KERN COUNTY EMPLOYERS' TRAINING RESOURCE
A proud partner of America's Job Center

September 1, 2026

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

PROPOSED RESOLUTION FOR RETROACTIVE APPROVAL AND IMPLEMENTATION OF UPDATED INDIVIDUAL TRAINING ACCOUNT AGREEMENT TEMPLATES FOR PROGRAM YEAR 2026
(Fiscal Impact: None)

Employers' Training Resource (ETR) continuously places participants in training. Regulations under the Workforce Innovation and Opportunity Act (WIOA) require that all qualifying training providers be included on the State Eligible Training Providers List (ETPL), allowing participants a selection from various vendors. The State requirement of inclusion on the ETPL qualifies vendors as training providers. When a client is deemed eligible for a particular training program, an agreement must be in place so a referral for training may be made for the next available opening.

The Board previously approved each provider's Individual Training Account Agreements (ITA) and Amendments, which delayed the participants' training until the next available Board meeting. This also meant returning to the Board with amendments any time there was a change to the agreement's details, such as an extension of time, a change in the fees payable by the county, or a change in services.

The attached proposed resolution grants authority to the Chief Workforce Development Officer or Designee to sign these Agreements, subject to County Counsel's approval. This will allow ETR to streamline the process of placing participants in training.

The updated ITA template and Resolution has been reviewed and approved as to form by County Counsel.

Therefore, IT IS RECOMMENDED that your Board adopt the attached Resolution authorizing the Chief Workforce Development Officer to execute the Workforce Innovation and Opportunity Act (WIOA) Program Year 2026–2027 Individual Training Account (ITA) Agreements with state-eligible providers, including any necessary amendments or modifications, subject to approval as to form by County Counsel.

Sincerely,

Brandon J. Evans
Chief Workforce Development Officer
BJE:pg
cc: County Administrative Officer
County Counsel

BEFORE THE BOARD OF SUPERVISORS
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of: Resolution No.____

AUTHORIZATION TO APPROVE UPDATED INDIVIDUAL TRAINING ACCOUNT (ITA) AGREEMENT TEMPLATES FOR PROGRAM YEAR 2026–2027 AND AUTHORIZE CHIEF WORKFORCE DEVELOPMENT OFFICER TO EXECUTE AGREEMENTS AND AMENDMENTS

I, NANCY ANDERSON, Clerk of the Board of Supervisors of the County of Kern, State of California, certify that the following resolution, on motion of Supervisor _______, seconded by Supervisor ____________, was duly passed and adopted by the Board of Supervisors of the County of Kern at a regular meeting on the _____ day of __________, 20__, by the following vote:

AYES:

NOES:

ABSENT:

NANCY ANDERSON
County Administrative Officer
Clerk of the Board

____
Deputy Clerk

RESOLUTION

Section 1. WHEREAS:

(a) Employers' Training Resource (ETR) administers workforce development programs for the Kern/Inyo/Mono Consortium Workforce Development Area, including Individual Training Accounts (ITA) funded by State and Federal grants; and

(b) ETR has updated the ITA Agreement templates for Program Year (PY) 2026–2027 to reflect current Workforce Innovation and Opportunity Act (WIOA) requirements, CalJOBS ETPL standards, measurable skills gains (MSG) criteria, credential attainment documentation, tiered refund provisions, invoicing requirements, and program monitoring expectations; and

(c) The updated ITA Agreement templates ensure clarity, consistency, and compliance with State and Federal regulations, including accreditation standards, record-keeping requirements, participant protections, and training program eligibility rules; and

(d) ETR requests approval of the updated ITA Agreement templates for use during PY 2026–2027, replacing prior versions when issuing, renewing, or modifying ITA contracts with training providers; and

(e) All training costs associated with ITA services are paid through approved program grant funds and result in no impact to the County General Fund; and

(f) County Counsel has reviewed and approved the updated ITA Agreement templates as to form.

Section 2. IT IS RESOLVED by the Board of Supervisors of the County of Kern, State of California, as follows:

1. The Board hereby approves the updated Individual Training Account (ITA) Agreement templates for Program Year 2026–2027, including retroactive agreements beginning July 1, 2026.

2. The Board authorizes Employers' Training Resource to replace previous ITA templates with the updated versions when contracting with training providers during PY 2026–2027.

3. The Board hereby authorizes the Chief Workforce Development Officer to execute ITA Agreements, amendments, and any related documents necessary to administer the program, subject to approval as to form by County Counsel.

