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 NEW ON-THE-JOB (OJT) AGREEMENTS FOR PROGRAM YEARS 2026-2027
(Fiscal Impact: None)

Employers' Training Resource (ETR) administers workforce development programs for the Kern/Inyo/Mono Consortium Workforce Development Area, including On-the-Job Training (OJT) programs funded through State and Federal grants. OJT provides eligible employers with partial wage reimbursement while training newly hired participants in job-specific skills, supporting a skilled local workforce and increasing participants' long-term employment opportunities.

ETR has prepared updated OJT Agreement templates for Program Years July 1, 2026 through June 30, 2027. These updated templates ensure clarity, consistency, and compliance with current State and Federal requirements. Two versions have been developed:

- A General OJT Agreement Template for all participating employers.
- An Adventist Health OJT Agreement Template containing additional language requested by Adventist Health while retaining all required County provisions.

The requested authorization will streamline administration of the OJT programs by allowing the Chief Workforce Development Officer to execute standardized agreements with eligible employers without returning to your Board for approval of each individual agreement. All OJT costs are paid through approved workforce development grants and do not impact the County General Fund.

The updated OJT Agreement templates and Resolution have been reviewed and approved as to form by County Counsel.

Therefore, IT IS RECOMMENDED that your Board adopt the attached Resolution approving the new On-the-Job Training Agreement templates for Program Years 2026–2027 retroactive to July 1, 2026; authorize the use of both the General OJT Agreement and the Adventist Health OJT Agreement; and authorize the Chief Workforce Development Officer to execute all OJT Agreements and any related documents necessary to administer the program, subject to approval as to form by County Counsel.

Sincerely,

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

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

In the matter of: Resolution No.______

AUTHORIZATION TO APPROVE AND IMPLEMENT NEW ON-THE-JOB TRAINING (OJT) CONTRACTS FOR PROGRAM YEARS JULY 1, 2026 THROUGH JUNE 30, 2027 AND AUTHORIZE THE CHIEF WORKFORCE DEVELOPMENT OFFICER TO EXECUTE ALL RELATED AGREEMENTS

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 On-the-Job Training (OJT) programs funded through State and Federal grants; and

(b) ETR develops and maintains OJT Agreement templates that support employers in training newly hired participants in job-specific skills while providing partial wage reimbursement, helping build a skilled local workforce; and

(c) ETR has prepared updated OJT Agreement templates to ensure clarity, consistency, and compliance with current State and Federal requirements, including templates applicable for Program Years July 1, 2026 through June 30, 2027; and

(d) These updated templates include a General OJT Agreement and an Adventist Health OJT Agreement containing additional language requested by Adventist Health while preserving required County provisions; and

(e) All costs associated with OJT services are paid from approved workforce development grant funds and do not impact the County General Fund; and

(f) The updated OJT Agreement templates have been reviewed and approved as to form by County Counsel.

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 On-the-Job Training Agreement templates for Program Years July 1, 2026 through June 30, 2027.

2. The Board hereby authorizes the use of the General OJT Agreement and the Adventist Health OJT Agreement for all applicable employers.

3. The Board hereby authorizes the Chief Workforce Development Officer to execute OJT Agreements 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

#2814581-ACH

WIOA TITLE: ________________

Agreement No. _______________

THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)
ON-THE-JOB TRAINING (OJT) AGREEMENT
(KERN COUNTY- (BUSINESS NAME))

THIS AGREEMENT, entered into as of the _____________ day of ________________, 2025, is by and between the COUNTY OF KERN, a political subdivision of the State of California ("COUNTY") and **(BUSINESS NAME),** a California nonprofit religious corporation, with its principal place of business located at ___________, California ("EMPLOYER"):

RECITALS

(a) The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014 by President Obama and with broad bipartisan support from Congress; and

(b) The purpose of WIOA is designed to strengthen and improve our nation's public workforce system and help get Americans, including youth and those with significant barriers to employment, into high quality jobs and careers and help employers hire and retrain skilled workers; and

(c) WIOA encourages collaboration with other funding sources to enhance the quality; and

(d) WIOA supersedes and amends the Adult Education and Family Literacy Act (AEFLA), the Wagner-Peyser Act, and the Rehabilitation Act of 1973; and

(e) WIOA strengthens the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs; and

(f) WIOA State and Local Plan Provisions apply to the current program year including the current performance accountability system; and

(g) COUNTY receives funding from WIOA and other complementary sources (hereinafter collectively referred to as "WIOA funds") authorizing and enabling it to contract with public agencies and private for-profit and private non-profit organizations to provide job training activities and related services which are in addition to those which would otherwise be available in the area in the absence of such funds; and

(h) EMPLOYER is prepared to operate a program or programs designed to accomplish the objectives of WIOA, and COUNTY is prepared to provide WIOA funds to EMPLOYER to enable it to operate its program; and

(i) The U.S. Congress has authorized WIOA, and the Office of Management and Budget (OMB) has published Title 2 of the Code of Federal Regulations (CFR), Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), which the Department of Labor (DOL) has adopted with exceptions at 2 CFR 2900.

NOW, THEREFORE, IT IS MUTUALLY AGREED between COUNTY and EMPLOYER as follows:

1) EMPLOYER's Duties and Obligations.

   a) EMPLOYER shall employ and train employee(s) (hereinafter referred to as "TRAINEE(S)") in accordance with the "Occupation and On-the-Job Training Outline(s)" attached hereto, labeled Exhibit "A", and incorporated herein by this reference as if set forth in full.

b) During the training period, EMPLOYER shall ensure that each TRAINEE:

i) is on EMPLOYER's payroll;

ii) receives the same benefits as EMPLOYER's other employees performing similar work and working a similar length of time;

iii) is paid the salary indicated in Exhibit "A";

iv) is provided, by EMPLOYER, with safety instructions and equipment necessary for protection against injury and damage. Where special clothing or equipment is provided to EMPLOYER's regular employees, EMPLOYER shall provide the same type of clothing or equipment to the TRAINEES performing similar work;

v) is provided supportive services if applicable and reimbursable under the provisions of the WIOA; and

vi) is not a relative by blood, adoption, or marriage of any executive or supervisor employed by EMPLOYER. For the purpose of this Agreement, "relative by blood, adoption, or marriage" shall include: wife, husband, son, daughter, mother, father, brother, sister, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

c) Said TRAINEES shall be employed as regular members of EMPLOYER's workforce during the training period. EMPLOYER shall continue to employ said TRAINEE(S) upon the successful completion of their training. Said continued employment is subject to the same conditions of employment as are applicable to EMPLOYER's regular employees, including, but not limited to, terminations for unsatisfactory performance.

d) EMPLOYER shall not subcontract On-The-Job Training activities. Any attempt by EMPLOYER to subcontract, assign, or otherwise delegate On-The-Job Training activities shall be void and entitle COUNTY, at its option, to immediately terminate this Agreement. Notwithstanding the above, supportive services provided TRAINEES may be subcontracted if permitted and reimbursable under the provisions of the WIOA.

e) EMPLOYER shall abide by the Assurances, Policies, and Regulations for On-The-Job Training Program attached hereto as Exhibit "B", as if incorporated herein by this reference as if set forth in full.

f) EMPLOYER certifies that it has not demonstrated a pattern of failing to provide past WIOA or WIA On-The-Job Training participants with continued long-term employment as regular employees with wages, benefits, and working conditions at the same level and to the same extent as other employees performing similar work. EMPLOYER acknowledges that COUNTY shall not enter into an OJT agreement with any employer that has exhibited such a pattern.

g) The duration of this On-The-Job Training agreement is limited to the period of time required for the trainee to become proficient in the occupation for which training is provided. In determining the appropriate length of training, the COUNTY and EMPLOYER have considered the skill requirements of the occupation, the academic and occupational skill level of the TRAINEE, any prior work experience, and the TRAINEE's Individual Employment Plan (IEP).

2) EMPLOYER's Compensation.

a) On-The-Job Training contract must comply with WIOA federal, state, and local policy. Under such guidelines EMPLOYER must agree to maintain and make available time and attendance, payroll and other records to support amounts to be paid in the form of a reimbursement under the OJT contract.

b) Payment to EMPLOYER shall be limited to those costs incurred during the basic work week (i.e., regular working hours exclusive of commissions, shift differential, overtime, holiday pay, vacation, sick leave or other business closure hours).

c) EMPLOYER shall submit to COUNTY required payroll documents (payroll summaries and time cards for each payroll period) to Employers' Training Resource, in a timely manner, no more than 60 calendar days after a TRAINEE has completed their OJT training hours indicated in the OJT contract.

3) Record Keeping.

EMPLOYER shall keep records that are sufficient to permit COUNTY to prepare reports required by the WIOA and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully. EMPLOYER shall retain all records pertinent to this Agreement for a period of three (3) years from the date of final payment of the Agreement. If at the end of three (3) years, there is litigation or an audit involving these records, EMPLOYER shall retain the records until the resolution of such litigation or audit.

4) Indemnification.

During the term of this Agreement, each Party agrees to indemnify, defend and hold harmless the other Party and its 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, judgements, costs, and expenses (including, but not limited to, reasonable attorney's fees, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any act or omission of the indemnifying Party or its officers, agents, employees, independent contractors, sub-contractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include injury or death to any person or persons; damage to any property, regardless of where located, including the property of the indemnified Party; and any Workers' Compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of the Indemnifying Party by any person or entity.

5) Insurance Requirements.

EMPLOYER, 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 EMPLOYER's actions in connection with the performance of EMPLOYER's obligations, as required in this Agreement, shall secure and maintain insurance as described below. EMPLOYER shall not perform any work under this Agreement until EMPLOYER 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, EMPLOYER 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 EMPLOYER shall promptly deliver a certificate of insurance or reasonable evidence of self-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 prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. EMPLOYER shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by EMPLOYER or COUNTY as an additional insured.

a) Workers' Compensation and Employers Liability Insurance Requirement -- In the event EMPLOYER has employees who may perform any services pursuant to this Agreement, EMPLOYER shall submit written proof that EMPLOYER is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

EMPLOYER shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by EMPLOYER. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, EMPLOYER shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

EMPLOYER shall also maintain employer's liability insurance with limits of one million dollars ($1,000,000) for bodily injury or disease.

b) Liability Insurance Requirements:

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

(1) 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 EMPLOYER's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. EMPLOYER shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following 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.

