

**CBO/  
Office of Economic and Workforce Development  
(Non-Financial)  
MASTER AGREEMENT FOR TRAINING SERVICES  
For  
VENDOR**

This Agreement is made between XXXXXXXXX, a San Francisco Non-profit Community Based Organization (“CBO”), on behalf of the Office of Economic and Workforce Development, City and County of San Francisco (“OEWD”), and XXXXXXXXXXXXXXX (“VENDOR”).

**I. General.** VENDOR agrees to provide occupational and/or basic skills training as described herein in compliance with this Agreement and applicable provisions of the Workforce Investment Act, Public Law 105-220. This Agreement does not constitute a commitment for referral of participants nor a financial agreement.

**II. Attachments.** The following Attachments are incorporated herein by reference and are made a part of this Agreement.

- Attachment A: GENERAL TERMS AND CONDITIONS
- Attachment B: CLASSROOM TRAINING REFERRAL AGREEMENT  
(when executed)

**III. Term of Agreement.** xxxxxx, 2007, until terminated in accordance with Section 14 or amended by either party.

The parties, by and through their authorized representatives as indicated below, hereby acknowledge and agree to the terms and conditions of this Agreement.

\_\_\_\_\_  
VENDOR

\_\_\_\_\_  
CBO

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## **GENERAL TERMS AND CONDITIONS**

### **Section 1. VENDOR Responsibilities**

- a. VENDOR shall provide participant(s) referred on an individual basis by CBO with occupational and/or basic skills training, as described in the Individual Referral Agreement which shall be generated by CBO upon referral of participant(s) and which shall become an attachment to this Agreement, and in accordance with VENDOR's Course Catalog and Program Description(s). VENDOR's Course Catalog and Program Description(s) are incorporated herein by reference and made a part of this Agreement.
- b. VENDOR shall only serve students under this Agreement who are referred by CBO as described herein.
- c. VENDOR shall prepare and submit participant and fiscal records as required by CBO in accordance with CBO procedures. Such records shall include regular attendance and student progress reports, invoices to CBO for reimbursement of training costs (see Section 3 of this Agreement), and certificates of completion (see Sections 3 and 7).
- d. VENDOR shall obtain any and all licenses, permits, and approvals required to provide the training contemplated under this Agreement.
- e. VENDOR shall comply with the assurances contained in Section 22 of this Agreement, General Assurances.

### **Section 2. Referral Procedures**

CBO may refer prospective students to the VENDOR. Upon such referral, an Attachment B, Individual Referral Agreement, shall be completed and executed by CBO and VENDOR. The Attachment will set forth the total amount of authorized funds upon which compensation will be based.

### **Section 3. Compensation**

- a. VENDOR shall be reimbursed for the cost of training provided under the terms of this Agreement on the basis of the fees for tuition, books, supplies, and registration as proposed in VENDOR's application for the Eligible Training Provider List, which in no case shall exceed the standard tuition fee or shelf cost of the skills training and any costs of books, supplies, and registration fees, as documented by the VENDOR and on file with CBO. CBO shall not be bound by any changes to published rates unless CBO is notified in advance in writing and agrees to such changes. Copies of revised catalogs and of rate changes shall be sent in duplicate to the ETPL Administrator at M, using the address in Section 21, Notices.
- b. Payment equal to 90 percent of all costs of tuition, books, supplies, and registration fees as stipulated in the Individual Referral Agreement shall be made to VENDOR upon the

participant's confirmed enrollment in the training program identified. The remaining 10 percent of payable costs shall be reimbursed upon receipt by CBO of a certificate of completion for an individual participant. No payments will be made to VENDOR which exceed the amount authorized on the Attachment B, Individual Referral Agreement. Payment will not be made for services that do not meet the requirements of this Agreement and the Individual Referral Agreement. Failure to submit invoices within ninety (90) days of the incurred cost may result in the forfeiture of the reimbursement. **Invoices for certificates of completion shall be submitted within 90 days of completion of training in order to be eligible for payment.**

- c. In the event a participant receiving training under this Agreement withdraws from training for any reason prior to completion of such training and CBO has not preauthorized such withdrawal, VENDOR shall notify CBO within seven calendar days. Payment of training costs shall be calculated in accordance with VENDOR's standard refund policy, up to seven calendar days after participant's withdrawal. If VENDOR fails to notify CBO of the withdrawal, CBO shall not be responsible for any payment for training beyond seven calendar days of client's absence. Any refund due CBO shall be calculated in accordance with VENDOR's standard refund policy, as published in VENDOR's catalog or other publication. In general (for non-degree-granting institutions), such policy shall include a full refund if withdrawal takes place prior to midnight of the fifth business day after the first class attended. After that time, a prorated refund, less any registration fee, shall be made. Such refund shall be mailed to CBO at the address shown in Section 21, Notices.
- d. If training is cancelled or discontinued by VENDOR and VENDOR has received payment in advance, VENDOR shall reimburse CBO for that portion of training not provided to the participant.
- e. Any adjustment made to the Individual Referral Agreement after the initial payment has been made to the VENDOR which affects the total due and/or the ending date of the Agreement shall be reflected in the final payment to the VENDOR.

