

CONTRACT #FF.2324

This Contract is entered into this 1st day of June, 2024, by, and between, the County of Ventura, a political subdivision of the State of California, hereinafter called "County" and Fishy Finds, LLC (a Limited Liability Corporation), hereinafter called "Contractor."

WITNESSETH

WHEREAS, Contractor represents it is specially trained, experienced, expert and competent to perform the special services hereinafter described, and it is necessary and desirable that County engage Contractor to do so;

NOW, THEREFORE, IT IS HEREBY AGREED by the parties as follows:

1. **SERVICES TO BE PERFORMED BY CONTRACTOR**

Contractor shall perform the services and tasks described in Exhibit A hereto and all services and tasks reasonably necessary for the completion of the same (the "Work"). Contractor shall furnish, at Contractor's own cost and expense, all personnel, services, tools, vehicles, and equipment or any other materials, necessary to perform the Work. Contractor shall perform, and ensure all subcontractors perform, the Work in a safe, professional, skillful, and workmanlike manner.

2. **PAYMENTS**

In consideration of the services rendered in accordance with all terms, conditions and specifications of this Contract, County will make payment to Contractor in the manner specified in Exhibit B.

3. **INDEPENDENT CONTRACTOR**

No relationship of employer and employee is created by this Contract, it being understood that Contractor is an independent contractor, and neither Contractor nor any of the persons performing services for Contractor pursuant to this Contract, whether said person be member, partner, officer, employee, subcontractor, or otherwise, will have any claim under this Contract or otherwise against County for any salary, sick leave, vacation pay, retirement benefits, social security, workers' compensation, disability, unemployment insurance benefits, federal, state or local taxes, or other compensation, benefits or taxes of any kind.

It is further understood and agreed by the parties hereto that, except as provided in this Contract, County will have no control over the means or methods by which Contractor will perform services under this Contract.

If, in the performance of this Contract, any third persons are employed by Contractor, such persons will be entirely and exclusively under direction, supervision and control of Contractor. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other terms of

employment or requirements of law, will be determined by Contractor, and County will have no right or authority over such persons or the terms of such employment, except as provided in this Contract.

The Contractor will comply with all of the provisions of the Worker's Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments, thereto; and all similar State and Federal acts or laws applicable; and will indemnify and hold harmless the County from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including attorney's fees and costs, presented, brought or recovered against the County, for or on account of any liability under any of said Acts which may be incurred by reasons of any work to be performed under this Contract.

Contractor agrees to defend, through attorneys approved by County, indemnify and hold harmless Indemnatee (as defined elsewhere herein) from and against all Third-Party Claims (defined elsewhere herein) made against indemnatee based upon any contention by any third party that an employer-employee relationship exists by reason of this contract. Contractor further agrees to hold Indemnatee harmless from and to compensate Indemnatee for any Third-Party Claims against Indemnatee for payment of state or federal income or other tax obligations relating to Contractor's compensation under the terms of this contract. Contractor will not settle or otherwise compromise a Third-Party Claim covered by this paragraph without County's advance written approval. This subsection does not apply to any penalty imposed by any governmental agency that is not caused by or the fault of Contractor.

4. **NON-ASSIGNABILITY**

Contractor will not assign this Contract or any portion thereof, to a third party without the prior written consent of County, and any attempted assignment without such prior written consent will be null and void and will be cause, at County's sole and absolute discretion, for immediate termination of this Contract.

5. **TERM**

This Contract will be in effect from June 1, 2024, through June 30, 2025, subject to all the terms and conditions set forth herein.

Time is of the essence in the performance of this contract.

Continuation of the Contract is subject to the appropriation of funds for such purpose by the County's Board of Supervisors. If funds to effect such continued payment are not appropriated, County may terminate this project as thereby affected and Contractor will relieve County of any further obligation therefor.

6. **TERMINATION**

The County may terminate this Contract at any time for any reason by providing 10 days' written notice to Contractor. In the event of termination under this paragraph, Contractor will be paid for all work provided to the date of termination, as long as such work meets the terms and conditions of this Contract. On completion or termination of this Contract, County will be entitled to immediate possession of, and Contractor will furnish on request, all computations, plans, correspondence and other pertinent data gathered or computed by Contractor for this particular Contract prior to any termination. Contractor may retain copies of said original documents for Contractor's files. Contractor hereby expressly waives any and all claims for damages or compensation arising under this Contract except as set forth in this paragraph in the event of such termination.

This right of termination belonging to the County of Ventura may be exercised without prejudice to any other remedy which it may be entitled at law or under this Contract.

7. **DEFAULT**

If Contractor defaults in the performance of any term or condition of this Contract, Contractor must cure that default by a satisfactory performance within 10 days after service upon Contractor of written notice of the default. If Contractor fails to cure the default within that time, then County may terminate this Contract without further notice.

The foregoing requirement for written notice and opportunity to cure does not apply with respect to paragraph 6 (Termination) above.

8. **INDEMNIFICATION, HOLD HARMLESS AND WAIVER OF SUBROGATION**

All activities and/or work covered by this Contract will be at the risk of Contractor alone. Contractor agrees to defend, indemnify, and save harmless the County, including all of its boards, agencies, departments, officers, employees, agents and volunteers (collectively, "Indemnitee"), against any and all claims, lawsuits, judgments, debts, demands and liability (including attorney fees and costs) (collectively, "Third Party Claims"), whether against Contractor, County or others, including without limitation, those arising from injuries or death of persons and/or for damages to property, arising directly or indirectly out of the obligations herein described or undertaken or out of operations conducted or subsidized in whole or in part by Contractor, save and except Third Party Claims litigation arising through the sole negligence or wrongdoing and/or sole willful misconduct of Indemnitee. Contractor shall not settle or otherwise compromise a Third Party Claim covered by this section without County's prior written approval. Contractor agrees to waive all rights of subrogation against Indemnitee for losses arising directly or indirectly from the activities and/or work covered by this Contract.

9. **INSURANCE PROVISIONS**

- A) Contractor, at its sole cost and expense, will obtain and maintain in full force during the term of this Contract the following types of insurance:
- 1) General Liability "occurrence" coverage in the minimum amount of \$1,000,000 combined single limit (CSL) bodily injury & property damage each occurrence and \$2,000,000 aggregate, including personal injury, broad form property damage, products/completed operations, and broad form blanket contractual.
 - 2) Commercial Automobile Liability coverage in the minimum amount of \$1,000,000 CSL bodily injury & property damage, including owned, non-owned, and hired automobiles. Also to include Uninsured/Underinsured Motorists coverage in the minimum amount of \$100,000 when there are owned vehicles.
 - 3) Workers' Compensation coverage, in full compliance with California statutory requirements, for all employees of Contractor and Employer's Liability in the minimum amount of \$1,000,000.
 - 4) Professional Liability coverage in the minimum amount of \$1,000,000 each occurrence and \$2,000,000 aggregate.
- B) All insurance required will be primary coverage as respects County and any insurance or self-insurance maintained by County will be in excess of Contractor's insurance coverage and will not contribute to it.
- C) County is to be notified immediately if any aggregate insurance limit is exceeded. Additional coverage must be purchased to meet requirements.
- D) The County, and any applicable Special Districts are to be named as Additional Insured as respects to work done by Contractor under the terms of this Contract for General Liability Insurance.
- E) Contractor agrees to waive all rights of subrogation against the County, its Boards, Agencies, Departments, any applicable Special Districts, Officers, Employees, Agents and Volunteers for losses arising from work performed by Contractor under the terms of this Contract.
- F) Policies will not be canceled, non-renewed or reduced in scope of coverage until after sixty (60) days written notice has been given to the County's Human Services Agency Fiscal Contracts Unit and Risk Management Division.
- G) Contractor agrees to provide County with the following insurance documents on or before the effective date of this Contract:
1. Certificates of Insurance for all required coverage.
 2. Additional Insured endorsement for General Liability Insurance.

3. Waiver of Subrogation endorsement (a.k.a.: Waiver of Transfer Rights of Recovery Against Others, Waiver of Our Right to Recover from Others) for Workers' Compensation.

Failure to provide these documents will be grounds for immediate termination or suspension of this contract.

10. **NON-DISCRIMINATION**

A) General.