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

ii) The Commercial General Liability and Automobile liability Insurance required in this sub-paragraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using <u>one</u> of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 <u>plus</u> either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

iii) Any self-insured retentions in excess of $100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.

iv) If any of the insurance coverages required under this Agreement is written on a claims-made basis, EMPLOYER, at EMPLOYER's option, shall either (i) maintain said coverage for at least five (5) 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 five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

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

d) All insurance shall be issued by a company or companies admitted to do business in California and listed in the current “Best’s Key Rating Guide” publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the COUNTY Risk Manager.

e) If EMPLOYER is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, EMPLOYER shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by EMPLOYER is equivalent to the above-required coverages. Notwithstanding any provision in this Agreement to the contrary, COUNTY hereby acknowledges and agrees that EMPLOYER’s participation in the Adventist Health System/West self-insurance program satisfies the insurance requirements of this Agreement.

f) All insurance afforded by EMPLOYER 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, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers’ Compensation policies when a EMPLOYER’s personnel deliver or perform services for the COUNTY while on COUNTY property.

g) Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve EMPLOYER 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.

h) Failure by EMPLOYER to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by EMPLOYER. COUNTY, at its sole option, may terminate this Agreement and obtain damages from EMPLOYER resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to EMPLOYER, COUNTY shall deduct from sums due to EMPLOYER any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to EMPLOYER pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, EMPLOYER 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 EMPLOYER of its obligation to obtain and maintain the insurance coverages required by this Agreement.

6) Intellectual Property Provisions. **Intentionally Omitted.**

7) Assurances.

a) COUNTY shall obey the provisions of WIOA, the regulations and guidelines enacted pursuant to WIOA, and the terms of the WIOA grant agreements from the federal and state government to COUNTY.

b) EMPLOYER may access WIOA and the regulations issued to implement WIOA at www.doleta.gov/wioa/. EMPLOYER will be notified of changes and/or amendments affecting WIOA or the regulations as soon as possible after they are made known to COUNTY.

c) EMPLOYER shall accept persons into its program(s) who have been referred by COUNTY’s Employers’ Training Resource or its authorized agent(s) unless such persons are not eligible or suitable for EMPLOYER’s program(s) pursuant to WIOA and this Agreement.

8) Confidentiality Requirements.

a) COUNTY and EMPLOYER will exchange various kinds of information pursuant to this Agreement. That information will include Personally Identifiable Information (PII), 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 Employment Development Department, California Department of Social Services, California Department of Education, California Department of Corrections and Rehabilitation, County Welfare Department(s), County IV-D Directors Office of Child Support, Office of the District Attorney, California Department of Mental Health, California Office of Community Colleges, and the Department of Alcohol and Drug Programs.

b) EMPLOYER agrees to keep all information that is exchanged between COUNTY in the strictest confidence and make such information available to its own employees only on a “need-to-know” basis.

c) EMPLOYER shall provide security sufficient to ensure the protection of confidential information from improper use and disclosures including sufficient administrative, physical, and technical safeguards to protect this information from reasonable unanticipated threats to the security or confidentiality of the information.

d) Federal law, OMB Guidance, and DOL policies require that PII and other sensitive information be protected. To ensure compliance with federal law and regulations, EMPLOYER must secure the storage and transmission of PII and sensitive data developed, obtained, or otherwise associated with WIOA funds:

i) To ensure PII is not transmitted to unauthorized users, all PII and other sensitive data transmitted via email or stored on CDs, DVDs, hard drives, USB flash drives, or other removable media must be encrypted using Federal Information Processing Standards (FIPS) 140-2 compliant and National Institute of Standards and Technology (NIST) validated cryptographic module.

ii) EMPLOYER must take steps necessary to ensure the privacy of all PII obtained from participants and/or other individuals and to protect such information from unauthorized disclosure.

iii) EMPLOYER shall ensure that any PII used during the performance of activities associated with COUNTY have been obtained in conformity with this Agreement and applicable federal and state laws governing the confidentiality of information.

e) EMPLOYER agrees to comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) as added by the Family Educational Rights and Privacy Act of 1974. EMPLOYER shall provide written instructions to all of its employees with access to information of a confidential nature of the penalties for unauthorized use or disclosure found in sections 1798.53 and 1798.55 of the Civil Code, section 502 of the Penal Code, section 2111 of the Unemployment Insurance Code, section 10850 of the Welfare and Institutions Code and other applicable local, state and federal laws. COUNTY shall provide EMPLOYER with copies of the aforementioned code sections. Changes and/or amendments affecting these code sections will be issued to EMPLOYER as soon as possible after they are made available to COUNTY.

f) EMPLOYER 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, remote terminal or other means. EMPLOYER shall return the confidential information promptly and destroy all copies or derivations of that confidential information when its use ends, utilizing an approved method of confidential destruction: shredding, burning or certified or witnessed destruction. Magnetic media are to be degaussed or returned to the entity that provided it.

g) If EMPLOYER enters into an agreement with a third party to provide WIOA services, EMPLOYER 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.

h) EMPLOYER shall designate a person responsible for the security and confidentiality of the data and immediately notify the Chief Workforce Development Officer for COUNTY's Employers' Training Resource, or his/her designee**,** in writing, of any designee changes. EMPLOYER's data security confidentiality designee is:

Name:
Title:
Address:
Telephone:
Fax No.:
Email:

9) Term.

a) This Agreement shall be in effect from July 1, 2026 through June 30, 2027 while COUNTY's WIOA program is in effect and funded by grants from the federal and state governments to COUNTY, except that EMPLOYER shall continue to retain the records of its WIOA-funded program(s) for three (3) years as provided in paragraph 3.b. above.

b) Within thirty (30) days of EMPLOYER receipt of a fully signed and executed Agreement, EMPLOYER must demonstrate to COUNTY's satisfaction that the contracted program has commenced operations. EMPLOYER assumes all liability for expenses or activities commencing by EMPLOYER before the Agreement is executed.

10) Termination.

a) This Agreement may be terminated in whole or in part as follows:

b) By the COUNTY if EMPLOYER fails to comply with the terms and conditions of the Agreement;

c) By the COUNTY, to the greatest extent authorized by law, if the Agreement no longer effectuates the program goals or COUNTY priorities;

d) By the COUNTY with the consent of the EMPLOYER, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

e) By the EMPLOYER upon sending to the COUNTY written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the COUNTY determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, the COUNTY may terminate the award in its entirety.

f) Notwithstanding the above, EMPLOYER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by EMPLOYER, and COUNTY may withhold any payments to EMPLOYER for the purpose of setoff until such time as the exact amount of repayment due COUNTY from EMPLOYER is determined.

g) In the event of the termination of this Agreement for any reason, COUNTY shall have no further obligation to pay for any services rendered or expenses incurred by EMPLOYER after the effective date of the termination, and EMPLOYER shall repay to COUNTY, within thirty (30) days of the notification of termination, all payments made by COUNTY to EMPLOYER which were unearned.

11) Notices.

Any and all notices relating to this Agreement shall be sufficient if personally served upon the Clerk of the Board of Supervisors of COUNTY or the clerk or the secretary of EMPLOYER or if sent via the United States Postal Service, postage prepaid, and if directed to COUNTY, addressed as follows:

Clerk of the Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

or directed to EMPLOYER, addressed as follows:

Adventist Health System/West
One Adventist Health Way
Roseville, CA 95661
Attention: Office of the General Counsel

12) Grievance Procedure and Venue.

a) If COUNTY and EMPLOYER are unable to mutually resolve any disputes which may arise between the parties relating to this Agreement, EMPLOYER may file a complaint with COUNTY at 1600 E. Belle Terrace, Bakersfield, California 93307. A grievance officer shall be appointed to review the dispute and attempt to resolve the matter with the parties. If the dispute is still not resolved, EMPLOYER may request a hearing with a hearing officer appointed by COUNTY. If the dispute remains unresolved, EMPLOYER may appeal to the State Review Panel of the Governor of the State of California. If there is still no resolution to the dispute, EMPLOYER may file an action in a court of law.

b) The parties hereto acknowledge that this Agreement was executed and services and obligations are to be performed in Kern County, and, therefore, both parties agree that if any party to this Agreement initiates any legal or equitable action to enforce the terms of this Agreement, to declare the rights of the parties under this Agreement or which relates to this Agreement in any manner, the proper venue for any such action is the Superior Court of the State of California of and for the County of Kern.

13) Construed According to California Law.

COUNTY and EMPLOYER agree that the provisions of this Agreement will be construed in accordance with the laws of the State of California.

14) No Authority to Bind COUNTY.

It is understood that EMPLOYER, in its performance of any and all duties under this Agreement, has no authority to bind COUNTY to any agreements or undertakings with respect to any and all persons or entities with whom EMPLOYER deals in the course of its business.

15) Modifications and Amendments.

a) This Agreement may be unilaterally modified or amended in writing by the COUNTY under the following circumstances:

i) There is an increase or decrease in local, state, or federal funding levels.

ii) To implement adjustments to EMPLOYER's plans, goals, and/or objectives.

iii) Funds awarded to the EMPLOYER have not been expended in accordance with the Agreement. After consultation with the EMPLOYER, COUNTY 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 local, state, and federal law, regulations, and policies, reverting to the COUNTY.

iv) The term of the Agreement is changed.

v) There is a change in local, state, or federal law or regulation requiring a change in the provisions of this Agreement.

vi) The EMPLOYER's name has changed. Upon receipt of legal documentation of the name change COUNTY will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

b) Except as provided above, this Agreement may be amended or modified only in writing by the mutual agreement of both COUNTY and EMPLOYER.

16) Nonwaiver.

No covenant or condition of this Agreement to be performed by EMPLOYER 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 any covenant or condition to be performed by EMPLOYER. COUNTY shall be entitled to invoke any remedy available to COUNTY under this Agreement or by law or in equity despite any such forbearance or indulgence.

17) Independent Contractor.

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

18) Assignment.

EMPLOYER shall not assign any right, title or interest it may acquire by reason of this Agreement except after first obtaining the written consent of COUNTY.

19) Conflict of Interest.

The parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 of the California Government Code relating to conflict of interest of public officers and employees. All parties hereto agree 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, COUNTY may immediately terminate this Agreement by giving written notice thereof. EMPLOYER shall comply with the requirements of Government Code Section 87100 et seq. during the term of this Agreement.

20) Signature Authority.

Each person executing this Agreement on behalf of EMPLOYER represents and warrants that he or she is duly authorized by EMPLOYER to execute and deliver this Agreement on behalf of EMPLOYER and that this Agreement is binding upon EMPLOYER in accordance with its terms. Prior to commencing any work under this Agreement, EMPLOYER shall deliver documentation of EMPLOYER's governing body authorizing or ratifying the execution of this Agreement to COUNTY's Employers' Training Resource.

21) Political/ Religious Activity.

No person performing any service or providing any goods designated under this Agreement 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 Agreement shall be construed to unlawfully limit an individual's or entity'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 Agreement.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, each party has signed this Agreement upon the date indicated, and agrees, for itself, its employees, officers, partners and successors, to be fully bound by all terms and conditions of this Agreement.

COUNTY OF KERN

BUSINESS NAME

_________________________________ _________________________________

Director's Signature

Signer

Director

Title

Employers' Training Resource

"COUNTY"

"EMPLOYER"

OPTIONAL:

A Blanket Agreement is valid for up to three (3) years to encompass each individual TRAINEE who is selected to participate in the OJT Program with said EMPLOYER

From to _ .

EXHIBIT "A"

Occupation and On-The-Job Training Plan

Occupational Title:__**TRAINING TITLE**________________ Hourly Wage: $________________________

Description of Occupation:____

Outline of On-The-Job Training:

Under supervision, TRAINEE will learn and improve skills in the following areas:

SKILL REQUIREMENTS

1. Client will learn
2. Client will learn
3. Client will learn
4. Client will learn
5. Client will be trained
6. Client will learn
7. Client will learn
8. Client will learn

Training Method will be performed through Verbal Instruction, Observation and Practice unless otherwise indicated.

Measurement Methods will be by Demonstration, Observation and Review unless otherwise indicated.

OJT AGREEMENT INFORMATION PAGE

Clients Name: ______________________________

1. Term of this On-The-Job Training Agreement is from ______to________________.
2. Payment of OJT wage reimbursement to EMPLOYER will be based upon the total number of hours WIOA contracted that allows TRAINEES to enhance skills gaps. The established wage reimbursement rate and the duration of each TRAINEE'S OJT are set forth under the terms and conditions of this OJT Agreement.
3. EMPLOYER INFORMATION:

Business Name: ____

DBA: ____

EMPLOYER Federal Tax ID #: ____

Training Address: ____

Address: ____

Mailing Address: ____

Legal Address:

Telephone: ____________________ FAX __________________Email_________________________

EMPLOYER Representative Name:_______

Trainer's Name: _______________________________________Title:____________________________

Description of Company Tax ID Status

Corporation____ Limited Liability Company_____ Sole Proprietorship___ Partnership _____

Non-Profit ____ Union _____ Non-Union ____

Number of employees___ Over 1 Year in business: Yes__ No___ 120 Days Locally: Yes_____ No____

Is any TRAINEE occupation and wage covered under a collective bargaining agreement? Yes_________ No ____ Occupation Job Title: ____.

ONET Code: _____________SVP: _____ Hours per week: _______Starting Wage:$____per hour.

WIOA Program Title: ________Number of TRAINEES on this contract______ Contract hours: ____

Reimbursement % Rate: ______Cost Per TRAINEE:$________Maximum Cost/ Encumbrance: $_______

APPROVED AND RECOMMENDED

Supervisor's Signature

Employers' Training Resource_______________________________________ Date:___________

Exhibit "B"

Assurances, Policies, and Regulations for On-the-Job Training (OJT) Program

As a condition of the On-The-Job Training Agreement, EMPLOYER agrees to:

1. **ASSURANCES, POLICIES, AND REGULATIONS:** Comply with the requirements of the Workforce Innovation and Opportunity Act (WIOA) of 2014, and with the regulations and policies promulgated thereunder; and if the regulations promulgated pursuant to WIOA are amended or revised, it shall comply with them or notify COUNTY within 30 days after promulgation of the amendments or revision that it cannot so conform.
2. **COMMITMENT TO HIRE, TRAIN, and RETAIN:** The TRAINEE will be hired by EMPLOYER and will be provided with all necessary instruction, equipment, and materials. EMPLOYER agrees to provide On-The-Job Training (OJT) in accordance with the Training Activities/Skill Requirements included in the Agreement. EMPLOYER agrees that upon successful completion of the Training Plan, the TRAINEE will continue to be employed as a regular employee, rather than as a part-time, temporary, or seasonal member of EMPLOYER'S workforce. Individuals receiving On-The-Job training shall be compensated by EMPLOYER at the same rates, including periodic increases, as similarly situated employees as may be deemed reasonable under regulations prescribed by the Secretary of Labor, but in no event at a rate less than that specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law. EMPLOYER ensures that conditions of employment or training are appropriate and reasonable with regard to the type of work, the geographical region and the proficiency of the applicant. Training and related services will, to the maximum extent practicable, be consistent with every individual's fullest capabilities and lead to the TRAINEE'S economic self-sufficiency. The program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants. No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals unless such promotions are normally filled through an open process in which any candidate is provided an opportunity to compete for the job.
3. **TRAINEE WAGES & TIMESHEETS:** Wages are to be paid through EMPLOYER'S normal and customary pay to include all required payroll deductions and appropriate tax and withholding payments to Federal and State authorities as required by law and should show total hours the TRAINEE has worked (not including paid or unpaid time off). The TRAINEE shall be paid at a wage rate no lower than the Federal or State minimum wage standards or prevailing wage for the work, whichever is higher, in compliance the Davis-Bacon Act.
4. **PAYMENTS:** EMPLOYER agrees to be reimbursed for the training costs of hours completed, not to exceed the amount specified in the OJT Agreement. Payments shall be based only upon hours actually worked by the TRAINEE and will NOT cover commissions, shift-differential, overtime, holiday pay, vacation, sick leave, or other business closure hours. Payment will be made following EMPLOYER'S submittal of signed timecards/sheets (signed by both the TRAINEE and EMPLOYER) and payroll summaries for each pay period. EMPLOYER must submit the required documents within five (5) calendar days of trainee completing contracted hours. Failure to comply with this five (5) day calendar requirement will result in termination/cancellation of Agreement and no reimbursement to EMPLOYER. Any payment found to violate the terms of this Agreement must be returned by EMPLOYER to the COUNTY.
5. **ATTENDANCE & PAYROLL RECORDS:** EMPLOYER shall maintain, for the TRAINEE, accurate daily Time and Attendance records showing hours worked, and payroll records showing all deductions taken and wages paid. EMPLOYER agrees to retain these records for three (3) years after the completion of this Agreement.
6. **PROVISION OF FUNDING:** If funds expected to be received by the COUNTY are suspended or terminated in whole or in part, funds for this Agreement shall cease.
7. **MONITORING & AUDIT:** EMPLOYER agrees that the COUNTY and authorized local, State or Federal representatives have the right to monitor, audit and review the progress of training and any documents and records pertaining to the TRAINEE'S training for compliance with the terms of this Agreement. This shall include periodic monitoring to ensure the propriety of reimbursements and that training is being provided as specified. EMPLOYER will maintain all records including payment records, timesheets, payroll summaries, and records of training provided under this contract for a period of three (3) years after the

training specified in this contract has been completed, and make these records available as necessary to staff from Kern County's Employers' Training Resource, the State and the U.S. Department of Labor.

8. **CUSTOMARY PRACTICES APPLY:** EMPLOYER will ensure that the TRAINEE is made aware of all the customary practices of EMPLOYER and normal requirements of the job including personnel practices and policies.

9. **INSURANCE REQUIREMENTS:** EMPLOYER 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, judgements, costs, and expenses (including, but not limited to, reasonable attorney's 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 are in any way connected with any act or omission of EMPLOYER or EMPLOYER'S officers, agents, employees, independent contractors, sub-contractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include 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 EMPLOYER by any person or entity.

   EMPLOYER 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 EMPLOYER'S actions in connection with the performance of EMPLOYER'S obligations, as required in this Agreement, shall secure and maintain insurance as described below. EMPLOYER shall not perform any work under this Agreement until EMPLOYER 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, EMPLOYER 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 EMPLOYER 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 prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. EMPLOYER shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by EMPLOYER or COUNTY as an additional insured.

   EMPLOYER shall maintain in full force and effective, at all times during the term of this Agreement, the following insurance:

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

   (2) Commercial General Liability Insurance, including but not limited to Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement), Products Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of EMPLOYER'S performance of work under this Agreement. The Commercial General Liability

insurance shall contain no exclusions or limitations for independent contractors working on the behalf of the named insured. EMPLOYER shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following 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. (3) 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 performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars ($1,000,000) each occurrence. Such insurance shall be provided by a business or commercial vehicle policy.

(a) The Commercial General Liability and Automobile Liability Insurance required shall include an endorsement naming the COUNTY and COUNTY'S board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using <u>one</u> of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 <u>plus</u> either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

(b) Cancellation of Insurance - The above stated insurance coverages required to be maintained by EMPLOYER shall be maintained until the completion of all EMPLOYER'S obligations under this Agreement, and shall not be reduced, modified, or canceled without thirty (30) days prior written notice to COUNTY. Also, phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of all Certificates of Insurance. EMPLOYER shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

(c) All insurance shall be issued by a company or companies admitted to business in California and listed in the current "Best's Key Rating Guide" publication with a minimum "A-:VII" rating, or in special circumstances, be <u>pre-approved</u> by the COUNTY Risk Manager.

(d) If EMPLOYER is, or becomes during the term of this Agreement, self-insured or member of a self-insurance pool, EMPLOYER shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines in its sole discretion and by written acceptance, that the coverage proposed to be provided by EMPLOYER is equivalent to the above-required coverages. Notwithstanding any provision to the contrary herein, the COUNTY hereby acknowledges and agrees that EMPLOYER's participation in the Adventist Health System/West self-insurance program satisfies the insurance requirements set forth herein.

(e) All insurance afforded by EMPLOYER pursuant to this Agreement shall be primary to and not contributing to any other insurance maintained by COUNTY. An endorsement shall be provided on all policies, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a EMPLOYER'S personnel deliver or perform services for the County while on County property.

