provision:** In the event that any provision of this subgrant agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this subgrant agreement have force and effect and shall not be affected hereby.

m). Nondiscrimination Clause

1). The conduct of the parties to this subgrant agreement will be in accordance with Title VI of the Civil Rights Act of 1964, and the Rules and Regulations promulgated there under and the provisions of WIOA, Section 188.

(a). As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I - financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements that grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

(b). This Subrecipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the subgrant agreement.

(c). This Subrecipient agrees to conform to nondiscrimination provisions of the WIOA and other federal nondiscrimination requirements as referenced in WIOA Section 188.

n). Indemnification:

1). The following provision applies only if the Subrecipient is a governmental entity:

Pursuant to California Government Code Section 895.4, each party agrees to indemnify and hold the other party harmless from all liability for damage to persons or property arising out of or resulting from acts or omissions of the indemnifying party.

2). The following provision applies only if the Subrecipient is a non-governmental entity:

The Subrecipient agrees to the extent permitted by law, to indemnify, defend and hold harmless the Pass-through Entity, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materials persons, laborers and any other persons, firms or corporations, furnishing or supplying work, services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any persons, firms or corporations which may be injured or damaged by the Subrecipient in the performance of this subgrant agreement.

Failure to comply with all requirements of the certifications may result in suspension of payment under this subgrant agreement or termination of this subgrant agreement or

both, and the Subrecipient may be ineligible for award of future state subgrant agreements/contracts if the Pass-through Entity determines that any of the following has occurred: (1) false information on the certifications, or (2) violation of the terms of the certifications by failing to carry out the requirements as noted above.

- o). 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 Subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109-149. This limitation shall not apply to vendors providing goods and services as defined in Uniform Guidance 2 CFR Part 200, and the DOL Exceptions 2 CFR Part 2900. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from Subrecipients of such funds, taking into account factors including the relative cost-of-living in the States, the compensation levels for programs involved including 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.

- p). Federal Funding Accountability and Transparency Act (FFATA): As required by the FFATA, recipients of federal awards are required to report sub-award and executive compensation information. By signing this subgrant agreement the Subrecipient hereby assures and certifies to comply with the provisions of FFATA, which includes requirements referenced in Uniform Guidance 2 CFR Part 200, and DOL Exceptions 2 CFR Part 2900.
- q). AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) Subject to cease and desist order not subject to review issued pursuant to California Water Code Section 13301 for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

3. Standards of Conduct

The following standards apply to all Subrecipients:

- a). General Assurance: Every reasonable course of action will be taken by the Subrecipient in order to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This subgrant agreement will be administered in an impartial manner, free from efforts to gain personal, financial or political gain. The Subrecipient agrees to conform to the nondiscrimination requirements as referenced in WIOA Section 188.
- b). Avoidance of Conflict of Economic Interest: An executive or employee of the Subrecipient, an elected official in the area or a member of the Local Board, will not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed in whole or part by the Subrecipient or Pass-through Entity. Supplies, materials, equipment or services purchased with subgrant agreement funds will be used solely for purposes allowed under this subgrant agreement. No member of the Local Board will cast a vote on the provision of services by that member (or any organization, which that member represents) or vote on any matter which would provide direct financial benefit to that member (or immediate family of the member) or any business or organization which the member directly represents.

4. Coordination

Subrecipient will, to the maximum extent feasible, coordinate all programs and activities supported under this part with other programs under the WIOA, including the

Wagner-Peyser Act, Title 38 of the United States Code, and other employment and training programs at the state and local level.

Subrecipient will consult with the appropriate labor organizations and/or employer representatives in the design, operation or modification of the programs under this subgrant agreement.

5. Subcontracting

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

6. Insurance

Except for city and county governmental entities, Subrecipients must provide the Pass-through Entity evidence of the coverage specified in a, b, c and d below. The evidence of coverage shall include the registration number of the subgrant agreement for identification purposes.