No person will on the grounds of race, color, national origin, religious affiliation or non-affiliation, sex, age, handicap, disability, or political affiliation, be excluded from participation in, be denied the benefits, or be subjected to discrimination under this Contract.

B) Employment.

Contractor will ensure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this Contract. Contractor's personnel policies will be made available to County upon request.

11. **SUBSTITUTION**

If particular people are identified in Exhibit A as working under this Contract, the Contractor will not assign others to work in their place without written permission from the County. Any substitution will be with a person of commensurate experience and knowledge.

12. **INVESTIGATION AND RESEARCH**

Contractor by investigation and research has acquired reasonable knowledge of all conditions affecting the work to be done and labor and material needed, and the execution of this Contract is to be based upon such investigation and research, and not upon any representation made by the County or any of its officers, agents or employees, except as provided herein.

13. **CONTRACT MONITORING**

The County will have the right to review the work being performed by the Contractor under this Contract at any time during Contractor's usual working hours. Review, checking, approval or other action by the County will not relieve Contractor of Contractor's responsibility for the thoroughness of the services to be provided hereunder. This Contract will be administered by the Human Services Agency authorized representative.

14. ADDENDA

County may from time to time require changes in the scope of the services required hereunder. Such changes, including any increase or decrease in the amount of Contractor's compensation which are mutually agreed upon by and between County and Contractor will be effective when incorporated in written amendments to this Contract.

15. CONFLICT OF INTEREST

Contractor covenants that Contractor presently has no interest, including, but not limited to, other projects or independent contracts, and will not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Contractor further covenants that in the performance of this Contract no person having such interest will be employed or retained by Contractor under this Contract.

16. CONFIDENTIALITY

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Contractor under this Contract which County requests in writing to be kept confidential, will not be made available to any individual or organization by Contractor without the prior written approval of the County except as authorized by law.

17. NOTICES

All notices required under this Contract will be made in writing and addressed or delivered as follows:

TO COUNTY: County of Ventura
Human Services Agency – Fiscal Contracts Unit
855 Partridge Drive
Ventura, CA 93003

TO CONTRACTOR: Fishy Finds, LLC
4680 E. Los Angeles Avenue
Suite J
Simi Valley, CA 93063

Either party may, by giving written notice in accordance with this paragraph, change the names or addresses of the persons or departments designated for receipt of future notices. When addressed in accordance with this paragraph and deposited in the United States mail, postage prepaid, notices will be deemed given on the third day following such deposit in the United States mail. In all other instances, notices will be deemed given at the time of actual delivery.

18. **MERGER CLAUSE**

This Contract supersedes any and all other contracts, either oral or written, between Contractor and the County, with respect to the subject of this Contract. This Contract contains all of the covenants and contracts between the parties with respect to the services required hereunder. Contractor acknowledges that no representations, inducements, promises or contracts have been made by or on behalf of County except those covenants and contracts embodied in this Contract. No modification, waiver, amendment or discharge of this Contract shall be valid unless the same is in writing and signed by duly authorized representatives of both parties.

19. **GOVERNING LAW**

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties under this Contract, will be construed pursuant to and in accordance with the laws of the State of California.

20. **SEVERABILITY OF CONTRACT**

If any term of this Contract is held by a court of competent jurisdiction to be void or unenforceable, the remainder of the Contract terms will remain in full force and effect and will not be affected.

21. **CUMULATIVE REMEDIES**

The exercise or failure to exercise of legal rights and remedies by the County in the event of any default or breach hereunder will not constitute a waiver or forfeiture of any other rights and remedies and will be without prejudice to the enforcement of any other right or remedy available by law or authorized by this Contract.

22. **COMPLIANCE WITH LAWS**

Each party to this Contract will comply with all applicable laws.

23. **CONSTRUCTION OF COVENANTS AND CONDITIONS**

Each term and each provision of this Contract will be construed to be both a covenant and a condition.

24. **NON-EXCLUSIVITY**

The County reserves the right to contract with providers of similar services and/or equipment other than the Contractor when it is reasonably determined to be in the best interest of the County.

25. **MISCELLANEOUS**

- a. Third Party Beneficiaries. Except for indemnitees under sections 3 and 8 above, this contract does not, and the parties to this contract do not intend to, confer a third-party beneficiary right of action on any third party whatsoever, and nothing set forth in this contract will be construed so as to confer on any third party a right of action under this contract or in any manner whatsoever.
- b. Further Actions. The parties hereto agree that they will execute any and all documents and take any and all other actions as may be reasonably necessary to carry out the terms and conditions of this contract.
- c. Legal Representation. Each party warrants and represents that in executing this contract, the party has relied upon legal advice from attorneys of the party's choice (or had a reasonable opportunity to do so); that the party has read the terms of this contract and had their consequences (including risks, complications and costs) completely explained to the party by the party's attorneys (or had a reasonable opportunity to do so); and that the party fully understands the terms of this contract. Each party further acknowledges and represents that the party has executed this contract freely and voluntarily without the undue influence of any person, and the party has not relied on any inducements, promises or representations made by any person not expressly set forth in this contract.
- d. No Waiver. Failure by a party to insist upon strict performance of each and every term, condition and covenant of this contract shall not be deemed a waiver or relinquishment of the party's rights to enforce any term, condition or covenant.
- e. Partial Invalidity. If any provision of this contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the parties intend, and it shall be so deemed, that the remaining provisions of this contract shall continue in full force without being impaired or invalidated in any way. If such provision is held to be invalid, void or unenforceable due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- f. Interpretation of Contract. For purposes of interpretation, this contract shall be deemed to have been drafted by both parties, and no ambiguity shall be resolved against any party by virtue of the party's participation in the drafting of the contract. Accordingly, Civil Code section 1654 shall not apply to the interpretation of this contract. Where appropriate in the context of this contract, the use of the singular shall be deemed to include the plural, and the use of the masculine shall be deemed to include the feminine and/or neuter.

IN WITNESS WHEREOF the parties hereto have executed this Contract.

COUNTY OF VENTURA


Authorized Signature

Melissa Livingston
Printed Name

Director, Human Services Agency
Title

July 8, 2024
Date

FISHY FINDS, LLC


Authorized Signature

Tania Robuck-Goudsward
Printed Name

Tania Robuck

Title

6/15/2024
Date

(On File)

Tax Identification Number

51-0587359

Secretary of State Entity Number

CONTRACTOR*


Authorized Signature

Tania Robuck

Printed Name

Owner Fishy Finds LLC

Title

06/15/2024

Date

* If a corporation, this Contract must be signed by two specific corporate officers.

The first signature must be from either (1) the Chief Executive Officer, (2) the Chairman of the Board, (3) the President, or (4) a Vice President.

The second signature must be from either (a) the Secretary, (b) an Assistant Secretary, (c) the Chief Financial Officer (or Treasurer), or (d) an Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signatory to bind the company for this Contract.

Exhibit A
SCOPE OF WORK
CLIENT PROBATE LIQUIDATION OF ASSETS FOR PUBLIC ADMINISTRATOR

1. RECORDS AND LICENSE

- A. Contractor shall maintain an appropriate and current business license and any other necessary licenses, credentials and certifications. Contractor shall be bonded and insured as required.
- B. Contractor shall maintain appropriate program and financial records to validate and support services rendered under the Contract. All accounting records shall be kept in accordance with Generally Accepted Accounting Principles (GAAP).

2. ADVISEMENT

Public Administrator (PA) – Decedent's Estates: Contractor is advised that items can be distributed in-kind to a beneficiary pursuant to the Will or upon request and mutual approval of all beneficiaries.

3. CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for providing the following to County:

EVALUATION OF ESTATE/CONSULTATION

- A. Contractor shall provide professional asset liquidation and sales services of all estate goods and/or personal property (excluding real estate) as identified and requested by PA. Services will be available and provided in all areas of the county (and possibly outside of the county, as mutually agreed-upon on a case-by-case basis).
- B. Contractor shall arrange the location where asset sales/disposition will occur including the ability to conduct sales at the client's residence or other sites as may be permitted by County. For onsite estate sales, work with PA staff to determine the best venue and manage logistics to include pre-estate sale meeting and display of sale items.
- C. Contractor shall provide sufficient advertising and promotion of items to be sold.

