

**AUDIT SERVICES CONTRACT
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AUDIT SERVICES CONTRACT

SACRAMENTO EMPLOYMENT AND TRAINING AGENCY

This CONTRACT, dated this _____ day of _____, 20____ is by and between the Sacramento Employment and Training Agency, a Joint Powers Agency, hereinafter referred to as SETA, and _____, hereinafter referred to as CONTRACTOR.

WITNESSETH:

Recitals

- I. SETA wishes to engage CONTRACTOR to provide certain services, which services are more particularly described in the Work Program attached hereto as Exhibit 1 and incorporated herein by reference to this CONTRACT.
- II. SETA does not currently possess the capability to perform the services SETA currently requires.
- III. CONTRACTOR is a duly qualified expert in the field in which said services are required and is willing to perform said services on the terms herein set forth.

Agreements

CONTRACT Contents

This CONTRACT sets forth the terms and conditions of a CONTRACT between SETA and CONTRACTOR. This CONTRACT consists of the following documents, each of which is attached hereto and incorporated by reference herein and made a part hereof:

- This SERVICES CONTRACT
- Work Program - Audit Services (Exhibit 1)
- Special Conditions (Exhibit 2)
- Assurances and Certifications (Exhibit 3)
- Insurance Requirements (Exhibit 4)
- Confidentiality of Participant Records (Exhibit 5)
- Lobbying Certification/Disclosure of Lobbying Activities (Exhibit 6)

CONTRACTOR shall thoroughly examine the documents and exhibits set forth above. The failure or omission of CONTRACTOR to examine the above documents and exhibits or the terms and conditions of this CONTRACT shall in no way relieve CONTRACTOR of its

obligations with respect to this CONTRACT.

1 Services

2 CONTRACTOR shall perform its services strictly in accordance with:

- 3 The Work Program, attached hereto as Exhibit 1 and incorporated herein by reference;
- 4 The Special Conditions, if any, attached hereto as Exhibit 2 and incorporated herein by
- 5 reference;
- 6 The Assurances and Certifications, attached hereto as Exhibit 3 and incorporated herein by
- 7 reference; and,
- 8 All applicable federal, state and local laws and administrative regulations, as prescribed by
- 9 the grantor agencies, and applicable SETA and state policies and procedures.

10 Term

11 The term of this CONTRACT shall begin _____, 20____, and shall end _____,

12 20____. Without advance written approval by SETA, SETA shall not be obligated to pay for any

13 services performed prior to the date of this CONTRACT and commencement of the term, nor

14 shall SETA be liable for any services performed subsequent to the ending of the term.

15 Cognizant Agent

16 The National Audit Managers — Non-Federal Audits, HHS OIG National External Audit

17 Resources is the Cognizant Agent for SETA.

18 Extension of Term

19 This CONTRACT may be extended by SETA, in its sole discretion, for two (2) additional one (1)

20 year terms. The determination to extend shall be made by SETA on an annual basis for each

21 additional one (1) year term before the termination of each existing term. There shall be no

22 more than two (2) individual one (1) year extensions. The determination to extend shall be

23 made by SETA in its sole discretion and SETA shall have no obligation to extend. Each one (1)

24 year extension shall be on the same terms and conditions as this original CONTRACT, except

25 that the scope of performance and fee may be otherwise negotiated by the parties; provided,

26 that any increase shall not exceed five percent (5%) or the Consumer Price Index, whichever is

27 smaller, for each additional term; provided further, however, that if additional services (services

28 not identified in the Work Program attached as Exhibit 1) are required by SETA during the initial

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term or any additional term, a fee will be negotiated by the parties consistent with the fee established for services otherwise provided. Should the scope of performance or the amount of funding be different than identified herein, performance and budget modifications shall be made in proportion to this change.

Payment/Reporting

SETA shall compensate CONTRACTOR for services performed hereunder as set forth in the Work Program, attached hereto as Exhibit 1 and incorporated herein by reference, subject to modifications requested by SETA for additional services to be performed.

Compensation for the performance of the work hereunder shall be paid monthly upon review and approval of invoices by SETA. Invoices must be substantiated by such detailed itemization as required by SETA.

Each monthly invoice submitted, when approved as to compliance with SETA's requirements, shall be paid at a rate of 90%. The remaining 10% retained shall be paid upon submittal and approval of a final invoice after all required reports and other performance of CONTRACTOR required hereunder have been accepted by SETA.

All invoices under this CONTRACT must be delivered to SETA within sixty (60) calendar days following the termination of this CONTRACT to be binding upon SETA for payment. Failure to timely submit such invoices shall be a waiver of CONTRACTOR's right to payment.

Computer Hardware and Software

All information technology must be "year 2000 complaint" and able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000.

The information technology must also be able to make leap year calculations and must properly recognize the year 2000 as a leap year.

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Records, Audit, Inspection

Establishment and Maintenance of Records

(1) CONTRACTOR shall maintain an adequate system of accounting in accordance with

1 all applicable regulations and in accordance with generally accepted principles and
2 procedures of the accounting profession so that a clear audit trail can be established
3 which proves that the funds claimed under this CONTRACT are in accordance with
4 the terms of this CONTRACT, applicable federal and state regulations and circulars,
5 and SETA policies and procedures. CONTRACTOR further agrees to maintain
6 complete and accurate accounting records and records of the services performed
7 hereunder, as well as costs incurred in connection with the performance of this
8 CONTRACT, including pertinent books, documents, records, and working papers in
9 any way associated with the performance of this CONTRACT.

- 10 (2) SETA reserves the right to review services, service levels and billing procedures as
11 these impact charges against this CONTRACT.

