

NAPA COUNTY AGREEMENT NO. 8473

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 10 day of May, 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:
STEPHEN M. WOODSIDE, County Counsel

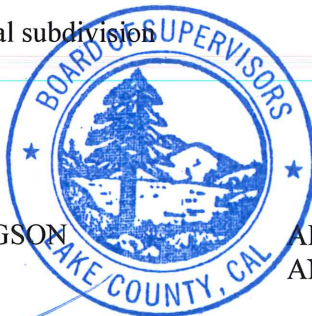
By: _____
Deputy

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

Rb Brown
Chair, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON
Clerk of the Board

By: _____



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

By: Anita L Grant
Deputy