

**NAPA COUNTY AGREEMENT NO. \_\_\_\_\_**

**JOINT POWERS AGENCY AGREEMENT**

**BETWEEN**

**THE COUNTIES OF NAPA MARIN AND LAKE COUNTIES**

**(WORKFORCE INNOVATION AND OPPORTUNITY ACT/ WORKFORCE ALLIANCE OF THE NORTH BAY WORKFORCE DEVELOPMENT AREA)**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_, 2016, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "Napa County", MARIN COUNTY, a political subdivision of the State of California, hereinafter referred to as "Marin County" and LAKE COUNTY, a political subdivision of the State of California, hereinafter referred to as "Lake County" (hereinafter Napa County, Marin County and Lake County will be individually referred to as "Member County" or "party" or collectively "Member Counties" or "parties");

**RECITALS**

**WHEREAS**, in 2014 the Congress of the United States enacted the Workforce Innovation and Opportunity Act ("WIOA") for the purpose of providing for a stronger alignment of the workforce, education, and economic development systems; and improving the structure and delivery in the system to assist America's workers in achieving a family-sustaining wage while providing America's employers with the skilled workers they need to compete on a global level;

**WHEREAS**, the WIOA provides for the delivery of WIOA-funded services through Local Workforce Development Areas (hereinafter "LWDA");

**WHEREAS**, pursuant to Section 106 of WIOA, the Parties will request that the Governor of the State of California designate the Counties of Napa, Marin and Lake as a single LWDA comprised of the geographical areas of Marin County, Napa County, and Lake County, hereinafter referred to as "Workforce Alliance of the North Bay LWDA";

**WHEREAS**, Government Code 26227 authorizes counties to establish programs necessary to meet the social needs of their population; Government Code 53703 authorizes counties to do all acts necessary to participate in programs whereby federal funds are granted to counties for purposes of education and welfare, including the authority to contract and cooperate with other local public agencies and Government Code 6502 authorizes counties to jointly exercise any power common to them all;

**WHEREAS** Chapter 5 of Division 7 of Title I of the California Government Code (commencing with Section 6500) authorizes this Agreement for the provision of creating an entity separate and apart from the Member Counties; and

**WHEREAS**, the parties desire to enter into an agency for the purpose of having one governing board to act as Chief Local Elected Official pursuant to WIOA to coordinate regional efforts to support training and development programs and to form one Workforce Development Board (hereinafter "WDB") to be operated in the Workforce Alliance of the North Bay LWDA.

## **TERMS**

**NOW, THEREFORE**, Napa County, Marin County, and Lake County agree to the terms and conditions as follows:

**1. Creation of Agency.**

Napa County, Marin County and Lake County hereby create a public agency to be known as "Workforce Alliance of the North Bay" (the "Agency") that will have a governing board, which will serve as the Chief Local Elected Official for the Workforce Alliance of the North Bay LWDA, and will appoint a WDB in accordance with WIOA. This Agreement shall become effective when representatives of all Counties have executed it and shall continue in full force and effect until terminated as herein provided.

**2. Authority for Agency.**

This Agreement is made pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing with section 6500) relating to the joint exercise of power common to the counties and public agencies. The Counties are each empowered by the laws of the State of California to exercise, in their respective jurisdictions, the powers which will be jointly exercised as hereinafter set forth.

**3. Power Exercised; Purpose of Agreement.**

The Power to be exercised is the development and implementation of a public and private employers' job training program under which local employment needs and goals will be determined and training and employment programs will be planned, developed and administered.

**4. Members of the Agency**

The Agency shall be governed by a board of directors, hereinafter known as the "Governing Board" composed of two (2) elected board of supervisors from each Member County selected as follows:

Two directors selected by the Board of Supervisors of Marin County.

Two directors selected by the Board of Supervisors of Napa County.

Two directors selected by the Board of Supervisors of Lake County.

If a vacancy on the Governing Board shall exist, the vacancy shall be filled in the same manner as the original appointment.

**5. Terms of the Directors of the Agency**

Each director of the Agency shall serve one 2 year term; however the term of Governing Board directors may be terminated at any time by the appointing body. Each director shall have an equal vote. If pursuant to Paragraph 8, herein, a Member County should withdraw from Agency, that Member County's Governing Board representative shall lose their right to vote and/or further participate in the Agency pursuant to the terms and conditions outlined in Paragraph 8.

