



ROBERT RYANS  
Director

**COMMUNITY AND SENIOR SERVICES  
OF LOS ANGELES COUNTY**

BOARD OF SUPERVISORS

GLORIA MOLINA  
YVONNE BRATHWAITE BURKE  
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DON KNABE  
MICHAEL D. ANTONOVICH

June 3, 2003

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL TO EXTEND CURRENT DEPARTMENT OF LABOR (DOL)  
WELFARE-TO-WORK (WtW) PROGRAM CONTRACTS  
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Authorize the Director of Community and Senior Services (CSS), or his designee, to negotiate a no cost, time-only extension of Department of Labor (DOL) Welfare-to-Work (WtW) program contracts with the service providers identified in Attachment A, effective date of Board approval through June 30, 2004.
2. Authorize the Director of CSS, or his designee, to execute contract amendments, in substantially similar form to Attachment B, after County Counsel approval as to form, to extend the term of the current contracts with the thirty-five (35) currently funded agencies listed on Attachment A which include One-Stop Centers, Community Based Organizations, Educational Institutions and one (1) joint County/City Initiative, also listed on Attachment A, effective the date of Board approval through June 30, 2004, to continue the provision of Welfare-to-Work program services. The contract costs are fully financed using WtW funding.
3. Authorize the Director of CSS, or his designee, to execute contract amendments in substantially similar form to Attachment B to increase or decrease originally-approved contract amounts based on contractor performance and availability of funding provided that: (a) the amount of change does not exceed 25% of the original contract amount; (b) approval of County Counsel and the Chief Administrative Office (CAO) is obtained prior to any such amendment; and (c) the Director of CSS confirms in writing to the Board of Supervisors and the CAO within 30 days after the execution that such amendments have been executed. This action assures full expenditure of funds and is consistent with the Board's policy requiring review of contractor performance.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS**

The recommended actions will enable CSS to continue provision of WtW program services and effectively utilize previously accepted and available WtW funds for 36 currently funded agencies listed on Attachment A and terminating on dates on or before June 30, 2004 (depending on funds remaining). It is anticipated that most of the contracts will be extended for no more than 6 months, unless additional funding becomes available. The WtW program provides WtW participants with services that assist them in developing career paths and achieving self-sufficiency.

Further, the time-only no cost extension of the Department of Labor Welfare-to-Work program contracts will enable current service providers to continue providing services to individuals who will be reaching their Federal 5-Year Time limit and no longer eligible for Temporary Assistance Needy Families (TANF) benefits.

Additionally, CSS is seeking delegation of authority to increase or decrease original contract amounts in the event additional WtW funding becomes available. Changes in funding may necessitate extending the term of affected contracts. However, no term will be extended beyond June 30, 2004.

### **Implementation of Strategic Plan Goals**

The recommended actions support the County Strategic Plan Goals of Service Excellence and Children and Families' Well-Being.

### **FISCAL IMPACT/FINANCING**

There is no impact on the County General Fund as the program is fully financed by WtW funding. Funding has been included in the Department's FY 2003-04 Proposed Budget.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On June 29, 1999, your Board accepted the second allocation of DOL WtW funding in the amount of \$21,075,924 for FY 2000-01 and FY 2001-02 to serve WtW clients through June 30, 2002. Additionally, on May 29, 2001, your Board approved the extension of the Los Angeles County Regional Workforce Investment Board (WIB)

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Collaborative Plan through June 30, 2004 and authorized the Director of CSS to extend the contract period with the WtW service providers through June 30, 2003.

On May 8, 2003, the State Employment Development Department (EDD) modified our local agreement with a no cost, time-only extension of our Welfare-to-Work program through June 30, 2004.

### **CONTRACTING PROCESS**

The sixteen (16) One-Stop Career Center agencies were previously procured as follows: City of Compton/Compton CareerLink, West San Gabriel Valley Consortium dba Career Partners, Human Services of East San Gabriel Valley Consortium dba L A Works, Hub Cities Consortium, Southeast Area Social Services Funding Authority (SASSFA) are joint powers authorities within Los Angeles County and were selected through a Request for Proposal (RFP) issued in April 1990; Los Angeles Mission College/Northeast San Fernando Valley One-Stop Center through a RFP issued in March 1996; Los Angeles Urban League/Pomona One-Stop Center and Antelope Valley Workforce Development Consortium through a RFP issued in March 1998; and Affiliated Computer Services (formerly Lockheed Martin)/East Los Angeles and Chicana Service Action Center/East Los Angeles Satellite One-Stop Center through a RFP released in January 2000. The Foothill One-Stop Center/City of Pasadena, South Bay WIB/City of Hawthorne, El Proyecto Del Barrio/San Fernando Valley WorkSource Center, and the Career Planning Center/West Los Angeles One-Stop Center met the procurement requirements as stipulated by Los Angeles County WIB WtW Implementation Plan, previously approved by your Board. The WtW Program services will be delivered through the One-Stop Center System as required by EDD.

The remaining agencies were selected for funding as a result of open competitive Requests for Proposals issued on February 9, 1999, August 2, 1999, and July 3, 2001. Bidders were selected through advertisements in the Los Angeles Times and postings on the County of Los Angeles Office of Small Business web site.

The contract Amendments, approved as to form by County Counsel, have been updated to reflect the new County mandated provisions (e.g., Jury Duty and Safely Surrendered Baby Law).

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**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Each funded agency will provide or continue to provide services to address the needs of the hard-to-serve CalWORKs/TANF recipients, foster care youth age 18 - 24, non-custodial parents, and those individuals who will be reaching their Federal 5-Year Time limit. Services available for the participants include: case management, career assessment, employment and rapid re-employment, occupational training, English-as-a-Second Language, basic skills training, and job retention services. The approval of these recommendations will ensure continuous services to WtW eligible participants to assist them in attaining self-sufficiency.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert Ryans', with a long horizontal flourish extending to the right.

ROBERT RYANS  
Director

Attachments (2)

c: David E. Janssen  
Lloyd W. Pellman  
Violet Varona-Lukens

**Department of Labor Welfare-to-Work (WtW) Extension  
of WtW Program for Agencies**

Antelope Valley Workforce Development Consortium  
West San Gabriel Valley Consortium dba Career Partners  
City of Compton/Compton CareerLink  
ACS State and Local Solutions, Inc.- East Los Angeles  
Chicana Service Action Center  
El Proyecto del Barrio/SFV Sun Valley Workforce Industry  
City of Pasadena/Foothill Employment Connection  
Hub Cities Consortium  
L A Community College District (Northeast San Fernando Valley)  
Human Services Consortium of East San Gabriel Valley dba L A Works  
Los Angeles Urban League Pomona  
Southeast Area Social Services Funding Authority (SASSFA)  
City of Hawthorne-South Bay Workforce Investment Board  
Los Angeles Urban League South Central  
Career Planning Center Inc., West Los Angeles  
City of Los Angeles-Initiative for Employment Opportunities for Disabled Community  
Asian American Drug Abuse Program, Inc. (AADAP)  
El Proyecto Del Barrio/SFV Sun Valley Workforce Industry  
Human Services Consortium of East San Gabriel Valley dba L A Works  
Mexican American Opportunity Foundation (MAOF)  
SER/Jobs for Progress  
West Los Angeles College

**Department of Labor Welfare-to-Work (WtW) Extension  
of WtW Program for Agencies**

African American Unity Center

African Community Resource Center

Asian American Drug Abuse Program, Inc. (AADAP)

Assert, Inc.

The Community Employment Project, Inc. (CEP)

Compton Community College Development Foundation

Glendale Adventist Medical Center

Housing Authority of the City of Los Angeles

Jewish Vocational Services (JVS)

Los Angeles Unified School District

MCS Rehabilitation, Inc. (MCS)

Pacific Asian Consortium in Employment (PACE)

Pomona Valley Youth Employment Services, Inc.

Project Impact



Contract # \_\_\_\_\_  
Amendment # \_\_\_\_\_

**COUNTY OF LOS ANGELES  
DEPARTMENT OF COMMUNITY AND SENIOR SERVICES  
WELFARE-TO-WORK PROGRAM AGREEMENT AMENDMENT**

THIS AMENDMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_ by and between the County of Los Angeles, hereinafter referred to as the "County" by and through its department of Community and Senior Services, hereinafter referred to as "CSS", and \_\_\_\_\_, hereinafter referred to as the "Contractor".

**WHEREAS**, the parties hereto have previously entered into an Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, pursuant to the Department of Labor Welfare-to-Work Program.

**WHEREAS**, the parties hereto desire to amend this said Agreement in accordance with the terms and conditions set forth below.

**NOW, THEREFORE**, the parties hereto agree as follows:

I. **Section 5. (Term.)** is amended in its entirety to read as follows:

The term of this Agreement shall commence on \_\_\_\_\_, 200\_\_\_\_ and terminate no later than \_\_\_\_\_, 200\_\_\_\_ except as otherwise provided herein.

II. The following Attachment and Exhibit Documents are hereby amended by adding new/revised documents, which are attached hereto, and which will reflect the time extension and/or increase in services, as applicable:

- Standard Terms and Conditions (Exhibit A)
- Participant Characteristics Summary (Exhibit B)
- Budget Forms (Exhibit C)

III. Except as expressly amended by this Amendment, the terms and conditions of the original Contract shall remain in full force and effect.

**IN WITNESS WHEREOF**, the County of Los Angeles has caused this contract amendment to be subscribed on its behalf by the Director of Community and Senior Services, or his designee, and the Contractor has subscribed the same through its authorized officer, the day, month, and year first above written. The person signing on behalf of Contractor warrants under penalty of perjury that he or she is authorized to bind the Contractor.

**COUNTY OF LOS ANGELES**

**By:** \_\_\_\_\_  
Robert Ryans, Director  
Community and Senior Services  
County of Los Angeles

**Approved as to Form:  
LLOYD W. PELLMAN  
County Counsel**

**By:** \_\_\_\_\_  
Deputy

**CONTRACTOR**

**By:** \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**STANDARD TERMS AND CONDITIONS FOR  
WELFARE-TO-WORK PROGRAM AGREEMENT**

**§ 100. DEFINITIONS.**

For purposes of this Agreement, including all Exhibits thereto, the following definitions shall govern its interpretation. In the event of any omission or conflict in the definition or interpretation of any term defined herein, the parties agree that such term or interpretation shall be made in a manner consistent with said terms as defined or explained in the implementing regulations.