**Section 4.**            Subcontracting/Assignment

VENDOR shall not assign or delegate any rights, duties or obligations under this Agreement without the prior, written consent of the CBO.

**Section 5.**            Financial Assistance Funds

VENDOR shall report all financial assistance applications, including but not limited to those for PELL grants, and resultant funds received which cover all or part of the tuition and fees, books and supplies, or trainee support costs relative to all participants enrolled under this Agreement, especially under Title IV of the Higher Education Act. The specific usage of any financial assistance funds must be documented in the participant's training plan and shall be incorporated into this Agreement as appropriate. Any financial assistance funds received by VENDOR on behalf of participants under this Agreement for the specific purposes of tuition, fees, books, and/or supplies shall be immediately reported to CBO so

that the corresponding Attachment B(s) to the Agreement may be modified as appropriate. If payment for such expenses has already been made by CBO to VENDOR, VENDOR shall reimburse CBO at the address provided in Section 21, Notices, for the amount of any financial assistance received for the above specific purposes. Participants shall not be required to apply for or access student loans or incur personal debt as a condition of participation.

**Section 6.**        Records

VENDOR shall maintain records such as financial, attendance, progress and payment records relating to this Agreement, and preserve the same for a period of five (5) years from the date of completion, except when an audit has not been completed or audit findings have not been resolved. In such cases, the pertinent records must be maintained until the audit is completed and audit findings resolved.

**Section 7.**        Submission of Certificate Copies

VENDOR agrees to submit to CBO a copy of the Certificate of Completion (or comparable document) it customarily issues upon successful completion of a program for each individual funded under this Agreement. Such document shall be submitted as soon as possible following the participant's program completion, but no later than ninety days after completion. **Failure to submit such Certificate of Completion shall result in denial of payment of 10 percent of reimbursable training costs for each individual for whom the certificate is not submitted.**

**Section 8.**        Monitoring/Audits

The CBO, M, State of California, Department of Labor, Comptroller General of the United States, or their duly authorized representatives shall have the right of access to the place of training and to any books, documents, papers and records (including computer records) of the VENDOR which are directly pertinent to charges under this Agreement to assure compliance with the terms of the Agreement, to conduct monitoring visits or audits relative to this Agreement, and to make excerpts, transcripts, and photocopies. This right also includes timely and reasonable access to VENDOR's personnel for the purpose of interviews and discussions related to documents and services provided under this Agreement. The CBO may monitor the VENDOR a minimum of once per year, which may include a desk review and an annual site visit.

**Section 9.**        Subsequent Eligibility

VENDOR will provide all performance data as requested by CBO and/or as required by the Policies and Procedures for the State of California Eligible Training Provider List (ETPL). VENDOR understands that the continued listing of its programs on the ETPL is dependent upon its submission of certain data for both WIA participants and non-WIA participants in its listed programs. The data will be used to calculate whether or not VENDOR's programs have met specific performance targets or levels on performance measures required under WIA, which will become the basis for determination of subsequent eligibility of programs

for the ETPL. In addition, CBO may provide data to VENDOR relative to its performance in serving CBO's participants, which may be used as justification for termination of this Agreement.

**Section 10. Indemnification**

VENDOR shall defend, indemnify, and hold harmless CBO, its officers, employees, agents and volunteers from and against any claims, losses, injuries, suits, actions or judgments and from any and all liability for any and all claims, losses, injuries, suits, actions or judgments filed or brought by any and all persons because of or arising or resulting from, or in connection with any negligent act, omission or willful misconduct by VENDOR, or its officers, employees, agents or representatives. VENDOR further agrees to reimburse CBO for all costs, reasonable attorneys' fees, expenses and liabilities incurred in any legal action arising out of any obligation of VENDOR to be performed under this Agreement or arising from any negligence or willful misconduct of VENDOR, its officers, employees, agents or representatives. Nothing in this section shall be construed to prohibit apportionment of liability, damages and related defense costs as between VENDOR and CBO for third-party claims in accordance with applicable provisions of California law. CBO shall notify VENDOR of any third-party claims related to this Agreement within thirty (30) days of receipt, however, failure to provide such notice shall not operate to waive VENDOR's obligations under this Section.