4. The Clerk of the Board of Supervisors shall transmit copies of this Resolution to the following:

Employers' Training Resource
County Administrative Office
County Counsel

#2913164-ACH

KERN COUNTY
PERSONAL/PROFESSIONAL AND CONTRACTUAL SERVICES AGREEMENT
Individual Training Account

SCHEDULE TO MASTER TERMS AND CONDITIONS: PPCSA-2«YREnd_A2»

THIS SCHEDULE is made and entered into on **«StartTerm_B2»** and shall terminate no later than **«EndTerm_C2»**
Kern County Department: **Employers' Training Resource ("County")**
Located at **1600 E. Belle Terrace, Bakersfield, California 93307**
Service Provider: **«AgenAddress_D2»** (**"Provider"**)
Located at: **«AgenStreet_E2»**
Mailing Address: **«AgenTraining_Add_X2»**

Provider is (select one):	«SP_F2»	Sole Proprietorship
	«Inc_G2»	Incorporated in the State of California (LLC)
	«Other_H2»	Other (specify) Government Entity

Provider shall provide those services described in Exhibit "A," which is attached hereto and incorporated herein by this reference.

County shall compensate Provider for training services to be provided under this Agreement, in an aggregate sum not to exceed $**«SumTotal_I2»,** in accordance with the fee schedule appearing within Exhibit A, which is attached hereto and made a part hereof. County shall **not** reimburse Provider for any costs or travel expenses incurred by Provider hereunder.

Note: If a lesser amount is shown, County must obtain the prior written approval of the County Risk Manager.

Provider shall be required to have the following insurance coverages which are marked on the terms provided in the Master Terms and Conditions. The insurance coverages shall be in the amounts specified unless a lesser amount is shown (select all that apply):

«WC_J2» Workers' Compensation: As required by California Labor Code Section 3700
«CG_K2» Commercial General Liability ($1,000,000/Occurrence; $2,000,000/Aggregate)
«Auto_L2» Automobile Liability insurance ($1,000,000/Occurrence)

Insurance coverage will be required and kept on file at Employers' Training Resource before participants attend a program, operate, and/or ride in any vehicle owned and/or operated by or for the Provider.

Should any conflicts arise between this Schedule To Master Terms and Conditions and the Master Terms and Conditions attached hereto and incorporated herein by this reference, the Master Terms and Conditions shall control.

IN WITNESS WHEREOF, the Parties have executed this Schedule To Master Terms and Conditions, including the Master Terms and Conditions, which constitute the Agreement, on the Effective Date.

COUNTY OF KERN

____
Brandon J. Evans
Chief Workforce Development Officer
Employers' Training Resource

Date: __________________.

«AgenAddress_D2»**:**

_______________________________.
«SecurName_M2»

Date: __________________.

APPROVED AS TO FORM
Office of County Counsel

_______________________________.
Deputy County Counsel

Date: __________________.

EXHIBIT A SERVICES

Provider shall provide the Services indicated below for the County.

Participant Name:	Duration

Training Program:

Training Program Description:

1. Provider may add or amend CalJOBS-approved programs to this Agreement with the written permission of the County. However, the original cost of the training program submitted must be used for the duration of the program term unless otherwise approved in writing.
2. Providers with six or more total participants within a two-year period shall be held accountable for a Training-Related Employment Rate of greater than 78.0%.
3. The published price in the catalog or on the website must match the cost on CalJOBS.
4. The Provider will not charge the County if a client has to repeat classes due to the Provider's error(s), negligent act(s), or omission(s).
5. The Responsible County Department will only reimburse the Provider for approved coursework required for programs as listed in the Provider's catalog.
6. Financial grants (i.e., Pell Grant) awarded to clients shall offset the programs' above-listed costs before utilizing Responsible County Department funding. The total amounts received by Provider shall never exceed the program amounts listed in this contract.

The invoice from the Provider will be for one-half of the total program cost once the client completes one-half of the training. The provider shall then submit an invoice for the remaining one-half of the program cost upon the client's completion of the training. Along with the invoice, Provider will include attendance records, evaluations, Measurable Skills Gains (MSG, which includes transcripts, tests, and exams showing skill progression), Credential Attainments, and /or Certificates of Completion, and any other supporting documents. All documentation must be provided to Employers' Training Resource (ETR), along with the final invoice, within 30 days of completing the program. Please see the invoice system below:

Status	Invoicing
Attended 50% of the program	50% of the cost can be invoiced
Completed program	Invoice for the remaining 50%, which will include attendance records, evaluations, Measurable Skills Gains*, Credential Attainments, and/or Certificates of Completion, as well as any other supporting documents.
	(*MSG include transcripts, tests, and exams showing skill progression)

For public High Schools and California Colleges and Universities, reimbursement invoices shall be based on accrued costs incurred and may be submitted for payment on a semester or quarterly basis.