(f) Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve EMPLOYER 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 by EMPLOYER to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by EMPLOYER. COUNTY, at its sole option, may terminate this Agreement and obtain damages from EMPLOYER resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to EMPLOYER, COUNTY shall deduct from sums due to EMPLOYER any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to EMPLOYER pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, EMPLOYER 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 EMPLOYER of its obligation to obtain and maintain the insurance coverages required by this Agreement.

(h) If any of the insurance coverages required under this Agreement is written on a claims-made basis EMPLOYER, at EMPLOYER'S option, shall either (i) maintain said coverage for at least five (5) 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 five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

(4) Prior to EMPLOYER commencing any of its obligations under this Agreement, evidence of insurance in compliance with the requirements above shall be furnished to the COUNTY by Certificate of Insurance. Receipt of evidence of insurance that does not comply with above requirements shall not constitute a waiver of the insurance requirements set forth above.

10. **WORKERS' COMPENSATION:** EMPLOYER will provide the TRAINEE with all benefits provided to other entry level employees. Workers' Compensation or comparable liability insurance coverage for work related injury or illness is required. And, if the TRAINEE will operate a motor vehicle as part of his/her job responsibilities, shall also provide comprehensive automobile liability insurance. EMPLOYER shall provide evidence of this insurance coverage to the COUNTY upon request and before the contract start date.
11. **MAINTENANCE OF EFFORT & LAYOFFS:** EMPLOYER guarantees that no currently employed worker shall be displaced by the TRAINEE (to include, but not limited to), reduction in the hours of non-overtime work wages or employment benefits or fill a position of layoff(s), firing for the purpose of hiring the TRAINEE, and under this Agreement, the TRAINEE shall not infringe on the promotional opportunities of other current employees which is prohibited (WIA 667.270(a)), with the intention of filling the vacancy so created by hiring the TRAINEE whose wages are subsidized with WIOA funds.
12. **DISMISSAL POLICY:** Except for serious violations of EMPLOYER policies, EMPLOYER will not dismiss the TRAINEE without contacting the COUNTY and allowing for counseling and corrective action to occur. In the event of dismissal for serious violations of EMPLOYER policies, EMPLOYER must notify the COUNTY on the first working day after dismissal.
13. **EEO/AFFIRMATIVE ACTION/NON-DISCRIMINATION:** During the performance of this Agreement, EMPLOYER shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employability because of sex, race, color, ancestry, religious creed, national origin, physical disability, medical condition (including cancer), age (over 40), marital status, gender identification, gender expression, sex stereotyping, and use of family care leave. EMPLOYER shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et. seq.) and the applicable regulation promulgated thereunder (California Code of Regulations, Title 2, Section 7285. o. et. seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement, and EMPLOYER shall give written notice of its obligations under this clause to labor organizations with which it has collective bargaining or other agreements. No person shall be denied employment, excluded from benefits, or suffer discrimination under this Agreement because of race, color, religion, sex, national origin, age, handicap, political affiliation, gender identification, gender expression, sex stereotyping, or solely because of his/her status as a TRAINEE under this Agreement. As a condition to the award of Federal financial assistance under WIOA, EMPLOYER assures, with respect to operation of the WIOA-funded program or activity and all agreements or arrangements to carry out the WIOA-funded program or activity, that it will comply fully with the nondiscrimination and equal opportunity provisions of the WIOA, as amended, including the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 34. The Federal government has the right to seek judicial enforcement of this assurance. With respect to terms and conditions affecting, or rights provided to, individuals who are TRAINEES in activities supported by funds provided under the WIOA, such individuals shall not be discriminated against solely because of their status as such TRAINEES.
14. **AMERICANS WITH DISABILITIES ACT:** EMPLOYER will comply with the Americans with Disabilities Act, Title V of the Civil Rights Act of 1964.

15. **SECTARIAN ACTIVITY:** WIOA prohibits sectarian activities. EMPLOYER ensures that TRAINEE is not employed on the construction, operation, or maintenance of such facilities as is used or to be used for sectarian instruction or as a place for religious worship.
16. **COMPLAINTS & GRIEVANCES:** EMPLOYER shall comply with the COUNTY'S WIOA Program complaint and grievance policies and procedures. All complaints/grievances will first be addressed informally between the TRAINEE, EMPLOYER, and the COUNTY. If resolution does not occur to the satisfaction of any party, the parties agree to participate in and be bound by determinations resulting from the formal complaint and grievance procedures of the Kern County WIOA Program.
17. **DELEGATION/SUBCONTRACTING:** EMPLOYER shall not subcontract or assign training duties, of the TRAINEE, to any other employer(s) or training agencies under this Agreement. Services and activities provided under this contract will be administered by or under the supervision of EMPLOYER.
18. **SAFETY:** Throughout the duration of the training, EMPLOYER shall ensure that training will be in accordance with Federal and State laws and regulations governing safety and health standards applicable to the worksite. The TRAINEE shall not be required or permitted to work, be trained, or receive services in buildings, surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety. Appropriate standards for health and safety in work and training situations will be maintained.
19. **FEDERAL, STATE AND LOCAL LAWS:** EMPLOYER agrees to comply with all applicable Federal, State and local laws including but not limited to requirements:
    (1) Governing business licensing, taxation, and insurance; and
    (2) That no funds received under this Agreement may be used to assist, promote, or deter union organizing; and
    (3) That no funds received under this Agreement may be used to promote and/or involve political activities; and
    (4) EMPLOYER will comply with the provisions of the Hatch Act, if applicable, which limits the political activities of employees; and
    (5) That no TRAINEE may be hired under this Agreement, if such employment violates a Federal or State Law regarding nepotism and of WIOA, as amended, and their implementing regulations (Copies of this Act and its regulations, including technical assistance in their application, are available from the COUNTY upon request).
    (6) Although California passed Proposition 64, in accordance with federal law (21U.S.C. 812), marijuana is classified as a Schedule 1 narcotic and is therefore illegal from a federal standpoint. Therefore, in accordance with federal law, WIOA funds cannot be used to directly or indirectly support the marijuana industry, but not limited to, use, possession, growth or distribution of marijuana. This applies to programs and services including, but not limited to training, employer outreach, hiring events, career counseling, job orders and referrals.
20. **HOLD HARMLESS:** Each party shall take the responsibility for the actions of its own employee or agents when negligence occurs in the performance of this Agreement.
21. **DEBARMENT & SUSPENSION:** EMPLOYER agrees to meet Federal and State requirements regarding debarment and suspension.
22. **LABOR ORGANIZATION** representing a substantial number of employees who are engaged in similar work or training in the same area as the proposed to be funded under WIOA, an opportunity shall be provided for such organization to submit comments with respect to such proposal.
23. **SIGNATURES ON AGREEMENT:** In signing Agreement, EMPLOYER swears under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against EMPLOYER within the immediately preceding two-year period because of EMPLOYER'S failure to comply with a federal court which orders EMPLOYER to comply with an order to the National Labor Relations Board (Public Contract Section 10296). This Agreement is not valid and binding and has no force of effect unless and until approved by or on behalf of the Director of COUNTY'S Employers' Training Resource Department.
24. **MODIFICATIONS:** If the Training Activities/Skill Requirements, total training hours, hourly wage rate, term of the Agreement, or work location changes, the OJT Agreement must be promptly modified/amended by a written agreement duly executed by EMPLOYER and COUNTY.

25. **CONTRACT ENGAGEMENT:** EMPLOYER'S workforce shall not have more than twenty-five percent (25%) of its workforce on an OJT at any given time.
26. **TERMINATION FOR NON-PERFORMANCE:** Failure to comply with any of these terms and conditions of this Agreement shall constitute grounds for termination of Agreement. This Agreement may be terminated for non-performance by either EMPLOYER or the COUNTY, following a written notice to the other party. Such notice may be posted by certified mail, or email and must specify and document the reason for termination.
27. **TERMINATION FOR CONVENIENCE:** EMPLOYER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by EMPLOYER, and COUNTY may withhold any payments to EMPLOYER for the purpose of setoff until such time as the exact amount of repayment due COUNTY from EMPLOYER is determined. Notwithstanding, in the event of a termination of this Agreement for any reason, COUNTY shall have no further obligation to pay for any services rendered or expenses incurred by EMPLOYER after the effective date of the termination and EMPLOYER shall repay to COUNTY within thirty (30) days of the notification of termination, all payments made by COUNTY to EMPLOYER which were unearned.
28. **NOTICES:** Any and all notices relating to this Agreement shall be sufficient if personally served upon the Director of COUNTY'S Employers' Training Resource Department or the Authorized Signee of EMPLOYER or if sent via U.S. Postal Service, postage prepaid, addressed as follows:

Employers' Training Resource
1600 E. Belle Terrace
Bakersfield, CA 93307

2/5/19

WIOA TITLE: ________________

Agreement No. _______________

THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)
ON-THE-JOB TRAINING (OJT) AGREEMENT
(KERN COUNTY- (BUSINESS NAME))

THIS AGREEMENT, entered into as of the _____________ day of ________________, 20____, is by and between the COUNTY OF KERN, a political subdivision of the State of California ("COUNTY") and **(BUSINESS NAME),** a California Nonprofit, with its principal place of business located at Bakersfield, California ("EMPLOYER"):

RECITALS

(a) The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014 by President Obama and with broad bipartisan support from Congress; and

(b) The purpose of WIOA is designed to strengthen and improve our nation's public workforce system and help get Americans, including youth and those with significant barriers to employment, into high quality jobs and careers and help employers hire and retrain skilled workers; and

(c) WIOA encourages collaboration with other funding sources to enhance the quality; and

(d) WIOA supersedes and amends the Adult Education and Family Literacy Act (AEFLA), the Wagner-Peyser Act, and the Rehabilitation Act of 1973; and

(e) WIOA strengthens the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs; and

(f) WIOA State and Local Plan Provisions apply to the current program year including the current performance accountability system; and

(g) COUNTY receives funding from WIOA and other complementary sources (hereinafter collectively referred to as "WIOA funds") authorizing and enabling it to contract with public agencies and private for-profit and private non-profit organizations to provide job training activities and related services which are in addition to those which would otherwise be available in the area in the absence of such funds; and

(h) EMPLOYER is prepared to operate a program or programs designed to accomplish the objectives of WIOA, and COUNTY is prepared to provide WIOA funds to EMPLOYER to enable it to operate its program; and

(i) The U.S. Congress has authorized WIOA, and the Office of Management and Budget (OMB) has published Title 2 of the Code of Federal Regulations (CFR), Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), which the Department of Labor (DOL) has adopted with exceptions at 2 CFR 2900.