**§ 101. "Act"** shall mean Title IV, Part A of the Social Security Act (42 U.S.C. § 603(a)), as amended, and implementing regulations (20 CFR Part 645).

**§ 102. "1999 Amendments"** shall mean Title VIII of H.R. 3424, enacted as part of the Consolidated Appropriations Act for FY2000, contains the "Welfare to Work and Child Support Amendments of 1999".

**§ 103. "Agreement"** shall mean the agreement by and between the Contractor and the County of Los Angeles, which agreement shall include the main document and all exhibits referenced thereto within the Agreement.

**§ 104. "Allowable Activities"** shall mean those activities specified within the Act, Section 403 (a)(5)(C)(i). This shall include subclause VII added to this section of the Act by the 1999 Amendments.

**§ 105. "Client" or "Participant"** (a) shall mean those individuals who are Required Beneficiaries and eligible under the **70 percent** provision as specified within the Act, Section 403(a)(5)(C)(ii) , (iii) and as appropriate (v), as amended by the 1999 Amendments.

(b) shall mean those individuals with characteristics associated with long-term welfare dependence and are eligible under the **30 percent** provision as specified with the Act, Section 403(a)(5)(C)(iv) and as appropriate (v), as amended by the 1999 Amendments.

**§ 106. "Contractor"** shall mean the agency Contracting with the County of Los Angeles under the terms of this Agreement.

**§ 107. "County"** shall mean the County of Los Angeles, a recipient of federal Welfare-to-Work funds through the California Employment Development Department.

**§ 108. "County Project Director"** shall mean the Director of CSS or his/her designee.

**§ 109. "CSS"** shall mean the Community and Senior Services Department of Los Angeles County.

**§ 110. "DOL"** shall mean the United States Department of Labor, including without limitation, its Employment and Training Administration, and other divisions and units administering the Act.

**§ 111. "DPSS"** shall mean the Public Social Services Department of Los Angeles County.

§ 112. **"EDD"** shall mean the Employment Development Department of the State of California, including its Employment and Training Division and other divisions and units administering the Act.

§ 113. **"Participant Matrix"** shall mean a plan that details when specific elements of performance will be attained by a service provider. The Participant Matrix is an integral part of this Agreement and non-compliance with negotiated time frames and performance levels may result in deobligation of Contracted funds in accordance with CSS policies.

§ 114. **"WIB"** shall mean the Local Workforce Investment Board of the County of Los Angeles, organized and existing pursuant to the Workforce Investment Act.

§ 115. **"Program Income"** shall include income generated by a Agreement funded by WtW as a result of fees, rental of real or personal property, the sale of commodities, items developed with Agreement funds, or revenue in excess of expenditures for non-profit organizations or governmental entities.

§ 116. **"Required Fund Expenditures"** shall mean: (a) At least 70 percent of the WtW funds allotted to or awarded to a Contractor must be spent to benefit hard-to-employ individuals, as described in the Act and amended by the 1999 Amendments, Section 403(a)(5)(c)(ii), (iii), and as appropriate (v); and, (b) Not more than 30 percent of the WtW funds allotted to or awarded to a Contractor may be spent to assist individuals with long-term welfare dependence characteristics, as described in the Act and amended by the 1999 Amendments, Section 403(a)(5)(c)(iv) and as appropriate (v). If less than 30 percent of the funds is spent to assist individuals with long-term welfare dependence characteristics, the remaining funds shall be spent to benefit hard-to-employ individuals pursuant to paragraph (a) of this section (section 403(a)(5)(C) of the Act).

§ 117. **"TANF"** shall mean Temporary Assistance to Needy Families.

§ 118. **"WtW"** shall mean the Welfare-to-Work Program (42 U.S.C. § 603(a)), its implementing regulations (20 CFR Part 645), and rules and policies as administered by the County.

§ 119. **"Long-Term Welfare Dependence Characteristics and Local WIB defined Barriers for 30% Clients"** shall be defined and clarified through County WtW bulletins.

## § 200. ASSURANCES/CERTIFICATIONS.

The Contractor provides the following assurances and certifications, and agrees to the following terms:

**§ 201. Compliance with Laws.** (a) The Contractor certifies and agrees that it will fully comply with all applicable requirements of the Act, all State and federal regulations issued pursuant to the Act, and all applicable ordinances, rules, policies, bulletins, directives, and procedures for which the Contractor is provided actual or constructive notice. The County reserves the right to review the Contractor's procedures to ensure compliance with the statutes, ordinances, regulations, rules, rulings, policies and procedures of the State and the federal government.

(b) The Contractor certifies and agrees that it shall comply with all applicable federal, State and local laws, rules, regulations, ordinances, and directives, and all provisions required to be included in this Agreement are incorporated by this reference. The Contractor shall indemnify and hold the County harmless from any loss, damage or liability resulting from a violation by the Contractor, its agents, officers and employees of any such laws, rules, regulations, ordinances, and directives.

(c) The Contractor further certifies and agrees that it shall comply with all WtW provisions, implementing regulations, WtW directives and bulletins, guidelines, procedures and standards governing the identification and reporting of fraud, waste, abuse or other criminal activity with respect to the WtW program.

**§ 202. Debarment and Suspension.** (a) The Contractor certifies that it has not been subject to debarment and suspension under any federal (29 CFR Part 98), State or local grant program and will immediately inform the County of any future debarment or suspension. Said certification, which shall be in a form acceptable to the County, shall be submitted to the County no later than execution of this Agreement by Contractor.

(b) **Responsible Contractor.** A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is the County's policy to conduct business only with responsible contractors.

(c) **Chapter 2.202 of the County Code.** The Contractor is hereby notified that, in accordance with County Code Chapter 2.202, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Contractor from bidding on County contracts for a specified period of time not to exceed three years, and terminate any or all existing contracts the Contractor may have with the County.

(d) **Non-Responsible Contractor.** The County may debar Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a Agreement with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a Agreement with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

(e) **Contractor Hearing Board.** (1) If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence that is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

(2) The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.

(3) A record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.

(f) **Subcontractors.** This § 202 shall also apply to subcontractors of County Contractors.

**§ 203. Administrative and Personnel Procedures.** Contractor warrants that it has adopted, shall retain, and make available to the County upon request, the following documents and amendments thereto:

(a) Contractor's financial and accounting procedures, which incorporate Generally Accepted Accounting Principles (GAAP). Contractor shall also adhere to requirements of applicable OMB Circulars A-21, A-50, A-87, A-102, A-110, A-122, A-133, and Regulation 29 CFR Part 95, 29 CFR Part 96, 29 CFR Part 97, 29 CFR Part 99, Single Audit Act, or 48 CFR Part 31.

(b) Contractor's personnel policy, which incorporates due process protection of standard personnel procedures, and which the Contractor agrees to abide by in the performance of this Agreement.

(c) Other Requirements: 29 CFR Part 93, Lobbying Certification; 29 CFR Part 33 and 34, Nondiscrimination and Equal Opportunity Requirements, and 29 CFR Part 98, Debarment and Suspension; Drug Free Workplace.

**§ 204. Other Agreements.** (a) A copy of any agreements between the Contractor and other public or private organizations which directly impact activities funded under this Agreement shall be kept on file at the Contractor's offices and shall be provided to the County upon request. The Contractor shall also notify the County of any default, termination, or finding of disallowed costs under these agreements.

(b) The Contractor warrants that no other funding source will be billed for services that are provided and paid for by the County under this Agreement.

**§ 205. EEO/Affirmative Action.** The Contractor, in performing all obligations under the terms of the Agreement, assures that it will administer the program with safeguards against fraud and abuse, that no portion of this Agreement will in any way discriminate against, deny benefits to, deny employment to, or exclude from participation any person on the grounds of race, color,

national origin, religion, sex, handicap, or political affiliation or belief (29 CFR Part 33 and 34, Nondiscrimination and Equal Opportunity Requirements).

**§ 206. Nondiscrimination in Employment.** (a) The Contractor certifies that all persons employed by the Contractor, its affiliates, subsidiaries, or holding companies are and will be treated equally without regard to race, religion, ancestry, national origin, sex, age, condition of physical disability, marital status or political affiliation, and in compliance with all applicable federal and State anti-discrimination laws, regulations, and directives.

(b) The Contractor shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, religion, ancestry, national origin, sex, age, condition of physical disability, marital status or political affiliation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(c) The Contractor shall deal with its sub-Contractors, bidders, or vendors without regard to race, religion, ancestry, national origin, sex, age, condition of physical disability, marital status or political affiliations.

(d) The Contractor shall allow County representatives access to its employment records during regular business hours to verify compliance with the provisions of this Agreement when the County requests. If the County finds that any of these provisions have been violated, such violation shall constitute a material breach upon which the County may terminate or suspend this Agreement. While the county retains the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, any determination by the California Fair Employment and Housing Commission or the federal Equal Employment Opportunity Commission that the Contractor has violated State or federal anti-discrimination laws or regulations shall also constitute a finding by the County that the Contractor has violated the anti-discrimination provision of this Agreement.

**§ 207. Civil Rights Laws.** The Contractor assures and certifies that it shall comply with all applicable federal and State statutes to the end that no person shall, on the grounds of race, religion, ancestry, national origin, sex, age, condition of physical disability, marital status or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program or activity supported by this Agreement.

**§ 208. Wage and Hour Laws.** The Contractor shall indemnify, defend, and hold harmless the County, its agents, officers and employees from any and all liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law including, but not limited to, the federal Fair Labor Standards Act, as amended, for services performed by the Contractor's employees for which the County may be found jointly or solely liable.

**§ 209. Safety and Working Conditions.** Applicable local, State and federal health and safety standards shall be observed. If a WtW participant or Contractor employee is in a position not covered under the Occupational Health and Safety Act of 1970, as amended (29 USC § 651 *et seq.*), Contractor assures that such participant or employee will not be required or permitted to work, be trained, or receive services under working conditions which are unsanitary, hazardous or otherwise detrimental to the person's health or safety.

**§ 210. Employment Eligibility Verification.** (a) The Contractor warrants and certifies that it fully complies with all federal, state and local statutes, ordinances, and regulations regarding the employment eligibility of aliens and others, and that all persons performing services under the Agreement are eligible for employment in the United States.