Payment for the Cost of training shall not exceed the published rate, as shown on the Eligible Training Provider List (ETPL) for training, including tuition, expenses, and fees. The Provider shall invoice the County for tuition, expenses, and fees ("Cost") that the Provider charges to provide the Services. The County will reimburse Provider for Costs; however, the total Cost paid by County shall not exceed $10,000 per client. Client shall be responsible for Costs that exceed $10,000. Upon written notice from the County, an exception to the tuition limit of $10,000 and a revised payment schedule may be requested in writing. This can include special grants targeted to specific populations or occupations.

Please see the tiered refund system below:

Status	Refund Level
Registered but did not start the program	No payment will be made to the provider
Attended **less than** 15 days of the program	No payment will be made to the provider
Attended 15 days or more, but less than 50% of the program	Partial payment, pro-rated based on hours attended
Attended 50% of the program	50% payment
Attended 51%-74% of program	Partial payment, pro-rated based on hours attended

Attended 75%-100% of program	Full payment

7. Provider may request a modification to the refund system in this agreement with the written permission of the County.
8. The location of training is **«AgenStreet_E2», and delivery is in-person, and/or virtual.** After inclusion on CalJOBS, Additional training sites may be utilized with the written permission of the Employers' Training Resource Director.
9. Providers are not allowed to withhold learning materials, documentation, proof of training hours, credential attainments, and/or certifications regardless of payment status.
10. Full Description of Services:
    a. The provider shall be listed as approved by the State of California's Bureau for Private Postsecondary Education, the California Department of Education, the Chancellor's Office of the California Community Colleges, or recognized by Accrediting Commission for Schools-Western Association of Schools and Colleges (https://acswasc.org/), Accrediting Commission for Community and Junior Colleges (https://accjc.org/), or WASC Senior College and University Commission (https://www.wscuc.org/). If the Provider loses its approval, the Provider shall immediately notify the County, and this Agreement shall be deemed terminated.
    b. Subsequent eligibility for the Provider to receive funding will be determined annually, based on the Employment Development Department (EDD) and/or ETR's requirements. ETR shall conduct monitoring of the training services, including, but not limited to, on-site visits, reviews of instructor credentials, and participant interviews.
    c. Training programs must be included in the State of California's CalJOBS ETPL before the County can refer an individual to such training.
    d. Training programs must lead to either an industry-recognized certificate, certification, and/or credentials valued by employers or training-related employment as a result of gaining measurable technical skills for a specific occupation.
    e. Training programs must be for occupations in in-demand industry sectors identified by the state, region, or Local Board.
    f. Training sites must be equipped for training, and class material must conform to the State of California's established curriculum requirements.
    g. For truck driving schools, ETR participants cannot start until they obtain their drug screening results from the Department of Transportation. In addition, all ETR participants shall have training that includes the option of three-axle tractors, 46' trailers, and a minimum of a 10-speed transmission. All participants shall also receive, as part of the program's cost, a HAZMAT Endorsement, Doubles/Triples Endorsement, and Tank Endorsement if requested by the participant.
    h. Provider will immediately notify the case manager if the participant misses more than three (3) days of training.
    i. Referrals are at the sole discretion of the County.

11. The Provider shall furnish all data required for annual performance reporting upon request. ETR reserves the right to monitor and evaluate the training services at any time, which may include, but is not limited to, conducting on-site visits, reviewing instructor qualifications, and interviewing program participants.
12. The Provider is obligated to maintain records related to the program, applicants, participants, personnel, and finances as required by the Workforce Innovation and Opportunity Act (WIOA), the State of California, and the Secretary of Labor. Record-keeping is to ensure proper accounting of all WIOA funds and to protect the confidentiality of the parties involved. The Provider shall retain all records pertinent to this Agreement for three (3) years from the date of the final payment. If, at the end of three (3) years, litigation or an audit involving those records arises, the Provider shall retain the records until the resolution of such litigation or audit.
13. Materials, equipment, facilities, manuals, study guides, etc., will be provided as indicated to assist the Provider in the provision of Services:
    - By County: Case management and supportive services as determined by the County.
    - By Provider: All materials, equipment, facilities, MSGs, and other necessary items will be provided under the total purchase price of the training program.
14. Either party may terminate this agreement with 30 days' written notice. In the event of termination, ETR shall only be liable for services rendered up to the date of termination. Please see Master Terms and Conditions, paragraph #14 for further details.