NOW, THEREFORE, IT IS MUTUALLY AGREED between COUNTY and EMPLOYER as follows:

1) EMPLOYER's Duties and Obligations.

   a) EMPLOYER shall employ and train employee(s) (hereinafter referred to as "TRAINEES") in accordance with the "Occupation and On-the-Job Training Outline(s)" attached hereto, labeled Exhibit "A", and incorporated herein by this reference as if set forth in full.

b) During the training period, EMPLOYER shall ensure that each TRAINEE:

i) is on EMPLOYER's payroll;

ii) receives the same benefits as EMPLOYER's other employees performing similar work and working a similar length of time;

iii) is paid the salary indicated in Exhibit "A";

iv) is provided, by EMPLOYER, with safety instructions and equipment necessary for protection against injury and damage. Where special clothing or equipment is provided to EMPLOYER's regular employees, EMPLOYER shall provide the same type of clothing or equipment to the TRAINEES performing similar work;

v) is provided supportive services if applicable and reimbursable under the provisions of the WIOA; and

vi) is not a relative by blood, adoption, or marriage of any executive or supervisor employed by EMPLOYER. For the purpose of this Agreement, "relative by blood, adoption, or marriage" shall include: wife, husband, son, daughter, mother, father, brother, sister, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

c) Said TRAINEES shall be employed as regular members of EMPLOYER's workforce during the training period. EMPLOYER shall continue to employ said TRAINEE(S) upon the successful completion of their training. Said continued employment is subject to the same conditions of employment as are applicable to EMPLOYER's regular employees, including, but not limited to, terminations for unsatisfactory performance.

d) EMPLOYER shall not subcontract On-The-Job Training activities. Any attempt by EMPLOYER to subcontract, assign, or otherwise delegate On-The-Job Training activities shall be void and entitle COUNTY, at its option, to immediately terminate this Agreement. Notwithstanding the above, supportive services provided TRAINEES may be subcontracted if permitted and reimbursable under the provisions of the WIOA.

e) EMPLOYER shall abide by the Assurances made available hereto labeled Exhibit "B" Assurances, Policies, and Regulations for On-The-Job Training Program, as if incorporated herein by this reference as if set forth in full.

f) EMPLOYER certifies that it has not demonstrated a pattern of failing to provide past WIOA or WIA On-The-Job Training participants with continued long-term employment as regular employees with wages, benefits, and working conditions at the same level and to the same extent as other employees performing similar work. EMPLOYER acknowledges COUNTY shall not enter into an OJT agreement with any employer that has exhibited such a pattern.

g) The duration of this On-The-Job Training agreement is limited to the period of time required for the TRAINEE to become proficient in the occupation for which training is provided. In determining the appropriate length of training, COUNTY and EMPLOYE have considered the skill requirements of the occupation, the academic and occupational skill level of the trainee, any prior work experience, and the trainee's Individual Employment Plan (IEP).

2) EMPLOYER's Compensation.

a) On-The-Job Training contract must comply with WIOA federal, state, and local policy. Under such guidelines EMPLOYER must agree to maintain and make available time and attendance, payroll and other records to support amounts to be paid in the form of a reimbursement under the OJT contract.

b) Payment to EMPLOYER shall be limited to those costs incurred during the basic work week (i.e., regular working hours exclusive of commissions, shift differential, overtime, holiday pay, vacation, sick leave or other business closure hours).

c) EMPLOYER shall submit to COUNTY required payroll documents (payroll summaries and time cards for each payroll period) to Employers' Training Resource, in a timely manner, no more than 60 calendar days after a TRAINEE has completed their OJT training hours indicated in the OJT contract.

3) Record Keeping.

EMPLOYER shall keep records that are sufficient to permit COUNTY to prepare reports required by the WIOA and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully. EMPLOYER shall retain all records pertinent to this Agreement for a period of three (3) years from the date of final payment of the Agreement. If at the end of three (3) years, there is litigation or an audit involving these records, EMPLOYER shall retain the records until the resolution of such litigation or audit.

4) Indemnification.

EMPLOYER 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, judgements, costs, and expenses (including, but not limited to, reasonable attorney's 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 are in any way connected with any act or omission of EMPLOYER or EMPLOYER's officers, agents, employees, independent contractors, sub-contractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include 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 EMPLOYER by any person or entity.

5) Insurance Requirements.

EMPLOYER, 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 EMPLOYER's actions in connection with the performance of EMPLOYER's obligations, as required in this Agreement, shall secure and maintain insurance as described below. EMPLOYER shall not perform any work under this Agreement until EMPLOYER 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, EMPLOYER 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 EMPLOYER 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 prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. EMPLOYER shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by EMPLOYER or COUNTY as an additional insured.

a) Workers' Compensation and Employers Liability Insurance Requirement -- In the event EMPLOYER has employees who may perform any services pursuant to this Agreement, EMPLOYER shall submit written proof that EMPLOYER is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

EMPLOYER shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by EMPLOYER. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, EMPLOYER shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

EMPLOYER shall also maintain employer's liability insurance with limits of one million dollars ($1,000,000) for bodily injury or disease.

b) Liability Insurance Requirements:

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

      (1) 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 EMPLOYER's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. EMPLOYER shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following 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.

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

   ii) The Commercial General Liability and Automobile liability Insurance required in this sub-paragraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using <u>one</u> of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 <u>plus</u> either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

   iii) Any self-insured retentions in excess of $100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.

   iv) If any of the insurance coverages required under this Agreement is written on a claims-made basis, EMPLOYER, at EMPLOYER's option, shall either (i) maintain said coverage for at least five (5) 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 five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

c) Cancellation of Insurance -- The above stated insurance coverages required to be maintained by EMPLOYER shall be maintained until the completion of all of EMPLOYER's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the EMPLOYER shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by EMPLOYER in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein.

EMPLOYER shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

d) All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the COUNTY Risk Manager.

e) If EMPLOYER is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, EMPLOYER shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by EMPLOYER is equivalent to the above-required coverages.

f) All insurance afforded by EMPLOYER 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, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when EMPLOYER's personnel deliver or perform services for the COUNTY while on COUNTY property.

g) Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve EMPLOYER 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.

h) Failure by EMPLOYER to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by EMPLOYER. COUNTY, at its sole option, may terminate this Agreement and obtain damages from EMPLOYER resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to EMPLOYER, COUNTY shall deduct from sums due to EMPLOYER any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to EMPLOYER pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, EMPLOYER 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 EMPLOYER of its obligation to obtain and maintain the insurance coverages required by this Agreement.

6) Intellectual Property Provisions.

a) Federal Funding.

In any agreement funded in whole or in part, by the federal government, COUNTY may acquire and maintain the Intellectual Property rights, title, and ownership, which result directly or indirectly from the agreement, except as provided in 37 CFR 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.

EMPLOYER further agrees that this Agreement is subject to and shall be governed by 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding EMPLOYER.

b) Ownership.

i) Except where COUNTY has agreed in a signed writing to accept a license, COUNTY 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 EMPLOYER and which result directly or indirectly from this Agreement.

ii) For the purposes of this 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 COUNTY, and all other legal rights protecting intangible proprietary information as may exist now and/or hereafter come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

(a) For the purpose of the definition of Intellectual Property, "works" means all literary works, writings, and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.

iii) In the performance of this Agreement, EMPLOYER may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, EMPLOYER may access and utilize certain of COUNTY's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, EMPLOYER shall not use any of COUNTY's Intellectual Property now in existence or hereafter existing for any purposes without the prior written permission of COUNTY. Except as otherwise set forth herein, neither the EMPLOYER nor COUNTY shall give any ownership interest in or rights to its Intellectual Property to the other Party. If during the term of this Agreement, EMPLOYER accesses any third-party Intellectual Property that is licensed to COUNTY, EMPLOYER agrees to abide by all license and confidentiality restrictions applicable to COUNTY in the third-party's license agreement.

iv) EMPLOYER agrees to cooperate with COUNTY in establishing or maintaining COUNTY's exclusive rights in the Intellectual Property and in assuring COUNTY's sole rights against third parties with respect to the Intellectual Property. If the EMPLOYER enters into any agreements or subcontracts with other parties in order to perform this Agreement, EMPLOYER shall require the terms of the agreement(s) to include all Intellectual Property provisions of paragraph 6.a. through 6.i. Such terms must include, but are not limited to, EMPLOYER assigning and agreeing to assign to COUNTY all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by EMPLOYER or COUNTY and which result directly or indirectly from this Agreement or any subcontract.

v) Pursuant to paragraph 6.b.4), the requirement for the EMPLOYER to include all Intellectual Property provisions of paragraph 6.a. through 6.i. in all agreements and subcontracts it enters into with other parties does not apply to agreements or subcontracts that are for customized and on-the-job training as authorized under 20 CFR 680.700-750.

vi) EMPLOYER further agrees to assist and cooperate with COUNTY 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 COUNTY's Intellectual Property rights and interests.

c) Retained Rights/License Rights.

i) Except for Intellectual Property made, conceived, derived from, or reduced to practice by EMPLOYER or COUNTY and which result directly or indirectly from this Agreement, EMPLOYER shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. EMPLOYER hereby grants to COUNTY, 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 EMPLOYER's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless EMPLOYER assigns all rights, title and interest in the Intellectual Property as set forth herein.

ii) Nothing in this provision shall restrict, limit, or otherwise prevent EMPLOYER from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that EMPLOYER's use does not infringe on the patent, copyright, trademark rights, license or other Intellectual Property rights of COUNTY or third party, or result in a breach or default of any provisions of paragraph 6.a. through 6.i. or result in a breach of any provisions of law relating to confidentiality.

d) Copyright.

i) EMPLOYER agrees that for purposes of copyright law, all works (as defined in Ownership, paragraph 6.b.2)(a)) of authorship made by or on behalf of EMPLOYER in connection with EMPLOYER's performance of this Agreement shall be deemed "works made for hire." EMPLOYER further agrees that the work of each person utilized by EMPLOYER in connection with the performance of this Agreement will be a "work for hire," whether that person is an employee of EMPLOYER or that person has entered into an agreement with EMPLOYER to perform the work. EMPLOYER shall enter into a written agreement with any such person that: (i) all work performed for EMPLOYER shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to COUNTY to any work product made, conceived, derived from or reduced to practice by EMPLOYER or COUNTY and which result directly or indirectly from this Agreement. (Refer to 2 CFR 200.35.)

ii) All materials, including, but not limited to, computer software, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by EMPLOYER or COUNTY and which result directly or indirectly from this Agreement may not be reproduced or disseminated without prior written permission from COUNTY.

e) Patent Rights.