- a). Subrecipient will obtain a fidelity bond in an amount of not less than _____, prior to the receipt of funds under this subgrant agreement. If the bond is canceled or reduced, Subrecipient will immediately notify the Pass-through Entity. In the event the bond is canceled or revised, the Pass-through Entity will make no further disbursements until it is assured that adequate coverage has been obtained.
- b). Subrecipient will provide general liability insurance with a combined limit of \$1,000,000, or public liability and property damage coverage with a combined limit of not less than \$1,000,000.
- c). Subrecipient will provide broad form automobile liability coverage with limits as set forth in (b) above, which applies to both owned/leased and non-owned automobiles used by the Subrecipient or its agents in performance of this subgrant agreement. Or, in the event that the Subrecipient will not utilize owned/leased automobiles but intends to require employees, trainees or other agents to utilize their own automobiles in performance of this subgrant agreement, Subrecipient will secure and maintain on file from all such employees, trainees or agents a self-certification of automobile insurance coverage.
- d). Subrecipient will provide worker's compensation insurance, which complies with provisions of the California Labor Code, covering all employees of the Subrecipient and all participants enrolled in work experience programs. Medical and Accident Insurance will be carried for those participants not qualifying as "employee" (Section 3350, et seq. of the California Labor Code) for worker's compensation.
- e). The Pass-through Entity will be named as "Certificate Holder" of policies secured in compliance with paragraphs 6(a-d) above and will be provided certificates of insurance or insurance company "binders" prior to any disbursement of funds under this subgrant agreement, verifying the insurance requirements have been complied with. The coverage noted in paragraphs 6(b) and 6(c) above must contain the following clauses:

- (1). Insurance coverage will not be canceled or changed unless 30 days prior to the effective date of cancellation or change written notice is sent by the Subrecipient to:

Employment Development Department
Central Office Workforce Services Division
Financial Management Unit
P. O. Box 826880, MIC 69
Sacramento, CA 94280-0001

- (2). State of California, its officers, agents, employees and servants are included as additional insured, but only insofar as the operations under this subgrant agreement are concerned.
- (3). The State of California is not responsible for payment of premiums or assessments on this policy.

7. Resolution

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

8. Funding

It is mutually understood between the parties that this subgrant agreement may have been written before ascertaining the availability of congressional and legislative appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the subgrant agreement was executed after that determination was made.

This subgrant agreement is valid and enforceable only if (1) sufficient funds are made available by the State Budget Act of the appropriate state fiscal years covered by this subgrant agreement for the purposes of this program, and (2) sufficient funds available to the state by the United States Government for the fiscal years covered by this subgrant agreement for the purposes of this program. In addition, this subgrant agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress and Legislature or any statute enacted by the Congress and Legislature which may affect the provisions, terms, or funding of this subgrant agreement in any manner.

- a). At the expiration of the terms of this subgrant agreement or upon termination prior to the expiration of this subgrant agreement, funds not obligated for the purpose of this subgrant agreement will be immediately remitted to the Pass-through Entity, and no longer available to the Subrecipient.
- b). The Pass-through Entity retains the right to suspend financial assistance, in whole or in part, to protect the integrity of the funds or to ensure proper operation of the program, providing the Subrecipient is given prompt notice and the opportunity for an informal review of the Pass-through Entity's decision. The EDD Chief Deputy Director or his designee will perform this informal review and will issue the final administrative decision within 60 days of receiving the written request for review. Failure on the part of the Subrecipient or a Subcontractor of the Subrecipient to comply with the provisions of this subgrant agreement, or with the WIOA or regulations, when such failure involves fraud or misappropriation of funds, may result in immediate withholding of funds.
- c). The local Chief Elected Official (CEO) of a unit of general local government designated as a Local Workforce Development Area (Local Area) shall be liable to the EDD for all funds not expended in accordance with WIOA, and shall return to the EDD all of those funds. If there is more than one unit of general local government in a Local Area, the CEO(s) will be the individual(s)

designated under an agreement executed by the CEO(s) of the local units of government. The CEO(s) designated under the agreement shall be liable to the EDD for all funds not expended in accordance with the WIOA, and shall return to the EDD all of those funds.