A majority of the directors of the Governing Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn any meeting. No action may be taken by the Governing Board except upon the affirmative vote of not less than a majority of the directors of the Governing Board.

**6. New Members**

New member agencies can be added with two-thirds (2/3) vote of the Governing Board. New members must agree, in writing, to comply with this Agreement, including, but not limited to, the requirements set forth in Paragraph 20, Agency Bylaws and any other requirements established by the Agency's Governing Board. Before any member is added to the Agency, the costs of adding the member, the new member's receipt of Agency funds and the new member's responsibility for the Agency's liability and debt must be agreed upon in writing and approved by the Governing Board. Each applicant for membership must pay any necessary fees and expenses set by the Governing Board. The new member will be required to appoint two directors as set forth in Paragraph 4 above.

**7. Termination**

This Agreement may be terminated upon the joint action of all of the parties.

**8. Withdrawal**

Any party to this Agreement may withdraw from the Agency provided that no party may withdraw if such withdrawal would adversely affect any grant, liability or other forms of indebtedness issued by the Agency to such an extent that the Agency would be rendered incapable of meeting its then-existing grant requirements and/or would lose funding in an amount that would jeopardize the continuing existence of the Agency. In such a circumstance, the party seeking to withdraw would be permitted to withdraw on the condition that the above-described grant requirements were met and/or funding or liability requirements stabilized. Any member wishing to withdraw may do so only on July 1 of any such year, and shall provide the Agency with at least 180 days' notice in writing of its intent to withdraw. Upon withdrawal, any member retains its financial obligations for current contracts executed to fulfill this Agreement, and assumes that responsibility at its own expense.

**9. Dissolution of Agency Funds Upon Termination**

In the event of dissolution of the Agency, Agency funds and property shall be distributed as follows:

- (a) Discharge of any liability shown on the books of the Agency;
- (b) Any remaining assets to be divided according to the amount of contribution by the Member Counties.

(c) The distribution of assets may be made in kind or assets may be sold and proceeds thereof distributed to the members, provided, however, that all facilities and rights assigned or transferred by the members to the Agency shall be reconveyed to said member free and clear of all encumbrances and liens of any kind not in existence at the time of conveyance to the Agency.

The responsibility of members to contribute to the discharge of enforceable liability incurred by Agency shall be limited to the portion that the contribution made by the member bears to the total contributions made to Agency from the effective date of Agreement to the date of dissolution.

**10. Powers/ Responsibilities of the Agency exercised by the Governing Board**

(a) The Agency shall have the power to exercise any power common to all Member Counties as authorized by Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing with section 6500) and is hereby authorized to do all acts necessary for the exercise of these common powers, including, but not limited to any of the following:

- (1) Incur debts, liabilities, and obligations;
- (2) Sue or be sued in its own name;
- (3) Employ agents, employees, consultants, advisors, independent contractors and other staff;
- (4) Make and enter into contracts, including contracts with public and private organizations and individuals;
- (5) Acquire, construct, manage, maintain and operate any building, works or improvements;
- (6) Hold or dispose of property; and
- (7) To perform all acts necessary or proper to carry out fully the purposes of this Agreement.
- (8) Apply for and receive state, federal, local governmental and privately funded grants, and may receive contributions of donations from any source and may also earn and expend income so received.

(b) All powers of the Agency shall be exercised subject to:

- (1) Restrictions which are imposed upon counties in their exercise of similar powers as provided in the Government Code of the State of California; and
- (2) Restrictions set forth in grants or other agreements the Agency may enter into.

#### **11. Powers/Responsibilities of the Agency as the Local Chief Elected Official**

(a) The Agency, through its Governing Board, shall serve as the Chief Elected Official for the Workforce Alliance of the North Bay LWDA.

(b) The Agency will serve as the grant recipient, fiscal agent and administrative entity for the Workforce Alliance of the North Bay LWDA as those terms are defined under WIOA and its implementing regulations.

#### **12. Agency Funding and Budget**

(a) Fiscal Year. The fiscal year of the Agency shall be from July 1 of each year to the succeeding June 30.