With respect to inventions made by EMPLOYER in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, EMPLOYER hereby grants to COUNTY a license as described under paragraph 6.c. for devices or materials incorporating or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then EMPLOYER agrees to assign to COUNTY, without additional compensation, all its right, title and interest in and to such inventions and to assist COUNTY in securing United States and foreign patents with respect thereto.

f) Third-Party Intellectual Property.

Except as provided herein, EMPLOYER agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of EMPLOYER or any third party without first: (i) obtaining COUNTY's prior written approval; and (ii) granting to or obtaining for COUNTY, without additional compensation, a license, as described in paragraph 6.c., for any of EMPLOYER's or third party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and COUNTY determines that the Intellectual Property should be included in or is required for EMPLOYER performance of this Agreement, EMPLOYER shall obtain a license under terms acceptable to COUNTY.

g) Warranties.

i) EMPLOYER represents and warrants that:

(a) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

(b) Neither EMPLOYER's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by EMPLOYER or COUNTY and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There are currently no actual or threatened claims by any such third party based on an alleged violation of any such right by EMPLOYER.

(c) Neither EMPLOYER's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against, any person or entity.

(d) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors.

(e) 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 COUNTY in this Agreement.

(f) It has appropriate systems and controls in place to ensure that state and federal funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

(g) 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 EMPLOYER's performance of this Agreement.

ii) COUNTY makes no warranty that the Intellectual Property resulting from this Agreement does not infringe upon any patent, trademark, copyright or the like now existing or subsequently issued.

h) Intellectual Property Indemnity.

i) EMPLOYER shall indemnify, defend and hold harmless COUNTY 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 EMPLOYER 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 EMPLOYER pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of COUNTY'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 EMPLOYER or COUNTY and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that was issued after the effective date of this Agreement. COUNTY reserves the right to participate in and/or control, at EMPLOYER's expense, any such infringement action brought against COUNTY.

ii) Should any Intellectual Property licensed by EMPLOYER to COUNTY under this Agreement become the subject of an Intellectual Property infringement claim, EMPLOYER will exercise its authority reasonably and in good faith to preserve COUNTY's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to COUNTY. COUNTY shall have the right to monitor and appear through its own counsel (at EMPLOYER's expense) in any such claim or action. In the defense or settlement of the claim, EMPLOYER may obtain the right for COUNTY 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, COUNTY may be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

iii) EMPLOYER agrees that damages alone would be inadequate to compensate COUNTY for breach of any term of these Intellectual Property provisions of paragraph 6.a. through 6.i. by EMPLOYER. EMPLOYER acknowledges COUNTY would suffer irreparable harm in the event of such breach and agrees COUNTY shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

i) Survival.

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

7) Assurances.

a) COUNTY shall obey the provisions of WIOA, the regulations and guidelines enacted pursuant to WIOA, and the terms of the WIOA grant agreements from the federal and state government to COUNTY.

b) EMPLOYER may access WIOA and the regulations issued to implement WIOA at www.doleta.gov/wioa/. EMPLOYER will be notified of changes and/or amendments affecting WIOA or the regulations as soon as possible after they are made known to COUNTY.

c) EMPLOYER shall accept persons into its program(s) who have been referred by COUNTY's Employers' Training Resource or its authorized agent(s) unless such persons are not eligible or suitable for EMPLOYER's program(s) pursuant to WIOA and this Agreement.

8) Confidentiality Requirements.

a) COUNTY and EMPLOYER will exchange various kinds of information pursuant to this Agreement. That information will include Personally Identifiable Information (PII), 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 Employment Development Department, California Department of Social Services, California Department of Education, California Department of Corrections and Rehabilitation, County Welfare Department(s), County IV-D Directors Office of Child Support, Office of the District Attorney, California Department of Mental Health, California Office of Community Colleges, and the Department of Alcohol and Drug Programs.

b) EMPLOYER agrees to keep all information that is exchanged between COUNTY in the strictest confidence and make such information available to its own employees only on a "need-to-know" basis.

c) EMPLOYER shall provide security sufficient to ensure the protection of confidential information from improper use and disclosures including sufficient administrative, physical, and technical safeguards to protect this information from reasonable unanticipated threats to the security or confidentiality of the information.

d) Federal law, OMB Guidance, and DOL policies require that PII and other sensitive information be protected. To ensure compliance with federal law and regulations, EMPLOYER must secure the storage and transmission of PII and sensitive data developed, obtained, or otherwise associated with WIOA funds:

   i) To ensure PII is not transmitted to unauthorized users, all PII and other sensitive data transmitted via email or stored on CDs, DVDs, hard drives, USB flash drives, or other removable media must be encrypted using Federal Information Processing Standards (FIPS) 140-2 compliant and National Institute of Standards and Technology (NIST) validated cryptographic module.

   ii) EMPLOYER must take steps necessary to ensure the privacy of all PII obtained from participants and/or other individuals and to protect such information from unauthorized disclosure.

   iii) EMPLOYER shall ensure that any PII used during the performance of activities associated with COUNTY have been obtained in conformity with this Agreement and applicable federal and state laws governing the confidentiality of information.

e) EMPLOYER agrees to comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) as added by the Family Educational Rights and Privacy Act of 1974. EMPLOYER shall provide written instructions to all of its employees with access to information of a confidential nature of the penalties for unauthorized use or disclosure found in sections 1798.53 and 1798.55 of the Civil Code, section 502 of the Penal Code, section 2111 of the Unemployment Insurance Code, section 10850 of the Welfare and Institutions Code and other applicable local, state and federal laws. COUNTY shall provide EMPLOYER with copies of the aforementioned code sections. Changes and/or amendments affecting these code sections will be issued to EMPLOYER as soon as possible after they are made available to COUNTY.

f) EMPLOYER 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, remote terminal or other means. EMPLOYER shall return the confidential information promptly and destroy all copies or derivations of that confidential information when its use ends, utilizing an approved method of confidential destruction: shredding, burning or certified or witnessed destruction. Magnetic media are to be degaussed or returned to the entity that provided it.

g) If EMPLOYER enters into an agreement with a third party to provide WIOA services, EMPLOYER 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.

h) EMPLOYER shall designate a person responsible for the security and confidentiality of the data and immediately notify the Chief Workforce Development Officer for COUNTY's Employers' Training Resource, or his/her designee, in writing, of any designee changes. EMPLOYER's data security confidentiality designee is:

Name:
Title:
Address:
Telephone:
Fax No.:
Email:

9) Term.

a) This Agreement shall be in effect from July 1, 2026 through June 30, 2027 while COUNTY's WIOA program is in effect and funded by grants from the federal and state governments to COUNTY, except that EMPLOYER shall continue to retain the records of its WIOA-funded program(s) for three (3) years as provided in paragraph 3.b. above.

b) Within thirty (30) days of EMPLOYER receipt of a fully signed and executed Agreement, EMPLOYER must demonstrate to COUNTY's satisfaction that the contracted program has commenced operations. EMPLOYER assumes all liability for expenses or activities commencing by EMPLOYER before the Agreement is executed.

10) Termination.

a) This Agreement may be terminated in whole or in part as follows:

i) By the COUNTY if EMPLOYER fails to comply with the terms and conditions of the Agreement;

ii) By the COUNTY, to the greatest extent authorized by law, if the Agreement no longer effectuates the program goals or COUNTY priorities;

iii) By the COUNTY with the consent of the EMPLOYER, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

iv) By the EMPLOYER upon sending to the COUNTY written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the COUNTY determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, the COUNTY may terminate the award in its entirety.

b) Notwithstanding the above, EMPLOYER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by EMPLOYER, and COUNTY may withhold any payments to EMPLOYER for the purpose of setoff until such time as the exact amount of repayment due COUNTY from EMPLOYER is determined.

c) In the event of the termination of this Agreement for any reason, COUNTY shall have no further obligation to pay for any services rendered or expenses incurred by EMPLOYER after the effective date of the termination, and EMPLOYER shall repay to COUNTY, within thirty (30) days of the notification of termination, all payments made by COUNTY to EMPLOYER which were unearned.

11) Notices.

Any and all notices relating to this Agreement shall be sufficient if personally served upon the Clerk of the Board of Supervisors of COUNTY or the clerk or the secretary of EMPLOYER or if sent via the United States Postal Service, postage prepaid, and if directed to COUNTY, addressed as follows:

Clerk of the Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

or directed to EMPLOYER, addressed as follows:

INSERT ADDRESS
Contact Person(s):

12) Grievance Procedure and Venue.

a) If COUNTY and EMPLOYER are unable to mutually resolve any disputes which may arise between the parties relating to this Agreement, EMPLOYER may file a complaint with COUNTY at 1600 E. Belle Terrace, Bakersfield, California 93307. A grievance officer shall be appointed to review the dispute and attempt to resolve the matter with the parties. If the dispute is still not resolved, EMPLOYER may request a hearing with a hearing officer appointed by COUNTY. If the dispute remains unresolved, EMPLOYER may appeal to the State Review Panel of the Governor of the State of California. If there is still no resolution to the dispute, EMPLOYER may file an action in a court of law.

b) The parties hereto acknowledge that this Agreement was executed and services and obligations are to be performed in Kern County, and, therefore, both parties agree that if any party to this Agreement initiates any legal or equitable action to enforce the terms of this Agreement, to declare the rights of the parties under this Agreement or which relates to this Agreement in any manner, the proper venue for any such action is the Superior Court of the State of California of and for the County of Kern.

13) Construed According to California Law.

COUNTY and EMPLOYER agree that the provisions of this Agreement will be construed in accordance with the laws of the State of California.