**Section 11. Insurance**

VENDOR shall procure and maintain during the term of this Agreement the following insurance, unless expressly waived, in writing, by the CBO:

- a. GENERAL LIABILITY INSURANCE (required) and AUTOMOBILE LIABILITY INSURANCE (if applicable) in the amount of at least \$1,000,000 for each person, \$1,000,000 for each occurrence, and \$1,000,000 for property damage liability; or \$1,000,000 C.S.L. (combined single limit) which includes CBO as also insured. A current certificate of insurance shall be on file with CBO.
- b. WORKERS' COMPENSATION INSURANCE with a responsible insurance carrier, authorized under the laws of the State of California to insure employers against liability for compensation under the Workers' Compensation Insurance and Safety Act, for all its employees and those of its subcontractors in accordance with the laws of the State of California injured while performing any work or labor incidental to the performance of this Agreement.

The liability and automobile insurance policies shall name the CBO as an additional insured only to the extent of the indemnification contained herein and shall provide at least thirty (30) days prior written notice to CBO of cancellation of the policy or reduction in the coverage.

Evidence of self-insurance which meets the above requirements will be accepted by the CBO.

**Section 12.**      Copyrights/Rights to Data

- a. If this Agreement is funded in whole or in part by the federal government, CBO may acquire and maintain the intellectual property rights, title, and ownership which result directly or indirectly from the Agreement, except as provided in 37 Code of Federal Regulations part 401.14. However, pursuant to 29 CFR 97.34, the federal government shall have a royalty-free, non-exclusive, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such intellectual property throughout the world in any manner for governmental purposes and to permit others to do so.
- b. VENDOR agrees that for purposes of copyright law, all works of authorship made by or on behalf of VENDOR in connection with VENDOR's performance of this Agreement shall be deemed "works made for hire." VENDOR further agrees that the work of each person utilized by VENDOR in connection with the performance of this Agreement will be a "work made for hire." VENDOR shall enter into a written agreement with any such person that: (i) all work performed for VENDOR shall be deemed a "work made for hire" under the Copyright Act, and (ii) that person shall assign all right, title, and interest to CBO to any work product made, conceived, derived from, or reduced to practice by VENDOR or CBO and which results directly or indirectly from this Agreement.
- c. All materials, including but not limited to computer software and visual works or text, reproduced or distributed pursuant to this Agreement that include intellectual property made, conceived, derived from, or reduced to practice by VENDOR or CBO and which result directly or indirectly from this Agreement may not be reproduced or disseminated without prior written permission from CBO.

**Section 13.**      Patent Rights

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

**Section 14.**      Termination of Agreement

This Agreement may be terminated in whole or in part under any of the following circumstances:

- a. Termination for Convenience: In the event that either party to this Agreement determines that continuation of this Agreement would not be in its best interests, this Agreement may be terminated in whole or in part by either party. Termination shall be

effected by delivery to the other party of a Notice of Termination. Such notice shall be delivered a minimum of 30 days prior to the effective date of termination, which shall be specified in the notice. VENDOR shall be compensated pursuant to the terms of this Agreement for all funds earned up to the point of termination.

- b. Termination for Cause: Failure by VENDOR to perform any obligations or satisfy any of the terms or conditions under this Agreement shall be deemed to be cause for immediate termination of this Agreement. CBO shall notify VENDOR of such unsatisfactory performance in writing. VENDOR shall have ten (10) days to correct the deficiencies or the Agreement terminates. Further, VENDOR understands and agrees that training may only be furnished by VENDOR in accordance with the terms and conditions of this Agreement and the standards incorporated herein, and that any training furnished during any period that VENDOR has been determined to have not been in full compliance with the obligations of this Agreement shall, at the discretion of the CBO, be deemed unauthorized and shall not be compensated.
- c. VENDOR understands and agrees that this Agreement, and all obligations of CBO pursuant thereto, are wholly subject to the availability of funds as obligated by the Department of Labor. In the event that such funding is summarily terminated or canceled by the Congress of the United States or by the United States Department of Labor, this Agreement shall be automatically and immediately terminated. VENDOR shall be compensated pursuant to the terms of this Agreement for all funds earned up to the point of termination, subject to compliance as set forth in Section 14.b. above.

**Section 15.**      Independent Contractor

VENDOR understands and agrees that it is acting in the capacity of an independent contractor, and not as an officer, employee or agent of CBO.

**Section 16.**      Assignment of Costs or Fees

The VENDOR may not assign any additional costs or fees to the participant(s) or other funding sources outside those identified within this Agreement.

**Section 17.**      Entire Agreement; Amendment to Agreement; No Third Party Rights

This Agreement and the Attachments hereto represent the entire and sole contract between the parties relating to the services to be performed or materials to be furnished hereunder. To be effective and binding, any amendments or modifications to the terms or conditions of this Agreement shall be in writing and signed by the authorized representative of the respective parties, and shall specifically and expressly reference this Agreement and the section or sections being amended. This Agreement does not constitute a binding commitment to any individual or agency except CBO and VENDOR. No third party rights are created for participants or other individuals.