12 Preparation of Records and Examination of Records and Facilities

13 At any reasonable time or during normal business hours, SETA or duly authorized
14 representatives, including representatives of SETA's funding sources and the Comptroller
15 General of the United States shall have the right of access to any books, documents,
16 papers, computer records, or other records of CONTRACTOR and all subcontractors that
17 are pertinent to this CONTRACT, in order to conduct audits and examinations, and to make
18 excerpts, transcripts, and photocopies of such documents on or off the premises of
19 CONTRACTOR. This right also includes timely and reasonable access to CONTRACTOR
20 and all subcontractor personnel for the purpose of interview and discussion related to such
21 documents. This right of access shall continue as long as the records are retained but, in
22 no event, be less than the required retention period set forth in paragraph 7(c) below.
23 SETA shall have the further right to observe, monitor, evaluate and examine
24 CONTRACTOR's performance of services and its offices and facilities utilized in the
25 performance of this CONTRACT.

26 Preservation of Records

27 CONTRACTOR shall preserve and make available all of its records related to this
28 CONTRACT and any extension or renewal thereof, including, but not limited to, all
financial, statistical, property and participant records and supporting documentation until

1 the expiration of such period of time as required by applicable law or notification from
2 SETA, but in no event less than the expiration of three (3) years from the later of:

- 3 (1) The date of final payment to CONTRACTOR under this CONTRACT and any
4 extension or renewal thereof and all other pending matters are closed;
5 (2) The end of the fiscal year during which this CONTRACT or any extension or renewal
6 thereof is terminated; or,
7 (3) The completion and finalization of all pending federal, state and SETA audits
8 performed hereunder or of CONTRACTOR for the fiscal year during which this
9 CONTRACT is terminated.

10 If, at the end of three (3) years, there is ongoing litigation, or any claim, or an audit has not
11 been resolved, CONTRACTOR shall retain the records until final resolution. If this
12 CONTRACT is terminated or if SETA does not engage CONTRACTOR's services in
13 subsequent years, this record retention requirement remains applicable. At SETA's sole
14 option, some or all of the records may be ordered transferred to SETA. To the extent that
15 such records are transferred to SETA, this retention requirement is not applicable to
16 CONTRACTOR. In the event the records pertaining to this CONTRACT are maintained
17 outside Sacramento County, California, CONTRACTOR shall, at its sole cost, make said
18 records available at SETA's principal place of business within five (5) working days after
19 receipt of written notice from SETA.

20 Documentation of Costs

21 All claims shall be supported by properly propagated and executed payrolls, time records,
22 invoices, contracts, vouchers or other official documentation evidencing in proper detail the
23 nature and propriety of the charge. All checks, payroll and accounting documents,
24 pertaining in whole or in part to this CONTRACT, shall be clearly identified and readily
25 accessible.

26 Disallowed Costs

27 CONTRACTOR will be liable for and will repay to SETA any amounts expended under this
28 CONTRACT found not to be in accordance with the statutes, rules and regulations as
prescribed by the grantor agencies and the provisions of this CONTRACT including, but not

1 limited to, disallowed costs. Such repayment will be from funds (non-federal), other than
2 those received from SETA's funding source(s).

3 Audit

4 This CONTRACT may be audited at any time by a representative of SETA, SETA's various
5 funding sources, and/or the Comptroller General of the United States. Said representative
6 may be an independent auditor. Such an audit shall be conducted at the discretion of
7 SETA, SETA's various funding sources, or the Comptroller General according to all
8 applicable laws, regulations and SETA policies and procedures. CONTRACTOR agrees to
9 accept responsibility for receiving, replying to and/or complying with any audit exceptions
10 by appropriate state and federal audit agencies directly related to provisions of this
11 CONTRACT. CONTRACTOR shall be liable to SETA for the full amount of SETA's liability,
12 if any, to SETA's various funding sources resulting from any audit exceptions relating to
13 CONTRACTOR's performance under this CONTRACT.

14 Deobligation of Funds

15 Should CONTRACTOR fail to timely meet the performance standards as set forth in this
16 CONTRACT (specifically including the Work Program, attached hereto as Exhibit 1 and
17 incorporated herein by reference) for the provision of the services identified in this CONTRACT,
18 SETA may, at any time and in its sole discretion, deobligate or otherwise reduce or withdraw
19 funds allocated to CONTRACTOR pursuant to this CONTRACT or, in SETA's sole discretion,
20 terminate this CONTRACT. Should any of SETA's funding sources reduce funding to SETA,
21 SETA may, notwithstanding any other provision of this CONTRACT, at any time and in its sole
22 discretion, deobligate or otherwise reduce or withdraw funds allocated to CONTRACTOR
23 pursuant to this CONTRACT or, in SETA's sole discretion, terminate this CONTRACT. In the
24 event of deobligation, SETA may unilaterally amend this CONTRACT identifying the
25 deobligation. SETA shall have no liability to CONTRACTOR based upon said deobligation or
26 termination, specifically including, but not limited to, any liability for CONTRACTOR's
27 consequential damages.