14) No Authority to Bind COUNTY.

It is understood that EMPLOYER, in its performance of any and all duties under this Agreement, has no authority to bind COUNTY to any agreements or undertakings with respect to any and all persons or entities with whom EMPLOYER deals in the course of its business.

15) 15. Modifications and Amendments.

a) This Agreement may be unilaterally modified or amended in writing by the COUNTY under the following circumstances:

i) There is an increase or decrease in local, state, or federal funding levels.

ii) To implement adjustments to EMPLOYER's plans, goals, and/or objectives.

iii) Funds awarded to the EMPLOYER have not been expended in accordance with the Agreement. After consultation with the EMPLOYER, COUNTY 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 local, state, and federal law, regulations, and policies, reverting to the COUNTY.

iv) The term of the Agreement is changed.

v) There is a change in local, state, or federal law or regulation requiring a change in the provisions of this Agreement.

vi) The EMPLOYER's name has changed. Upon receipt of legal documentation of the name change COUNTY will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

b) Except as provided above, this Agreement may be amended or modified only in writing by the mutual agreement of both COUNTY and EMPLOYER.

16) Nonwaiver.

No covenant or condition of this Agreement to be performed by EMPLOYER 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 any covenant or condition to be performed by EMPLOYER. COUNTY shall be entitled to invoke any remedy available to COUNTY under this Agreement or by law or in equity despite any such forbearance or indulgence.

17) Independent Contractor.

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

18) Assignment.

EMPLOYER shall not assign any right, title or interest it may acquire by reason of this Agreement except after first obtaining the written consent of COUNTY.

19) Conflict of Interest.

The parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 of the California Government Code relating to conflict of interest of public officers and employees. All parties hereto agree 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, COUNTY may immediately terminate this Agreement by giving written notice thereof. EMPLOYER shall comply with the requirements of Government Code Section 87100 et seq. during the term of this Agreement.

20) Signature Authority.

Each person executing this Agreement on behalf of EMPLOYER represents and warrants that he or she is duly authorized by EMPLOYER to execute and deliver this Agreement on behalf of EMPLOYER and that this

Agreement is binding upon EMPLOYER in accordance with its terms. Prior to commencing any work under this Agreement, EMPLOYER shall deliver documentation of EMPLOYER's governing body authorizing or ratifying the execution of this Agreement to COUNTY's Employers' Training Resource.

21) Political/ Religious Activity.

No person performing any service or providing any goods designated under this Agreement 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 Agreement shall be construed to unlawfully limit an individual's or entity'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 Agreement.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, each party has signed this Agreement upon the date indicated, and agrees, for itself, its employees, officers, partners and successors, to be fully bound by all terms and conditions of this Agreement.

COUNTY OF KERN BUSINESS NAME

______________________________ ______________________________

Director's Signature	Signer
Director	Title
Employers' Training Resource	
"COUNTY"	"EMPLOYER"

OPTIONAL:

A Blanket Agreement is valid for up to three (3) years to encompass each individual TRAINEE who is selected to participate in the OJT Program with said EMPLOYER

From to .

EXHIBIT "A"

Occupation and On-The-Job Training Plan

Occupational Title: TRAINING TITLE ________________ Hourly Wage: $__________________

Description of Occupation: ____

Outline of On-The-Job Training:

Under supervision, TRAINEE will learn and improve skills in the following areas:

SKILL REQUIREMENTS

1. Client will learn
2. Client will learn
3. Client will learn
4. Client will learn
5. Client will be trained
6. Client will learn
7. Client will learn
8. Client will learn

Training Method will be performed through Verbal Instruction, Observation and Practice unless otherwise indicated.

Measurement Methods will be by Demonstration, Observation and Review unless otherwise indicated.

OJT AGREEMENT INFORMATION PAGE

Clients Name: ________________________________

1. Term of this On-The-Job Training Agreement is from __________ to ________________.
2. Payment of OJT wage reimbursement to EMPLOYER will be based upon the total number of hours WIOA contracted that allows TRAINEES to enhance skills gaps. The established wage reimbursement rate and the duration of each TRAINEE'S OJT are set forth under the terms and conditions of this OJT Agreement.
3. **EMPLOYER INFORMATION**:

Business Name: ____

DBA: ____

EMPLOYER Federal Tax ID #: ____

Training Address: ____

Address: ____

Mailing Address: ____

Legal Address:

Telephone: __________________________ FAX ________________Email______________________________

EMPLOYER Representative Name:____

Trainers Name: ____________________________________Title: ____________________________________

Description of Company Tax ID Status

Corporation____ Limited Liability Company_____ Sole Proprietorship____ Partnership

Non-Profit ____ Union _____ Non-Union ____

Number of employees___ Over 1 Year in business: Yes___ No____ 120 Days Locally: Yes_____ No____

Is any TRAINEE occupation and wage covered under a collective bargaining agreement? Yes_____ No ________

Occupation Job Title: ____.

ONET Code: ________SVP: _____________ Hours per week: __________Starting Wage: $________per hour.

WIOA Program Title: ________ Number of TRAINEES on this contract: _______ Contract hours: ____________

Reimbursement % Rate: _____________Cost Per TRAINEE: $________________________

Maximum Cost/ Encumbrance: $____________________________

APPROVED AND RECOMMENDED
Supervisor's Signature
Employers' Training Resource__________________________________ Date:______

Exhibit "B"

Assurances, Policies, and Regulations for On-the-Job Training (OJT) Program

As a condition of the On-The-Job Training Agreement, EMPLOYER agrees to:

1. **ASSURANCES, POLICIES, AND REGULATIONS:** Comply with the requirements of the Workforce Innovation and Opportunity Act (WIOA) of 2014, and with the regulations and policies promulgated thereunder; and if the regulations promulgated pursuant to WIOA are amended or revised, it shall comply with them or notify COUNTY within 30 days after promulgation of the amendments or revision that it cannot so conform.
2. **COMMITMENT TO HIRE, TRAIN, and RETAIN:** The TRAINEE will be hired by EMPLOYER and will be provided with all necessary instruction, equipment, and materials. EMPLOYER agrees to provide On-The-Job Training (OJT) in accordance with the Training Activities/Skill Requirements included in the Agreement. EMPLOYER agrees that upon successful completion of the Training Plan, the TRAINEE will continue to be employed as a regular employee, rather than as a part-time, temporary, or seasonal member of EMPLOYER'S workforce. Individuals receiving On-The-Job training shall be compensated by EMPLOYER at the same rates, including periodic increases, as similarly situated employees as may be deemed reasonable under regulations prescribed by the Secretary of Labor, but in no event at a rate less than that specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law. EMPLOYER ensures that conditions of employment or training are appropriate and reasonable with regard to the type of work, the geographical region and the proficiency of the applicant. Training and related services will, to the maximum extent practicable, be consistent with every individual's fullest capabilities and lead to the TRAINEE'S economic self-sufficiency. The program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants. No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals unless such promotions are normally filled through an open process in which any candidate is provided an opportunity to compete for the job.
3. **TRAINEE WAGES & TIMESHEETS:** Wages are to be paid through EMPLOYER'S normal and customary pay to include all required payroll deductions and appropriate tax and withholding payments to Federal and State authorities as required by law and should show total hours the TRAINEE has worked (not including paid or unpaid time off). The TRAINEE shall be paid at a wage rate no lower than the Federal or State minimum wage standards or prevailing wage for the work, whichever is higher, in compliance the Davis-Bacon Act.
4. **PAYMENTS:** EMPLOYER agrees to be reimbursed for the training costs of hours completed, not to exceed the amount specified in the OJT Agreement. Payments shall be based only upon hours actually worked by the TRAINEE and will NOT cover commissions, shift-differential, overtime, holiday pay, vacation, sick leave, or other business closure hours. Payment will be made following EMPLOYER'S submittal of signed timecards/sheets (signed by both the TRAINEE and EMPLOYER) and payroll summaries for each pay period. EMPLOYER must submit the required documents within five (5) calendar days of trainee completing contracted hours. Failure to comply with this five (5) day calendar requirement will result in termination/cancellation of Agreement and no reimbursement to EMPLOYER. Any payment found to violate the terms of this Agreement must be returned by EMPLOYER to the COUNTY.
5. **ATTENDANCE & PAYROLL RECORDS:** EMPLOYER shall maintain, for the TRAINEE, accurate daily Time and Attendance records showing hours worked, and payroll records showing all deductions taken and wages paid. EMPLOYER agrees to retain these records for three (3) years after the completion of this Agreement.
6. **PROVISION OF FUNDING:** If funds expected to be received by the COUNTY are suspended or terminated in whole or in part, funds for this Agreement shall cease.
7. **MONITORING & AUDIT:** EMPLOYER agrees that the COUNTY and authorized local, State or Federal representatives have the right to monitor, audit and review the progress of training and any documents and records pertaining to the TRAINEE'S training for compliance with the terms of this Agreement. This shall include periodic monitoring to ensure the propriety of reimbursements and that training is being provided as specified. EMPLOYER will maintain all records including payment records, timesheets, payroll summaries, and records of training provided under this contract for a period of three (3) years after the training specified in this contract has been completed, and make these records available as necessary to staff from Kern County's Employers' Training Resource, the State and the U.S. Department of Labor.
8. **CUSTOMARY PRACTICES APPLY:** EMPLOYER will ensure that the TRAINEE is made aware of all the customary practices of EMPLOYER and normal requirements of the job including personnel practices and policies.
9. **INSURANCE REQUIREMENTS:** EMPLOYER 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, judgements, costs, and expenses (including, but not limited to, reasonable attorney's 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 are in any way connected with any act or omission of EMPLOYER or EMPLOYER'S officers, agents, employees, independent contractors, sub-contractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include 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 EMPLOYER by any person or entity.

   EMPLOYER 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 EMPLOYER'S actions in connection with the performance of EMPLOYER'S obligations, as required in this Agreement, shall secure and maintain insurance as described below. EMPLOYER shall not perform any work under this Agreement until EMPLOYER 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, EMPLOYER 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 EMPLOYER 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 prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. EMPLOYER shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by EMPLOYER or COUNTY as an additional insured.