ESTATE GOODS/PERSONAL PROPERTY LIQUIDATION PLAN

- A. Unique and/or potentially high value items that require independent appraisal (e.g., jewelry, coin collections, stamp collections, art, etc.,) which are ultimately part of the Inventory & Appraisal requirement pursuant to Probate Code section 2610 and 8800 are to be removed from the estate sale lot and considered for silent auction or other action agreed to with PA in order to obtain the highest sale price possible.
 - Reasonable efforts must be made to sell items at or above the appraised value and the contractor must document the reasonable efforts taken to sell the item.
 - If item does not sell for appraised value, contractor may purchase the item at 90% of its appraised value. If the purchase is not optioned by the Contractor, the item will be returned to PA by the Contractor for disposition.
- B. Contractor shall conduct an appropriate method of sale/disposition that ensures return of the best price for each asset sold (i.e., estate sale, auction with no minimum bid, auction with minimum bid, or bulk sale).
- C. Contractor may bulk purchase items not sold at the estate sale for future sale at its retail location.
- D. Contractor shall incur all expenses for the sale/disposition of all assets provided to it by County.

Contractor shall sell all items "as is."

The remainder of unsold items may be purchased at the contractor's option at an agreed upon rate with PA, prior to a third-party cleaning service to be hired by PA to clear the estate. Contractor shall provide a check to the County for all items they wish to purchase at the end of the last estate sale day.

- E. Contractor shall maintain a data base/registry (preferably nationwide) of potential/targeted buyers that may be notified of items being sold and provide the means to accept electronic bids when applicable.
- F. Contractor shall develop an estate liquidation sale plan for each estate prior to estate sale to ensure mutually agreed upon content and timeline with the County. Estate plan shall include an inventory of items to be sold at sale and timeline of events (staging and estate sale date(s) which will be provided to the County. Liquidation sale plan shall include a reconciliation with PA staff at the end of the sale to reconcile proceeds with receipts.
- G. Contractor shall provide the County with a list of items sold, copies of the receipts and a check for the sale price less Contractor commission, at the end of each estate sale day.

VEHICLES

- A. Contractor shall sell estate vehicles "as-is" if the vehicle is sold for less than \$2,000 the fee is 25% of the sale price. Any vehicle that sells for \$2,000 or more, a flat rate of \$500 will apply.
- B. Contractor shall take pictures, advertise, clear title through DMV/AAA and make sure Handicap placards and platers are returned and cleared as needed.
- C. If a vehicle is part of an estate sale, the vehicle must be sold on-site and not be removed from the premises and whenever possible should be sold by the end of the estate sale.
- D. If vehicle is unsold at the estate sale, further determination will be made by PA to sell the vehicle in an appropriate manner.

FIREARMS

- A. Notify PA if firearms are found on premises. If firearms are located on premises PA will coordinate with law enforcement and work with a licensed firearms dealer for sale.

PRE-SALE SERVICES

- A. Contractor shall provide the following services: Initial screening of the estate, develop and provide an estate sale plan, inventory of items, staging, taking pictures, valuation and research, marketing and advertising and conducting the sale.

POST-SALE SERVICES/CLOSE OUT

- A. Contractor shall work with PA staff at the end of the sale to reconcile receipts with proceeds and determine, based on agreed-upon commissions, the Contractor's fee and the amount of the Contractor's payment to the County. Contractor shall remit payment to the County for proceeds less commission at the end each sale day.
- B. Contractor may purchase items not sold at the estate sale to be sold at Contractor's place of business at a price to be mutually determined with PA staff. Contractor will provide the check

for items purchased at the end of the estate sale. Contractor will arrange for removal of any items purchased by Contractor

- C. Coordinate close-out dealings for any outstanding items at the end of the estate sale.
- D. With the exception of specific specialty items (e.g., coins, jewelry, etc.,) Contractor shall conduct appraisals provide estimate of value of all items to be sold in accordance with industry standards and experience to determine probable value. Shall provide written inventory of items sold. Contractor shall also accompany the County as needed to evaluate specific items for sale. There is no additional charge for verbal/written appraisal and/or advice.
- E. Contractor shall generate an invoice that includes the Estate Name and detail of sale prices for:
 - Household furnishings and personal property in aggregate
 - Detailed sale price listing for sale price for each item requiring separate appraisal (jewelry, coin collections, stamp collections, art collections, etc.)
- F. Contractor shall provide receipts of all items sold and remittance of net proceeds (sale price less Contractor commission) from each day of the estate sale.
- G. Additional remittance of funds shall be made when any remaining liquidation of items are complete.
- H. Contractor shall maintain full record keeping of inventory and sales records by estate and provide to the County as requested.

4. COUNTY RESPONSIBILITIES

County shall have the following responsibilities:

- A. Ensure that PA has control or authorized access to a property and has the authority to hold an estate sale on that property.
- B. In cases of rental properties, the PA through County Counsel shall consult with the landlord and obtain necessary authorization for contractor's onsite activities.
- C. County shall ensure that estate assets provided to Contractor to be sold pursuant to this Contract are free from all liens and/or encumbrances and inventory and appraisal documents have been submitted to the court as required.
- D. County shall identify goods and/or personal property to be sold by Contractor and items that can be donated or disposed.
- E. County shall confer with Contractor on the most appropriate venue for estate sale and will inform Contractor of any special circumstances needed for specific estates (i.e., hazardous materials, hoarding situation, etc.).
- F. PA shall coordinate disposition of firearms in coordination with law enforcement and a licensed firearms dealer.
- G. County shall have the right to review the work being performed by the Contractor at any time during the Contractor's usual working hours.
- H. County shall collect from Contractor its share of the gross proceeds from the sale of estate assets pursuant to this Contract and report such revenue received and maintain financial records in accordance with County requirements.

- I. County shall arrange for any unsold items to be considered a donation to a charitable 501(c)(3) organization and arrange for item pickup.
- J. County shall arrange for a third-party clean-up service to finalize removal of left-over items and the cleaning of the estate site.

5. FEES AND TAXES

The following fees and taxes apply to this Contract:

- A. Estate Goods/Personal Property: Contractor shall limit the share of the percentage of gross proceeds retained from the sale of estate assets to an amount not to exceed 40% of goods sold.
- B. Vehicles: If the vehicle is sold for less than \$2,000 the Contractor's fee is 25% of the sale price. For any vehicle that sells for \$2,000 or more the Contractor's fee will be a flat rate of \$500. For collectible/inoperable vehicles, vendor fee may be negotiated on a case-by-case basis, not to exceed the estate goods/personal property fee of 40%.
- C. Taxes to Remit: Contractor shall be responsible to pay all applicable taxes for the sale of County's assets to the State Board of Equalization.

6. COUNTY PAYMENT

CONTRACTOR shall remit to County:

- A. A check for the balance of the gross proceeds (sale price less Contractor commission) at the end of each estate sale day.
- B. A check for any items that did not sell at the estate sale that the Contractor wishes to purchase for later sale. Check to be remitted at the end of the estate sale.
- C. On any item for which the period of sale is extended as authorized by the PA beyond the last estate sale date, proceeds shall be remitted to PA within 30 days of the sale. Remittance shall be accompanied by a detailed summary of item(s) sold, date of sale, sales price, taxes paid, amount retained by Contractor and buyer's premium.

GENERAL CONTRACT CONDITIONS – EXHIBIT B

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INTRODUCTION

The General Conditions, Assurances and Certifications shall apply to and are incorporated into this contract. To the extent there is any conflict between the General Conditions, Assurances and Certifications and any other provision in this contract, the General Conditions, Assurances and Certifications shall prevail. To the extent that provisions in the General Conditions, Assurances and Certifications relate to services or activities not encompassed in the subject contract, those provisions do not apply.

A. GENERAL CONTRACT CONDITIONS

1. Reports

The Contractor shall submit timely and accurate programmatic and financial reports in accordance with the contract and County Directives.

2. Limits of Obligation

The Contractor shall be paid in accordance with the contract and budget, not to exceed the maximum amount specified. Any cost incurred by the Contractor over and above the maximum amount obligated by the contract and budget shall be at the sole risk and expense of the Contractor.