9. Accounting and Cash Management

- a). Subrecipient will comply with controls, record keeping and fund accounting procedure requirements of WIOA, federal and state regulations, and directives to ensure the proper disbursement of, and accounting for, program funds paid to the Subrecipient and disbursed by the Subrecipient, under this subgrant agreement.
- b). Subrecipient will submit requests for cash to coincide with immediate cash needs and assure that no excess cash is on deposit in their accounts or the accounts of any sub-contracting service provider in accordance with procedures established by the Pass-through Entity. Failure to adhere to these provisions may result in suspending cash draw down privileges and providing funds through a reimbursement process.
- c). The Pass-through Entity retains the authority to adjust specific amounts of cash requested if the Pass-through Entity's records and subsequent verification with the Subrecipient indicate that the Subrecipient has an excessive amount of cash in its account.
- d). Income (including interest income) generated as a result of the receipt of WIOA activities, will be utilized in accordance with policy and procedures established by the Pass-through Entity. Subrecipient will account for any such generated income separately.
- e). Subrecipient shall not be required to maintain a separate bank account but shall separately account for WIOA funds on deposit. All funding under this subgrant agreement, will be made by check or wire transfer payable to the Subrecipient for deposit in Subrecipient's bank account or city and county governmental bank accounts. To provide for the necessary and proper internal controls, funds should be withdrawn and disbursed by no less than two representatives of the Subrecipient. The Pass-through Entity will have a lien upon any balance of WIOA funds in these accounts, which will take priority over all other liens or claims.

10. Amendments

This subgrant agreement may be unilaterally modified by the Pass-through Entity under the following circumstances:

- a). There is an increase or decrease in federal or state funding levels.
- b). A modification to the Subgrant is required in order to implement an adjustment to a Subrecipient's plan.
- c). Funds awarded to the Subrecipient have not been expended in accordance with the schedule included in the approved Subrecipient's plan. After consultation with the Subrecipient, the Pass-through Entity has determined that funds will not be spent in a timely manner, and such funds are for that reason to the extent permitted by and in a manner consistent with state and federal law, regulations and policies, reverting to the Pass-through Entity.
- d). There is a change in state and federal law or regulation requiring a change in the provisions of this subgrant agreement.
- e). An amendment is required to change the Subrecipient's name as listed on this subgrant agreement. Upon receipt of legal documentation of the name change the state will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

Except as provided above, this subgrant agreement may be amended only in writing by

the mutual agreement of both parties.

11. Reporting

Subrecipient will compile and submit reports of activities, expenditures, status of cash, and closeout information by the specified dates as prescribed by the Pass-through Entity. All expenditure reports must be submitted upon the accrual basis of accounting. Failure to adhere to the reporting requirements of this agreement will result in funds not being released.

12. Termination

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

- a). Termination for Convenience - Either the Pass-through Entity or the Subrecipient may request a termination, in whole or in part, for convenience. The Subrecipient will give a ninety (90) calendar-day advance notice in writing to the Pass-through Entity. The Pass-through Entity will give a ninety (90) calendar-day advance notice in writing to the Subrecipient.
- b). Termination for Cause - The Pass-through Entity may terminate this subgrant agreement in whole or in part when it has determined that the Subrecipient has substantially violated a specific provision of the WIOA regulations, the Uniform Guidance 2 CFR Part 200, or implementing state legislation, and corrective action has not been taken.
 - (1). All notices of termination must be in writing and be delivered personally or by deposit in the U.S. Mail, postage prepaid, "Certified Mail-Return Receipt Requested", and will be deemed to have been given at the time of personal delivery or of the date of postmark by the U.S. Postal Service.