(b) Budget. As soon as practicable after the effective date of this Agreement, and thereafter at least thirty (30) days prior to the commencement of each fiscal year, the Executive Director shall present a proposed budget to the Governing Board for the forthcoming fiscal year. The annual budget shall include the amount of money necessary to support its activities for the next succeeding fiscal year. The Member Counties agree that funding for the Agency will be comprised of WIOA allocations, rapid response funds and grants. If the Agency determines that funds in addition to those provided through the WIOA program are required, the Governing Board shall seek additional funds from Member Counties.

#### **13. Debts and Liabilities**

The Agency is an entity separate and apart from the Member Counties, and to the maximum extent allowed by law, the debts, liabilities, and obligations incurred by the Agency shall not pass through to and shall not become the obligations of the parties.

The Agency agrees to hold each of the parties to this Agreement harmless from any claims of liability or damage arising from the actions or omissions of the Agency.

**14. Agency Bylaws, Rules and Regulations**

The Agency may adopt, from time to time, such bylaws, rules and regulations for the conduct of its meetings and affairs as the Governing Board deems necessary.

**15. Agency Meetings and Reports**

(a) The Governing Board shall hold at least three (3) meetings each Year.

(b) Special meetings of the Governing Board may be called in accordance with the provisions of Government Code Section 54956.

(c) All meetings of the Governing Board shall be held subject to the provisions of the Ralph M. Brown Act and other applicable laws of the State of California requiring notice be given of meetings of the public body.

**16. Staffing of the Agency**

(a) Executive Director.

(1) The Governing Board of the Agency shall appoint an Executive Director who shall be responsible for the administration of the Agency. The Executive Director shall have the ability to hire/or contract other necessary staff in consultation with the WDBand with the approval of the Agency's governing Board. The Director shall be the designated officer who shall file an official bond pursuant to Government Code Section 6505.1.

(2) Initially the Agency will designate Napa County to provide staffing for the Agency's Executive Director and will enter into a contract with Napa County Health and Human Services Agency, which will set forth the job responsibilities and duties of the Executive Director.

(3) A Majority of the Governing Board can remove the Executive Director for any reasoning.

(b) Treasurer; Auditor/Controller

(1) The Governing Board shall designate a Treasurer from the senior management of the Counties who shall serve as depository and custodian of all Agency funds and who shall perform all authorities, duties and obligations set forth in Section 6505, 6505.5 and 6505.6 of the California Government Code. The Treasurer shall be either the Auditor/Controller of one of the Member Counties or the Finance Director of one of the Member Counties. This person shall also function as Controller of the Agency.

(2) The designated Controller/Treasurer shall be responsible for the establishment of procedures for the disbursement of funds in accordance with the approved annual budget of the Agency and shall maintain and make available to the parties hereto complete records of all income, disbursements and other financial information regarding the Agency. These responsibilities shall include maintenance of financial records, cooperation in the preparation of an annual independent audit and preparation of reports pursuant to any and all applicable regulations for any and all funds including asset forfeiture and grant funds received by or on behalf of the Agency. Additionally, the designated Controller/Treasurer shall be responsible for ensuring that a timely outside audit of the Agency is conducted.

(3) Initially the Agency will designate Marin County to serve as Treasurer and will enter into a contract with the Marin County Department of Health and Human Services, which will set forth the job responsibilities and duties of the Treasurer.

(4) A majority of the Governing Board can remove the Treasurer for any reason.

(c) Legal Counsel

(1) The Governing Board of the Agency shall appoint legal counsel who shall be responsible for the Agency's legal matters.

(2) Initially the Agency will designate Marin County Counsel to serve as legal counsel to the Agency and will enter into a contract with Marin County Counsel, which will set forth the job responsibilities and duties of legal counsel.

(3) A Majority of the Governing Board can remove the legal counsel for any reason.

**17. Accounting**

(a) Full books and accounts shall be maintained for and by the Agency in accordance with practices established by or consistent with those utilized by the Controller of the State of California for like public agencies. In particular, the Treasurer of the Agency shall comply strictly with the requirements of the statutes governing joint powers agencies, Chapter 5, Division 7, Title 1 of the Government Code, commencing with Section 6500.