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KERN COUNTY

PERSONAL/PROFESSIONAL AND CONTRACTUAL SERVICES AGREEMENT
MASTER TERMS AND CONDITIONS
PPCSA-2«YREnd_A2»

THIS AGREEMENT ("**Agreement**") is entered into effect on the Effective Date shown on the attached Schedule to Master Terms and Conditions by and between the **COUNTY OF KERN**, a political subdivision of the State of California, as represented by Employers' Training Resource ("County"), with its principal location at 1600 E. Belle Terrace Street, Bakersfield, CA 93307, and Provider identified on the Schedule to Master Terms and Conditions ("**Provider**").

RECITALS

A. Government Code Sections 31000 and 53060 permit the County Board of Supervisors to contract for furnishing special services with individuals specially trained, experienced, and competent to perform those services.

B. The County's Department identified on the Schedule to Master Terms and Conditions as the responsible County Department requires those services specified in **Exhibit A**.

C. County desires to engage Provider to provide said services, and Provider, because of his/her/its qualifications, experience, and facilities for doing the type of work contemplated have offered to provide the required services on the terms set forth herein.

AGREEMENT

1. **Services to be Rendered.** Provider shall provide the services described in Exhibit "A," which is attached to the Schedule to Master Terms and Conditions and incorporated therein. This Agreement does not guarantee that there will be any minimum amount purchased.

2. **Compensation to Provider.** County shall compensate Provider in accordance with the compensation selection(s) annotated on the Schedule to Master Terms and Conditions. No additional compensation will be paid for secretarial, clerical support staff, overhead, or any other cost incurred by Provider pursuant to providing services to County. Providers will ensure they have sufficient funds to operate their programs without the use of WIOA federal funds.

3. **Reimbursement Policy and Billing Requirements**. All invoices for payment shall be submitted in a form approved by County based upon the payment schedule selected on **Exhibit A.** Payment shall be made to Provider within 30-45 days of receipt and approval of the invoice by the Responsible County Department.

4. **Leveraged Resources.** Provider shall document and report any funding or expenditures used by and/or for clients, no matter the source of such funding, in order for these funds to be evaluated and considered as leveraged resources for training expenditures. Provider shall provide County with financial information concerning grants, scholarships, loans, etc. This documentation will list the amount of the funds, their source, and any special provisions or stipulations that may be tied to these funds. Provider shall also supply supporting documentation for such funding used for the participant's training. This information shall accompany all submitted invoices if required. Per EDD Directive WSD-14-1 (July 8, 2014), beginning Program Year (PY) 2016-17 and each PY thereafter, County is required to spend at least 30 percent of the combined total of its adult and dislocated worker WIOA formula fund allocations on workforce training services. A portion of the minimum training expenditure requirement (up to 10 percent of the combined total of the adult and dislocated worker formula fund allocation) may be met by applying designated leveraged resources for training services.

Provider must keep sufficient records of the leveraged resources, which can be independently verified by County and EDD. Provider shall also ensure that any leveraged resources tied directly to individual participants (such as Pell Grants) are also reported to Employers' Training Resource MIS department for inclusion in each corresponding participant's file.

5. **Term**. This term of this Agreement ("Term") shall start on the Effective Date and shall terminate on the Termination Date, unless sooner terminated as provided in this Agreement.

6. **Assignment**. Provider shall not assign or transfer this Agreement, or any part thereof. Provider shall not assign any monies due or which become due to Provider under this Agreement without County's prior express and written approval.

7. Audit, Inspection, and Retention of Records. Provider agrees to maintain and make available to County accurate books and records relative to all its activities under this Agreement. Provider shall permit County to inspect, audit, examine and make excerpts and transcripts from such records, and conduct audits of all invoices, materials, personnel records, or other data related to all other matters covered by this Agreement. Provider shall maintain such data and records in an accessible location and condition for a period of not less than three (3) years from the date of final payment under this Agreement, or if at the end of the three years, there is litigation or an audit involving those records, Provider shall retain the records until the resolution of such litigation or audit. The State of California and/or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon County herein.

8. Authority to Bind County. It is understood that Provider, in Provider's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind County to any agreements or undertaking.