(b) The Contractor shall indemnify, defend and hold the County harmless from any employer sanctions or other liability which may be assessed against the County by reason of the Contractor's failure to comply with the foregoing.

(c) The Contractor represents that it has secured and retained all required documentation verifying employment eligibility of its personnel. The Contractor shall secure and retain verification of employment eligibility form any new personnel and, to the extent applicable, WtW clients participating in or receiving services under this Agreement, in accordance with applicable provisions of law.

**§ 211. Drug Free Workplace Compliance.** The Contractor hereby warrants and certifies that it shall comply with California Drug-Free Workplace Act of 1990 (*Cal. Gov. Code § 8350 et seq.*), as amended, including provision of the requisite certification as set forth therein; and the federal Drug-Free Workplace Act of 1988, including its implementing regulations (29 CFR Part 98, commencing with §98.600).

**§ 212. Conflict of Interest/Contracts Prohibited.** (a) The Contractor represents and warrants that no County employee whose position enables him/her to influence the award of this Agreement, and no spouse or economic dependent of such employee, is or shall be employed in any capacity by the Contractor, or shall have any direct or indirect financial interest in this Agreement.

(b) The Contractor represents and warrants that it is aware of, and its authorized officers have read, the provisions of Los Angeles County Code Chapter 2.180 entitled "Contracting With Current or Former County Employees," and that execution of this Agreement will not violate those provisions. Anyone who is a former employee of the County at the time of execution of this Agreement or who subsequently becomes affiliated with the Contractor in any capacity shall not participate in the provision of services provided under this Agreement or share in the profits of Contractor earned for a period of one year from the date he/she separated from County employment.

(c) The Contractor agrees to establish, maintain, implement, and enforce standards of ethical conduct for all its employees. Such standards shall include, but not be limited to, the prohibition against (1) solicitation or receipt of bribes and/or solicitation or receipt of illegal gratuities; (2) participating in matters affecting an employee's own financial interests or the financial interests of other specified persons or organizations; (3) receipt of gifts or giving of gifts to superiors by offerors or bidders; (4) concealing, mutilating or destroying public records; (5) the participation in the appointment or promotion of relatives; (6) failing to account for public money; and (7) conspiracy to commit an offense against or to defraud the County of Los Angeles, the State of California, or the federal government. Contractor certifies that such standards shall be adopted and implemented prior to execution of this Agreement.

(d) Contractor shall provide training of its standards of ethical conduct to all of its employees (including members of its governing body and administrative staff), initialing upon hiring/appointment and thereafter on a periodic basis; provided, however, that such training is

provided at least on an annual basis.

(e) The Contractor agrees to indemnify and hold the County, its officers, employees and agents harmless from any loss, damage, or liability (including without limitation disallowed costs) resulting from a violation by the Contractor, its officers, employees and agents of this section.

**§ 213. Lobbying.** (a) The Contractor certifies that none of the funds, materials, property or services provided directly or indirectly under the terms of this Agreement shall be used for or to promote any partisan or non-partisan political activity; support or defeat any pending legislation or administrative regulation; or for any sectarian purpose or activity (29 CFR Part 93, Lobbying Certification).

(b) The Contractor certifies that each County lobbyist as defined in Los Angeles County Code § 2.160.010, retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any County lobbyist retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

**§ 214. Legal Authority.** (a) The Contractor gives assurance and certifies that it possesses the legal authority to execute the proposed program, that a resolution, motion, or similar action has been duly adopted or passed as an official act of the Contractor's governing body, authorizing receipt of the funds, and directing and designating the authorized representative(s) of the Contractor to act in connection with the program specified and to provide such additional information as may be required by the County, State, or any agency of the federal government.

(b) The Contractor represents and warrants that it is signatory to this Agreement and is fully authorized to obligate or otherwise bind the Contractor.

**§ 215. Limitation on Corporate Acts.** The Contractor shall not amend its articles of incorporation or bylaws, move to dissolve or transfer any assets derived from funds provided under Section 4 of the foregoing Agreement, or take any other steps which may materially affect the performance of this Agreement without first notifying the County in writing. The Contractor shall notify the County immediately in writing of any change in the Contractor's corporate name.

**§ 216. Nepotism.** The Contractor shall not hire nor permit the hiring of any person in a position funded under this Agreement if a member of the person's immediate family is employed in an administrative capacity by the Contractor. For the purposes of this Section, the term "immediate family" means spouse, child, mother, father, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, and step-child. The term "administrative capacity" means persons who have overall administrative responsibility for a program, including selection, hiring, or supervisory responsibilities.

**§ 217. Standards of Conduct.** The following standards apply to all Contractors.

(a) General Assurance -

1. The Contractor has consulted and coordinated with the appropriate entities in the Service Delivery Area regarding the plan and the design of Welfare-to-Work Program services in the County of Los Angeles, and has made available to the public a summary of the Welfare-to-Work local plan. The Contractor has established a mechanism to exchange information and

coordinate the Welfare-to-Work Program operated by the State and Local Workforce Investment Board (WIB) with other programs available that will assist in providing welfare recipients employment.

2. The Contractor will take every reasonable course of action in order to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This agreement will be administered in an impartial manner, free from efforts to gain personal, financial or political gain. The Contractor, its executive staff and employees, in administering this agreement, will avoid situations which give rise to a suggestion that any decision was influenced by prejudice, bias, special interest or desire for personal gain.

(b) No relative by blood, adoption or marriage of any executive or employee of the Contractor, will receive favorable treatment when considered for enrollment in WtW programs provided by Contractor.

(c) Executives and employees of the Contractor will be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates and, in administering the agreement, will exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends and associates. When it is in the public interest for the Contractor to conduct business with a friend or associate of an executive or employee of the Contractor, a permanent record of the transaction will be retained.

(d) An executive or employee of the Contractor will not solicit or accept money or any other consideration from a third person for the performance of an act reimbursed in whole or part by the County.

**§ 218. Coordination.** Contractors will, to the maximum extent feasible, coordinate all programs and activities supported under this part with Welfare-to-Work Program and programs under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) as amended by the enactment of the Balanced Budget Act of 1997, and other employment and training programs at the State and local level. Contractor will also coordinate with: CSS; the Los Angeles County Department of Public Social Services (DPSS), One-Stop Workforce Development Centers and WIA programs; Los Angeles County Office of Education (LACOE), community colleges, Employment Development Department (EDD) Job Service, EDD Labor Market Information representatives, housing agencies, transportation agencies, the business community, faith-based organizations, economic development entities, foundations, community-based organizations (CBOs), advocate groups, and providers of mental health services, domestic violence and substance abuse services.

**§ 219. Warranty of Adherence to County's Child Support Compliance Program.** (a) The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Agreement are in compliance with their court-ordered child, family and spousal support obligations, if any, in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

(b) As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting The Contractor's duty under this Agreement to comply with all applicable provisions of law. The Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 U.S.C. § 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Notices of Wage and Earnings Assignment for Child or Spousal

Support, pursuant to *Code of Civil Procedure* Section 706.031 and *Family Code* Section 5246(b).

**§ 220. Contractor's Acknowledgment of County's Commitment to Child Support Enforcement.** Contractor acknowledges that County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. The Contractor understands that it is County's policy to encourage all County Contractors to voluntarily post County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. The County's District Attorney and/or Department of Child Support Services will supply the Contractor with the poster to be used.

**§ 221. County Layoffs.** Contractor agrees that, to the extent Contractor should need additional or replacement personnel after the effective date of this Agreement, Contractor shall give due consideration for such employment openings to qualified permanent County employees who are targeted for layoff or qualified former County employees who are on a re-employment list during the term of the Agreement. County agrees to refer such employees by job category to Contractor upon request.

**§ 222. GAIN/GROW Program Participants.** Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor agrees to give due consideration for such employment openings to participants in the County's Department of Public Social Services' Greater Avenue for Independence (GAIN) and/or General Relief Opportunities for Work (GROW) Programs who meet Contractor's minimum qualifications for the open position. Upon request from Contractor, the County will refer GAIN/GROW participants by job category to the Contractor for consideration.

**§ 223. Cost of Living Adjustments (COLAs).** Subject to applicable Federal and State law, and to applicable provisions contained in collective bargaining agreements, if any, in effect on the date of this Agreement, Contractor agrees to restrict cost of living adjustments (COLAS) to its employees during the term of this Agreement to the lesser of (1) the average salary cost of living adjustment granted to County employees by the Board of Supervisors as of April 11<sup>th</sup> of the prior year, or (2) the Consumer Price Index for all Urban Consumers (CPI-U) as originally released by the United States Department of Labor, Bureau of Labor Statistics/Western Region, Los Angeles/Long Beach, Anaheim area. In the event fiscal circumstances ultimately prevent the Board of Supervisors from approving an increase in employee salaries, the Contractor and its employees shall also experience no COLAS.

**§ 224. Sectarian Activities.** Contractor certifies that this Agreement does not provide for the advancement or aid to any religious sect, church or creed, or sectarian purpose nor does it help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever, as specified by Article XVI, Section 5, of the Constitution, regarding separation of church and state.

**§ 225. National Labor Relations Board.** Contractor, by signing this Agreement, does swear under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of Contractor failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

**§ 226. Prior Findings.** Contractor, by signing this Agreement, does swear under penalty of perjury, that it has not failed to satisfy any major condition in a current or previous Agreement or grant with the Department of Labor (DOL) or the State of California and has not failed to satisfy

conditions relating to the resolution of a final finding and determination, including repayment of debts.

**§ 227. Quality Assurance Plan.** County or its agent will evaluate Contractor's performance under this agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all Agreement terms and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this agreement or impose other penalties as specified in this agreement.

**§ 228. Pell Grants.** Contractor shall encourage all participants to make maximum use of federal Pell education grant funding, and will report and make available to the PIC/WIB, the State, and DOL and their agents all records relating to participants under this Agreement showing Pell applications and Pell grant fund receipt and distribution. No WtW costs shall be duplicated by Pell funding.

**§ 229. Cost Allocation Plan (CAP) for Cost Reimbursement Activities.** A Cost Allocation Plan (CAP), which is a Federal requirement, must be submitted as a reference document to this Agreement to support the distribution of any joint costs related to the activities of this Agreement. All costs included in the CAP will be supported by formal accounting records which will substantiate the propriety of eventual charges. Budget allocations are not adequate documentation. The Contractor will retain on file all documentation supporting the reimbursement activities. The County's Agreement monitor will test the Contractor's Cost Allocation Plan during the normal course of monitoring to ensure compliance with OMB requirements. Failure to comply may result in no payment, or a partial or reduced payment until the Contractor is in compliance. In addition, failure to comply may result in Agreement termination.