(b) The records and accounts of the Agency shall be audited annually by an independent certified public accountant and copies of each such audit report shall be filed with the Auditor Controller of each Member County no later than 15 days after receipt of the audit by the Governing Board.

(c) Each Member County shall have the right to audit the records and accounts of the Agency, the cost and expense of which shall be borne by the Member County seeking such audit.

**18. Establishment of the Workforce Alliance of the North Bay WDB.**

(a) The Agency agrees to the establishment the Workforce Alliance of the North Bay WDB, effective July 1, 2016, to serve as the local WDB established pursuant to Section 107 of WIOA for the Workforce Alliance of the North Bay LWDA. The Workforce Alliance of the North Bay WDB shall be established as an advisory board to the Agency.

(b) The Governing Board, acting in its role of the Chief Elected Official for the Workforce Alliance of the North Bay LWDA, shall appoint members to the Workforce Alliance of the North Bay WDB pursuant to WIOA and its regulations and California laws and regulations specific to WIOA (hereinafter collectively referred to as "WIOA regulations") and the California Governor's Certification for the Workforce Alliance of the North Bay WDB ("State Certification").

(c) The Marin, Napa and Lake County Board of Supervisors may provide nominations of prospective members to serve on the Workforce Alliance of the North Bay WDB and the Agency shall give considerable weight to these endorsements, provided, however, such

endorsements must otherwise comply with WIOA regulations relating to membership on local WDBs.

(d) All required seats of the Workforce Alliance of the North Bay WDB will be filled in accordance with WIOA regulations and the State Certification. The Workforce Alliance of the North Bay WDB shall meet all membership requirements set forth in WIOA. The percentage of seats designated to each County shall remain in effect for four years from the effective date of the establishment of the Workforce Alliance of the North Bay WDB. The total number of members and/or ratio may be changed as determined by the Workforce Alliance of the North Bay WDB through a modification of its bylaws, approved by both the Workforce Alliance of the North Bay WDB and the Chief Elected Official.

(e) There will be three standing committees recommended initially:

- (1) Marin County Advisory Committee
- (2) Napa County Advisory Committee
- (3) Lake County Advisory Committee.

Other standing committees may be established by the Workforce Alliance of the North Bay WDB.

#### **19. WDB Meetings**

(a) The Workforce Alliance of the North Bay WDB shall hold at least four (4) regular meetings per year.

(b) Special meetings of the Workforce Alliance of the North Bay WDB may be called in accordance with the provisions of Government Code Section 54956.

(c) All meetings of the Workforce Alliance of the North Bay WDB shall be held subject to the provisions of the Ralph M. Brown Act and other applicable laws of the State of California requiring notice be given of meetings of the public body.

#### **20. Indemnification, Insurance, and Liability**

(a) The Agency shall acquire such insurance protection as is necessary to protect the interest of the Agency, the Counties and the public. The Agency created by this Agreement shall assume the defense of and indemnify and save harmless the Counties and each of their respective officers, agents, and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature, and description directly or indirectly arising from the performance of any of the activities of the Agency or the activities undertaken pursuant to this Agreement.

(b) At the creation of the Agency, all members shall agree in writing to insurance requirements, further indemnity provisions, and the allocation of funds. Any new members to the Agency shall be required to agree to the same insurance requirements, indemnity provisions and allocation of funds.

#### **21. Compliance with Laws.**

Each of the parties hereto shall comply with the provisions of the Workforce Investment Opportunity Act and any and all applicable Federal and State Laws.

#### **22. Term.**

This agreement shall become effective upon the execution of all of the parties hereto and shall continue in full force and effect until terminated in the manner provided in this Agreement.

The inclusion of additional members to this Agreement or the withdrawal of some, but not all, of the parties to this Agreement shall not be deemed dissolution of the Agency or a termination of this Agreement. The Agency shall continue to exist and this Agreement shall continue in full force and effect so long as there shall be at least two Member Counties to this Agreement.

**23. Notices.**

All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

**NAPA COUNTY**

Bruce Wilson, Director  
1814 Soscol  
Napa, CA 94559

**MARIN COUNTY**

Office of the Clerk of the Board of Supervisors  
Marin County Civic Center  
3501 Civic Center Drive, Suite 329  
San Rafael, CA 94903

**LAKE COUNTY**

Carol J. Huchingson  
Lake County Administrative Officer  
255 N. Forbes Street #109  
Lakeport, CA 95453

**24. Amendments/Modifications.**

This Agreement may only be amended or modified by the written consent of both parties hereto.