Notices to the Subrecipient will be addressed to:

Cynthia, Harrington
Director / Administrator
HUMBOLDT COUNTY
520 E STREET
EUREKA, CA 95501

Notices to the Pass-through Entity will be addressed to:

Employment Development Department
Central Office Workforce Services Division
Financial Management Unit
P.O. Box 826880, MIC 69
Sacramento, CA 94280-0001

13. Records

- a). If participants are served under this subgrant agreement, the Subrecipient will establish a participant data system as prescribed by the Pass-through Entity.
- b). Subrecipient will retain all records pertinent to this subgrant agreement for a period of three years from the date of final payment of this subgrant agreement. If, at the end of three years, there is litigation or an audit involving those records, the Subrecipient will retain the records until the resolution of such litigation or audit. See 2 CFR Section 200.333-337.
- c). The Pass-through Entity and/or the DOL, or their designee (refer 2 CFR Section 200.500-521) will have access to and right to examine, monitor and audit all records, documents, conditions and activities related to programs funded by this subgrant agreement.

For purposes of this section, "access to" means that the Subrecipient shall at all times maintain within the State of California a complete set of records and documents related to programs funded by this agreement. The Subrecipient shall comply with this requirement regardless of whether it ceases to operate or maintain a presence within the State of California before the expiration of the subgrant. Subrecipient's performance under the terms and conditions herein specified will be subject to an evaluation by the Pass-through Entity of the adequacy of the services performed, timeliness of response and a general impression of the competency of the firm and its staff.

14. Audits

- a). The Subrecipient will maintain and make available to auditors, at all levels, accounting and program records including supporting source documentation and cooperate with all auditors. All governmental and non-profit organizations must follow the audit requirements (single audit or program-specific audit requirement) of Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900.
- b). The Subrecipient and/or auditors performing monitoring or audits of the Subrecipient or its sub-contracting service providers will immediately report to the Pass-through Entity any incidents of fraud, abuse or other criminal activity in relation to this subgrant agreement, the WIOA, or its regulations.

15. Disallowed Costs

Except to the extent that the state determines it will assume liability, the Subrecipient will be liable for and will repay, to the Pass-through Entity, any amounts expended under this subgrant agreement found not to be in accordance with WIOA including, but not limited to, disallowed costs. Such repayment will be from funds (Non-Federal), other than those received under the WIOA.

16. Conflicts

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

17. Grievances and Complaint System

Subrecipient will establish and maintain a grievance and complaint procedure in compliance with the WIOA, the Uniform Guidance 2 CFR Part 200, DOL Exceptions 2 CFR Part 2900, federal regulations and state statutes, regulations and policy.

18. Property

All property, whether finished or unfinished documents, data, studies and reports prepared or purchased by the Subrecipient under this subgrant agreement, will be disposed of in accordance with the direction of the Pass-through Entity. In addition, any tools and/or equipment furnished to the Subrecipient by the Pass-through Entity and/or purchased by the Subrecipient with funds pursuant to this subgrant agreement will be limited to use within the activities outlined in this subgrant agreement and will remain the property of the United States Government and/or the Pass-through Entity. Upon termination of this subgrant agreement, Subrecipient will immediately return such tools and/or equipment to the Pass-through Entity or dispose of them in accordance with the direction of the Pass-through Entity.

19. Intellectual Property Provisions

- a). Federal Funding

In any subgrant funded in whole or in part by the federal government, Pass-through

Entity may acquire and maintain the Intellectual Property rights, title, and ownership, which result directly or indirectly from the subgrant, except as provided in 37 CFR Part 401.14. However, pursuant to 29 CFR Section 97.34 the federal government shall have a royalty-free, non-exclusive, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