9. Indemnification.

a. General. Provider agrees to indemnify, defend and hold harmless County and County's agents, board members, elected and appointed officials and officers, employees, volunteers, and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs, and expenses (including, but not limited to, reasonable attorneys' fees of County Counsel and Counsel retained by County, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or result from any act or omission of Provider or Provider's officers, agents, employees, independent contractors, subcontractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of County; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of Provider by any person or entity. The same holds true for Provider. The aforementioned duty to indemnify, defend and hold harmless shall apply only in proportion to and to the extent such Claims arise from or result from the acts or omissions of the Provider, its officers, agents, and employees.

b. Immigration Reform and Control Act. Provider acknowledges that Provider, and all subcontractors hired by Provider to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Provider is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Provider to perform services under this Agreement are in compliance with the IRCA. In addition, Provider agrees to indemnify, defend and hold harmless the County, its agents, officers, and employees, from any liability, damages, or causes of action arising out of or relating to any claims that Provider's employees, or the employees or any subcontractor hired by Provider, are not authorized to work in the United States for Provider or its subcontractors and/or any other claims based upon alleged IRCA violations committed by Provider or Provider's subcontractor(s).

c. Infringement Claim. If any claim is asserted or action or proceeding brought against County which alleges that all or any part of the services or products in the form supplied by Provider or County's use thereof, infringes or misappropriates any United States or foreign patent or copyright, or any trade secret or other proprietary right, County shall give Provider prompt written notice thereof. Provider shall defend any such claim or action with counsel of Provider's choice and at Provider's expense and shall indemnify County for any costs, including reasonable attorney's fees and damages actually incurred by County in connection therewith, including steps County may take to avoid entry of any default judgment or other waiver of County's rights. The aforementioned duty to indemnify shall apply only in proportion to and to the extent such costs arise from or result from the acts or omissions of the Provider, its officers, agents, and employees. County shall cooperate fully with and may monitor Provider in the defense of any claim, action, or proceeding and will make employees available as Provider may reasonably request with regard to such defense, subject to reimbursement by Provider of all costs and expenses occasioned by County's cooperation in such defense.

d. **Remedy of Infringement Claim.** If the services or products are, in Provider's opinion, likely to become or do become the subject of a claim of infringement or misappropriation of a United States or foreign patent, copyright, trade secret, or other proprietary right, or is a temporary restraining order or other injunctive relief is entered against the use of part or all of the services or products, Provider shall within ninety (90) days:

(1) Promptly replace the services or products with compatible, functionally equivalent and non-infringing services or products;

(2) Promptly modify the services or products to make them non-infringing without materially impairing County's ability to use the services or products as intended;

(3) Promptly procure the right of County to continue using the services or products; or

(4) As a last resort, if none of the foregoing alternatives are reasonably available to Provider and County is enjoined or otherwise precluded legally from using the services or products, Provider will within 120 days of the judgment or other court action promptly refund to County affected fees and cost paid for the services or products under this Agreement and amendments thereto whereupon this Agreement shall terminate. All licensed products will be disposed of as ordered by the governing court at the expense of Provider or as determined by County if the court does not do so directly.

e. **Modification of Services.** This indemnity does not extend to modifications or additions to the services or products made by County or any third party without written consent of Provider, or to any unauthorized use of the services or products by County.

f. **Survival of Indemnification Obligations.** Upon completion of this Agreement, the provisions of this **section 9** shall survive.

10. **Insurance.** Provider, in order to protect County and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss, and damage as a result of Provider's actions in connection with the performance of Provider's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Provider shall not perform any work under this Agreement until Provider has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the County's authorized insurance representative. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Provider shall supply proof that such person is an authorized representative thereof and is authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon. The Provider shall promptly deliver a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to the County's authorized insurance representative before the expiration date of any policy and bear a notation evidencing payment of the premium if requested. Provider shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon submitting any claim by Provider or County as an additional insured.

a. **Workers' Compensation and Employer's Liability Insurance Requirement.** In the event Provider has employees who may perform any services pursuant to this Agreement, Provider shall submit written proof that Provider is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Provider shall require any subcontractors to provide workers' compensation for all of the subcontractors' employees unless the insurance afforded by Provider covers the subcontractors' employees. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Provider shall provide and/or require each subcontractor to provide adequate insurance for the coverage of employees not otherwise covered. Provider shall also maintain Employer's Liability Insurance with one million dollars ($1,000,000) limits for bodily injury or disease.

b. **Liability Insurance Requirements.**

(1) Provider shall maintain in full force and effect at all times during the term of this Agreement, the following insurance:

A. **Commercial General Liability Insurance,** including, but not limited to Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the County), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Provider's performance of work under this Agreement. The Commercial General Liability Insurance shall contain no exclusions or limitations for independent contractors working on behalf of the named insured. Provider shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following the termination of this Agreement. The amount of said insurance coverage required by this

Agreement shall be the policy limits, which shall be at least one million dollars ($1,000,000) each occurrence and two million dollars ($2,000,000) aggregate.

B. **Automobile Liability Insurance.** If required on the Agreement, Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired, and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to policy limits, which shall be at least one million dollars ($1,000,000) each occurrence.