**25. Cooperation.**

Each party commits to fully cooperate with the other party to accomplish the purposes of this Agreement and the WIOA.

**26. Successors.**

No party shall assign any interest in this Agreement without the prior written consent of the other Parties. This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

**27. Interpretation; Venue.**

(a) **Interpretation.** The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.



(b) **Jurisdiction.** The jurisdiction for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be governed by California law and heard in a Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California.

**28. Severability.**

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

**29. Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties; it being understood that all Parties need not sign the same counterparts.

**30. Entirety of Contract.**

This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the parties with respect to the subject matter hereof.

**IN WITNESS WHEREOF**, this Agreement was executed by the parties hereto as of the date first above written.

**NAPA COUNTY**, a political subdivision  
of the State of California

\_\_\_\_\_  
ALFREDO PEDROZA, Chairman of the  
Board of Supervisors

ATTEST: GLADYS I. COIL  
Clerk of the Board

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

APPROVED AS TO FORM:  
Office of County Counsel

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

APPROVED BY THE NAPA COUNTY  
BOARD OF SUPERVISORS

Date: \_\_\_\_\_  
Processed By:

By: \_\_\_\_\_  
Deputy Clerk of the Board

**COUNTY OF MARIN**, a political subdivision  
of the State of California

\_\_\_\_\_  
Steve Kinsey, President of the  
County of Marin Board of Supervisors

ATTEST: DIANE PATTERSON  
Assistant Clerk of the Board

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

APPROVED AS TO FORM:  
STEVEN M. WOODSIDE, County Counsel

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

**COUNTY OF LAKE**, a political subdivision  
of the State of California

\_\_\_\_\_  
Chair, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON  
Clerk of the Board

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

APPROVED AS TO FORM:  
ANITA L. GRANT, County Counsel

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

**NAPA COUNTY AGREEMENT NO. \_\_\_\_\_**

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE COUNTIES OF NAPA, MARIN, AND LAKE**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_, 2016, by and between the NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "Napa County", MARIN COUNTY, a political subdivision of the State of California, hereinafter referred to as "Marin County" and LAKE COUNTY, a political subdivision of the State of California, hereinafter referred to as "Lake County;"

**RECITALS**

**WHEREAS**, in 2014 the Congress of the United States enacted the Workforce Innovation and Opportunity Act "WIOA" for the purpose of providing for stronger alignment of the workforce, education and economic development; and

**WHEREAS**, to promote regional economic development opportunities, Marin County, Napa County and Lake County, hereinafter "Parties," have decided to operate as a Single Local Workforce Development Area, hereinafter "LWDA," and form one Workforce Development Board; and

**WHEREAS**, to operate as a single LWDA and create a single Workforce Development Board, hereinafter "WDB," the Parties have agreed to enter into a Joint Powers Agency called Workforce Alliance of the North Bay hereinafter "Agency;" and

**WHEREAS**, the Agency's governing board will act as the Chief Local Elected Official for the Agency to coordinate regional efforts to support training and development programs and to form one WDB, The Workforce Alliance of the North Bay WDB, under the WIOA to be operated in the LWDA of Napa, Marin and Lake Counties; and

**WHEREAS**, in addition to the terms described in the Joint Powers Agency Agreement, the Parties want to agree to terms regarding allocation of WIOA funds, indemnity and Insurance.

**TERMS**

**NOW, THEREFORE**, the Parties agree to the terms and conditions as follows regarding the Agency:

**1. Allocation of WIOA funds**

(a) All funds allocated to Agency on behalf of the LWDA will be allocated for LWDA programs and services provided within each Parties' respective geographical area in the same proportion as determined by Federal and State formula under WIOA to Napa, Marin and Lake Counties and based on the same data sources used for the WIOA allocation formula to the Parties. The allocated funds shall be used for the purpose of developing and implementing a workforce development system meeting the requirements of the WIOA and the local needs of Napa, Marin and Lake Counties.