**Section 18.**      Nonwaiver of Rights

No act or omission on the part of CBO to enforce any of the terms, conditions or other obligations set forth in this Agreement shall be construed as a waiver of the right of CBO to enforce that provision or any other provisions of this Agreement or to seek any remedies available under law.

**Section 19.**      Energy Conservation

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

**Section 20.**      Clean Air Act, Clean Water Act, Other Requirements

VENDOR shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts of amounts in excess of \$100,000.)

**Section 21.**      Notices

All notices or correspondence required or contemplated by this Agreement shall be sent to the respective parties at the following addresses:

To CBO:                      Name:  
   Title:  
   Address:  
   City/State/Zip:  
   Telephone:  
   Facsimile:

To VENDOR:                      Name:  
   Title:  
   Address:  
   City/State/Zip:  
   Telephone:  
   Facsimile:

Nothing contained herein shall be construed to prohibit the parties from communicating by the most expedient method available, whether by commercial courier, facsimile, or by electronic means. However, for purposes of providing official notification and/or documentation as required in this Agreement, the sending party assumes full responsibility and the burden of proof for the completed transmission if the documents or notification are sent by means other than certified, first class mail through the United States Postal Service.

**Section 22.**      General Assurances



VENDOR assures and certifies to CBO as follows:

- a. VENDOR shall comply with the applicable requirements of the Workforce Investment Act of 1998 (WIA), Public Law 105-220, and with applicable regulations, policies, guidelines, OMB circulars, and field memoranda promulgated by DOL, the State of California, M and the CBO, and /or any legislation which may replace WIA.
- b. VENDOR shall comply with the Civil Rights Act of 1964, and the Rules and Regulations promulgated thereunder and the provisions of WIA, Section 188. In addition, during the performance of this Agreement, VENDOR shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, pregnancy disability and denial of family care leave. VENDOR shall insure that the evaluation and treatment of its employees and applicants for employment are free from such discrimination and harassment. VENDOR shall comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder.
- c. VENDOR agrees to comply with the Americans with Disabilities Act (ADA) of 1990, insofar as VENDOR is required to comply with said Act.
- d. By signing this Agreement, VENDOR assures and certifies that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
- e. By signing this Agreement, VENDOR assures and certifies that no Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- f. By signing this Agreement, VENDOR hereby certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
  - 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, as required by Government Code Section 8350(a).
  - Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
    - the dangers of drug abuse in the workplace;
    - the person's or organization's policy of maintaining a drug-free workplace;

- any available counseling, rehabilitation and employee assistance programs; and,
  - penalties that may be imposed upon employees for drug abuse violations.
- Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed contract:
    - will receive a copy of the company's drug-free policy statement; and,
    - will agree to abide by the terms of the company's statement as a condition of employment on the contract.
- g. No aspect of the program, nor any personnel employed or funds provided in conjunction with the program, shall be operated, involved or otherwise engaged in the conduct of political activities in violation of the Hatch Act.
- h. No program under the WIA shall involve political activities.
- i. Participants in the program shall not be employed on the construction, operation or maintenance of any part of any facility which is used for sectarian instruction or religious worship. In addition the employment or training of participants in sectarian activities is prohibited.
- j. All applicable and appropriate standards for health and safety in work and training situations shall be maintained at all times.
- k. Conditions of employment or training shall be appropriate and reasonable with regard to the type of work, the geographic region and the proficiency of the participant.
- l. Training and related services shall, to the maximum extent feasible, be consistent with each individual's fullest capabilities and lead to employment opportunities which will enable participants to become economically self-sufficient.
- m. The program shall, to the maximum extent feasible, contribute to the occupational development and upward mobility of individual participants.
- n. No participant who is engaged in a WIA-funded program shall be charged a fee for placement or referral services.
- o. VENDOR will exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends and associates in connection with this Agreement.
- p. VENDOR agrees to perform any and all other assurances required by any applicable law or regulation, including but not limited to regulations pertaining to CBO's grant Agreement with M and the State of California, which are incorporated as though fully set forth herein by reference, and VENDOR further agrees to execute any additional writing required to evidence such assurances if requested to do so.

- q. VENDOR understands and agrees that the assurances contained in this Agreement are material representations upon which CBO does and will continue to rely upon as the basis for entering into this Agreement. VENDOR understands and agrees that any act or omission which is inconsistent with these assurances shall be deemed a material breach of this Agreement, and cause for immediate termination pursuant to Section 15. VENDOR shall immediately notify CBO of any change in facts or circumstances related to these assurances.