(**2**) **Endorsements.** The Commercial General Liability and Automobile Liability Insurance required shall include an endorsement naming County and County Indemnified Parties as additional insureds for liability arising out of this Agreement and any related operations. The endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

(**3**) **Claims-Made Insurance.** If any of the insurance coverages required under this Agreement is written on a claims-made basis, Provider, at Provider's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

c. **Insurance Companies.** All insurance shall be issued by a company or companies admitted to doing business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. The County Risk Manager must approve any exception to these requirements.

d. **Self-Insurance.** If Provider is, or becomes during the Term, self-insured or a member of or a member of a self-insurance pool, Provider shall provide coverage equivalent to the required insurance coverages and endorsements. County will not accept the coverages unless the County Risk Manager determines, in its sole discretion and by written acceptance, that the coverages proposed to be provided by Provider are equivalent to the required coverages. Any self-insured retentions over $100,000 must be declared on the Certificate of Insurance or other documentation provided to County and approved in writing by the County Risk Manager.

e. **Primary Insurance; Waiver of Subrogation.** All insurance afforded by Provider pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the County. An endorsement shall be provided on all policies which shall waive any right of recovery (waiver of subrogation) against the County.

f. **Insurance Does Not Replace Indemnification.** Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Provider for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the County from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

g. **Failure to Maintain Insurance.** Failure by Provider to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Provider. County, at its sole option, may terminate this Agreement and obtain damages from Provider resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Provider, County shall deduct from sums due to Provider any premiums and associated costs advanced or paid by County for such insurance. If the balance of monies obligated to Provider pursuant to this Agreement is insufficient to reimburse County for the premiums and any associated costs, Provider agrees to reimburse County for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by County to take this alternative action shall not relieve Provider of its obligation to obtain and maintain the insurance coverages required by this Agreement.

h. **Cancellation of Insurance.** The above-stated insurance coverages required to be maintained by Provider shall be maintained until the completion of all of Provider's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the Provider shall not be suspended, voided, canceled, or reduced in coverage or in limits except after ten (10) days' written notice by Provider in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. Such notice shall be by certified mail, return receipt requested. This notice requirement does not waive the insurance requirements stated herein. Provider shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon the insurer's insolvency.

11. <u>Provider Representations</u>. Provider make the following representations, which the Parties agree are material to and form a part of the inducement for this Agreement:

a. <u>Expertise and Staff</u>. Provider has the expertise, support staff, and facilities necessary to provide the Services; and

b. **<u>No Adverse Interest</u>**. Provider does not have any actual or potential interests adverse to County, nor does Provider represent a person or firm with an interest adverse to County relating to the subject of this Agreement; and

c. <u>Timeliness</u>. Provider shall diligently provide the Services in a timely and professional manner in accordance with the terms and conditions in this Agreement.

12. <u>Ownership of Documents</u>. All reports, documents, and other items provided by the County under this Agreement are and shall remain the property of the County, and shall be returned to County upon full completion of all services by Provider or termination of this Agreement, whichever first occurs. Documents and other items that Provider has created as a basis for the program shall remain the property of Provider.

13. <u>Rights to Contracted Products</u>.

a. <u>Belong to County</u>. Due to the nature of this program, Provider has created the programs, and County is paying for the service of the Provider to train participants. There will be no products produced.

b. <u>No Publication</u>. Provider or Provider's assigned employees or subcontractors shall not publish or disseminate information gained through participation in this Agreement without specific prior review and written consent by the County.

c. <u>Delivery to County</u>. Upon termination or expiration of this Agreement, Provider shall deliver to County all County reports documents and other County items that County may have supplied.

d. <u>Survival of Covenants</u>. Upon completion of this Agreement, the provisions of this section shall continue to survive.

14. <u>Termination</u>. Either party may, without cause, terminate this Agreement by written notice. A Notice of Termination will be deemed effective thirty (30) days after personal delivery, or thirty-five (35) days after mailing by regular U.S. Mail, postage prepaid. In addition, either party may immediately terminate this Agreement should the other party fail to substantially perform in accordance with the terms and conditions of this Agreement, through no fault of the party initiating the termination, and allow thirty (30) days for the non-performing party to respond to the allegations. In the event this Agreement is terminated by either County or Provider, Provider shall submit to County all County files, memoranda, documents, correspondence, and other items provided by County in the course of performing this Agreement. Should either party terminate this Agreement as provided herein, County shall pay Provider for all services rendered by Provider prior to the effective date of termination in an amount not to exceed the maximum dollar amount indicated in the Schedule to Master Terms and Conditions.

15. <u>Captions and Interpretation</u>. Section headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision. This Agreement is the product of negotiation, and both parties are equally responsible for its authorship. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

16. <u>Choice of Law/Venue</u>. The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.