28 Suspension or Disallowance of Payments/Suspension of Performance

SETA may at any time elect, in its sole discretion and without any liability to CONTRACTOR,

1 including, but not limited to, liability for consequential damages, and notwithstanding any other
2 provision of this CONTRACT, to suspend or disallow payment to CONTRACTOR in whole or in
3 part under this CONTRACT, and/or to suspend performance under this CONTRACT, in the
4 event of any of the following occurrences:

5 If CONTRACTOR fails to comply with all requirements of the certifications made in this
6 CONTRACT or any of the exhibits hereto. In the event of suspension on this basis,
7 CONTRACTOR may be ineligible for award of future SETA subgrants/contracts if SETA or
8 its funding source(s) determine(s) that any of the following has occurred: (1) false
9 information is contained in any certification; or (2) CONTRACTOR has violated any of the
10 terms of the certification by failing to carry out any requirements contained therein;

11 If CONTRACTOR shall have made any misrepresentation of any nature with respect to any
12 information or data furnished to SETA in connection with this CONTRACT;

13 If CONTRACTOR submits to SETA any reports which are incorrect or incomplete in any
14 material respect and/or which are not submitted according to deadlines;

15 If CONTRACTOR shall fail to submit timely and/or complete invoices;

16 If CONTRACTOR maintains a pattern of discrimination;

17 If CONTRACTOR is in default of any of the provisions of this CONTRACT or violates any of
18 the covenants, assurances, stipulations or conditions of this CONTRACT;

19 If CONTRACTOR shall fail, for any reason, to fulfill in a timely, proper, and reasonable
20 manner its obligations under this CONTRACT;

21 If CONTRACTOR dissolves, becomes insolvent, has an assignment for the benefit of
22 creditors, commences a bankruptcy or insolvency proceeding, or has a receiver appointed
23 for its property;

24 If any of SETA's funding sources reduces funding to SETA below the amount in existence
25 at the time the parties entered into this CONTRACT;

26 If CONTRACTOR provides services under this CONTRACT ineffectively or improperly;

27 If CONTRACTOR fails to comply with applicable federal, state and local laws,
28 administrative regulations, executive orders, or Governor or SETA policies and procedures;

If any of SETA's funding sources suspends its funding to SETA (should this occur and

1 SETA is unable to give CONTRACTOR five (5) calendar days notice, SETA shall provide
2 CONTRACTOR reasonable notice under the prevailing circumstances); or

3 If CONTRACTOR is unable or unwilling to comply with any additional conditions as may be
4 lawfully applied by any of SETA's funding sources or SETA.

5 Any obligations incurred by CONTRACTOR during the suspension period will not be allowed
6 unless expressly authorized by SETA in the written notice of suspension or in a specific written
7 authorization document.

8 Termination of CONTRACT

9 For Cause

10 SETA may terminate this CONTRACT in the following instances by giving written notice to
11 CONTRACTOR at least five (5) calendar days prior to the effective termination date stated
12 in the notice:

- 13 (1) If CONTRACTOR fails to comply with all requirements of the certifications made in
14 this CONTRACT or any of the exhibits hereto. In the event of termination on this
15 basis, CONTRACTOR may be ineligible for award of future SETA subgrants/
16 contracts if SETA or its funding source(s) determine(s) that any of the following has
17 occurred: (A) false information is contained in any certification; or (B) CONTRACTOR
18 has violated any of the terms of the certification by failing to carry out any
19 requirements contained therein;
- 20 (2) If CONTRACTOR shall have made any misrepresentation of any nature with respect
21 to any information or data furnished to SETA in connection with this CONTRACT;
- 22 (3) If CONTRACTOR submits to SETA any reports which are incorrect or incomplete in
23 any material respect and/or which are not submitted according to deadlines;
- 24 (4) If CONTRACTOR shall fail to submit timely and/or complete invoices;
- 25 (5) If CONTRACTOR maintains a pattern of discrimination;
- 26 (6) If CONTRACTOR is in default of any of the provisions of this CONTRACT or violates
27 any of the covenants, assurances, stipulations, or conditions of this CONTRACT;
- 28 (7) If CONTRACTOR shall fail, for any reason, to fulfill in a timely, proper, and
reasonable manner its obligations under this CONTRACT;

- 1 (8) If CONTRACTOR dissolves, becomes insolvent, has an assignment for the benefit of
creditors, commences a bankruptcy or insolvency proceeding, or has a receiver
2 appointed for its property;
- 3 (9) If any of SETA's funding sources reduces funding to SETA below the amount in
4 existence at the time the parties entered into this CONTRACT;
- 5 (10) If CONTRACTOR provides services under this CONTRACT ineffectively or
6 improperly;
- 7 (11) If CONTRACTOR fails to comply with applicable federal, state and local laws,
8 administrative regulations, executive orders, or Governor or SETA policies and
9 procedures;
- 10 (12) If any of SETA's funding sources suspends or terminates its funding to SETA (should
11 this occur and SETA is unable to give CONTRACTOR five (5) calendar days notice,
12 SETA shall provide CONTRACTOR reasonable notice under the prevailing
13 circumstances); or
- 14 (13) If CONTRACTOR is unable or unwilling to comply with any additional conditions as
15 may be lawfully applied by any of SETA's funding sources or SETA.

16 For Convenience

17 SETA may terminate this CONTRACT for convenience at any time by giving written notice
18 to CONTRACTOR of such termination and specifying the effective date thereof, at least ten
19 (10) calendar days before the effective date of such termination.

20 Payment Upon Termination

21 If this CONTRACT is terminated by SETA, as provided in this Paragraph 10,
22 CONTRACTOR, as its sole remedy, shall be paid an amount which bears the same ratio to
23 the total compensation, as provided in the Work Program attached hereto as Exhibit 1 and
24 incorporated herein by reference, as the services actually performed bear to the total
25 services to be performed by CONTRACTOR under this CONTRACT, less payments of
26 compensation previously made. Upon termination of this CONTRACT, CONTRACTOR
27 shall not incur any obligations after the effective date of such termination, unless expressly
28 authorized by SETA, in writing, in the notice of termination. SETA shall not be liable for