**§ 230. Notice to Employees Regarding the Federal Earned Income Credit.** Contractor shall notify its employees, and shall require each subContractor to notify its employees, that they may be eligible for the federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

**§ 231. Contractor's Acknowledgment of Recycled-Content Paper Use.** Consistent with the Board of Supervisor's Policy to reduce the amount of solid waste deposited in County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible in the preparation and duplication of Agreement documents.

**§ 232. Compliance with Jury Service Program.** (a) This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

(b) Written Employee Jury Service Policy.

1. Unless Contractor has demonstrated to the County's satisfaction, either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. Unless Contractor has demonstrated to the County's

satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Section, "contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the County under the Agreement, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If Contractor is not required to comply with the Jury Service Program when the Agreement commences, Contractor commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Agreement and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

4. Contractor's violation of this Section of the contract may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

**§ 233. Notice to Employees Regarding Safely Surrendered Baby Law.** The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit ( ) of this Agreement and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

**§ 234. Contractor's Acknowledgment of County's Commitment to the Safely Surrendered Baby Law.** The Contractor acknowledges that the County places a high priority on the implementation of the safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position

in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

**§ 235. Compliance with Tax Regulations.** Contractor certifies that this contractor has: (1) paid all Federal and State payroll taxes through the end of the calendar quarter preceding the date of the contract; (2) made all tax deposits required by Federal and State laws through the month preceding the date of the contract; (3) complied with all the rules and regulations of the Federal and State Employer Tax Guide (W-2 and W-4); and (4) complied with all payroll tax rules and regulations of the State of California.

**§ 236. Nondiscrimination in Services.** (a) The Contractor certifies that the Contractor and all persons employed by Contractor, its affiliates, subsidiaries or holding companies, if any, shall not discriminate in the provision of services hereunder and that the aforementioned parties shall comply with all applicable Federal and State statutes to the end that no person shall, on the basis of race, color, religion, ancestry, national origin, ethnic group, sex, age, condition of physical or mental disability, marital status or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract. For the purpose of this **§ 236**, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service or benefit to any person which is not equivalent or is not provided in an equivalent manner or at an equivalent time to that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order to be provided any service or benefit.

(b) If the County finds that any of nondiscrimination provisions have been violated, such violation shall constitute a material breach upon which the County may terminate or suspend this Contract. While the County retains the right to determine independently that the anti-discrimination provisions of this Contract have been violated, any determination by the State Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated State or Federal anti-discrimination laws or regulations shall also constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Contract.

**§ 237. Nondiscrimination, Affirmative Action and Assurance of Compliance with Civil Rights.** (a) The Contractor assures and certifies that all persons employed by it, its affiliates, subsidiaries or holding companies, are and will be treated equally by it without regard to, or because of race, color, religion, national origin, ancestry, sex, age, condition of physical or mental disability, marital status or political affiliation, in compliance with all anti-discrimination laws and regulations of the United States of America and the State as they now exist or may hereafter be amended.

(b) Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to their race, color, religion, sex, ancestry, national origin, condition of physical or mental disability, marital status or political affiliation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(c) Contractor hereby assures that it will comply with the Civil Rights Act of 1964, 42 USC § § 2000e through 2000e-17, to the end that no person shall, on grounds of race, religion, color, sex, national origin, condition of physical or mental disability, marital status or political affiliation be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.

(d) To the extent applicable, Contractor shall deal with its subcontractors, bidders or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, or condition of physical or mental disability, marital status or political affiliation as required by all applicable anti-discrimination laws and regulations of the United States and the State as they now exist or may hereafter be amended.

(e) Contractor shall allow authorized County representatives access to its employment records during regular business hours to verify compliance with these provisions when so requested by the Director.

(f) If County finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which County may determine to cancel, terminate, or suspend this Contract. While County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the State Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Contract.

(g) The parties agree that in the event Contractor violates the anti-discrimination provisions of this Contract, County shall, at its option, be entitled to a sum of ten thousand dollars (\$10,000) pursuant to California Civil Code Section 1671 as liquidated damages in lieu of canceling, terminating, or suspending this Contract.

**§ 238. Selective Service Compliance.** The Contractor shall ensure that participants comply with Section 167(a)(5) of the Military Selective Service act (50 USC Appx. §§ 451 *et seq.*) and other eligibility requirements applicable to the program under which the participant is enrolled.

**§ 239. General Grievance Procedures.** (a) Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to user complaints. Within fifteen (15) business days after the Contract's effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints:

(b) If, at any time, the Contractor wishes to change their user complaint policy, the Contractor shall submit changes to the County.

(c) The Contractor shall preliminarily investigate all user complaints and notify the County of the status of the investigation within five (5) business days of receiving the complaint.

(d) When user complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

(e) Copies of all written complaint responses shall be sent to the County five (5) business days of mailing to the complainant.

## § 300. PROVISION OF SERVICES

**§ 301. Services.** The Contractor shall perform all Services under the terms of this Agreement in accordance with the Statement of Work, attached to the Agreement as Exhibit B and incorporated herein by this reference, at a level of performance as determined by the County.

**§ 302. Contractor Performance Standards.** The Contractor shall not use WtW funds paid under the terms of this Agreement in litigation against the County, the State, or DOL or other federal agency, nor for any action or activity inconsistent with the Act or WtW regulations whatsoever.

**§ 303. Reobligation/Deobligation.** Contractor shall be subject to the Reobligation/Deobligation policy as established by the PIC/WIB for the WtW programs.

**§ 304. Time of Performance.** The term of this Agreement shall be as set forth in Section 5 of the foregoing Agreement, and any additional period of time as is required to complete necessary close out activities, provided that said term is subject to the provisions of § 400, § 600, and § 800 herein. Performance shall not commence until the Contractor has obtained the approval of the Employment and Training Director of those certifications and assurances set forth in § 200.

**§ 305. Activities Prohibited.** Funds, materials, property or services provided directly or indirectly under the terms of this Agreement shall not be used for or to promote any partisan or non-partisan political activity; support or defeat any pending legislation or administrative regulation; or for any sectarian purpose or activity.

**§ 306. Grievances and Disputes.** (a) Contractor shall submit to the County within thirty (30 ) days of execution of this Agreement, a grievance procedure in accordance with applicable WtW 20 CFR § 645 regulations, State and local laws, rules, and regulations. Contractor also agrees to process all complaints/grievances in accordance with its adopted grievance procedure. All procedures must be exhausted at the local level in an effort to resolve a complaint/grievance. The Contractor also assures and agrees that it will be bound by decisions issued under the County's WtW participant grievance procedures.

(b) The Contractor shall participate in and be bound by the questioned and/or disallowed costs grievance procedures at the WtW WIB level. The grievance procedure shall be as follows:

(1) Contractor shall request a meeting with the County Project Director or his designee within thirty (30) days from the date of notice of disallowed costs. If the Contractor fails to take this action, the costs become automatically disallowed.

(2) If agreement cannot be reached with the Contractor regarding the disallowed costs within twenty-one (21) days after the meeting or fifty-one (51) days after the notice of disallowed costs, whichever is the lesser period, the County Project Director shall make a final determination.

(3) Final determination by the County Project Director shall be made within 72 days from the date of notice of disallowed cost. (a) Contractor shall assure continued performance of this Agreement during any disputes.

(c) Contractor agrees to attempt to resolve disputes arising from this Agreement by

administrative process and negotiation in lieu of litigation. Any dispute concerning a question of fact arising under this Agreement shall be settled in accordance with procedures set forth in 20 CFR § 645.270.

**§ 307. Conditions Precedent to Execution of Agreement.** Except as otherwise provided in writing by the County, prior to the execution of this Agreement the following documents shall be submitted by the Contractor in writing to the County:

(a) Contractor's Organizational/License Documents

(1) Articles of Incorporation, including amendments thereto, as filed with the Secretary of State.

(2) Bylaws, including amendments thereto, as adopted by the Contractor and properly attested.

(3) Resolutions of executorial authority or other corporate actions of the Contractor's governing board, which specify the name(s) of the person(s) authorized to obligate the Contractor and execute Contractual documents, if the authorized person is someone other than the Contractor's corporate president. The name(s) and signature(s) of the authorized persons shall also be provided in Section 5 of the foregoing Agreement.

(4) Fictitious Name Statement

(5) Current and valid business licenses to conduct business within the area covered by the Agreement.

(6) Statement of business ownership.

(7) IRS taxpayer identification number.

(b) Contractor's Administrative and Personnel Documents.

(1) Contractor's financial and accounting procedures, in accordance with § 203 herein.

(2) Contractor's personnel policy, in accordance with § 203 herein.

(3) Contractor's grievance procedure, in accordance with § 203 herein.

(c) Certifications and Other Required Documents

(1) Certification regarding debarment, in accordance with § 202 herein.

(2) Proof of insurance as provided in § 600 herein.

(3) A copy of any agreements between the Contractor and other public or private organizations which directly impact the activities funded under this Agreement, in accordance with § 204 herein. Such agreements shall be included in "Funding Sources, Applications Pending, and References" as required in Statement of Work, Exhibit B.

**§ 308. Independent Contractor Status.** The Contractor shall at all times be acting as an

independent Contractor. This Agreement is not intended, and shall not be construed to create the relationship of agent, servant, employee, partner, joint venture, or association, as between the County and the Contractor. Contractor understands and agrees that all of Contractor's personnel furnishing services to the County under this Agreement are employees solely of the Contractor and not of the County for purposes of workers' compensation liability. The Contractor shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any Contractor personnel for injuries arising from or connected with services performed under this Agreement.

**§ 309. Limitations.** As an independent contractor, Contractor has no power or authority to bind the County to any obligations, agreements or contracts.

**§ 310. General Warranty.** Contractor represents and warrants to the County, and County relies on such representation and warranty, that the Contractor (including its employees and agents) has the necessary skills, competence and expertise to fully and completely perform the specialized services called for under this Contract. The County and the Contractor understand and agree that the Contractor is responsible for the means and methods of performing these specialized services and accomplishing the results, deliverable, objectives and/or purposes specified and/or requested by the County pursuant to this contract.