3. Documentation and Procurement Requirements

The Contractor shall maintain documentation of all services and contract costs and comply with all applicable procurement requirements. Such documentation and procurement must be in accordance with the contract requirements and all applicable federal, State, and County requirements, and provide sufficient detail (*i.e.*, original source documents) to support Contractor purchases, claims for reimbursement and payments made under the contract.

4. Disallowed Costs

Contractor shall be liable for all amounts which are determined to be due as a result of disallowance by the Federal Government, the State of California, or the County of Ventura or any other governmental agency with jurisdiction, when such disallowance is the result of the Contractor's or its Subcontractor's conduct. Payment of any disallowed costs must be made within 30 days of notification of the disallowed costs, unless otherwise specified by County. The Contractor shall comply with the provisions set forth in the County's Audit Resolution Procedure, hereby incorporated by reference, regarding Contractor's liability for expenditures disallowed by an auditor. Contractor will be notified of any disallowed costs or any other controversy or proceeding between County, the State of California or the federal government arising from the performance of the contract.

5. Availability of Funds

- a. The contract is valid and enforceable only if sufficient funds are made available to the County from the appropriate funding source and are appropriated by the County Board of Supervisors for the purpose set forth in the contract.
- b. At the expiration of the term of the contract or upon termination prior to the

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expiration of the contract, and after all payments have been made to the Contractor for services provided, any remaining funds that were previously obligated under the contract shall revert to the County.

- c. The County retains the right to suspend financial assistance, in whole or in part, to protect the integrity of the funds or to ensure proper operation of the program, providing the Contractor is given prompt notice and the opportunity for a hearing within 30 days from such suspension. Failure on the part of the Contractor or a Subcontractor to comply with the provisions of the contract or with applicable law, when such failure involves the allegation of fraud as a result of a monitoring or other program review or misappropriation of funds, may result in immediate de-obligation and withholding of funds and debarment from program operation.

6. Administrative Directives, Unilateral Modifications, Contract Directives

The County may issue administrative directives, unilateral modifications and contract directives concerning interpretations of Federal or State laws, rules and regulations, and directives received from the Federal Government or the State, and/or from the County Board of Supervisors, which may require changes in procedures by the Contractor.

Contractor will be deemed responsible for complying with such administrative and contract directives and/or modifications only after being formally notified in writing of appropriate action necessary.

7. Venue and Construction

The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties under this contract, will be construed pursuant to and in accordance with the laws of the State of California. The parties acknowledge that the contract is entered into and is to be performed in the County of Ventura, State of California. In any legal proceeding relating to the contract, the parties agree that for all purposes venue shall be in the County of Ventura, State of California.

8. Ownership of Work Product

Upon the termination of the contract for any reason, all data, documents, films, tapes and all reports or any other work products paid for by grant or other funds provided by federal, State, and County and prepared by the Contractor in the course of operating the program, will become the property of the County. This will not include any information that is proprietary to the Contractor, unless otherwise agreed to by the parties in writing.

9. Personnel Disclosure

Contractor shall make available to County, upon request, a current list of all personnel providing services under the contract. The list shall include: (1) the names and job titles of all full or part-time staff and volunteers providing services under the contract, (2) a brief description of each position and the FTE hours allocated, and (3) the professional degree, if applicable, and experience required for each position.

10. Responsibility for Equipment

County shall not be responsible nor be held liable for any damage to person or property

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consequent upon the use, misuse, or failure of any equipment used by Contractor or any of Contractor's employees, even though such equipment is furnished, rented, or loaned to Contractor by County. The acceptance or use of any such equipment by Contractor or Contractor's employees shall be construed to mean that Contractor accepts full responsibility for and agrees to exonerate, indemnify and hold harmless County from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

11. Contamination and Pollution

Contractor, solely at its own cost and expense, will provide clean up of any premises, property or natural resources contaminated or polluted due to Contractor activities. Any fines, penalties, punitive or exemplary damages assigned due to contaminating or polluting activities of the Contractor will be borne entirely by the Contractor.

12. Hiring/Paying Board of Directors Prohibited

Contractor shall not hire, nor compensate from contract funds, any of its governing body to provide services under the contract without the written approval of County.

13. Subcontracts

All subcontracts between Contractor and another party involving the operation of the contract must be in writing and will first be presented to the County for approval, and do not create a contractual relationship between such third party and the County. Failure to obtain such prior approval of the County may result in the immediate termination of the contract at the sole and absolute discretion of the County.

- a. Any subcontracts entered into by the Contractor must be in compliance with all applicable Federal and State procurement laws, policies, or regulations.
- b. Any of the work or services specified in the contract which will be performed by other than the Contractor will be evidenced by a written agreement specifying the terms and conditions of such performance.
- c. The Contractor will maintain and adhere to an appropriate system, consistent with Federal, state, and local law, for the procurement, award and monitoring of contracts which contain acceptable standards for insuring accountability.
- d. The system for awarding contracts will contain safeguards to ensure that the Contractor does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds within the last five (5) years.
- e. The system for soliciting and/or developing fixed unit price contracts must include sufficient documented analysis to assure that costs billed as a single-unit charge are reasonable and supportable, based on the prevailing rate of such services obtained from competitive sources, or that costs are justifiable, predicated on the unique nature of the service provided.
- f. No subcontract shall alter in any way any legal responsibility of Contractor to

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County. County has the right to refuse reimbursement for obligations incurred under any subcontract which does not comply with the terms of the contract.

- g. For any contract being supported in part or in whole with federal funds, it is the responsibility of the Contractor to ensure that any subcontractors are not debarred or suspended from receiving from federal funds prior to issuance of the subaward, and that subcontracts adhere to the same criteria set forth in this contract in section 48. Debarment and Suspension Certification. Contractors must verify that subcontractors have no active exclusions by using the System for Award Management at www.SAM.gov.

14. Political Activities Prohibited (Hatch Act) & Byrd Anti-Lobbying Amendment

None of the funds, provided directly or indirectly, under the contract shall be used for any political activities or to further the election or defeat of any candidate for public office. In addition, the Contractor will comply with the provisions of the Hatch Act as amended, which limits the political activities of employees.

For contracts over \$100,000 Contractor must comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

15. Energy Efficiency

Contractor shall comply with mandatory standards and policies relating to energy efficiency in the California Energy Code, Title 24, part 6, as required by the U.S. Energy Policy and Conservation Act (42 U. S. C. § § 6201 et seq.).

16. Clean Air and Water Acts

For all contracts between County and Contractor in excess of \$150,000, Contractor shall comply with Section 306 of the Clean Air Act (42 USC § 7606), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and United States Environmental Protection Agency regulations (Title 2 of CFR).

17. Solid Waste Disposal Act.

For all contracts between County and Contractor in which an item or items in excess of \$10,000 are procured, Contractor shall comply with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962) and 40 CFR part 247.

18. Sectarian Activities

As part of or in connection with the performance of this contract, Contractor shall not engage in, aid or permit religious instruction, proselytization, or any other activities that would amount to an improper aid to or establishment of religion, or a violation of "free exercise" rights, in violation of the United States Constitution (First Amendment), California Constitution (Art. I, § 4; art. XVI, § 5), or any other law.

19. Licenses and Standards

Contractor shall comply with all applicable federal, State, County and local rules and regulations, including, business, facility and professional licensing and certification laws, and shall keep in effect and current any and all licenses, permits, notices and certificates

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required for Contractor's provision of services under the contract and for the duration of the term of the contract. Contractor shall further comply with all laws applicable to wages and hours of employment, occupational safety, and fire safety, health and sanitation.

In the performance of this contract, Contractor shall comply with all applicable provisions of the California Welfare and Institutions Code, Title 45 of the Code of Federal Regulations, all applicable laws and regulations of the United States, State of California, and County and all administrative regulations, rules and policies adopted thereunder as each and all may now exist or be hereinafter amended or changed. In addition, Contractor shall comply with all rules and regulations set forth in 2 CFR 200 as applicable to form of entity by which Contractor transacts its business.