1 any claims of CONTRACTOR for consequential damages. In the event of termination, all
2 property and finished or unfinished documents, copies of work in progress, completed
3 work, data, studies and reports purchased or prepared by CONTRACTOR under this
4 CONTRACT shall, at the option of SETA, become the property of SETA, and shall be
5 transferred and delivered to SETA in the manner, at the times, and to the extent directed by
6 SETA. Notwithstanding the above, CONTRACTOR shall not be released of liability by
7 SETA for damages sustained by SETA by virtue of any breach of this CONTRACT by
8 CONTRACTOR, including SETA liability for funds wrongfully used or misspent by
9 CONTRACTOR, disallowed costs, or audit exceptions under this CONTRACT, and SETA
10 may withhold any payment to CONTRACTOR for purposes of setoff until such time as the
11 exact amount of damages due SETA from CONTRACTOR is agreed upon or otherwise
12 determined. Neither this paragraph, nor any other provision of this CONTRACT, shall
13 release CONTRACTOR from its liability to SETA for wrongfully used or misspent funds or
14 disallowed costs should the amount of those wrongfully used or misspent funds or
15 disallowed costs exceed the amount of any payment due CONTRACTOR.

16 Procedures for Corrective Action

17 Whenever SETA has reasonable cause to believe that CONTRACTOR has failed to comply
18 with any requirement imposed by any of SETA's funding sources, any provision of this
19 CONTRACT, SETA or Governor policies or procedures, and/or applicable federal, state
20 and local laws, executive orders, or administrative regulations, SETA may, in lieu of
21 immediately giving notice of termination of this CONTRACT pursuant to the provisions of
22 Paragraph 10, order corrective action and disallow, suspend or delay any and all payments
23 under this CONTRACT, and/or suspend performance under this CONTRACT, until such
24 failure is rectified.

25 If corrective action is ordered, SETA shall give CONTRACTOR reasonable written notice
26 (generally no more than thirty (30) calendar days) setting forth the nature of
27 CONTRACTOR's noncompliance and identifying a procedure whereby CONTRACTOR and
28 its officers or responsible representative may have an opportunity to meet with SETA for
the purpose of considering the nature of corrective action.

1 An order for corrective action shall be in writing and shall set forth specific directions for
2 corrective action, including a detailed timetable for implementing such directions and for
3 reporting to SETA as to the implementation process.

4 SETA may suspend or disallow payments to CONTRACTOR and/or suspend performance
5 in accordance with Paragraph 9 of this CONTRACT during said period of corrective action.
6 If CONTRACTOR shall fail to implement an order for corrective action, or if it shall fail to do
7 so within the timetable set for implementation, SETA shall recommend to SETA's
8 Governing Board that this CONTRACT be terminated in accordance with the provisions of
9 Paragraph 10 of this CONTRACT.

10 Notwithstanding the provisions of this Paragraph 11, SETA shall immediately suspend the
11 payment of funds to CONTRACTOR when SETA has reasonable cause to believe that
12 CONTRACTOR has misspent or claimed funds fraudulently and shall cause to be served
13 upon CONTRACTOR notice of termination pursuant to Paragraph 10 of this CONTRACT.

14 Disputes

15 When CONTRACTOR and SETA fail to agree as to whether any work is within the scope of
16 this CONTRACT, CONTRACTOR shall nevertheless immediately perform such work upon
17 receipt from SETA of written order to do so. Within fifteen (15) calendar days after receipt
18 of such order, CONTRACTOR may submit a written protest to SETA, specifying in detail in
19 what particulars the CONTRACT requirements were exceeded, and the approximate
20 change in cost resulting therefrom so that SETA will have notice of a potential claim which
21 may be filed by CONTRACTOR.

22 Failure to submit a protest within the period specified shall constitute a waiver of any and
23 all right to adjustment in CONTRACT price and CONTRACT time due to such work, and
24 the CONTRACTOR thereafter shall not be entitled to any adjustment of CONTRACT price
25 or time therefor. For any such work which is found to exceed the CONTRACT
26 requirements, there shall be an equitable adjustment in CONTRACT price and CONTRACT
27 time, and such adjustment shall be evidenced by an amendment to this CONTRACT.

28 If the parties cannot agree upon an equitable adjustment of CONTRACT price, the extent
of such adjustments shall be determined by the Director of Finance of Sacramento County,

which determination shall be final and binding on the parties.

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Property

Any property acquired by CONTRACTOR pursuant to this CONTRACT shall be subject to all rules, procedures, and restrictions as set forth in all applicable federal, state and local laws and administrative regulations, including SETA policies and procedures, and any other applicable procedures or regulations that may be established by the federal government, the State of California and/or SETA.

Title to intangible personal property produced or acquired pursuant to this CONTRACT, including patents and copyrights, shall vest and be held in accordance with applicable requirements of SETA and its funding sources. CONTRACTOR shall immediately report to SETA any discovery or invention which arises or is developed in the performance of or under this CONTRACT.

CONTRACTOR shall exercise due care in the use, maintenance, protection, and preservation of SETA-owned property in CONTRACTOR's possession. Such care shall include insurance coverage against loss or damage to such property.

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1 License for Use

2 Any other provision of this CONTRACT notwithstanding, CONTRACTOR agrees to and does
3 hereby grant to SETA, the federal government and the State of California a royalty-free,
4 nonexclusive and irrevocable license throughout the world, for government purposes, to publish,
5 translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all data,
6 including reports, patents, copyrights, drawings, blueprints, and technical information resulting
7 from the performance of the work under this CONTRACT.

8 Right to Reuse

9 If, under the provisions of this CONTRACT, CONTRACTOR develops any systems analysis
10 products, models, electronic data processing systems, software and related services,
11 CONTRACTOR agrees that the methods, materials, logic and systems developed pursuant to
12 this CONTRACT shall be the property of SETA, and may be used as SETA sees fit, including
13 the right to reuse and publish the same without limitation.