**§ 311. Training Curricula and Materials.** Contractor agrees to submit copies of its training agreements, outlines, and curricula and materials to be used in its training programs and orientations, including changes during the term of this Agreement. The Contractor shall also submit all other training materials or curricula as requested by the County Project Director. The Contractor agrees that the curricula and materials submitted to the County Project Director shall be incorporated into this Agreement by reference, although not physically attached, and will be used as part of the assessment, evaluation, inspection, monitoring, and auditing of this Agreement and Contractor's attainment of Agreement goals. All such curricula and materials shall meet the standards set out in the Statement of Work in this Agreement.

**§312. Referrals.** Contractor shall provide information about and make and receive participant referrals to and from DPSS, CSS, One-Stop Career Centers, other WtW and non-WtW service providers and agencies.

**§ 313. Non-Authorized Participants.** The Contractor agrees that all costs incurred which are related to a participant who does not qualify under the eligibility requirements of the WIA Adult and Dislocated Worker Program shall be the sole responsibility of the Contractor.

## **§ 400. COMPENSATION**

**§ 401. County Obligation.** (a) Subject to the availability of WtW funding and appropriation of funds for this Agreement by the Board of Supervisors, the County shall compensate the Contractor an amount not to exceed "Maximum Obligation of County" as set forth in Section 4 of the foregoing Agreement for the "Term" as set forth in Section 5 of the foregoing Agreement for services and results consistent with the terms and provisions of this Agreement.

(b) Funding for this Agreement shall be a charge only upon WtW grant funds and shall not be a charge on any other funds of the County. In the event WtW funds to be received by the County are reduced, suspended, or terminated in whole or in part, or if WtW grant terms are changed or are unacceptable or become unacceptable to the County, the Contractor understands and agrees that funding for this Agreement may be subject to unilateral reduction, suspension, modification or termination at the sole discretion of the County.

**§ 402. Reimbursement.** (a) This Agreement is a cost reimbursement Agreement.

(b) Payment will be made in accordance with the Budget Summary, Exhibit C, and to the method(s) described in the CSS policies and procedures conditioned upon meeting all requirements contained in this Agreement. The amount of any and all payments shall be approved by the County Project Director. The County reserves the right to withhold any payment(s) necessary to cover a claim which the County may have against the Contractor.

(c) Contractor shall request reimbursement for **actual expenditures incurred during the Agreement period, not to exceed budgeted amounts** for which the Contractor has adequate supporting documentation of such expenditures. Contractor shall not request reimbursement based on budgeted amounts.

(d) Cash advances may be provided to the Contractor if needed for program start-up and to sustain program operations. Upon request by the Contractor in the form and manner prescribed by the County Project Director, the County may, at the sole discretion of the County Project Director, make advance payments for anticipated and necessary program expenditures.

(e) Interest earned on cash advances shall be remitted to the County within ten (10) days after the quarter the interest is earned.

**§ 403. Return of Advanced Funds:** Upon completion or termination of this Contract, the Contractor shall return any advanced funds which exceed payments due the Contractor, if any, within thirty (30) days of completion or termination of the Contract.

## **§ 500. NONCOMPLIANCE SANCTIONS/PENALTIES**

The Contractor agrees to comply with the requirements set forth in this Agreement, the Act, the regulations, and all applicable Directives/Bulletins issued by or on behalf of the County, State or United States Department of Labor. Failure to comply with such requirements shall constitute a material breach of Agreement upon which the County may cancel, terminate or suspend this Agreement. Approved sanctions may include, but not be limited to the following: fiscal probation, withholding of payment, reobligation/deobligation of Agreement funds, or suspension/termination of this Agreement. Those sanctions which may be applied will be dependent upon the circumstance(s) of noncompliance.

## **§ 600. INDEMNIFICATION AND INSURANCE**

**§ 601. Indemnification.** (a) The Contractor shall indemnify, defend and save harmless the County, its public officials, officers, employees and agents from and against any and all liability or expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including but not limited to, bodily injury, death, personal injury, or property damage, arising out of or connected with Contractor operations or its services hereunder, or arising from the negligent acts or omissions of the Contractor in the performance of this Agreement, including any workers' compensation suits, liability, or expense, arising from or connected with services performance by or on behalf of the Contractor by any person pursuant to this Agreement.

(b) The Contractor shall also defend and indemnify the County from any liability arising from the performance of this Agreement as a result of an audit of funds received under this

Agreement due to the negligent acts or omissions of the Contractor in the performance of this Agreement.

(c) Contractor agrees to indemnify, defend, and hold harmless the County, its agents, officers, and employees from any and all liability, including but not limited to, wages, overtime pay, liquidated damages, penalties, court cost, and attorneys fees arising under any wage and hour law, including but not limited to, the Federal Fair Labor Standards Act (29 UCS §§ 201 et. seq.) For services performed by Contractor's employees for which the County may be found jointly or severally liable.

(d) Notice shall be promptly submitted to the PIC/WIB by the Contractor of any action being brought against Contractor, the PIC/WIB, CSS, the County, or the County Project Director concerning this Agreement.

**§ 602. Insurance.** Without limiting the Contractor indemnification of the County, and except as otherwise provided herein, the Contractor shall provide and maintain at its own expense, and require all of its SUBCONTRACTORS to maintain, during the term of this Agreement the following program(s) of insurance covering its operations as applicable hereunder in this agreement. Such insurance, which shall be provided by insurer(s) satisfactory to the County's Risk Manager, shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County. Proof of insurance shall be delivered to DCSS, Employment & Training Contracts Unit, 3175 W. 6<sup>th</sup> St., Los Angeles, CA 90020-1798 (specifying the Special Programs Manager as DCSS Contractor Administrator and DCSS as the Agreement Department on or before the effective date of the Agreement. Such evidence shall specifically identify this Agreement and contain express conditions that the County be given at least 30 days advance written notice of any modification or termination of any program of insurance. Failure on the part of the Contractor to procure or maintain insurance shall constitute a material breach upon which the County may immediately terminate or suspend this Agreement.

All insurance required hereunder shall be primary with respect to any insurance maintained by the County and shall not call on the County's program for contributions. Program(s) of insurance shall include:

(a) **General Liability:** A program, including but not limited to comprehensive general liability and independent Contractor coverage, and comprehensive general liability, with a combined single limit of not less than \$1 million per occurrence and \$2 million general aggregate. Such insurance shall name the County as additional insured. Contractor shall be required to provide County with certified copies of the current certificates of insurance and policy endorsement pages, both naming County of Los Angeles as the additional insured as its interests appear for all Contractual obligations with the Contractor (named insured) and include Contractor and the County's name/address and the signature/date of the insurance representative.

(b) **Automotive Liability:** A program of insurance with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto". Contractor shall be required to provide County with certified copies of the current certificates of insurance and include Contractor and the County's name/address and the signature/date of the insurance representative.

(c) **Workers' Compensation:** A program of workers' compensation insurance in an amount and form to meet all applicable requirements of the California Labor Code or by any other state, and which specifically covers all persons providing services by or on behalf of the

Contractor, and all participants served by the Contractor, and risks to such persons under this Agreement. In all cases, this insurance shall also include Employers' Liability coverage with limits of not less than \$1 million for each accident and disease for each employee and policy limit.

(d) **Crime Coverage:** A comprehensive crime policy in an amount not less than \$1 million per occurrence against loss of money, securities, other property, as applicable to this agreement, for employee dishonesty, forgery or alteration, theft, disappearance and destruction, computer fraud, or burglary and robbery. Contractor shall be required to provide County with certified copies of the current certificates of insurance and policy endorsement pages, both naming County of Los Angeles as the individual loss payee as its interests appear for all Contractual obligations with the Contractor (named insured) and include Contractor and the County's name/address and the signature/date of the insurance representative.

(e) **Professional Liability:** Insurance covering liability arising from any error, omission negligent or wrongful act of the Contractor, its officers, employees, agents, or professional consultants with a limit of liability of not less than \$1 million per occurrence and \$3 million aggregate. The coverage shall also provide an extended 2-year reporting period commencing upon termination or cancellation of this agreement.

(f) **Property Damage:** In the event the Contractor rents, leases, or is loaned any County-owned real or personal property, the Contractor shall insure such property in the manners and amounts as follows:

(1) Real Property - For the full insurable replacement value against the hazards of fire, extended coverage, vandalism and malicious mischief, and other property-related losses, and flood and earthquake.

(2) Personal Property - For the replacement cost against the hazards of fire, burglary, theft, vandalism and malicious mischief.

**§ 603. Self-Insurance and Self-Insured Retentions.** Self-insurance programs are subject to separate approval by the County upon review of evidence of Contractor financial capacity to respond. Additionally, such programs must provide the County with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance. The County will consider a self-insured program as an alternative to commercial insurance from the Contractor upon review and approval of the following:

(a) A formal declaration to be self-insured for the type and amount of coverage indicated. This can be a corporate resolution or a certified statement from a corporate official or an authorized principal of a partnership or a sole proprietorship. Contractor must notify the County immediately of discontinuation or substantial change in the program.

(b) Agreement to provide the County at least the same defense of suits and payment of claims as would be provided by first-dollar commercial insurance.

(c) Agreement to notify the County immediately of any claim, judgment, settlement, award, verdict or change in Contractor financial condition which would have a significant negative effect on the protection that the self-insurance program provides the County.

(d) Name, address and telephone number of Contractor legal counsel and claims representative, respectively, for the self-insurance program.

(e) Financial statement that gives evidence of Contractor capacity to respond to claims falling within the self-insured program. Re-submission is required at least annually for the duration of the affected operation or more frequently at County's request. FAILURE TO COMPLY WILL RESULT IN WITHDRAWAL OF COUNTY APPROVAL.

**§ 604. Public Entities.** (a) To the extent both parties to this Agreement are public entities, and this provision is activated in writing by the County in the foregoing Agreement, the following provision shall be substituted for **§ 601**, **§ 602** and **§ 603** herein:

In contemplation of the provisions of Section 895.2 of the *Government Code* of the State of California imposing certain tort liability jointly upon public entities solely be reason such entities being parties to an Agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the authorization contained in Section 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it, or any of its officers, agents, or employees by law for injury caused by negligent or wrongful act or omission occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-state purpose, each party indemnifies and holds harmless the other party solely by virtue of said Section 895.2. The provision of Section 2778 of the *California Civil Code* is made a part hereto as if fully set forth herein. Contractor certifies that it has adequate self insured retention of funds to meet any obligation arising from this Agreement.