EMPLOYER shall maintain in full force and effective, at all times during the term of this Agreement, the following insurance:

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

(2) Commercial General Liability Insurance, including but not limited to Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement), Products Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of EMPLOYER'S performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitations for independent contractors working on the behalf of the named insured. EMPLOYER shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following 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. (3) 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 performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars ($1,000,000) each occurrence. Such insurance shall be provided by a business or commercial vehicle policy.

(a) The Commercial General Liability and Automobile Liability Insurance required shall include an endorsement naming the COUNTY and COUNTY'S board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using <u>one</u> of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 <u>plus</u> either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

(b) Cancellation of Insurance - The above stated insurance coverages required to be maintained by EMPLOYER shall be maintained until the completion of all EMPLOYER'S obligations under this Agreement, and shall not be reduced, modified, or canceled without thirty (30) days prior written notice to COUNTY. Also, phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of all Certificates of Insurance. EMPLOYER shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

(c) All insurance shall be issued by a company or companies admitted to business in California and listed in the current "Best's Key Rating Guide" publication with a minimum "A-:VII" rating, or in special circumstances, be <u>pre-approved</u> by the COUNTY Risk Manager.

(d) If EMPLOYER is, or becomes during the term of this Agreement, self-insured or member of a self-insurance pool, EMPLOYER shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines in its sole discretion and by written acceptance, that the coverage proposed to be provided by EMPLOYER is equivalent to the above-required coverages.

(e) All insurance afforded by EMPLOYER pursuant to this Agreement shall be primary to and not contributing to any other insurance maintained by COUNTY. An endorsement shall be provided on all policies, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a EMPLOYER'S personnel deliver or perform services for the County while on County property.

(f) Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve EMPLOYER 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 by EMPLOYER to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by EMPLOYER. COUNTY, at its sole option, may terminate this Agreement and obtain damages from EMPLOYER resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to EMPLOYER, COUNTY shall deduct from sums due to EMPLOYER any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to EMPLOYER pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, EMPLOYER 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 EMPLOYER of its obligation to obtain and maintain the insurance coverages required by this Agreement.

(h) If any of the insurance coverages required under this Agreement is written on a claims-made basis EMPLOYER, at EMPLOYER'S option, shall either (i) maintain said coverage for at least five (5) 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 five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

(4) Prior to EMPLOYER commencing any of its obligations under this Agreement, evidence of insurance in compliance with the requirements above shall be furnished to the COUNTY by Certificate of Insurance. Receipt of evidence of insurance that does not comply with above requirements shall not constitute a waiver of the insurance requirements set forth above.

10. **WORKERS' COMPENSATION:** EMPLOYER will provide the TRAINEE with all benefits provided to other entry level employees. Workers' Compensation or comparable liability insurance coverage for work related injury or illness is required. And, if the TRAINEE will operate a motor vehicle as part of his/her job responsibilities, shall also provide comprehensive automobile liability insurance. EMPLOYER shall provide evidence of this insurance coverage to the COUNTY upon request and before the contract start date.
11. **MAINTENANCE OF EFFORT & LAYOFFS:** EMPLOYER guarantees that no currently employed worker shall be displaced by the TRAINEE (to include, but not limited to), reduction in the hours of non-overtime work wages or employment benefits or fill a position of layoff(s), firing for the purpose of hiring the TRAINEE, and under this Agreement, the TRAINEE shall not infringe on the promotional opportunities of other current employees which is prohibited (WIA 667.270(a)), with the intention of filling the vacancy so created by hiring the TRAINEE whose wages are subsidized with WIOA funds.
12. **DISMISSAL POLICY:** Except for serious violations of EMPLOYER policies, EMPLOYER will not dismiss the TRAINEE without contacting the COUNTY and allowing for counseling and corrective action to occur. In the event of dismissal for serious violations of EMPLOYER policies, EMPLOYER must notify the COUNTY on the first working day after dismissal.
13. **EEO/AFFIRMATIVE ACTION/NON-DISCRIMINATION:** During the performance of this Agreement, EMPLOYER shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employability because of sex, race, color, ancestry, religious creed, national origin, physical disability, medical condition (including cancer), age (over 40), marital status, gender identification, gender expression, sex stereotyping, and use of family care leave. EMPLOYER shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et. seq.) and the applicable regulation promulgated thereunder (California Code of Regulations, Title 2, Section 7285. o. et. seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement, and EMPLOYER shall give written notice of its obligations under this clause to labor organizations with which it has collective bargaining or other agreements. No person shall be denied employment, excluded from benefits, or suffer discrimination under this Agreement because of race, color, religion, sex, national origin, age, handicap, political affiliation, gender identification, gender expression, sex stereotyping, or solely because of his/her status as a TRAINEE under this Agreement. As a condition to the award of Federal financial assistance under WIOA, EMPLOYER assures, with respect to operation of the WIOA-funded program or activity and all agreements or arrangements to carry out the WIOA-funded program or activity, that it will comply fully with the nondiscrimination and equal opportunity provisions of the WIOA, as amended, including the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 34. The Federal government has the right to seek judicial enforcement of this assurance. With respect to terms and conditions affecting, or rights provided to, individuals who are TRAINEES in activities supported by funds provided under the WIOA, such individuals shall not be discriminated against solely because of their status as such TRAINEES.
14. **AMERICANS WITH DISABILITIES ACT:** EMPLOYER will comply with the Americans with Disabilities Act, Title V of the Civil Rights Act of 1964.
15. **SECTARIAN ACTIVITY:** WIOA prohibits sectarian activities. EMPLOYER ensures that TRAINEE is not employed on the construction, operation, or maintenance of such facilities as is used or to be used for sectarian instruction or as a place for religious worship.
16. **COMPLAINTS & GRIEVANCES:** EMPLOYER shall comply with the COUNTY'S WIOA Program complaint and grievance policies and procedures. All complaints/grievances will first be addressed informally between the TRAINEE, EMPLOYER, and the COUNTY. If resolution does not occur to the satisfaction of any party, the parties agree to participate in and be bound by determinations resulting from the formal complaint and grievance procedures of the Kern County WIOA Program.
17. **DELEGATION/SUBCONTRACTING:** EMPLOYER shall not subcontract or assign training duties, of the TRAINEE, to any other employer(s) or training agencies under this Agreement. Services and activities provided under this contract will be administered by or under the supervision of EMPLOYER.
18. **SAFETY:** Throughout the duration of the training, EMPLOYER shall ensure that training will be in accordance with Federal and State laws and regulations governing safety and health standards applicable to the worksite. The TRAINEE shall not be required or permitted to work, be trained, or receive services in buildings, surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety. Appropriate standards for health and safety in work and training situations will be maintained.
19. **FEDERAL, STATE AND LOCAL LAWS:** EMPLOYER agrees to comply with all applicable Federal, State and local laws including but not limited to requirements:
    (1) Governing business licensing, taxation, and insurance; and
    (2) That no funds received under this Agreement may be used to assist, promote, or deter union organizing; and
    (3) That no funds received under this Agreement may be used to promote and/or involve political activities; and
    (4) EMPLOYER will comply with the provisions of the Hatch Act, if applicable, which limits the political activities of employees; and
    (5) That no TRAINEE may be hired under this Agreement, if such employment violates a Federal or State Law regarding nepotism and of WIOA, as amended, and their implementing regulations (Copies of this Act and its regulations, including technical assistance in their application, are available from the COUNTY upon request).
    (6) Although California passed Proposition 64, in accordance with federal law (21U.S.C. 812), marijuana is classified as a Schedule 1 narcotic and is therefore illegal from a federal standpoint. Therefore, in accordance with federal law, WIOA funds cannot be used to directly or indirectly support the marijuana industry, but not limited to, use, possession, growth or distribution of marijuana. This applies to programs and services including, but not limited to training, employer outreach, hiring events, career counseling, job orders and referrals.
20. **HOLD HARMLESS:** Each party shall take the responsibility for the actions of its own employee or agents when negligence occurs in the performance of this Agreement.
21. **DEBARMENT & SUSPENSION:** EMPLOYER agrees to meet Federal and State requirements regarding debarment and suspension.
22. **LABOR ORGANIZATION** representing a substantial number of employees who are engaged in similar work or training in the same area as the proposed to be funded under WIOA, an opportunity shall be provided for such organization to submit comments with respect to such proposal.

23. **SIGNATURES ON AGREEMENT:** In signing Agreement, EMPLOYER swears under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against EMPLOYER within the immediately preceding two-year period because of EMPLOYER'S failure to comply with a federal court which orders EMPLOYER to comply with an order to the National Labor Relations Board (Public Contract Section 10296). This Agreement is not valid and binding and has no force of effect unless and until approved by or on behalf of the Director of COUNTY'S Employers' Training Resource Department.
24. **MODIFICATIONS:** If the Training Activities/Skill Requirements, total training hours, hourly wage rate, term of the Agreement, or work location changes, the OJT Agreement must be promptly modified/amended by a written agreement duly executed by EMPLOYER and COUNTY.
25. **CONTRACT ENGAGEMENT:** EMPLOYER’S workforce shall not have more than twenty-five percent (25%) of its workforce on an OJT at any given time.
26. **TERMINATION FOR NON-PERFORMANCE:** Failure to comply with any of these terms and conditions of this Agreement shall constitute grounds for termination of Agreement. This Agreement may be terminated for non-performance by either EMPLOYER or the COUNTY, following a written notice to the other party. Such notice may be posted by certified mail, or email and must specify and document the reason for termination.
27. **TERMINATION FOR CONVENIENCE:** EMPLOYER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by EMPLOYER, and COUNTY may withhold any payments to EMPLOYER for the purpose of setoff until such time as the exact amount of repayment due COUNTY from EMPLOYER is determined. Notwithstanding, in the event of a termination of this Agreement for any reason, COUNTY shall have no further obligation to pay for any services rendered or expenses incurred by EMPLOYER after the effective date of the termination and EMPLOYER shall repay to COUNTY within thirty (30) days of the notification of termination, all payments made by COUNTY to EMPLOYER which were unearned.
28. **NOTICES:** Any and all notices relating to this Agreement shall be sufficient if personally served upon the Director of COUNTY’S Employers’ Training Resource Department or the Authorized Signee of EMPLOYER or if sent via U.S. Postal Service, postage prepaid, addressed as follows:

Employers’ Training Resource
1600 E. Belle Terrace
Bakersfield, CA 93307

10/30/2025