17. <u>Compliance with Applicable Law</u>. Provider shall observe and comply with all applicable county, state and federal laws, ordinances, rules, and regulations now in effect or hereafter enacted, including all laws prohibiting sexual harassment.

18. **Confidentiality.** Provider shall not, without the written consent of County, communicate confidential information, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that they protect their own confidential information, unless such disclosure is required in response to a validly issued subpoena or other process of law. Upon completion of this Agreement, the provisions of this section shall continue to survive. Under 2 CFR 200.303, the provider is responsible for taking reasonable measures to adequately safeguard each participant's personally identifiable information (PII) and information designated as sensitive.

19. **Conflict of Interest.** Provider has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees. Provider agrees that they are unaware of any financial or economic interest of any public officer or employee of the County relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the County may immediately terminate this Agreement by giving written notice thereof. Provider shall comply with the requirements of Government Code Section 1090 et seq. and 87100 et seq. during the term of this Agreement.

20. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to County is exclusive or any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy is given hereunder or now or hereafter existing by-laws or in equity or by statute or otherwise, and maybe enforced concurrently or from time to time.

21. **Negation of Partnership.** In the performance of all services under this Agreement, Provider shall be and acknowledges that Provider is, in fact, and law, an independent contractor and not an agent or employee of County. Provider has and retains the right to exercise full supervision and control of the manner and methods of providing services to County under this Agreement. Provider retains full supervision and control over the employment, direction, compensation, and discharge of all persons assisting Provider in the provision of services under this Agreement. With respect to Provider's employees, if any, Provider shall be solely responsible for payment of wages, benefits, and other compensations, compliance with all occupational safety, welfare, and civil rights laws, tax withholding, and payment of employee taxes, whether federal, State or local, and compliance with any and all other law regulating employment.

22. **Non-Collusion Covenant.** Provider represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with County. Provider has received from County no incentive or special payments, nor considerations not related to the provision of services under this Agreement.

23. **Nondiscrimination.** As a condition to the award of financial assistance from the Department of Labor under Title 1 of the Workforce Innovation and Opportunity Act (WIOA), the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following assistance:

a. Section 188 of WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title 1 financially assisted program or activity;

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

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

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

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

24. **Non-waiver.** No term, covenant, or condition of this Agreement can be waived except by the written consent of County. Forbearance or indulgence by County in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Provider. County shall be entitled to invoke any remedy available under this Agreement, by law, or in equity, despite said forbearance or indulgence.

25. Notices.

a. Notices to the County from the Provider that concern complaints, termination, suspension, breach, default, appeals, or other formal notices regarding this Agreement shall be sent to:

Employers' Training Resource
Attn: **Jeremy Shumaker**, Assistant Director of Workforce Development
With a copy to: Linda Lara, Administrative Services Officer
1600 E. Belle Terrace, Bakersfield, California 93307
Email: ShumakerJ@kerncounty.com
Email: laral@kerncounty.com

b. Notices to the Provider from County concerning all matters regarding this Agreement will be sent to:

«AgenAddress_D2»
Attn: «SecurName_M2»
Alternate Contact:
«AgenTraining_Add_X2»
Phone#: Email:

c. All notices, requests, demands, and other communications required under this Agreement shall be in writing, in English, and shall be deemed to have been duly given if delivered (i) personally, (ii) by facsimile transmission with written confirmation of receipt, (iii) on the day of transmission if sent by electronic mail (email) to the email address given above, and written confirmation of receipt is obtained promptly after completion of transmission, (iv) by overnight delivery with a reputable national overnight delivery service, or (v) by mail or by certified mail, return receipt requested, and postage prepaid. If any notice is mailed, it shall be deemed given three (3) business days after the date such notice is deposited in the United States mail. If notice is given to a party, it shall be given at the address for such party set forth above. The Parties shall be responsible for notifying the other Party in writing of any name or address changes. In the case of communications delivered to the Parties, such communications shall be deemed to have been given on the date received.

Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices required or permitted under this Agreement by leaving such notice with the receptionist or other person of like capacity employed in Provider's office or the receptionist for Employers' Training Resource.

26. Captions and Interpretation. Section headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a Party because that Party or its legal representative drafted the provision. This Agreement is the product of negotiation, and both Parties are equally responsible for its authorship. California Civil Code Section 1654 shall not apply to the interpretation of this Agreement.

27. Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

28. Modifications of Agreement.

a. This Agreement may be amended by a unilateral modification by County should it be determined that any provisions have been left off that are administratively required. The Director of Employers' Training Resource or his/her designee shall be the signor of the Modification.

b. Non-administrative modifications or extensions to this Agreement must be in writing and signed by the parties in interest at the time of the modification. Revised cost cannot exceed the published catalog price.

c. During this program year, Provider may add CalJOBS-approved programs to this Agreement with the written permission of the County. However, the original cost of the training program submitted must be used for the duration of the program term unless otherwise approved in writing.

29. **Severability.** Should any part, term, portion, or provision of this Agreement be Decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

30. **Signature Authority.** Each party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. This Agreement is not an authorization to provide services until signed by the Kern County Board of Supervisors.

31. **Sole Agreement.** This document, including the attachments hereto, contains the entire agreement of the parties relating to the services, rights, obligations, and covenants contained herein and assumed by the parties, respectively. No inducements, representations, or promises have been made, other than those recited in this Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect.

32. **Time of Essence.** Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

33. **Gender/Plural**. References to feminine, masculine or neutral include the other, and references to the singular or plural include the other.

34. **Recitals**. Each of the recitals is incorporated in this Agreement, is deemed to be the agreement and a reflection of the intent of the Parties, and is relied upon by the Parties in agreeing to the provisions of this Agreement and in interpreting its provisions.

35. **Exhibits**. All exhibits attached to this Agreement are incorporated into this Agreement by reference.

36. **Corporate Qualifications.** If Consultant is a corporation incorporated outside the state of California transacting intrastate business within the meaning of California Corporations Code section 191, then Consultant shall, within five business days of the execution of this Agreement, provide County with a copy of the certificate of qualification issued by the California Secretary of State indicating that Consultant is currently qualified to do business in the state of California under California Corporations Code section 2105. If Consultant is a limited liability company formed outside the state of California transacting intrastate business within the meaning of California Corporations Code section 191, then Consultant shall, within five business days of the execution of this agreement, provide to County a copy of the certificate of registration issued by the California Secretary of State indicating that Consultant is currently qualified to do business in the state of California under California Corporations Code section 17708.02. Any corporation or limited liability company, whether or not incorporated in the state of California, must be in good standing to qualify to do business with County. Failure to provide County with the current certificates is grounds for County to terminate the Agreement.

37. **Political/Religious Activity.** No person performing any service or providing any goods designated under this Contract shall participate in any political or religious activity on County time or in any manner involving the use of county property or expenditure of public funds nor conveying the implication of County endorsement or support for a candidate for local, state, or federal office.

Notwithstanding the foregoing, nothing in this Contract shall be construed to unlawfully limit an individual's Constitutional rights. Accordingly, the limitations contained in this section are for the sole purpose of preventing proselytizing and politicking while engaged in the performance of services under this Contract.

38. **Clean Air Act, Federal Water Pollution Control Act, Clean Water Act.** Provider shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

39. **No Third-Party Beneficiaries.** It is expressly understood and agreed that the enforcement of these terms and conditions and all rights of action relating to such enforcement shall be strictly reserved to County and Provider. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of County and Provider that any such person or entity, other than County or Provider, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

40. **Debarment and Suspension.** Provider is required to comply with the government-wide requirements, including Executive Orders 12459 and 12689, for debarment and suspension. Provider will certify under penalty of perjury under the laws of the State of California that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency and had not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction.

41. **Drug-Free Workplace.** Provider is required to provide County with a certificate of Drug-Free Workplace which acknowledges notification of employees that action will be taken against them for violations under Government Code Sections 8350(a) and 8355(b) and 29 CFR 94, 48, 23.5; that a Drug-Free Awareness Program has been implemented; and that personnel will receive a copy of Provider's policy.

42. **Energy Policy and Conservation Act**. Provider shall maintain mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

43. **Lobbying Certification and Disclosure.**

a. Provider certifies that no Federal appropriated funds have been paid or will be paid by Provider's officers or employees, 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 the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, AGENCY's signatory official shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. Provider must submit to County a "Certification Regarding Lobbying" signed by Provider's signatory official if the agreement amount is in excess of $100,000.

44. **Equal Employment Opportunity.** Provider shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

45. **Exhibits.** All exhibits attached to this Agreement are incorporated into this Agreement by reference.

46. **Representations.** Provider makes the following representations which are agreed to be material to, and form a part of the inducement for this Agreement:

a. Provider does not have any actual or potential interests adverse to County, nor does Provider represents a person or firm with an interest adverse to County with reference to the subject of this Agreement; and

b. Provider shall diligently provide all required services in a timely and professional manner in accordance with the terms and conditions stated in this Agreement.

47. **Solid Waste Disposal Act.** Provider shall comply with Section 6002 of the Solid Waste Disposal Act of January 24, 1994. This section includes procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recycled materials as practicable.