14 Insurance

15 During the term of this CONTRACT, CONTRACTOR shall maintain insurance coverages in
16 conformance with the provisions of Exhibit 4, attached hereto and incorporated herein by
17 reference.

18 Personnel

19 CONTRACTOR represents that it has, or will secure at its own expense, all personnel
20 required to perform its obligations under this CONTRACT. Such personnel shall not be
21 employees of or have any contractual relationship with SETA, and CONTRACTOR shall
22 hold SETA harmless from any and all claims against SETA based upon the contention that
23 an employer-employee relationship exists by reason of this CONTRACT.

24 All of the obligations and/or services to be performed by CONTRACTOR hereunder shall
25 be performed by CONTRACTOR or by employees of CONTRACTOR under
26 CONTRACTOR's supervision, and all personnel engaged in the work shall be fully qualified
27 and shall be authorized under applicable law to perform such services and/or activities.

28 CONTRACTOR agrees that in the performance of its obligations under this CONTRACT no
 person having an interest that would conflict, or whose performance would conflict, with the

1 effective and efficient performance of CONTRACTOR's obligations, as determined by
2 SETA, shall be employed, engaged or retained.

3 In the event that SETA or its funding source(s), in their sole discretion, either singularly or
4 jointly, at any time during the term of this CONTRACT, desires the removal of any person
5 or persons assigned by CONTRACTOR to perform services pursuant to this CONTRACT,
6 CONTRACTOR shall remove any such person immediately upon receiving notice from
7 SETA or its funding source(s).

8 CONTRACTOR shall not substitute for personnel set forth in its proposal or this
9 CONTRACT without the prior written consent of SETA.

10 Debarment, Suspension, Termination and/or Revocation

11 CONTRACTOR hereby certifies to the best of its knowledge that neither it nor any of its
12 principals to be used in the performance of this CONTRACT:

- 13 (1) Is presently debarred, suspended, proposed for debarment, declared ineligible or
14 voluntarily excluded from covered transactions by any federal department or agency;
- 15 (2) Has within a three (3) year period preceding this CONTRACT been convicted of or
16 had a civil judgment rendered against them for commission of fraud or a criminal
17 offense in connection with obtaining, attempting to obtain or performing a public
18 (federal, state or local) transaction or contract under a public transaction; violation of
19 federal or state antitrust statutes or commission of embezzlement, theft, forgery,
20 bribery, falsification or destruction of records, making false statements, or receiving
21 stolen property;
- 22 (3) Is presently indicted for or otherwise criminally or civilly charged by a governmental
23 entity (federal, state or local) with commission of any of the offenses enumerated in
24 subparagraph 2 of this paragraph 18; and,
- 25 (4) Has within a three (3) year period preceding this CONTRACT had one or more public
26 (federal, state or local) transactions terminated for cause or default.

27 If unable to certify to the best of its knowledge the statements set forth above,
28 CONTRACTOR and/or any of its principals shall attach to this CONTRACT an account of
the circumstances and any explanations therefor.

1 CONTRACTOR further agrees to request this certification from any subcontractors that
2 perform services under this CONTRACT.

3 Pro-Children Act of 1994

4 CONTRACTOR shall comply with Public Law 103-227, Part C - Environmental Tobacco Smoke,
5 also known as the Pro-Children Act of 1994 and CONTRACTOR shall not permit smoking in
6 any portion of any indoor facility owned, leased or contracted by CONTRACTOR and used
7 routinely or regularly for the provision of health, day care, education, or library services to
8 children under the age of 18, if the services are funded pursuant to this CONTRACT.

9 Prior Findings

10 CONTRACTOR, by signing this CONTRACT, certifies under penalty of perjury, that it has not
11 failed to satisfy any major condition in a current or previous contract or grant with the federal
12 government, the State of California or SETA and has not failed to satisfy conditions relating to
13 the resolution of a final finding and determination, including repayment of debts.

14 National Labor Relations Board Certification

15 CONTRACTOR hereby certifies under penalty of perjury that no more than one final
16 unappealable finding of contempt of court, by a federal court, has been issued against
17 CONTRACTOR within the immediately preceding two-year period because of CONTRACTOR's
18 failure to comply with an order of a federal court which orders CONTRACTOR to comply with an
19 order of the National Labor Relations Board.

20 Nepotism

21 With respect to the services provided pursuant to this CONTRACT, no member of the
22 immediate family of any officer, director, executive or employee of CONTRACTOR or SETA
23 shall receive favorable treatment for enrollment in services provided by, or employment with,
24 CONTRACTOR, nor shall any individual be placed in an employment activity funded under this
25 CONTRACT if a member of that individual's immediate family is directly supervised by or
26 directly supervises that individual. In addition, neither CONTRACTOR nor any of
27 CONTRACTOR's subcontractors shall hire, or cause or allow to be hired, a person into an
28 administrative capacity or staff position funded under this CONTRACT, if a member of that
person's immediate family is employed in an administrative capacity for SETA, CONTRACTOR,

1 or any employment contractor of CONTRACTOR. However, where an applicable federal, state
2 or local statute regarding nepotism exists which is more restrictive than this provision,
3 CONTRACTOR and CONTRACTOR's subcontractors shall follow the federal, state or local
4 statute in lieu of this provision.

5 The term "member of the immediate family" includes: wife, husband, son, daughter,
6 mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,
7 father-in-law, mother-in-law, grandfather, grandmother, aunt, uncle, niece, nephew, step-
8 parent, and step-child.

9 The term "administrative capacity" refers to positions involving overall administrative
10 responsibility for the program, including members of SETA's Governing Board and any of
11 its affiliated Boards or Councils and members of the governing body or board of directors of
12 CONTRACTOR, or where that individual would be the supervisor of an individual paid with
13 funds provided under this CONTRACT or performing duties under this CONTRACT.