**§ 605. Notification of Incidents, Claims or Suits.** (a) Contractor shall report to County any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within 24 hours of occurrence.

(b) Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.

(c) Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County Program Manager.

(d) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

**§ 606. Compensation for County Costs.** In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County (including cost of obtaining requisite insurance for Contractor), Contractor shall pay full compensation for all costs incurred by County.

**§ 607. Insurance Coverage Requirements for Subcontractors.** Contractor shall ensure any and all sub-contractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- (a) Providing evidence of insurance covering the activities of sub-contractors, or
- (b) Providing evidence submitted by sub-contractors evidencing that subcontractors

maintain the required insurance coverage. County retains the right to request, and Contractor agrees to provide upon such request, copies of evidence of sub-Contractor insurance coverage at any time.

**§608. Failure to Procure or Maintain Insurance.** Failure on the part of the Contractor to procure or maintain insurance or otherwise satisfy the requirements of this **§ 608**, shall constitute a material breach upon which the County may, in its sole discretion, immediately terminate or suspend this Agreement or procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the County shall be repaid by the Contractor to the County upon demand or the County may set off the cost of the premiums against any monies due to the Contractor from the County.

## **§ 700. AUDITS, REPORTS, RECORDS, & DOCUMENTATION**

**§ 701. Accounting and Cash Management.** (a) Contractor shall establish and maintain on a current basis an adequate accounting system in accordance with generally accepted accounting principles and standards. Contractor should maintain their accounting system on an accrual basis of accounting.

(b) Contractor shall comply with federal Office of Management and Budget (OMB) circulars and State fiscal policies and procedures applicable to it, which may include but are not limited to OMB Circulars OMB Circular A-21, A-50, A-87, A-102, A-110, A-122, A-133, 29 CFR Part 95, 29 CFR Part 96, 29 CFR Part 97, 29 CFR Part 99, Single Audit Act, or 48 CFR Part 31.

(c) Funds reimbursed pursuant to this Agreement shall be used exclusively for services funded under this Agreement and shall not be commingled with any other monies of the Contractor. If Contractor is not a governmental entity or agency, Contractor shall establish and maintain separate records of WtW funds received, i.e., separate general ledgers maintained for each type of WtW funding.

(d) Upon completion or termination of this Agreement, the Contractor shall return any advanced funds which exceed payment due Contractor, if any, within thirty (30) days of completion or termination of the Agreement.

(e) In the event of allegations of fraud or abuse, the County reserves the right to withhold ten percent (10%) of the Agreement amount or the amount of the final request for payment, whichever is the greater, on a completed program until a determination is issued in writing by the County Project Director that withheld funds should be released to the Contractor. Such written determination shall not supercede or replace the final report.

(f) County may withhold payments if Contractor has failed to refund unexpended funds or funds spent for disallowed costs relating to any CSS Agreement that the Contractor has with the County. The County shall require Contractor to pay and Contractor agrees to pay the full amount of the Contractor's liability to the County or the State for such audit exceptions as were caused by Contractor, upon demand by the County at any time after completion of the grievance procedures at the WtW WIB level. The County shall notify Contractor of any disallowed costs.

(g) Contractor shall not use WtW funds in litigation against DOL, the State, or the County nor for any action or activity inconsistent with WtW or federal WtW regulations whatsoever.

(h) For public or private nonprofit Contractor, all revenues in excess of costs for each

program (which have been properly earned) are to be treated as **Program Income**. Accordingly, these funds may be retained by Contractor to underwrite additional training or training related services for County sponsored job training programs consistent with the purposes of WtW. Contractor shall be responsible for tracking all Agreement revenues and expenditures for each program, including submittal of the following:

(i) An Income Statement Report on Agreement revenues versus expenditures, which must be submitted to the CSS WtW Operations Section with the Agreement close-out report at the end of the Agreement term set forth in Section 5 of the Agreement. The purpose of this report is to identify the amount of Program Income. The Income Statement Report should be amended if adjustments are required due to any new information received after the filing of the report.

(ii) A Plan for Disposition of Program Income must be submitted by Contractor to the County within thirty (30) days after the Income Statement Report is due. Cost reimbursement rules apply for program income. Program Income must be spent on line items identified in the Plan, unless the Plan is officially amended. This Plan will be review by the County for final approval. The Plan should be amended as soon as possible if the Income Statement Report is amended.

(iii) Contractor shall maintain a record for each item of nonexpendable property acquired for this program with WtW monies. Nonexpendable property shall include tangible personal property including but not limited to, office equipment, as well as any funds derived from the sale or disposition of nonexpendable property. Any utilization of funds derived from the sale or disposition of nonexpendable property must have prior approval of the County and otherwise comply with all applicable laws and regulations. In case of termination of this Agreement, the County reserves the right to determine the final disposition of said nonexpendable property acquired for this program.

**§ 702. Audits.** (a) Contractor shall establish and maintain a financial management system which provides adequate control of Agreement funds and other assets, insures adequacy of financial data, and provides for operational efficiency and adequate internal controls.

(b) Contractor shall obtain and finance annually at program year end an independent audit in compliance with WtW regulations and respective OMB Circulars.

(c) Contractor shall allow authorized County, State, and Federal representatives to have full access to the Contractor's facilities and all related WtW documentation and other physical evidence for the purposes of auditing, evaluation, inspection, and monitoring of the program set forth in this Agreement, including the interviewing of the Contractor's staff and program participants during normal business hours.

(d) Contractor shall take all actions necessary to enable any of the County, State, or Federal representatives to clearly determine whether the Contractor is properly performing its Contractual obligations, especially in relation to payments received.

(e) Failure by the Contractor to comply with the requirements of this Section shall constitute a material breach of agreement upon which the County may cancel, terminate, or suspend this Agreement.

(f) This agreement shall be subject to the examination and audit of the County Auditor for a period of three years after final payment.

**§ 703. Monitoring.** The Contractor agrees to cooperate with any monitoring, evaluation and/or audit conducted pursuant to this Agreement. In particular, the Contractor shall allow authorized County, State and federal representatives to have full access to the Contractor's facilities and all related WtW documentation and other physical evidence for the purposes of auditing, evaluation, inspection, and monitoring of the program set forth in this Agreement, including, but not limited to, interviewing the Contractor's staff and program participants during normal business hours.

**§ 704. Records and Reports.** (a) The Contractor shall submit the following reports for each program in the Agreement to the County Project Director:

(1) Two (2) copies each of the appropriate monthly fiscal invoice(s) are to be submitted not later than the fifth working day of each month.

(2) Two (2) copies each of the appropriate monthly Summary of Expenditures Report and the Participant Report.

(3) Two (2) copies of a quarterly narrative for program quarters in which Contractor has not met program performance goals, detailing in the form and manner prescribed by the County Project Director a corrective action plan to make up the quarter's deficiencies and avoid such deficiencies in future quarters.

(4) Two (2) copies of a final fiscal closeout report to be submitted in the form and manner designated by the County Project Director.

Addressed to: County of Los Angeles  
Department of Community and Senior Services (CSS)  
Attention WtW Operations Section  
3175 W. Sixth St., Box 15  
Los Angeles, California 90020-1708

(b) The Contractor will maintain an official Agreement file, which contains the signed Agreement and any modification thereto, as well as copies of relevant documents and/or records.

(c) The Contractor shall record costs incurred in the discharge of this Agreement.

(d) The Contractor shall make any and all WtW-related records, reports, participant files, and other documentation and physical evidence, in addition to documents required by this Agreement, as may reasonably be requested by the County, available for inspection and audit by any federal, State or County agency, upon request, for three (3) years from the termination date of this Agreement. In the event of litigation, unresolved audits and/or unresolved claims, the Contractor agrees to retain all such records, reports, participant files, and other documentation and physical evidence beyond the three-year period, until all such litigation, audits, and claims have been resolved. The County reserves the right to seize such records if potential litigation is perceived and must submit documentation of all items seized from Contractor in writing within 60 working days of such action.

(e) The Contractor shall inform the County in writing of the exact location where all records, reports, participant files, and other documentation and physical evidence are to be retained within thirty (30) days of the beginning date of this Agreement. The Contractor shall inform the County in writing of any location changes within ten (10) days from the date the records,

reports, participant files, and other documentation and physical evidence are moved. Any transfers of the records, reports, participant files, and other documentation beyond the boundaries of the County shall require prior written approval by the County. If the Contractor ceases operations prior to five (5) years from the beginning date of this Agreement or before all litigation, audits and claims have been resolved, the Contractor shall provide the name, address, and telephone number of the Contractor's representative responsible for the documents, plus an inventory of all such records, reports, participant files, and other documentation and physical evidence **and** either:

(1) Notify the County where the records, reports, participant files, and other documentation shall be stored and how they will be made available upon request in a timely fashion, or

(2) Deliver all the documentation to a location designated by the County.

(f) The costs of information technology--computer hardware and software--needed for tracking or monitoring under a WtW grant shall not be charged to the administration of the grant (Section 404(b)(2) of the Act. Contractor shall be responsible for its own computerized Direct Data Entry (DDE) of all required participant reports for any and all WtW programs at no expense to the County. This shall include inputting all WtW data for County WtW program for which the Contractor is receiving WtW funds from the County. Contractor shall be responsible for uploading participant data to the County on a daily basis. Contractor shall be responsible for obtaining the use of an IBM-compatible personal computer (PC) of 386 type or better with modem, with a licensed copy of Pro-Com Communications or DOS, or Windows 3.01 or higher. The County will supply software for entering participant data and uploading data to the County.

**§ 705. Public Records/Confidentiality.** (a) The Contractor shall maintain the confidentiality of any information regarding the WtW client obtained through application forms, interviews, tests, reports from public agencies or counselors, or any other source. No information shall be divulged without the client's permission unless required by court process, order, or decree, or required for the purpose of program monitoring or evaluation by the County or other governmental authorities.