20. Maintenance of Records (Records Retention)

Contractor agrees to maintain all records under the contract in accordance with applicable federal, state and local requirements:

- a. Contractor agrees to retain all records pertinent to all contracts, sub-contracts, and agreements including statistical, property and participant/client records and supporting documentation for a period of three (3) years and all payroll and financial records for a period of seven (7) years from the date of final payment of the Contract. If at the end of the retention period there is ongoing litigation or an audit involving these records, the Contractor will retain the records until the resolution of such litigation or audit.
- b. Working Paper Retention and Access to Working Papers - All work papers and reports must be maintained at the Contractor's office where work is performed, at Contractor's expense for a minimum of seven (7) years, unless the contractor is notified by the County that the retention period must be extended. If the Contractor goes out of business, all working papers must be turned over to the County for retention.
- c. Records for non-expendable property will be retained for a period of three (3) years after final disposition of the property, if applicable.
- d. In the event of the termination of the relationship with a Contractor, the Governor of the State of California will be responsible for the maintenance and retention of the records of any Contractor unable to retain them.
- e. Upon request, Contractor shall make these records available within Ventura County to all authorized County, State (including State Auditor) and federal personnel or representatives.

21. Internal Monitoring (fiscal and program review)

The Contractor is responsible for the internal monitoring of fiscal and program operational goals to ensure contract compliance. All monitoring formats to be used will be submitted to the County, upon request.

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22. Inspection of Records/Monitoring/Audits

Authorized federal, State or County representatives shall have the right to monitor, audit, assess, or evaluate Contractor's performance under the contract in accordance with federal and State laws and regulations and local policies, and to inspect any necessary records for such purpose. The Contractor will be responsible for maintaining appropriate records for all services provided under the contract.

- a. Records Inspection: At any time during normal business hours, and as often as County may deem necessary, Contractor shall make available to County, State or federal officials and their representatives for examination, all records pertaining to all matters covered by this contract and shall permit County, State or federal officials to audit, examine and make excerpts or transcripts from such records, and to make audits of all invoices, materials, payrolls, records of personnel, information regarding clients receiving services, and other data relating to all matters covered by this contract. Upon request, Contractor shall furnish to County, copies of all records, documents, files and forms that are necessary to review the program. Records must be available in Ventura County for review unless other arrangements are agreed to by the parties.
- b. Monitoring: Because program and fiscal monitoring conducted may be limited in scope, it should not be construed as a comprehensive assessment or audit of the Contractor's performance or Contract compliance. Therefore, deficiencies identified in any other subsequent audit, monitoring, or review remain the Contractor's responsibility. The Contractor will respond in a timely manner to identified corrective action needs as a result of County (or other) monitoring. The Contractor will submit to the County all required reports and monitoring corrective action plans on a timely basis, as requested by the County.
- c. Audits (Single Audit applicable to \$750,000 or more in Federal Funds): The Contractor shall conduct or have conducted on an annual basis an audit of their organization in accordance and in compliance with the Single Audit Act, 31 U.S.C. § § 7501 et seq., 2 CFR 200, Subpart F, WIOA Regulations at 20 CFR 667.200(b) or other Regulations as applicable to the fund source, and any State Administrative Regulations or Directive and County Directives, as applicable, incorporated into a company audit of books and financial statements. The appropriate share of costs for such audit may be included in the contract budget and shall adhere to contract requirements, for administration costs. A copy of the completed audit will be submitted to the County within six (6) months of the Contractor's fiscal year-end and will be performed by a qualified independent auditor. If Contractor does not meet the Single Audit threshold of \$750,000, County may require Contractor to submit other forms of audits and/or financial reviews regarding costs and expenses under the contract.

If any administrative findings are identified by the Auditor during the yearly audit, Contractor shall comply with the audit resolution requirements in 2 CFR 200. Subpart F and have all findings resolved within six (6) months after receipt of the audit report.

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23. In-Kind or Cash Match

If a match requirement is included in the contract, Contractor shall make such cash and/or in-kind match contribution to the program in the amount specified in the contract budget. Contractor shall document the cash and/or in-kind match provided and report the match on the monthly invoices. Documentation supporting the match and its source must be maintained by the Contractor.

24. Termination

The agreement may be terminated in whole or in part for any of the three (3) following circumstances:

- a. Termination for Cause: If, through any cause, the Contractor fails to fulfill in a timely and proper manner, its obligations under the contract, fails to make sufficient progress toward specified outcomes, or violates any of the covenants, agreements, or stipulations of the contract, the County shall have the right to terminate the contract, by giving written notice to the Contractor of such termination and the effective date thereof.
- b. Termination for Convenience: Either County or Contractor may terminate this contract at any time with or without cause, upon thirty-(30) days' written notice to the other party.
- c. Termination Due to Cessation of Funding: The County may unilaterally terminate the contract at will any time its funding/grants are suspended, reduced, or terminated by the State of California before or during the contract period. All notices of termination must be in writing and be delivered personally or by deposit in the U. S. Mail, postage prepaid, Certified Mail-Return Receipt Requested, and will be deemed to have been given at the time of personal delivery or of the date of the postmark by the U. S. Postal Service.

25. Closeout Upon Termination

Upon termination of this contract, the parties shall perform all closeout procedures that are reasonable and necessary to complete the obligations owed, but not yet performed under this contract.

- a. All reasonable and necessary costs defined under this contract and incurred up to the point of termination will be reimbursed to Contractor by County.
- b. Any monies owed to County by Contractor may be offset against any compensation due to Contractor for final payment from County, as covered under this contract.
- c. Contractor shall return to County any equipment or supplies purchased in whole or in part with funds provided under this contract and all related parts, unless otherwise specified by County.

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- d. Within forty-five (45) calendar days following the termination of the contract, the Contractor shall report and submit to the County on forms provided, all final claims and contract closeout forms for earned funds under the contract, unless specified otherwise by County.

26. Partial Performance

In the event less than all services are performed in a proper and timely manner, Contractor shall be paid only the reasonable cost for the services performed for the payment period as determined by County.

27. Non-Discrimination/Grievance/Complaint Procedures

Contractor agrees to provide a system through which recipients of service shall have the opportunity to express and have considered their views, grievances, and complaints regarding the delivery of services:

All Contractors must comply with all Equal Employment Opportunity requirements as delineated with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations and in any applicable federal, State or County Directive.

Section 188 of WIOA prohibits discrimination based on race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, gender identity and transgender status), national origin (including limited English proficiency), age, disability (temporary or permanent), unlawful harassment, political affiliation or belief, citizenship, or participation in WIOA.

The Contractor will establish and maintain a grievance procedure for grievances or complaints about its programs and activities from participants, subcontractors, and other interested persons. Hearings on any grievance will be conducted within 30 days of filing a grievance and decisions will be made not later than 60 days after the filing of a grievance.

A copy of the Contractor's procedures will be provided to the County upon request by the County. The Contractor will maintain on file documentation and data tracking verifying compliance with the Equal Opportunity Act.

Participation in programs and activities financially assisted in whole or in part under WIOA or other fund source(s) will be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the Attorney General to work in the United States. Contractor agrees to abide by the Immigration Reform and Control Act of 1986, as amended.

28. Purchase of Service

County and Contractor agree to comply with principles established in 45 CFR, Part 74, Cost Principles, and 2 CFR 200, as applicable. No WIOA or other funds paid under the Contract may be used for direct purchase or lease of non-expendable equipment or software, except

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with the prior written approval of the County. Equipment purchased with these funds is the property of the County of Ventura. The County retains the right to have all such property returned upon conclusion of the contract period.

29. Supplemental Invoices

No supplemental invoice shall be accepted by County without prior notification to County of the need and justification for such an invoice and authorization by County to submit such invoice. Payments for authorized supplemental invoices shall be made as part of the next regular claim cycle.

30. Budgeted Expenses and Payments

Contractor charges shall be in accordance with the contract detailed line item budget or other agreed upon cost method (*i.e.*, fee for service, fixed rate) as specified in the contract and payments will be made accordingly.

31. Working Capital

Contractor must provide for sufficient working capital to meet the fiscal demands of this Contract.

32. Budget Deviations

Shifts to contract budget line items (staff salaries, facilities, travel, etc.) are allowable if not in excess of 20% or \$5,000, whichever is less, with County approval. If changes are made, Contractor shall notify the Department Program Manager immediately and submit a revised budget (Exhibit B-1) to the Contracts Manager. Any budget shifts in excess of 20% or \$5,000, whichever is less, require pre-approval by the County before the budget shift may be made. Contractor shall submit a written request along with the proposed revised budget to the Contracts Manager for approval. The request shall include, at a minimum, a justification for the requested change and a description of the areas being impacted. Regardless to the shifts to the contract budget line items, the total contract dollar amount cannot be modified.