(b) All other discretionary funds and special purpose funds will be allocated as equitably as practicable based on the applicable terms of the funding source requirements, service levels and/or vote of the Workforce Alliance of the North Bay WDB.

(c) The Agency's Executive Director will serve, as defined in the Joint Powers Agreement, as the Local Workforce Innovation and Opportunity Act Administrator for the LWDA of Napa, Marin and Lake Counties for all programs and funds accepted by contract or grant from the United States Department of Labor, State or any other public or private agency, and will perform such functions as are required of the administrative entity of the Agency by the contractor or grantor.

## **2. Indemnification**

### **(a) Hold Harmless/Defense/Indemnification by Napa County**

(i) To the full extent permitted by law, Napa County shall hold harmless, defend at its own expense, and indemnify Agency, Marin County and/or Lake County and their officers, agents, employees and volunteers from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property or losses, including, but not limited to, disallowances for payments or recoupment of WIOA funds, arising from acts or omissions of Napa County or its respective officers, agents, employees, volunteers, contractors and subcontractors in the course of rendering workforce investment services under this Agreement or the Joint Powers Agreement pursuant to WIOA regulations for LWDA of Napa, Marin and Lake Counties, excluding, however, such liability, claims, losses, damages or expenses arising from the negligence or willful acts of Agency or its officers, agents, employees, volunteers, or other contractors or their subcontractors.

(ii) Napa County shall make Agency, Marin County and/or Lake County whole for any payment of any penalty, fine or assessment against Agency arising from the failure of Napa County or its respective officers, agents, employees, volunteers, contractors and subcontractors to comply with all applicable WIOA regulations, including, but not limited to, any penalties, fines or assessments that may be assessed under a Federal or State False Claims Act Provision. To the extent that Parties must make Agency whole under this Paragraph, Agency may elect to offset against any future allocated funds to Parties to the extent permitted under law, or demand to be made whole for any losses without offset.

### **(b) Hold Harmless/Defense/Indemnification by Marin County**

(i) To the full extent permitted by law, Marin County shall hold harmless, defend at its own expense, and indemnify Agency, Napa County and/or Lake County and their officers, agents, employees and volunteers from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property or losses, including, but not limited to, disallowances for payments or recoupment of WIOA funds, arising from acts or omissions of Marin County or its respective officers, agents, employees, volunteers, contractors and subcontractors in the course of rendering workforce investment services under this Agreement or the Joint Powers Agreement pursuant to WIOA regulations for LWDA of Napa, Marin and Lake Counties, excluding, however, such liability, claims, losses, damages or expenses arising from the negligence or willful acts of Agency or its officers, agents, employees, volunteers, or other contractors or their subcontractors.

(ii) Marin County shall make Agency, Napa County and/or Lake County whole for any payment of any penalty, fine or assessment against Agency arising from the failure of Marin County or its respective officers, agents, employees, volunteers, contractors and subcontractors to comply with all applicable WIOA regulations, including, but not limited to,

any penalties, fines or assessments that may be assessed under a Federal or State False Claims Act provision. To the extent that Parties must make Agency whole under this Paragraph, Agency may elect to offset against any future allocated funds to Parties to the extent permitted under law, or demand to be made whole for any losses without offset.

(c) **Hold Harmless/Defense/Indemnification by Lake County**

(i) To the full extent permitted by law, Lake County shall hold harmless, defend at its own expense, and indemnify Agency, Marin County and/or Napa County and their officers, agents, employees and volunteers from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property or losses, including, but not limited to, disallowances for payments or recoupment of WIOA funds, arising from acts or omissions of Lake County or its respective officers, agents, employees, volunteers, contractors and subcontractors in the course of rendering workforce investment services under this Agreement or the Joint Powers Agreement pursuant to WIOA regulations for LWDA of Napa, Marin and Lake Counties, excluding, however, such liability, claims, losses, damages or expenses arising from the negligence or willful acts of Agency or its officers, agents, employees, volunteers, or other contractors or their subcontractors.