b). Ownership

- (1). Except where Pass-through Entity has agreed in a signed writing to accept a license, Pass-through Entity shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all intellectual property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Subrecipient or Pass-through Entity and which result directly or indirectly from this subgrant agreement.
- (2). For the purposes of this subgrant agreement Intellectual Property means recognized protectable rights and interest such as: patents (whether or not issued), copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will, any data or information maintained, collected or stored in the ordinary course of business by Pass-through Entity, and all other legal rights protecting intangible proprietary information as may exist now and/or hereafter come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - (a). For the purposes of the definition of Intellectual Property, "works" means all literary works, writings, and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.
- (3). In the performance of this subgrant agreement, Subrecipient may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this subgrant agreement. In addition, under this subgrant agreement, Subrecipient may access and utilize certain of Pass-through Entity's intellectual property in existence prior to the effective date of this subgrant agreement. Except as otherwise set forth herein, Subrecipient shall not use any of Pass-through Entity's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of Pass-through Entity. Except as otherwise set forth herein, neither the Subrecipient nor Pass-through Entity shall give any ownership interest in or rights to its Intellectual Property to the other Party. If, during the term of this subgrant agreement, Subrecipient accesses any third-party Intellectual Property that is licensed to Pass-through Entity, Subrecipient agrees to abide by all license and confidentiality restrictions applicable to Pass-through Entity in the third-party's license agreement.
- (4). Subrecipient agrees to cooperate with Pass-through Entity in establishing or maintaining Pass-through Entity's exclusive rights in the Intellectual Property, and in assuring Pass-through Entity's sole rights against third parties with respect to the Intellectual Property. If the Subrecipient enters into any agreements or subcontracts with other parties in order to perform this subgrant agreement, Subrecipient shall require the terms of the agreement(s) to include all Intellectual Property provisions of paragraph 19(a) through 19(i). Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to Pass-through Entity all rights, title and interest in Intellectual Property made,

conceived, derived from, or reduced to practice by the subcontractor, Subrecipient or Pass-through Entity and which result directly or indirectly from this subgrant agreement or any subcontract.

- (5). Pursuant to paragraph 19(b)(4), the requirement for the Subrecipient to include all Intellectual Property Provisions of paragraph 19(a) through 19(i) in all agreements and subcontracts it enters into with other parties does not apply to subgrant agreements or subcontracts that are for customized and on-the-job training as authorized under 20 CFR 663.700-730.
- (6). Subrecipient further agrees to assist and cooperate with Pass-through Entity in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce Pass-through Entity's Intellectual Property rights and interests.

c). Retained Rights / License Rights

- (1). Except for Intellectual Property made, conceived, derived from, or reduced to practice by Subrecipient or Pass-through Entity and which result directly or indirectly from this subgrant agreement, Subrecipient shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this subgrant agreement. Subrecipient hereby grants to Pass-through Entity, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose of Subrecipient's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this subgrant, unless Subrecipient assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2). Nothing in this provision shall restrict, limit, or otherwise prevent Subrecipient from using any ideas, concepts, know-how, methodology or techniques related to its performance under this subgrant agreement, provided that Subrecipient's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of Pass-through Entity or third party, or result in a breach or default of any provisions of paragraph 19(a) through 19(i) or result in a breach of any provisions of law relating to confidentiality.

d). Copyright

- (1) Subrecipient agrees that for purposes of copyright law, all works (as defined in Ownership, paragraph nineteen (b)(2)(a) of authorship made by or on behalf of Subrecipient in connection with Subrecipient's performance of this subgrant agreement shall be deemed "works made for hire." Subrecipient further agrees that the work of each person utilized by Subrecipient in connection with the performance of this subgrant agreement will be a "work made for hire," whether that person is an employee of Subrecipient or that person has entered into an agreement with Subrecipient to perform the work. Subrecipient shall enter into a written agreement with any such person that: (i) all work performed for Subrecipient shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to Pass-through Entity to any work product made, conceived, derived from or reduced to practice by Subrecipient or Pass-through Entity and which result directly or indirectly from this subgrant agreement. Refer to 2 CFR Section 200.35
- (2) All materials, including, but not limited to, computer software, visual works or text, reproduced or distributed pursuant to this subgrant agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Subrecipient or Pass-through Entity and which result directly or indirectly from this subgrant agreement may not be reproduced or disseminated without prior written permission from Pass-through Entity.