33. Minimum Standards for Salaries and Benefits

CONTRACTOR shall maintain the following minimum standards with regard to salaries and benefits for all employees:

- a. All employees shall receive basic statutory coverage of FICA, Workers Compensation, Unemployment Insurance Benefits and Disability Insurance Benefits.
- b. All wages and benefits shall be no less than the minimum required by applicable State and federal law, and in compliance with the County's Living Wage Ordinance, as applicable.

34. Audit Exceptions

Contractor agrees to indemnify County for State and/or federal audit exceptions, whether resulting from contract non-compliance on the part of Contractor or otherwise, and for claims made against County arising from Contractor performance of this contract.

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CONTRACTOR is subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Government Code Section 8546.7.

35. Conditions Prerequisite to Payments

Notwithstanding any other provision of the contract, the County may elect not to make payment on this contract if:

- a. Misrepresentation. Contractor, with or without knowledge, makes any misrepresentation of a substantial nature with respect to information furnished to the County.
- b. Litigation. There is pending litigation with respect to the performance by Contractor of any of its duties or obligations hereunder which may jeopardize or adversely affect carrying out the project, including any court action or proceeding involving the Federal Bankruptcy Act.
- c. Default. Contractor is in default under any provision of the contract.
- d. Unauthorized Actions by Contractor. Contractor shall have taken any action pertaining to this contract which required prior County approval, without having first received said approval.
- e. Fiscal and Non-Fiscal Reporting. Contractor has not submitted the required statements and reports as specified in this contract.

36. Reimbursement from Other Sources

Contractor shall not claim reimbursement from County, or apply sums received from County, with respect to that portion of its obligations, which have been paid by another source of revenue.

37. Authority to Bind/Independent Contractor

By entering into the contract, the Contractor certifies it is qualified and licensed to conduct business in the State of California. The Contractor is an independent contractor and not an employee or agent of the County. Upon request, the Contractor will provide proof that the person(s) executing this contract on behalf Contractor have authority to so execute this contract and to bind Contractor to the performance of its obligations hereunder.

38. Standard of Conduct/Conflict of Interest

The Contractor hereby assures that in administering the contract, it will comply with the standards of conduct hereinafter set out for maintaining the integrity of the contract and avoiding any conflict of interest in its administration.

- a. General Assurance: Every reasonable course of action will be taken by the Contractor in order to maintain the integrity of the expenditure of public funds and to avoid any favoritism, questionable or improper conduct. The contract will be administered in an impartial manner, free from improper personal, financial or

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political gain.

- b. Nepotism: Under this contract no relative by blood, adoption or marriage of any executive of the Contractor will be eligible for enrollment in services provided by the Contractor. For the purpose of this contract, a relative by blood, adoption, or marriage will include: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, stepbrother, stepsister, grandfather, grandmother, granddaughter, or grandson.
- c. Conducting Business Involving Close Personal Friends and Associates: 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 contract, will exercise due diligence to avoid situations which may give rise to an assertion that favorable treatment is being granted to friends and associates.

39. Technical Assistance

All requests for technical assistance must be submitted in writing. Requests should specify the problem area, particular assistance being requested, and proposed or desired solution.

40. Corrective Action

The management, administration and implementation of all the terms and conditions of the contract shall be performed in a manner satisfactory to the County. In the event that the County determines the Contractor's performance to be unsatisfactory, the County may act in its own best interest, including, but not limited to:

- a. Requiring corrective action within specific time frames;
- b. Withholding payment;
- c. Disallowing inappropriate claims, payments, or costs;
- d. De-obligating contract funds;
- e. Terminating or suspending the contract; or,
- f. Debarment from Program Operations for a prescribed period of time.

If the Contractor determines that the program described in the contract is not functioning as intended, the Contractor shall notify the County immediately by telephone, followed by written notice, which may result in bilateral corrective action or adjustment of payment terms or extension of contract period through modification of the contract.

41. Penalties

If the Contractor fails to comply with the contract, the County may withhold all or any portion of amounts otherwise payable under the contract. The Contractor agrees that performance satisfactory to the County is essential to the life of the contract. Performance that does not meet programmatic and financial requirements in the contract, will constitute non-compliance with the terms of the contract. In this event, the County may require the Contractor to present a Program Improvement Plan, including the date(s) by which

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improved results may be expected, or to present just cause for modification of the contract.

The Contractor has ten (10) working days from receipt of notification in which to respond with a written Program Improvement Plan acceptable to the County, deficiencies correction, or with just cause for Contract Modification. If the Contractor does not respond within the appointed time, or does not present an acceptable written response, the County may immediately modify, suspend, or terminate the Contract.

42. Staff Representatives

The staff representative for the County is the **Contracts Manager** and may be reached at 855 Partridge Drive, Ventura, California 93003, (805) 477-5442. The staff representative for the Contractor shall be Contractor's Executive Director or CEO unless otherwise specified.

43. Copyrights (applicable only if funds provided are used to develop a copyright or if purchasing ownership of a copyright)

The application of this clause is limited to those awards, which involve the use or development of copyrighted materials. Contractor shall comply with copyright regulations cited in the Code of Federal Regulations (Title 29 -- LABOR, Part 97 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Subpart C - Post-Award Requirements -- Section 97.34 --Copyrights) as follows:

The Federal awarding agency, State of California, and County reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government, State, or County purposes:

- a. The copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and
- b. Any rights of copyright to which a grantee, sub-grantee or a contractor purchases ownership with grant support.

44. Signatures

The agreement is of no force and effect until signed by the authorized representatives of the Contractor and County.

45. Remedies

Noncompliance or failure to perform may result in a demand for corrective action, disallowance of costs, suspension or termination of contract, set-off of damages from monies due under this or other contracts with Contractor, whether related or unrelated, or such other lawful remedies as the County may determine are appropriate; and may include debarment for a year or more.

46. Employment of Convicted Individuals

The Contractor certifies that none of its officers, agents, employees, servants, subcontractors or contract signatories associated with funds available under the Contract

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have been convicted of fraud, theft, misappropriation of funds, embezzlement, or related/similar crimes and torts including, but not limited to, crimes and torts of moral turpitude in the last five (5) years.

47. Drug-Free Workplace Certification

Contractor shall comply with 20 CFR Section 667.200(d) which states, in part, that contracts must have language requiring compliance with government-wide requirements for a Drug-Free workplace. By signing this agreement Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1988 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness program as required to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) Any available counseling, rehabilitation and employee assistance programs; and,
 - 4) Penalties that may be imposed upon employees for drug abuse violations
- c. Every employee who works on the proposed contract or grant:
 - 1) Will receive a copy of the company's drug-free policy statement; and,
 - 2) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

48. Debarment and Suspension Certification

Contractor shall comply with 20 CFR Section 667.200(d) which states, in part, that contracts must have language requiring compliance with government-wide requirements for Debarment and Suspension. By signing this agreement, the Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98.510, that the Contractor, to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from, covered transactions by any Federal department or agency;
- b. Have not, within the three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false

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statements, or receiving stolen property;

- c. Are not presently indicted for, or otherwise criminally or civilly charged by, a government entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
- d. Have not, within a three-year period preceding this contract, had one or more public transactions (Federal, State, Local) terminated for cause or default.

When the Contractor is unable to certify to any of the statements in this certification, Contractor shall attach an explanation to this agreement.

49. Modification Provision

Any change in the contract or its attachments shall require written approval by both parties before becoming effective.

Notwithstanding the first paragraph, the County may unilaterally modify the contract whenever such action may be required to accommodate:

- a. Any change in any applicable local, state, or federal laws, regulations, rules, policies, or grant terms providing funding under the contract;
- b. Modifications to the contract must be in writing. Contract modifications will not be retroactive unless mutually agreed.

50. Fiscal Control

The Contractor will establish such fiscal controls and accounting procedures as required by applicable State and Federal regulations, County requirements or any amendments thereto, or as may be deemed necessary by the Governor of the State of California to assure the proper disbursement of, and accounting for, Federal funds paid to the Contractor under the contract. The Contractor will comply with applicable Office of Management and Budget (regulations, 2 CFR 200, and code of Federal Regulations as amended.)