(ii) Lake County shall make Agency, Napa County and/or Marin County whole for any payment of any penalty, fine or assessment against Agency arising from the failure of Lake County or its respective officers, agents, employees, volunteers, contractors and subcontractors to comply with all applicable WIOA regulations, including, but not limited to, any penalties, fines or assessments that may be assessed under a Federal or State False Claims Act provision. To the extent that Parties must make Agency whole under this Paragraph, Agency may elect to offset against any future allocated funds to Parties to the extent permitted under law, or demand to be made whole for any losses without offset.

(d) Notification Requirements of Claim or Damage. The Parties shall notify the Agency and other Parties immediately in writing of any claim or damage related to activities performed under this Agreement. The Parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require any party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(e) Survival of this Paragraph. The obligations of the Parties prescribed under Paragraph 2 shall continue after the termination in relation to acts or omissions occurring prior to the date of termination.

**3. Insurance.**

Each party shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) **Workers' Compensation Insurance.** To the extent required by law during the term of this Agreement, each party shall provide workers' compensation insurance for the performance of any of the party's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation.

(b) **Liability Insurance.** Each party shall obtain and maintain in full force and effect

during the term of this Agreement the following liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better or equivalent self-insurance:

(c) **General Liability.** Each party shall obtain and maintain in full force and effect during the term of this Agreement commercial or comprehensive general liability insurance coverage (personal injury and property damage) of not less than ONE MILLION FIVE HUNDRED THOUSAND (\$1,500,000) combined single limit per occurrence, either issued by a company admitted to do business in the State of California and having an A.M. Best Rating of no less than A:VII or by self-insurance satisfactory to the other party's risk manager or employee designated by that party to perform such function, or by a combination thereof, covering liability for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of that party under this Agreement except for acts or omissions performed in strict compliance with express direction from the other party's governing board, officers or personnel. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(d) **Certificates of Coverage.** Where the foregoing coverages are provided by insurance rather than by self-insurance (written proof of which shall be provided to the other party in a letter of Self-Insurance which shall include the acknowledgement of the additional insured status of all Parties to this Agreement), the coverages shall be evidenced by one or more certificates of coverage which shall be filed with the other party's Secretary or Clerk prior to reimbursement for performance of any of the party's duties under this Agreement; shall reference this Agreement by its COUNTY number or title and department; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability. For the insurance coverage referenced in Paragraph 3(b), each party shall also file with the evidence of coverage an endorsement from the insurance provider naming the other party, its officers, employees, agents and volunteers as additional insureds and waiving subrogation, and the certificate or other evidence of coverage shall provide that if the same policy applies to activities of the party not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of the party shall pertain only to liability for activities of the party under this Agreement, and that the insurance provided is primary coverage to the other party with respect to any insurance or self-insurance programs maintained by the other party. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Upon request by the other party, the party shall provide or arrange for the insurer to provide the other party with certified copies of the actual insurance policies or relevant portions thereof within thirty (30) days of the request.

(e) **Deductibles/Retentions.** Any deductibles or self-insured retentions shall be declared to the other Parties, through their respective designated Risk Manager.

(f) **Survival of This Paragraph.** The obligations of the Parties prescribed under this Paragraph 3 shall continue after the termination in relation to acts or omissions occurring prior to the date of termination.

**4. Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties; it being understood that all Parties need not sign the same counterparts.

IN WITNESS WHEREOF, this Agreement was executed by the Parties hereto as of the date first above written.

**NAPA COUNTY**, a political subdivision  
of the State of California

\_\_\_\_\_  
ALFREDO PEDROZA, Chairman of the  
Board of Supervisors

ATTEST: GLADYS I. COIL  
Clerk of the Board

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

APPROVED AS TO FORM:  
Office of County Counsel

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

APPROVED BY THE NAPA COUNTY  
BOARD OF SUPERVISORS

Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Deputy Clerk of the Board

**COUNTY OF MARIN**, a political subdivision  
of the State of California

\_\_\_\_\_  
Steve Kinsey, President of the  
County of Marin Board of Supervisors

ATTEST: DIANE PATTERSON  
Assistant Clerk of the Board

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

APPROVED AS TO FORM:  
STEVEN M. WOODSIDE, County Counsel

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

**COUNTY OF LAKE**, a political subdivision  
of the State of California

\_\_\_\_\_  
Chair, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON  
Clerk of the Board

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

APPROVED AS TO FORM:  
ANITA L. GRANT, County Counsel

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