14 The term "staff position" refers to all staff positions providing services under this
15 CONTRACT.

16 Small, Minority, and Women's Businesses

17 CONTRACTOR shall take the following actions to ensure that small, minority and any women's
18 businesses shall have the maximum practicable opportunity to participate in the performance of
19 this CONTRACT:

20 Include small, minority, and women's businesses on source lists and assure that they are
21 solicited whenever they are potential sources.

22 Divide total requirements into smaller requirements to permit maximum small, minority, and
23 women's business participation whenever economically feasible and use the services and
24 assistance of the Small Business Administration and the Office of Minority Business
25 Development Agency, Department of Commerce, as required.

26 Conflict of Interest

27 Neither an officer, director, executive, employee or agent of CONTRACTOR, nor an elected
28 official in the area shall solicit or accept money or any other consideration from a third
person for the performance of an act paid for in whole or in part by SETA or

CONTRACTOR pursuant to this CONTRACT.

CONTRACTOR shall avoid organizational conflict of interest, and its officers, directors, executives and employees shall avoid financial and personal conflict of interest, potential for conflict of interest and appearance of conflict of interest in the performance of this CONTRACT, and in the conduct of procurement activities involving CONTRACT funds.

CONTRACTOR shall abide by all applicable federal and state laws and regulations and SETA policies regarding conflict of interest.

Nondiscrimination/Equal Opportunity

During the performance of this CONTRACT, CONTRACTOR agrees as follows:

CONTRACTOR shall not discriminate, harass or allow harassment, against any employee, applicant for employment, or any other individual affected by the services being provided by CONTRACTOR pursuant to this CONTRACT because of sex, age, race, creed, color, disability, religion, national origin, political affiliation or belief, or heritage. CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, age, race, creed, color, disability, religion, national origin, political affiliation or belief, or heritage. Such action shall include, but not be limited to, the following: Employment; upgrading; demotion; transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

CONTRACTOR shall, in all solicitations or advertisements for employment placed by or on behalf of CONTRACTOR, state that all qualified applicants shall receive consideration for employment without regard to sex, age, race, creed, color, disability, religion, national origin, political affiliation or belief, or heritage.

CONTRACTOR shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or worker's

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representative of the CONTRACTOR's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

CONTRACTOR shall comply with all provisions of the Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and other applicable orders of the U.S. Government.

CONTRACTOR shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by applicable rules, regulations, and orders of the U.S. Government, or pursuant thereto, and shall permit access to its books, records, and accounts by the contracting agency and all applicable U.S. Government agencies for purposes of investigation to ascertain compliance with such rules, regulations, and orders. In the event of CONTRACTOR's noncompliance with the nondiscrimination clauses of this CONTRACT or with any of such rules, regulations, or orders, this CONTRACT may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by other applicable rule, regulation, or order of the U.S. Government, or as otherwise provided by law.

CONTRACTOR shall include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order issued pursuant to this CONTRACT unless exempted by applicable rules, regulations, or orders of the U.S. Government issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR shall take such action with respect to any subcontract or purchase order as may be validly directed by any applicable agency of the government as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction,

1 CONTRACTOR may request the United States to enter into such litigation to protect the
2 interests of the United States.

3 Licenses and Permits

4 CONTRACTOR shall secure and maintain throughout the term of this CONTRACT all licenses,
5 permits, qualifications, and approvals of whatsoever nature which are legally required for
6 CONTRACTOR to practice its profession and to perform the services required in this
7 CONTRACT.

8 Diligent and Timely Performance

9 All services performed by CONTRACTOR shall be performed in a diligent and timely manner
10 and in accordance with the best practice and procedures in CONTRACTOR's profession.

11 Standard of Performance

12 CONTRACTOR shall perform all services required pursuant to this CONTRACT in the manner
13 and according to the standards observed by a competent practitioner of the profession or field in
14 which CONTRACTOR is engaged. All work products of whatsoever nature which
15 CONTRACTOR delivers to SETA or its funding source(s) pursuant to this CONTRACT shall be
16 prepared in a substantial, first-class and workmanlike manner and conform to standards of
17 quality normally observed by a person practicing in CONTRACTOR's profession or field.

18 Confidentiality

19 All services performed by CONTRACTOR hereunder and each and all of the reports and items
20 of data and information given to, prepared by, or assembled with the assistance of
21 CONTRACTOR under the terms of this CONTRACT are confidential and shall not be made
22 available to any individual or organization, except for SETA's funding source(s) and SETA, by
23 CONTRACTOR without prior written approval of SETA. CONTRACTOR shall also abide by all
24 applicable laws, regulations, and SETA policies and procedures regarding the release of
25 participant identities and information. A copy of SETA's policy on Confidentiality of Participant
26 Records is attached hereto as Exhibit 5 and incorporated herein by reference.

27 Unauthorized Financial Benefit

28 Neither CONTRACTOR, nor its officers, agents, or employees shall submit or receive payment
pursuant to any claims paid by SETA under this CONTRACT if any officer, agent, or employee

1 of CONTRACTOR will derive any financial benefit other than as specifically permitted in this
2 CONTRACT.

3 Contingent Fee

4 CONTRACTOR warrants that no person, selling agency, or other organization, excepting bona
5 fide employees of CONTRACTOR, has been employed or retained to solicit or secure this
6 CONTRACT upon an agreement or understanding for commission, percentage, brokerage, or
7 contingency fee. For breach or violation of this covenant, SETA shall have the right to terminate
8 this CONTRACT with liability in accordance with Paragraph 10 of this CONTRACT and/or, at its
9 sole discretion, to deduct from the CONTRACT price or consideration, or otherwise recover, the
10 full amount of such commission, percentage, brokerage, or contingency fee.