51. Submittal and Payment of Claims and Source Documents

Payments shall be made within thirty (30) days of legitimate, accurate and timely fiscal claims and invoices. Original source documents (billing claims/invoices, along with any required back-up) are due within ten (10) calendar days of their effective dates, unless otherwise specified by County. Failure to comply with this requirement may result in a demand for corrective action or other appropriate remedy. Payments will not be construed as a waiver of the County's right to challenge the level of the Contractor's performance or the allowability of such claims under the Contract, and to seek appropriate legal remedies.

52. Program Income

Program income is defined as income received by the Contractor that is directly generated by a grant or sub-grant supported activity, or earned only as a result of the grant or sub-grant.

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- a. Program income includes:
 - i. Interest income earned on advances of sub-grant funds; for example, interest earned on an advance to a Contractor;
 - ii. Income from fees for services performed and from conferences; for example, excess revenue earned on a training conference or fees charged for utilization of systems developed using WIOA or other funds;
 - iii. Income from the use or rental of real or personal property acquired with grant or sub-grant funds; for example, income earned from the subleasing of a facility for use by a social service group;
 - iv. Income from the sale of commodities or items fabricated under a grant or sub-grant; for example, income from any product developed by a Contractor or participant with WIOA or other funds; and,
 - v. Revenues earned by a governmental or private non-profit Service Provider under a fixed price or reimbursable award that are in excess of the actual costs incurred in providing the services; for example, a Contractor who earns more than the cost of running the program.
- b. Program income does not include:
 - i. Rebates, credits, discounts, refunds, etc., or interest earned on any of them;
 - ii. Taxes, special assessments, levies, fines, and other such governmental revenues raised by a recipient or sub-recipient; or,
 - iii. Income from royalties and license fees for copyrighted material patents, patent applications, trademarks, and inventions developed by a recipient or sub-recipient, unless developed using funds awarded under WIOA or other funds as identified by County.

Program income shall only be spent on allowable program activities during the term of the contract, and limited for use to the WIOA title under which it was earned. All unexpended program income shall be returned to the County within fifteen (15) days after the end of the contract period. All program income and expenditures must be reported to the County. In the event that program income is not reported and/or spent prior to the Contract closeout, the County shall withhold final payment(s) until revenues are identified and/or returned.

53. False Claims

Any person who:

- a. knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- b. knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- c. conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);
- d. has possessions, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
- e. is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes

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or delivers the receipt without completely knowing that the information on the receipt is true;

- f. knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
- g. knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410), plus three (3) times the amount of damages which the Government sustains because of the act of that person.

54. Protection of Personally Identifiable Information (PII)

Contractor shall comply with Training and Employment Guidance Letter No. 39-11 dated June 28, 2012 which states, in part, that Contractors are required to protect PII when transmitting information, but are also required to protect PII and sensitive information when collecting, storing and/or disposing of information as well. Contractors shall ensure that any PII used during the performance of the contract has been obtained in conformity with applicable Federal and state laws governing the confidentiality of information. A Contractor's failure to comply with PII requirements identified in the Training and Employment Guidance Letter No. 39-11, or any improper use or disclosure of PII for an unauthorized purpose, may result in the termination or suspension of the contract, or the imposition of special conditions or restrictions, or such other actions as may deem necessary to protect the privacy of participants or the integrity of data.

55. Domestic Preference for Procurements

Per 2 CFR section 200.322, if this contract involves a "Federal award" as defined in 2 CFR section 200.1, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products), in alignment with the Buy American presidential executive orders (E.O. 13788 and E.O. 13858).

B. WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA) PROGRAMS

Note: In addition to the above provisions, all Contractors receiving Workforce Innovation & Opportunity Act (WIOA) funds are required to comply with the following additional provisions:

1. Compliance

In its performance under the contract, the Contractor will comply with the requirements of:

- a. The Workforce Innovation & Opportunity Act (WIOA, Public Law 105-220), all Federal regulations and Governors' policies and procedures issued pursuant to

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the Act, and any new legislation, regulation, policy and procedures which may replace or amend the Act.

- b. The terms and conditions of the Contract between the State and County for WIOA funds for the applicable Fiscal Year in which WIOA funds are provided by County to Contractor, and all applicable Federal, State, County and Workforce Innovation & Opportunity Act Regulations, County Contract Directives and Policies.
- c. The Contractor represents and warrants that it is familiar with all laws, regulations, rules and County policies and procedures affecting its requirements under the Contract. The Contractor will obtain all necessary permits and licenses for its performance of the Contract. Measured performance below goals and standards and/or non-compliance with applicable rules and regulations will constitute non-compliance with the terms of the contract.

2. Charging of Costs

The Contractor will comply with Federal Regulations 29 CFR 97, as they may be amended from time to time, as they relate to charging direct and indirect costs.

3. Allowable Costs

A cost must meet the following criteria in order to be an allowable WIOA charge:

- a. Be necessary and reasonable for the performance of the contract.
- b. Be allocable to the contract.
- c. Conform to any limitations or exclusions set forth in the contract.
- d. Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-federal entity.
- e. Be accorded consistent treatment.
- f. Be determined in accordance with generally accepted accounting principles.
- g. Not to be used to meet cost sharing or matching requirements of any other federally-financed program (without prior approval from the County).
- h. Be adequately documented.

4. Maintenance of Effort/Union Concurrence

No currently employed worker will be displaced by any participant (including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits.) No program will impair existing Contracts for services or collective bargaining agreements, except that no program under this Act which would be inconsistent with the terms of a collective bargaining agreement, will be undertaken without the written concurrence of the labor organization and employer concerned.

No participant will be employed or job opening filled: (1) When any other individual is on layoff from the same or any substantially equivalent job; or (2) When the employer has terminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act. No jobs will be created in a promotional line that will infringe in anyway upon the promotional opportunities of currently employed individuals. (WIOA

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Reg. 667.270)

5. Prevailing Wage

Individuals employed in activities under Title I of WIOA must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law, but may not be less than the higher of the rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law. (WIOA Reg. 667.272)

6. Minimum Wage

Individuals employed in activities authorized under the Act will be paid wages which will not be less than the highest of (a) the minimum wage under Section 6(a)(1) of the Fair Labor Standards Act of 1938 (b) the minimum wage under the applicable State or local minimum wage law, (c) the prevailing rates of pay for individuals employed in similar occupations by the same employer, or (d) minimum wage as determined by the County Demand Occupation List. (WIOA Reg. 667.272)

7. Benefits and Working Conditions

All trainees employed in subsidized jobs in a training capacity (*i.e.*, On the Job Training) will be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work (WIOA Reg. 667.272). This provision does not apply to participants enrolled in unpaid work experience. Unpaid work experience will be as specified in the participant's work experience agreement and any applicable Federal, State and local requirements.

8. Additional Nondiscrimination and Equal Opportunity Provisions

In accordance with 29 CFR 37 and 29 CFR 38, as a condition to the award of financial assistance from the Department of Labor under Title I of the Workforce Innovation and Opportunity Act, the Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws: Section 188 of the WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, gender identity and transgender status), national origin (including limited English proficiency), age, disability (temporary or permanent), unlawful harassment, political affiliation or belief, citizenship, or participation in WIOA.

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

Participation in programs and activities financially assisted in whole or in part under WIOA or other fund source will be open to citizens and nationals of the United States, lawfully

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admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the Attorney General to work in the United States. Contractor agrees to abide by the Immigration Reform and Control Act of 1986, as amended. Additionally, priority for services should be given to veterans and their eligible spouses, as outlined in EDD Directive [WSD19-04](#) Priority of Service for Veterans and Eligible Spouses.

9. Conflict of Provisions

- a. In the event there is a conflict between the provisions of these conditions and the provisions of the County's Workforce Innovation & Opportunity Act (WIOA) Strategic five-year Local Plan, contract template, or scope of work including attachments thereto and the documents incorporated therein as presently worded or as amended in the future, the parties hereto agree that the provisions of the Contract will prevail pending a Contract modification to comply with the WIOA Local Plan.
- b. Variances - by negotiating to fund a proposal, the County does not necessarily accept any variances contained in the proposal. All variances submitted are subject to review and approval by the County. If any proposal contains material variances that, in the County's sole opinion, make that proposal conditional in nature, the County reserves the right to reject the proposal or part of the proposal that is declared, by the County as conditional.