e). Patent Rights

With respect to inventions made by Subrecipient in the performance of this subgrant agreement, which did not result from research and development specifically included in the Subgrant's scope of work, Subrecipient hereby grants to Pass-through Entity a license as described under paragraph 19(c) for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the subgrant agreement's scope of work, then Subrecipient agrees to assign to Pass-through Entity, without addition compensation, all its right, title and interest in and to such inventions and to assist Pass-through Entity in securing United States and foreign patents with respect thereto.

f). Third-Party Intellectual Property

Except as provided herein, Subrecipient agrees that its performance of this subgrant agreement shall not be dependent upon or include any Intellectual Property of Subrecipient or third party without first: (i) obtaining Pass-through Entity's prior written approval; and (ii) granting to or obtaining for Pass-through Entity's, without additional compensation, a license, as described in paragraph 19(c), for any of Subrecipient's or third-party's Intellectual Property in existence prior to the effective date of this subgrant agreement. If such a license upon these terms is unattainable, and Pass-through Entity determines that the Intellectual Property should be included in or is required for Subrecipient performance of this subgrant agreement, Subrecipient shall obtain a license under terms acceptable to Pass-through Entity.

g). Warranties

(1). Subrecipient represents and warrants that:

- (a). It has secured and will secure all rights and licenses necessary for its performance of this subgrant agreement.
- (b). Neither Subrecipient's performance of this subgrant agreement, nor the exercise by either Party of the rights granted in this subgrant agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Subrecipient or Pass-through Entity and which result directly or indirectly from this subgrant agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There are currently no actual or threatened claims by any such third party based on an alleged violation of any such right by Subrecipient.
- (c). Neither Subrecipients performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- (d). It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors.
- (e). Of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites locations, property or props that may be used or shown.
- (f). It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to Pass-through Entity in this subgrant agreement.
- (g). It has appropriate systems and controls in place to ensure that state

and federal funds will not be used in the performance of this subgrant agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

(h). It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Subrecipients performance of this subgrant agreement.

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

h). Intellectual Property Indemnity

- (1). Subrecipient shall indemnify, defend and hold harmless Pass-through Entity and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnities") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim action, or proceeding, commenced or threatened) to which any of the Indemnities may be subject, whether or not Subrecipient is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Subrecipient pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of Pass-through Entity's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Subrecipient or Pass-through Entity and which result directly or indirectly from this subgrant agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that was issued after the effective date of this subgrant agreement. Pass-through Entity reserves the right to participate in and/or control, at Subrecipient's expense, any such infringement action brought against Pass-through Entity.
- (2). Should any Intellectual Property licensed by the Subrecipient to Pass-through Entity under this subgrant agreement become the subject of an Intellectual Property infringement claim, Subrecipient will exercise its authority reasonably and in good faith to preserve Pass-through Entity's right to use the licensed Intellectual Property in accordance with this subgrant agreement at no expense to Pass-through Entity. Pass-through Entity shall have the right to monitor and appear through its own counsel (at Subrecipient's expense) in any such claim or action. In the defense or settlement of the claim, Subrecipient may obtain the right for Pass-through Entity to continue using the licensed Intellectual Property or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, Pass-through Entity may be entitled to a refund of all monies paid under this subgrant agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3). Subrecipient agrees that damages alone would be inadequate to compensate Pass-through Entity for breach of any term of these Intellectual Property provisions of paragraph 19(a) through 19(i) by Subrecipient. Subrecipient acknowledges Pass-through Entity would suffer irreparable harm in the event of such breach and agrees Pass-through Entity shall be entitled to obtain

equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

i). Survival

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

20. Confidentiality Requirements

The State of California and the Subrecipient will exchange various kinds of information pursuant to this subgrant agreement. That information will include data, applications, program files, and databases. These data and information are confidential when they define an individual or an employing unit or when the disclosure is restricted or prohibited by any provision of law. Confidential information requires special precautions to protect it from unauthorized use, access, disclosure, modification, and destruction. The sources of information may include, but are not limited to, the EDD, the California Department of Social Services, the California Department of Education, the California Department of Corrections and Rehabilitation, the County Welfare Department(s), the County IV-D Directors Office of Child Support, the Office of the District Attorney, the California Department of Mental Health, the California Office of Community Colleges and the Department of Alcohol and Drug Programs.

