

TRAINING VENDOR AGREEMENT

SOUTH FLORIDA WORKFORCE INVESTMENT BOARD
7300 Corporate Center Drive, Suite 500
Miami, Florida 33126-1234

TH, NOV 16 2017 PM 4:51

TRAINING VENDOR

Apex Training Center, Inc.
12490 N.E. 7th Avenue, Suite 205
North Miami, FL 33161

AGREEMENT NUMBER

WS-TVA-PY'17-33-00

ARTICLE 1 PARTIES TO AGREEMENT

This Training Vendor Agreement (hereinafter "Agreement" or "Contract") is made and entered into by and between the South Florida Workforce Investment Board, (hereinafter the "SFWIB") and **Apex Training Center, Inc.** (hereinafter "Training Vendor"). This Agreement establishes a relationship with the Training Vendor wherein the Training Vendor has agreed to provide training programs to eligible individuals ("customers") referred by the SFWIB and the SFWIB's authorized representatives and accepts responsibilities and obligations based upon the terms and conditions as set forth in this Agreement.

ARTICLE 2 INTRODUCTION

This Agreement establishes the process for payment of training in the Training Vendor's approved programs in occupations on the SFWIB (Workforce Development Area 23) Targeted Occupations List (TOL) for the SFWIB's customers receiving Individual Training Account (ITA) Vouchers from the SFWIB or the SFWIB's authorized representatives.

This Agreement by itself does not constitute a commitment for referral of any minimum number of customers to the Training Vendor. The Training Vendor may not promise or guarantee that a potential customer will be eligible for subsidized training through any SFWIB-funded program or activity. The Training Vendor may not promise or guarantee that a customer will be referred to the Training Vendor for training.

Individual Training Account (ITA) Vouchers issued pursuant to this Agreement are being provided with funds from the Workforce Innovation and Opportunity Act (WIOA) Title 1 - (Adults, Dislocated Workers, and Youth); National Emergency Response (NER); Rapid Response (RR); Trade Adjustment Act (TAA); Temporary Assistance for Needy Families (TANF); and Refugee Employment and Training (RET) for training and employment placement services for eligible individuals.

ARTICLE 3 EFFECTIVE TERM

The term of this Agreement shall be from **July 1, 2017** through and including **June 30, 2018**.

ARTICLE 4 STATEMENT OF WORK

The Training Vendor shall deliver all training services identified in this Agreement and in accordance with **Exhibit A, Statement of Work**, attached hereto and incorporated by reference as if fully set forth herein.

The Parties agree that the Statement of Work is a description of the Training Vendor's responsibilities and obligations. The Training Vendor shall implement the Statement of Work set forth in **Exhibit A** in a manner deemed satisfactory to the SFWIB, at the sole discretion of the SFWIB. No changes in the Statement of Work shall be made

unless such changes are mutually agreed upon by both of the Parties hereto in writing.

ARTICLE 5 FUNDING AVAILABILITY

The referral of eligible participants by the SFWIB or the authorized representatives of the SFWIB is contingent upon the SFWIB's available funding as well as the SFWIB's need for such services to be provided.

ARTICLE 6 COMPENSATION

The SFWIB agrees to compensate the Training Vendor for the costs associated with the provision of the services provided in accordance with **Exhibit A, Statement of Work**. It is acknowledged and agreed by the Training Vendor that the amount payable per training program constitutes a limitation upon the SFWIB to compensate the Training Vendor for the costs related to this Agreement. **The maximum payable shall not exceed the cost per approved training program as set forth in Exhibit C - Approved Training Program Cost Listing and shall be in accordance with Exhibit A - Section F - Payment Process and Invoicing** attached hereto and incorporated herein by reference.

ARTICLE 7 CONDITIONS PRECEDENT

The Training Vendor shall provide to the SFWIB, prior to the execution of this Agreement, the following documentation:

1. Articles of Incorporation and Corporate By-Laws (If Applicable)
2. Board of Directors Requirements The Training Vendor shall ensure that the Training Vendor's Board of Directors or governing body is apprised of the fiscal, administrative and contractual obligations of the services funded through the SFWIB by passage of a formal resolution authorizing execution of the Agreement with the SFWIB.
3. Certificate of Corporate Status, if a Corporation The Training Vendor shall submit to the SFWIB a certificate of status in the name of the Training Vendor, which certifies the following:
 - a. The Training Vendor is organized under the laws of the State of Florida or another state;
 - b. All fees and all penalties, related to filing of registration, re-instatement, renewal, etc., have been paid;
 - c. The Training Vendor's most recent annual report has been filed;
 - d. The Training Vendor's status is active; and
 - e. The Training Vendor has not filed Articles of Dissolution with the State of Florida or any other state.
4. Limited Liability Company (LLC) Affidavit (If Applicable)

ARTICLE 8 LICENSING

The Training Vendor shall obtain and maintain in full force and effect during the term of this Agreement any and all licenses, certifications, approvals, insurance, permits and accreditations, required by the State of Florida, by Miami-Dade County, if providing services in Miami-Dade County, or by Monroe County, if providing services in Monroe County, the local municipality where the services are being provided, by the SFWIB and the federal government. Failure to provide the foregoing items to the SFWIB within thirty (30) days of written request by the SFWIB may result in the SFWIB's immediate termination of this Agreement.