10. Definitions

For the purpose of the Contract, the definitions enumerated in the Act as amended, and the glossary of WIOA terms as amended, published by the State of California, will govern. Where references to these definitions is not possible, the definition or meaning of a word, phrase, section, clause, part, condition, or other requirement will be determined by the common meaning or business usage.

11. Tracking Costs by WIOA Cost Category

In order to determine reasonableness of contract costs and to comply with Federal legislation, the Contractor shall:

- a. Develop and submit to the County a Cost Allocation Plan, which identifies all costs shared among each separate funding source, WIOA, or non-WIOA.
- b. Account for Contract expenditures by WIOA Cost Categories.
- c. Maintain its accounting records and make such available to Federal, State and County auditors and/or monitors.
- d. Document and indicate in Budget and invoices submitted to the County, any in-kind costs contributed to the contract. In-kind costs shall be applied to the appropriate WIOA Cost Category.

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12. Financial Aid

Educational assistance, grants and loans to WIOA participants for the purpose of supplementing training costs must reduce the costs chargeable to the Contract. The Contractor shall evaluate Supportive Services or Needs Based Payments, if any, received by the participant from WIOA funds to ensure that duplicate payments are not made to the participant from WIOA and Pell Grants or other sources of financial aid. (WIOA Reg. 663.320)

13. Reporting Fraud and Abuse

All sub-recipients that receive WIOA funds shall promptly report within 48 hours to County of Ventura, Human Services Agency, Workforce Development Board all allegations of WIOA-related fraud, abuse, and other criminal activity in accordance with local directive(s).

14. California Labor Code, Fair Labor Standard Acts as Amended

Appropriate standards for health and safety in work and training situations will be maintained, and facilities and equipment will be adequate for the achievement of learning, as follows:

- a. Health and safety standards established under State and Federal Law, otherwise applicable to the working conditions of employees, will be equally applicable to working conditions of participants. With respect to any participant in a program conducted under the Act who is engaged in activities which are not covered by health and safety standards under the Occupational Safety and Health Act of 1970 as amended, the Secretary will prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants. Contractor hereby assures and certifies compliance with all provisions of the California Labor Code and the Fair Labor Standards Act as amended by the Occupational Safety and Health Act of 1970, as amended. (WIOA Reg. 667.274)
- b. Where participants are engaged in activities not covered under the Occupational Safety and Health Act of 1970 as amended, Contractor will ensure that participants are not permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participant's health or safety. Participants employed or trained for occupations that are inherently dangerous (e.g., fire or police jobs) will be assigned to work in accordance with reasonable safety practices.

15. Training Conditions

Conditions of employment and training will be appropriate and reasonable with regard to the type of work, the geographical region and the proficiency of the participant.

Training and related services will, to the maximum extent practicable, be consistent with every individual's fullest capabilities and lead to employment opportunities which will enable participants to become economically self-sufficient. The program will, to the maximum extent feasible, contribute to the occupational development and/or upward mobility of individual participants.

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16.Recovery of WIOA Tuition and Training Refunds

All sub-recipients that receive WIOA funds shall obtain the designated training provider's policy regarding refunds of tuitions. In accordance with local directives, sub-recipients shall monitor participant's enrollment and attendance in training programs and will be responsible to pursue recovery of unused WIOA training monies and/or tuition refunds for any participant who does not complete a training program.

17.Property Management

a. Insurance

All property and equipment purchased, received, or utilized by the Contractor for the purpose of performing the Contract shall be insured against fire, theft, and destruction, equal to the full replacement cost.

b. Purchase and Maintenance of Equipment

The Contractor shall ensure and document open competition and shall procure, in accordance with all WIOA and Federal regulations when purchasing at a cost of \$1,000 per unit or more, any property described in the Project Budget. If the low bid or quotation is not accepted by the Contractor, the County's approval of the expenditure shall be required. The Contractor shall have and use a procurement policy that complies with all pertinent WIOA and Federal regulations.

Unless otherwise specified, ownership of all non-expendable real property and equipment purchased with WIOA funds belongs to the U. S. Department of Labor through the State of California. The County may take possession of all such equipment and property at any time it determines necessary.

The Contractor shall maintain an up-to-date inventory of all WIOA property in its custody with an individual purchase price of \$500 or more, and shall implement adequate maintenance procedures to keep such property in good condition.

Further, Contractor shall conduct an annual inventory of equipment and property at any time during and upon termination of the Contract. A copy of the inventory shall be sent to the County as part of the closeout report documents.

Records for non-expendable real property shall be retained for a period of three (3) years from the date of final disposition of the property. These records shall be retained beyond the three (3) years if any litigation or audit is begun or if a claim is instituted involving the Contract. In these instances, the records shall be retained until the litigation, audit or claim has been finally resolved.

18.Theft and Embezzlement

- a. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance or any funds under Title I of the Workforce Innovation and Opportunity Act knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the monies, funds, assets, or property which are the subject of a

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financial assistance agreement or Contract pursuant to such Act shall be fined under this title or imprisoned for not more than two (2) years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed \$1,000, such person shall be fined under this title or imprisoned not more than one (1) year, or both (18 USC Section 665(a)).

- b. Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under Title I of the Workforce Innovation and Opportunity Act induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be fined under this title, or imprisoned not more than one (1) year, or both (18 USC Section 655.b).
- c. Whoever willfully obstructs or impedes or willfully endeavors to obstruct or impede, an investigation or inquiry under the Workforce Innovation and Opportunity Act, or the regulation thereunder, shall be punished by a fine under this title, or by imprisonment for not more than one year, or by both such fine and imprisonment. (18 USC Section 665.c).

19. Duplicate Funding

The Contractor shall submit to the County copies of all requests for Federal, State or local grants that may materially affect the quality or cost of the services provided under the Contract, prior to submitting the request to the funding source. The Contractor shall also inform the County of the receipt of any such grant, in which event the County shall have the right to renegotiate the price or deliverable performance of the Contract. Contractor costs or earnings claimed under one contract or grant may not also be claimed under any other contract or grant.

20. Relocation Act

Contractor will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended, which requires fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs. (42 U.S.C. sections 4601 et seq.)

21. Selective Service Act

The County, unless stated otherwise in the Contract, will ensure that each participant under the Contract has not violated, or is not in violation of Section 3 of the Military Selective Act (50 U.S.C. Appen. § 453), as amended, by not presenting and submitting to registration as required pursuant to such section.

22. Employment Generating Activities Prohibition

- a. No funds available under the Act shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, or similar activities.

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- b. No funds available under the Act shall be used for foreign travel for employment generating activities, economic development activities, or similar activities. (WIOA Reg. 667.264(b))

23. Duplication of Facilities or Services

Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the Workforce Innovation & Opportunity Act Strategic Five-Year Local Plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

24. Rights

Contractor shall comply with 29 CFR Section 97.36 (i) (8) which states, in part, that contracts must contain languages pertaining to any patent rights that might be discovered under the contract. With respect to inventions made by Contractor in the performance of this contract, which did not result from research and development specifically included in the contract's scope of work, Contractor hereby grants to County and state a license as described in paragraphs 1 and 2 below of this section for devices or material incorporating, or made through the use of such inventions. If such inventions result from research work specifically included within the contract's scope of work, then Contractor agrees to assign to County and state, without additional compensation, all its right, title and interest in and to such inventions and to assist County and state in securing United States and foreign patent with respect thereto.

Retained Rights/License Rights

1. Except for intellectual Property made, conceived, derived from, or reduced to practice by Contractor or County and state and which result directly or indirectly from this contract, 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 agreement. Contractor hereby grants to County and state, 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 assigns all rights, title and interest in the Intellectual Property as set forth herein.
2. Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this contract, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of County and state or third party, or result in a breach or default of any provisions required by County or state including the Intellectual Property Provisions specified in the WIOA subgrant agreement for the applicable program year incorporated herein by this reference as though set forth in full, or result in a breach of any provisions of law relating to confidentiality.