11 Kickbacks

12 No officer, agent, or employee of CONTRACTOR shall solicit or accept any favor or any
13 financial interest from any supplier or potential supplier of goods or services under this
14 CONTRACT including any extension thereof.

15 Fraud and Program Abuse

16 CONTRACTOR shall establish and implement appropriate internal program management
17 procedures to prevent fraud, abuse and criminal activity. CONTRACTOR shall immediately,
18 and in no event later than twenty-four (24) hours after discovery by CONTRACTOR, notify
19 SETA whenever in the course of its performance under this CONTRACT it identifies any activity
20 which constitutes fraud and/or program abuse.

21 Political Activity/Lobbying

22 CONTRACTOR assures and certifies that it will comply with all applicable federal and state laws
23 and administrative regulations, as well as SETA policies, regarding political activity and
24 lobbying. In this regard, no part of the performance under this CONTRACT shall include
25 publicity, lobbying or the solicitation of funds for any political activity or to further the election or
26 defeat of any candidate for office or on behalf of or in opposition to proposed or pending federal,
27 state or local legislation or administrative action. CONTRACTOR further agrees to comply with
28 the requirements of Section 319 of the Fiscal Year 1990 Appropriations Act (31 U.S.C. §1352),
as amended, and corresponding DOL regulations codified at 29 CFR, Part 93, which prohibits

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the expenditure of funds provided under a federal contract, grant, loan or cooperative agreement for the purpose of influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding, extension, continuation, renewal, amendment or modification of any such contract, grant, loan or cooperative agreement. CONTRACTOR agrees to execute and provide to SETA a Certification Regarding Lobbying and, if necessary, a Disclosure of Lobbying Activities on the forms provided by SETA, attached hereto as Exhibit 6 and incorporated herein by reference.

Sectarian Activities

CONTRACTOR assures and certifies that this CONTRACT does not provide for the advancement of, or aid to, any religious sect, church or creed, or sectarian purpose nor does it help to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination whatever, as specified by Article XVI, Section 5, of the Constitution, regarding separation of church and state. There shall be no religious workshops, instruction or proselytic action as part of, or in connection with, the performance of this CONTRACT.

Delegation/Subcontract/Assignment

Unless specifically set forth in the Work Program attached hereto as Exhibit 1 and incorporated herein by reference, no performance of any of CONTRACTOR's obligations under this CONTRACT may be transferred by subcontract, assignment, delegation, or novation without the prior express written consent of SETA. Any attempt by CONTRACTOR to assign, delegate or subcontract any performance of its obligations hereunder without the prior express written consent of SETA shall be null and void and shall constitute a breach of this CONTRACT. Whenever CONTRACTOR is authorized to subcontract, delegate, or assign, it shall include all the terms of this CONTRACT in each subcontract, delegation, assignment or novation. Any subcontractor, delegate or assignee shall be subject to all applicable provisions of this CONTRACT, and all applicable federal, state and local laws and regulations. CONTRACTOR agrees to be held fully responsible to SETA for the performance of any subcontractor, delegate or assignee and to hold SETA harmless against any liability incurred by the subcontractor,

delegate or assignee.

1 Independent Contractor

2 It is specifically agreed that in the making and executing of this CONTRACT, CONTRACTOR
3 and the agents and employees of CONTRACTOR are independent contractors and are not and
4 shall not be construed to be agents or employees of SETA, and that CONTRACTOR and the
5 agents and employees of CONTRACTOR shall have no authority, express or implied, to act on
6 behalf of SETA or to bind SETA to any obligation whatsoever.

7 Indemnification

8 CONTRACTOR agrees to indemnify, defend and hold harmless SETA and its officers, agents,
9 employees, and volunteers, from and against any suits, actions, claims, causes of action, cost
10 demands, judgments, damages, costs and expenses of whatever nature, including court costs
11 and reasonable attorney's fees, arising out of or resulting from CONTRACTOR's performance
12 under this CONTRACT, including CONTRACTOR's failure to comply with or carry out any of the
13 provisions of this CONTRACT and acts of negligence or omission of CONTRACTOR, or anyone
14 employed directly, indirectly or by independent contract by CONTRACTOR, including
15 volunteers, regardless of whether caused in part by a party indemnified hereunder.

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17 Laws

18 CONTRACTOR shall comply with all applicable laws, ordinances, codes, administrative
19 regulations, guidelines and policies of the United States, the State of California and local
20 governments, specifically including, but not limited to, SETA policies and procedures. If any
21 such laws, ordinances, codes, administrative regulations, guidelines or policies are amended or
22 revised, CONTRACTOR shall comply with such amendments, revisions or modifications or shall
23 notify SETA within thirty (30) calendar days after promulgation of the amendments, revisions or
24 modifications that it cannot so conform so that SETA may take appropriate action, including
25 termination of this CONTRACT.

26 Clean Air and Clean Water

27 If this CONTRACT is in excess of \$100,000.00, CONTRACTOR agrees to comply with all
28 applicable standards, orders, or requirements issued under Section 306 of the Federal Clean

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Air Act (42 U.S. Code §1857(h)), Section 508 of the Federal Water Pollution Control Act (33 U.S. Code §1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR, Part 15). Under these laws and regulations, the CONTRACTOR assures that:

No facility to be utilized in the performance of the proposed grant has been listed on the EPA List of Violating Facilities;

CONTRACTOR shall notify SETA, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, U.S. EPA, indicating that a facility to be utilized for the grant is under consideration to be listed on the EPA List of Violating Facilities;

CONTRACTOR shall notify SETA and the U.S. EPA about any known violation of the above laws and regulations; and,

CONTRACTOR shall include substantially this assurance, including this fourth part, in every nonexempt subgrant, contract, or subcontract.