(b) The State provides information sources pursuant to this Agreement. Sources of information include, but are not limited to, the Employment Development Department, the California Department of Social Services, the California Department of Education, the County Welfare Department (DPSS), the County IV-D Directors Office of Child Support, the Office of the District Attorney, the California Department of Mental Health, the California Office of Community Colleges, and the Department of Alcohol and Drug Programs. Data consist of information and application (program) files and databases. The State data (information) are confidential, when identifying an individual or an employing unit. Confidential information is not open to the public and requires special precautions to protect it from loss, unauthorized use, access, disclosure, modification, and destruction. Contractor agrees to:

(1) Keep all information furnished by the State in the strictest confidence, and make the information available to its own employees only on a "need-to-know" basis as specifically authorized by this agreement. Instruct all employees with access to State information regarding the confidential nature of the information and the sanctions against unauthorized use or disclosures found in the California Civil Code § 1798.55, the Penal Code §502, the California Unemployment Insurance Code § 2111, and the Welfare and Institutions Code, § 10850. Store and process information in electronic format, in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal, or other means. Return the

confidential information promptly or 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 witnesses destruction. Magnetic media are to be degaussed or returned to the entity that provided it.

(2) Ensure all Contractor staff requesting or receiving State information date and sign a Welfare-to-Work Program Confidentiality Statement. In no event shall said information be disclosed to any individual outside of the Contractor authorized staff and/or their employees.

(3) Designate a person responsible for the security and confidentiality of the data and immediately notify the Welfare-to-Work Program Disclosure Information Officer. The Contractor data security and confidentiality designee will be named in Section 6 of the Agreement.

(4) If the Contractor enters into an agreement with a Subcontractor/service provider to provide Welfare-to-Work Program services, Contractor agrees to include these data security and confidentiality provisions in the agreement with the Subcontractor/service provider. In no event shall said information be disclosed to any individual outside of the Contractor authorized staff, Subcontractor/service providers) and/or their employees.

**§ 706. Commingling of Funds.** Funds disbursed pursuant to this Contract shall be used exclusively for services funded under this Contract and shall not be commingled with any other monies of the Contractor, unless a written waiver is obtained from the County.

**§ 707. Public Statements.** The Contractor shall indicate in any and all press release(s) or any statement to the public related to the program that it is "Funded by the County of Los Angeles and approved by the WIB from funds made available under the Welfare-to-Work Program grant received by the County. All public statements must indicate that the Contractor is an Equal Employment Opportunity employer.

**§ 708. Joint Funding and Revenue Disclosure Requirement.** By its execution of this Agreement, Contractor certifies, unless waived by County, that it has previously filed with the CSS a written statement listing all revenue received, or expected to be received, by Contractor from Federal, State, City or County Sources, or other governmental or non-governmental agencies, and applied, or expected to be applied, to offset in whole or in part any of the costs incurred by Contractor in conducting current or prospective projects or business activities, including, but not necessarily limited to, the project or business activity which is the subject of this Agreement. Such statement shall reflect the name and a description of funding provided by each and every governmental or non-governmental agency to each such project or business activity, and the full name and address of each such agency.

During the term of this Agreement, Contractor shall prepare and file a similar written statement each time it receives funding from any governmental or non-governmental agency which is additional to that revenue disclosed in Contractor's initial revenue disclosure statement hereunder. Such statement shall be filed with the CSS within fifteen (15) business days following receipt of such additional funding. The County shall not pay for any services provided by Contractor which are funded by other sources. If the Contractor is a governmental agency, it shall be exempt from disclosure requirements of this Section, exempt as it pertains to other sources of funding for the Welfare-to-Work Program. All other provisions of this section shall apply. Failure of Contractor to comply with the requirements of this paragraph shall constitute a material breach of contract upon which the County or his designee may cancel, terminate, or suspend this Agreement.

## § 800. TERMINATION/SUSPENSION

**§ 801. Termination for Default.** (a) Services performed under this Agreement may be terminated in whole or in part by the County providing to Contractor a written Notice of Default if:

(1) the Contractor fails to perform the Services within the time specified in this Agreement or any extension approved by the County,

(2) the Contractor fails to perform any other covenant or condition of this Agreement,

(3) the Contractor fails to make progress so as to endanger its performance under this Agreement.

(b) The Contractor shall have ten (10) calendar days from the date of the Notice of Default in which to cure the Default(s), however, in its sole discretion, the County, through its Employment and Training Director, may extend this period or authorize a longer period for cure.

(c) Without limitation of any additional rights or remedies to which it may be entitled, if the County terminates all or part of the Services for Contractor's Default, the County, in its sole direction, may procure replacement services and the Contractor shall be liable for all excess costs incurred by the County in connection with those replacement services, as determined by the County in its sole discretion.

(d) If it is determined that the Contractor was not in Default under the provisions of this Agreement, or that the Default was excusable, then the rights and obligations of the parties shall be the same as if the Notice of Termination has been issued under § 802 (Termination for Convenience).

**§ 802. Termination for Convenience.** (a) Services performed under this Agreement may be terminated in whole or in part at any time the County deems that termination is in its best interest. The County shall terminate Services by delivering to the Contractor a written Termination Notice which specifies the extent to which Services are terminated and the effective termination date.

(b) After receiving a Termination Notice under this section, and unless otherwise expressly directed by the county, the Contractor shall take all necessary steps and shall stop Services on the date and to the extent specified in the Termination Notice and shall complete Services not so terminated.

(c) If the Contractor fails to submit final billing within thirty (30) days of the termination date, the County may determine on the basis of information available to the county, the amount, if any due to the Contractor. After the County makes this determination, it shall pay that amount to the Contractor. The County's determination shall be final.

**§ 803. Termination for Non-Appropriation of Funds.** The County's obligation is payable only from funds appropriated for the purpose of this Agreement. All funds for payments after the end of the current fiscal year are subject to the County's legislative appropriation for this purpose. In the event this Agreement extends into succeeding fiscal year periods and the Board of Supervisors does not allocate sufficient funds for the next succeeding fiscal year payments,

services shall automatically be terminated in accordance with the provisions of § 802 (Termination for Convenience), as of the end of the then current fiscal year. The County shall make a good faith effort to notify the Contractor in writing of such non-allocation at the earliest time.

**§ 804. Termination for Insolvency.** In addition to other provisions provided herein, the County may terminate this Agreement for Default, as provided in § 801, in any of the following events:

(a) The Contractor becomes insolvent, that is, it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether or not it has committed an act of bankruptcy, and whether or not insolvent within the meaning of the federal Bankruptcy law.

(b) The Contractor files a voluntary petition for reorganization or bankruptcy and relief from the automatic stay in bankruptcy is obtained by the County.

(c) A Receiver or Trustee is appointed for the Contractor, provided that the Receiver or Trustee shall not have been dismissed within thirty (30) days of appointment.

(d) The Contractor executes an assignment for the benefit of creditors.

**§ 805. Termination for Improper Consideration.** (a) County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by the Contractor.

(b) Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

(c) Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

**§ 806. Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program.** Failure of Consultant to maintain compliance with the requirements set forth in § 219 shall constitute a default by Consultant under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure to cure such default within 90 days of notice by the Los Angeles County District Attorney and/or Department of Child Support Services shall be grounds upon which the Customer may terminate this Agreement.

**§ 807. Suspension of Agreement.** The County may, by giving notice, suspend all or part of the program operations for Contractor's failure to comply with the terms and conditions of this Agreement. The Notice of Suspension, which shall be effective upon the date of posting, shall set forth the specific conditions of non-compliance and the period provided for corrective action. Within ten (10) working days from the date of the Notice of Suspension, the Contractor shall reply

in writing, setting forth the corrective action(s) which will be undertaken, subject to the County's approval in writing.

**§ 808. Contractor Responsibility and Debarment.** (a) A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is the County's policy to conduct business only with responsible Contractors.

(b) The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County code, if the County acquires information concerning the performance of the Contractor on this or other Contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Contractor from bidding on County Contracts for a specified period of time not to exceed 3 years, and terminate any or all existing Contracts the Contractor may have with the County.

(c) The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a Agreement with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a Agreement with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

(d) If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

(e) The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.

(f) A record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.

(g) These terms shall also apply to subContractors of County Contractors.

**§ 809. Prohibition Against Delegation and Assignment.** (a) Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of the County. Any assignment or delegation which does not have such prior County consent shall be null and void. For purposes of this Section § 809, such County consent shall be granted in the County's sole discretion and shall require a written amendment to this Agreement which is formally approved and executed by the parties. Any billings to the County by any delegatee or assignee on any claim under this Agreement, absent such County consent, shall not be paid by County. Any payments by the County to any delegatee or assignee on any

claim under this Agreement, in consequence of any such County consent, shall reduce dollar for dollar any claims which the Contractor may have against the County and shall be subject to set-off, recoupment, or other reduction for any claims which the county may have against the Contractor, whether under this Agreement or otherwise.

(b) Shareholders or partners, or both, of the Contractor may sell, exchange, assign, divest or otherwise transfer any interest they may have therein. However, in the event any such sale, exchange, assignment, divestment or other transfer, including, without limitation, any merger, reverse merger or other corporate reorganization of the Contractor, is effected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership or legal entity other than the majority controlling interest therein at the time of execution of this Agreement, then prior written consent there of by the County's Board of Supervisors shall be required. Any payments by the County to the Contractor on any claim under this Agreement shall not waive or constitute such County consent. Consent to any such sale, exchange, assignment, divestment or other transfer shall be refused only if the County, in its sole judgement, determines that the transferee(s) is (are) lacking in experience, capability and/or financial ability to perform all Agreement services and other work. This in no way limits any County right found elsewhere in this Agreement, including, but not limited to, any right to terminate this Agreement.

**§ 810. Probation.** (a) The County Project Director may place the Contractor on probationary status when it is determined by the County Project Director for any program(s) herein that the Contractor either (1) has demonstrated a consistent and significant lack of achievement of Participant summary goals, or (2) is out of compliance with County sanction policy guidelines.

(b) If the Contractor is placed on probationary status, the Contractor shall submit a corrective action plan within ten (10) days of the notice of probationary status. The County Project Director must approve the Contractor's Corrective Action Plan (CAP). The County reserves the right to terminate contract(s) of any Contractor on probationary status if the Contractor does not submit an acceptable corrective action plan or fails to meet the goals of an approved corrective action plan.

## **§ 900. GENERAL PROVISIONS**

**§ 901. Agreement Modifications/Amendments.** (a) This Agreement fully expresses the Agreement of the parties. Any modification or amendment of the terms or conditions of this Agreement must be by means of a separate written document approved by the County. No oral conversation between any officer or employee of the parties shall modify or otherwise amend this Agreement in any way.