The Pass-through Entity and Subrecipient agree that:

- a). Each party shall keep all information that is exchanged between them in the strictest confidence and make such information available to their own employees only on a "need-to-know" basis.
- b). Each party shall provide security sufficient to ensure protection of confidential information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect this information from reasonable unanticipated threats to the security or confidentiality of the information.
- c). The Subrecipient agrees that information obtained under this subgrant agreement will not be reproduced, published, sold or released in original or in any other form for any purpose other than those specifically identified in this agreement.
 - (1) Aggregate Summaries: All reports and/or publications developed by the Subrecipient based on data obtained under this agreement shall contain confidential data in aggregated or statistical summary form only. "Aggregated" refers to a data output that does not allow identification of an individual or employer unit.
 - (2) Publication: Prior to publication, Subrecipient shall carefully analyze aggregated data outputs to ensure the identity of individuals and/or employer units cannot be inferred pursuant to California Unemployment Insurance Code Section 1094(c). Personal identifiers must be removed. Geographic identifiers should be specified only in large areas and as needed, and variables should be recorded in order to protect confidentiality.
 - (3) Minimum Data Cell Size: The minimum data cell size or derivation thereof shall be three participants for any data table released to outside parties or to the public.
- d). Each party agrees that no disaggregate data, identifying individuals or employers, shall be released to outside parties or the public.
- e). The Subrecipient shall notify Pass-through Entity's Information Security Office of any actual or attempted information security incidents, within 24

hours of initial detection, by telephone at (916) 654-6231. Information security incidents include, but are not limited to, any event (intentional or unintentional), that causes the loss, damage, or destruction, or unauthorized access, use, modification, or disclosure of information assets.

The Subrecipient shall cooperate with the Pass-through Entity in any investigation of security incidents. The system or device affected by an information security incident and containing confidential data obtained in the administration of this program shall be immediately removed from operation upon confidential data exposure or a known security breach. It shall remain removed from operation until correction and mitigation measures are applied.

If the Subrecipient learns of a breach in the security of the system which contains confidential data obtained under this Subgrant, then the Subrecipient must provide notification to individuals pursuant to California Civil Code Section 1798.82.

- f). The Subrecipient shall provide for the management and control of physical access to information assets (including personal computer systems, computer terminals, mobile computing devices, and various electronic storage media) used in performance of this Subgrant. This shall include, but is not limited to, security measures to physically protect data, systems, and workstations from unauthorized access and malicious activity; the prevention, detection, and suppression of fires; and the prevention, detection, and minimization of water damage.
- g). At no time will confidential data obtained pursuant to this agreement be placed on a mobile computing device, or on any form of removable electronic storage media of any kind unless the data are fully encrypted.
- h). Each party shall provide its employees with access to confidential information with written instructions fully disclosing and explaining the penalties for unauthorized use or disclosure of confidential information found in Section 1798.55 of the California Civil Code, Section 502 of the California Penal Code, Section 2111 of the California Unemployment Insurance Code, Section 10850 of the California Welfare and Institutions Code and other applicable local, state and federal laws.
- i). Each party shall (where it is appropriate) store and process information in electronic format, in such a way that unauthorized persons cannot reasonably retrieve the information by means of a computer.
- j). Each party shall promptly return to the other party confidential information when its use ends, or destroy the confidential information utilizing an approved method of destroying confidential information: shredding, burning, or certified or witnessed destruction. Magnetic media are to be degaussed or returned to the other party.
- k). If the Pass-through Entity or Subrecipient enters into an agreement with a third party to provide WIOA services, the Pass-through Entity or Subrecipient agrees to include these data and security and confidentiality requirements in the agreement with that third party. In no event shall said information be disclosed to any individual outside of that third party's authorized staff, subcontractor(s), service providers, or employees.
- l). The Subrecipient may, in its operation of the America's Job Center of California (AJCC), permit an AJCC Operator to enter into a subcontract to manage confidential information. This subcontract may allow an individual to register for resume-distribution services at the same time the individual enrolls in CalJOBS(SM). Subrecipient shall ensure that all such subcontracts comply with the intellectual property requirements of paragraph 19 of this subgrant agreement, the confidentiality requirements of paragraph 20 of this