Protection of Human Subjects

CONTRACTOR shall comply with the provisions of applicable federal regulations which require safeguarding the rights and welfare of human subjects who are involved in activities supported by federal program funds.

Press Releases and Communications

CONTRACTOR shall not communicate with the press, television, radio or any other form of media regarding its duties or performance under this CONTRACT without the prior express written consent of SETA. Unless otherwise directed by SETA, in all communications, CONTRACTOR shall make specific reference to the funding source(s) and shall identify SETA as the funding agency which is funded by the funding source(s).

Immigration Reform and Control Act of 1986

CONTRACTOR assures that it shall be in compliance with the Immigration Reform and Control Act of 1986, specifically including, but not by way of limitation, the antidiscrimination provisions of Section 102, as well as requirements disqualifying certain legalized aliens from receiving benefits under this CONTRACT for five (5) years from the date they were granted temporary resident status, even if they have been provided status according to Section 245A (amnesty or

1 legalization) and 210A (replenishment workers) of the Immigration and Nationality Act, as
2 amended.

3 Drug-Free Workplace Certification

4 By signing this CONTRACT, CONTRACTOR hereby certifies under penalty of perjury under the
5 laws of the State of California that CONTRACTOR will comply with the requirements of the
6 Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq. and 29 CFR, Part
7 98) and will provide a drug-free workplace by taking the following actions:

8 (a) Publish a statement notifying employees that unlawful manufacture, distribution,
9 dispensation, possession, or use of a controlled substance is prohibited and specifying
10 actions to be taken against employees for violations, as required by Government Code
11 Section 8350(a).

12 (b) Establish a Drug-Free Awareness Program as required by Government Code Section
13 8355(b) to inform employees about all of the following:

- 14 (1) the dangers of drug abuse in the workplace;
- 15 (2) CONTRACTOR's policy of maintaining a drug-free workplace;
- 16 (3) any available counseling, rehabilitation and employee assistance programs; and,
- 17 (4) penalties that may be imposed upon employees for drug abuse violations.

18 (c) Provide, as required by Government Code Section 8355(c), that every employee who
19 performs services funded under the CONTRACT:

- 20 (1) will receive a copy of CONTRACTOR's drug-free policy statement; and,
- 21 (2) will agree to abide by the terms of CONTRACTOR's statement as a condition of
22 employment under the CONTRACT.

23 Successors

24 At the sole discretion of any successor-in-interest of SETA, this CONTRACT shall bind and
25 inure to that successor-in-interest of SETA, in the same manner as if such party had been
26 expressly named herein. This CONTRACT shall only bind and inure to a successor-in-interest
27 of CONTRACTOR upon SETA's prior express written consent.

28 Entire Agreement/Modifications

This CONTRACT constitutes the entire agreement between the parties hereto for services

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furnished pursuant to this CONTRACT and no oral understanding not incorporated herein shall be binding on any of the parties hereto. Except as otherwise provided in this CONTRACT, this CONTRACT may be modified, altered, or revised only on the written consent of both parties hereto. However, any other provision of this CONTRACT notwithstanding, this CONTRACT is subject to any additional restrictions, limitations, policies or conditions enacted by the federal or state government, any applicable local government or SETA or any law or regulation enacted by the federal or state government or any applicable local government which may affect the provisions, terms or funding of this CONTRACT and SETA may unilaterally amend this CONTRACT in this regard.

Severability of Provisions

If any provision of this CONTRACT is held invalid, the remainder of this CONTRACT shall not be affected thereby, if such remainder would then continue to conform to terms and requirements of applicable law.

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Titles

The titles to the paragraphs of this CONTRACT are solely for the convenience of the parties and are not an aid in the interpretation of this CONTRACT.

Waiver

The waiver by SETA of any default, breach or condition precedent hereunder shall not be construed as a waiver on the part of SETA of any other default, breach or condition precedent, or any other right hereunder.

Limitation of Actions

In the event the funding source(s) disallow(s) any costs incurred by CONTRACTOR in the performance of this CONTRACT, SETA may bring an action against CONTRACTOR for the recovery of such disallowed costs at any time within five (5) years following final resolution of the applicable funding source(s) audit wherein such costs were disallowed. Such disallowed costs shall be deemed to constitute a continuing breach of contract until such final resolution and each day thereof shall give rise to a cause of action.

California Law

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Except where controlled by federal statutes or administrative regulations, this CONTRACT shall be governed according to the laws of the State of California and SETA policies and procedures.

Notices

All notices to be given to either of the parties under this CONTRACT shall be given by deposit in the United States mail, first-class postage prepaid, addressed to the applicable party at the address set forth below the signature of each party to this CONTRACT or by personal service.

Notices given by mail shall be deemed served three (3) days after deposit in the United States mail, or when received, whichever is sooner.

Enforceable CONTRACT

This CONTRACT shall become a valid enforceable agreement only after it is signed by authorized agents of the parties.

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Time of the Essence

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

THEREFORE, the Parties have executed this CONTRACT NO. _____.

SACRAMENTO
EMPLOYMENT AND TRAINING AGENCY
(SETA)

Dated: _____, 20____

BY: _____
(Signature of Authorized Officer)

Kathy Kossick, Executive Director
(Name and Title of Authorized Officer)

925 Del Paso Blvd.
(Address)

Sacramento, CA 95815-3512
(City, State, Zip Code)

(Legal Name of CONTRACTOR)

Dated: _____, 20____

BY: _____
(Signature of Authorized Officer)

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(Name and Title of Authorized Officer)

(Address)

(City, State, Zip Code)