(b) County may make a unilateral modification to this Agreement at any time, if required by Federal law or regulations, State law or policy, and/or Los Angeles County Private Industry Council/Local Workforce Investment Board policy, within ten (10) working days after receipt of written modification from the Federal, State or County government or PIC/WIB. Furthermore, to the extent funding for the program is eliminated or otherwise reduced, the County may in its sole discretion modify this Agreement accordingly.

**§ 902. Prohibition Against Delegation and Assignment.** (a) Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of the County. Any assignment or delegation which does not have such prior County consent shall be null and void. For purposes of this Section, such County consent may be granted in the County's sole discretion and shall require a written amendment to this

Agreement which is formally approved and executed by the parties. Any billings to the County by any delegatee or assignee on any claim under this Agreement, absent such County consent, shall not be paid by County. Any payments by the County to any delegate or assignee on any claim under this Agreement, in consequence of any such County consent, shall reduce dollar for dollar any claims which the Contractor may have against the County and shall be subject to set-off or other reduction for any claims which the County may have against the Contractor, whether under this Agreement or otherwise.

(b) Shareholders or partners, or both, of the Contractor may sell, exchange, assign, divest or otherwise transfer any interest they may have therein. However, in the event any such sale, exchange, assignment, divestment, or other transfer, including, without limitation, any merger, reverse merger or other corporate reorganization of the Contractor, is effected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership or legal entity other than the majority controlling interest therein at the time of execution of this Agreement, then prior written consent there of by the County's Board of Supervisors shall be required. Any payments by the County to the Contractor on any claim under this Agreement shall not waive or constitute such County consent. Consent to any such sale, exchange, assignment, divestment or other transfer shall be refused only if the County, in its sole judgment, determines that the transferee(s) is (are) lacking in experience, capability and/or financial ability to perform all Agreement services and other work. This in no way limits any County right found elsewhere in this Agreement, including, but not limited to, any right to terminate this Agreement.

**§ 903. SubContracting.** (a) No performance of this Agreement or any portion thereof shall be subContracted by the Contractor without the prior written consent of the County Employment and Training Director. Any attempt by the Contractor to SubContract any performance of services under this Agreement without the prior written consent of the County shall be null and void and shall constitute a material breach of this Agreement upon which the County may immediately terminate this Agreement in accordance with the provisions of § 801 (Termination for Default).

(b) Contractor's request to the County Employment and Training Director for approval to enter into a subContract shall include:

(1) A description of the services to be provided by the subContractor.

(2) Identification of the proposed subContractor and a description of the manner in which the proposed subContractor was selected, and a statement of the extent of competition, if any, involved in the award of the subContract.

(3) Any other information or certification requested by the County Employment and Training Director.

(c) In the event the County Employment and Training Director consents to subContracting, all applicable provisions and requirements of this Agreement shall be made applicable to such subContract. To accomplish this requirement, the Contractor shall include in all subContracts the following provision:

"This Agreement is a Subcontract under the terms of a prime Agreement with the County of Los Angeles and shall be subject to all the provisions of such prime Agreement. All representations and warranties under this Subcontract shall inure to the benefit of the County of Los Angeles."

(d) All Subcontracts shall be made in the name of the Contractor and shall not bind nor

purport to bind the County. The making of Subcontracts hereunder shall not relieve the Contractor of any requirement under this Agreement, including, but not limited to, the duty to properly supervise and coordinate all the work of the Contractor and any Subcontractor. Approval of the provisions of any Subcontract by the County shall not be construed to constitute a determination of the allowability of any cost under this Agreement.

(e) The Contractor agrees that it shall be held responsible to the County for the performance of any approved Subcontract. Subcontracts shall be in writing, with a copy of each such Agreement forwarded to the County at or about the time of execution.

(f) The Contractor shall be solely liable and responsible for any and all payments and other compensation for all Subcontractors and the County shall have no liability or responsibility with respect thereto.

**§ 904. Repayment.** The Contractor agrees to be bound by applicable WtW disallowed cost procedures, rules and regulations, and to repay to the county any amount which is found to violate the terms of this Agreement or applicable WtW provisions or implementing rules and regulations.

**§ 905. Intellectual Property Provisions.** (a) **Federal Funding.** To the extent this Agreement is funded in whole or in part by the federal government, the County may acquire and maintain the Intellectual Property rights, title and ownership, which result directly or indirectly from this Agreement, except as provided in 37 CFR § 401.14. However, pursuant to 29 CFR § 97.34, the federal government shall have a royalty-free, non-exclusive, irrevocable, paid-up license throughout the world to use, duplicate or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

(b) **Ownership.** (1) Except where County has agreed in a signed writing to accept a license, the 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 the Contractor or County and in which result directly or indirectly from this Agreement.

(2) **Intellectual Property Defined.** (A) 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.

(B) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings, and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any other materials or products created, produced,

conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.

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

(4) Contractor 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 Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement (s) to include all Intellectual Property provisions of this § 905. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to County all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or County and which result directly or indirectly from this Contract or any subcontract.

(5) Contractor 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.** (1) Except for Intellectual Property made, conceived derived from, or reduced to practice by Contractor or County and which result directly or indirectly from this Agreement, Contractor 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 Contract. Contractor 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 Contractor'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 Contract, unless Contractor assigned all rights, title and interest in the Intellectual Property as set forth herein.

(2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe 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 this § 905 or result in a breach of any provisions of law relating to confidentiality.

(d) **Copyright.** (1) Contractor agrees that for purposes of copyright law, all works (as

defined in Ownership, **§ 905 (b)(2)(B)**) of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire." Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire" whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that:

(A) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and

(B) that person shall assign all right, title, and interest to County to any work product made, conceived, derived from, or reduced to practice by Contractor or County and which result directly or indirectly from this Agreement.

(2) 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 Contractor 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 Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to County a license as described under **§ 905 (c)** for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor 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, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (1) obtaining County's prior written approval; and (2) granting to or obtaining for County, without additional compensation, a license as described in **§ 905(c)**, for any of Contractor'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 Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to County.

(g) **Warranties.** (1) Contractor represents and warrants that:

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

(B) Neither Contractor'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 Contractor or County and which result directly or indirectly from this Contract 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 is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

(C) Neither Contractor'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 of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.

(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 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 Contractor's performance of this Agreement.

(2) 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.** (1) Contractor shall indemnify, defend and hold harmless County and its licenses and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") 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 Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to:

(A) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or

(B) 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 Contractor 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 Contract. County reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against County.

(2) Should any Intellectual Property licensed by the Contractor to County under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve County's right to use the licensed Intellectual Property in accordance with this Contract at no expense to County. County shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor 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.

(3) Contractor agrees that damages alone would be inadequate to compensate County for breach of any term of this Intellectual Property provisions of this § 905 by Contractor. Contractor 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.

**§ 906. Notices.** (a) The appropriate County representative, as set forth in Section 7 of the foregoing Agreement, is the party to whom the Contractor shall forward all documents, reports, and records as required by this Agreement.

(b) Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of the date of mailing.

(c) If the name and/or address of the person designated to receive the notices, demands or communications changes, the affected party shall notify the other party in writing of such change in accord with this section, within five (5) working days of said change.

**§ 907. Validity.** The invalidity of any provision of this Agreement shall not void or affect the validity of any other provision.

**§ 908. Entire Agreement.** (a) This Exhibit A to the Agreement, together with the forgoing Agreement and other exhibits thereto constitutes the entire, full, complete and exclusive statement of understanding between the parties which supersede all previous written or oral agreements, and all prior communications between the parties relating to the subject matter of this Agreement.

(b) Contractor warrants that it has received a copy of this Exhibit A to this Agreement and upon execution of this Agreement, it shall be Contractor's responsibility to retain on file, and to abide by the entire Agreement.

**§ 909. Captions.** The section headings appearing herein shall not be deemed to govern, limit, modify or in any way affect the scope, meaning or intent of these terms and conditions.

**§ 910. Payment Contingency.** Payments by County during the Contract period are conditioned by:

(a) The availability of said Welfare-to-Work funds, and

(b) The Contractor meeting performance goals set forth in Exhibit C, Statement of Work. Satisfaction of these conditions shall be determined by the County Project Director.

**§911. Acquisition of Supplies and Equipment.** (a) Equipment. Contractor shall obtain at least three (3) bids in writing prior to purchasing equipment over \$5,000.00 per unit in value as approved in the Budget, Exhibit C, and must purchase from the lowest bidder, unless a written waiver is requested by Contractor and granted by the County. In addition, any purchase of equipment of \$5,000.00 or more per unit shall require prior written approval of the County/State. All equipment costing over \$5,000.00 and having a life expectancy of more than one (1) year shall be properly identified and inventoried as specified in the County Auditor Controller Accounting and Contract Administration Handbook and shall be charged at its actual price deducting all cash discounts, rebates, and allowances received by Contractor. Equipment purchases approved in the budget by above provisions will apply to leasing as well as to purchasing of equipment Title to such equipment shall be vested in County/State per program regulations.

(b) **Purchase and invoice deadlines.** Purchase of equipment or property must be completed prior to the last three (3) months of the Agreement period. Contractor must complete all purchases of supplies before the last two (2) months of the contract period. Invoices which have not been submitted for payment prior to the termination date of this Agreement must be forwarded to the County's Fiscal Section within sixty (60) business days after the Agreement termination or they may not be honored. Exceptions to the preceding restrictions/imitations require prior written by County Project Director or his designee.

(c) During this Agreement, where equipment is purchased by Community and Senior Services and furnished to the Contractor to assist in providing services under the terms of this Agreement, said equipment, whether fixed or non-fixed, is to be transferred or returned to the Department at the request of the Director of the Department, or authorized representative.

**§ 912. Waivers.** (a) Waivers of the provisions of this Agreement shall be in writing and signed by the appropriate designee of the County.

(b) No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach of that provision or of any other provision of this Agreement.

**§ 913. Prohibition of Fees.** Contractor shall not charge clients fees and/or membership fees for any services funded under this Agreement.

**§ 914. Clean Air and Water.** Compliance with all applicable standards, orders, or requirement issued under sections 302 of Clean Air Act (42 U.S.C 1857 (h)), section 508 of the clean Water (33 U.S.C 1368, Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). Contract, subcontract, and subgrants or amounts in excess of \$100,000.