subgrant agreement and any other terms of this subgrant agreement that may be applicable. In addition, the following requirements must be included in the subcontracts:

- (1). All client information submitted over the internet to the subcontractor's databases must be protected, at a minimum, by 128-bit Secure Socket Layer (SSL) encryption. Clients' social security numbers must be stored in a separate database within the subcontractor's network of servers, and protected by a firewall and a secondary database server firewall or AES1 data encryption. If a subcontractor receives client social security numbers or other confidential information in the course of business, for example a resume-distribution service that provides enrollment in CalJOBS(SM), social security numbers must be destroyed within two days after the client registers for CalJOBS(SM). If a subcontractor obtains confidential information as an agent of the Subrecipient, the subcontract must specifically state the purpose for the data collection and the term of records retention must be stated, and directly related, to the purpose and use of the information. Social security numbers and other client specific information shall not be retained for more than three years after a client completes services. The Subrecipient should extend this period, only if any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the three-year retention period. In this case the records should be maintained until completion of the action and resolution of all issues arising from it, or until the close of the three-year retention period, whichever is later. See 2 CFR 200.333.
 - (2). Client information (personal information that identifies a client such as name and social security number) and/or demographic information of a client (such as wage history, address, and previous employment) shall not be used as a basis for commercial solicitation during the time the client or agency is using the subcontractor's services. Client information and/or demographic information shall not be used for any purposes other than those specific program purposes set forth in the subcontract.
 - (3). An AJCC client must still be given the option to use the AJCC's services, including CalJOBS(SM), even if he or she chooses not to use any services of the subcontractor. This option shall be prominently, clearly and immediately communicated to the client upon registration within the AJCC or for CalJOBS(SM), the subcontractor's resume-distribution services, or any other services subcontractor offers to the client or the AJCC Operator.
 - (4). The subcontractor must clearly disclose all of its potential and intended uses of the client's personal and/or demographic information for the services the client seeks and for any other services the subcontractor offers. The subcontractor shall not use a client's personal and/or demographic information without the client's prior permission. A link to the subcontractor's Privacy Policy shall appear prominently on the registration screens that list the potential and intended uses of the client's personal and/or demographic information.
 - (5). When the Pass-through Entity modifies State automated systems such as the State CalJOBS(SM) System, it shall provide reasonable notice of such changes to the Subrecipient. The Subrecipient shall be responsible to communicate such changes to the AJCC Operator(s) in the local area.
- m). Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and each party shall notify the other of any changes in that designation. As of this date, the following are those individuals:

FOR THE PASS-THROUGH ENTITY

Name: Jaime Gutierrez
Title: Section Manager
Address: P.O. Box 826880, MIC 50
Sacramento, CA 94280-0001
Telephone: (916) 654-9699
Fax: (916) 654-9586

FOR THE SUBRECIPIENT

Name: Cindy Harrington
Title: Economic Development Coordinator
Telephone: 707-476-4806
Fax: 707-445-7219

21. Signatures

This subgrant agreement is of no force and effect until signed by both of the parties hereto. Subrecipient will not commence performance prior to the beginning of this subgrant agreement.

Contact information for the awarding official of the Pass-through Entity:

Name: Jose Luis Marquez
Title: Division Chief
Address: P.O. Box 826880, MIC 50
Sacramento, CA 94280-0001