ARTICLE 9 INSURANCE

- 9.1. After review of the **Statement of Work (Exhibit A)** and prior to the execution of this Agreement, the Training Vendor shall provide to the SFWIB, Certificates of Insurance or written verification (binders) required under this section or as determined by the SFWIB. The SFWIB shall not disburse any funds until the SFWIB is provided with the necessary Certificates of Insurance or written verification (binders) and the SFWIB has approved such documents. Such insurance policies shall be in the amounts indicated below:
- a. Commercial General Liability Insurance - \$1,000,000 aggregate; \$1,000,000 per occurrence. For individuals who provide professional services, including consultants, commercial general liability coverage in the amount of the Contract or \$50,000 whichever is greater. This insurance shall be secured on a comprehensive basis to include contingent liability in an amount that ensures that the Training Vendor is protected against any suits. **The SFWIB shall be the certificate holder and also be named as an additional party insured with respect to this coverage.**
 - b. Worker's Compensation Insurance coverage must be provided for all employees of the Training Vendor as required by Chapter 440, Florida Statutes.
 - c. Worker's Unemployment Compensation Insurance shall be secured for each person employed by the Training Vendor in a manner and amount that is in accordance with federal and state laws.
- 9.2. All insurance policies required herein shall be issued by companies authorized to do business in the State of Florida, with the following qualifications:
- a. The company shall be rated not less than "B" as to management, and not less than "Class V" as to financial strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Inc., Oldwick, New Jersey, or its equivalent, subject to the approval of the SFWIB;
 - or
 - b. The company shall hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized to Do Business in Florida," issued by the State of Florida Department of Insurance and shall be a member of the Florida Guaranty Fund.
- 9.3. Modification and Changes the Training Vendor shall notify, in writing, the SFWIB of any changes in insurance coverage, including, but not limited to, any renewals of existing insurance policies, not later than ten (10) days prior to the effective date of the changes.
- 9.4. Upon review of the Training Vendor's **Statement of Work, Exhibit A**, the SFWIB may increase, waive or modify, in writing, any of the foregoing insurance requirements. Any request by a Training Vendor to decrease, waive or modify any of the foregoing insurance requirements must be approved, in writing, by the SFWIB prior to any such decrease, waiver or modification.
- 9.5. In the event that an insurance policy is cancelled during the effective period of this Agreement, the SFWIB shall withhold all payments from the Training Vendor until a new Certificate of Insurance is submitted and approved by the SFWIB. If the Training Vendor fails to secure the required insurance as a result of such cancellation within ten (10) calendar days after the effective date of cancellation, the SFWIB may forthwith terminate this Agreement. The new insurance policy shall cover the period commencing from the date of cancellation of the prior insurance policy.
- 9.6. The SFWIB may require the Training Vendor to furnish additional and different insurance coverage, or both, as may be required from time to time pursuant to applicable federal or state laws. Provision of insurance by the Training Vendor, in no instance, shall be deemed to be a release, limitation, or waiver of any claim, cause of action or assessment that the SFWIB may have against the Training Vendor for any liability of any nature or of any kind related to performance under this Agreement or otherwise.

**ARTICLE 10
EMPLOYMENT ELIGIBILITY VERIFICATION**

- 10.1** Pursuant to Executive Order 11-116, signed May 27, 2011, by the Governor of Florida, the Training Vendor shall:
- 10.1.1 Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Training Vendor during the Contract term; and
 - 10.1.2 Include in all subcontracts under this Contract, the requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the subcontract.
- 10.2** E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States after the effective date of the required Memorandum of Understanding (MOU); the responsibilities and elections of federal contractors, however, may vary, as stated in Article II.D.1.c. of the MOU. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at:
http://www.dhs.gov/files/programs/gc_1185221678150.shtm
- 10.3** If the Training Vendor does not have an E-Verify MOU in effect, the Training Vendor must **enroll in the E-Verify system prior to hiring any new employee** after the effective date of this Contract. The Training Vendor shall maintain evidence of the use of the E-Verify system in the employee's personnel file.

**ARTICLE 11
IMMIGRATION REFORM AND CONTROL ACT**

The Training Vendor shall comply with the requirements of the Immigration Reform and Control Act of 1986, which requires employment verification and retention of verification forms for any individuals hired who will perform any services under the contract.

**ARTICLE 12
CONTINUATION OF SERVICES**

Training Vendors, who execute an agreement during a specific program year and enroll new and/or have current SFWIB participants that were enrolled under a previously executed agreement, may continue to serve such participants throughout the duration of the approved program even if it extends beyond the contract term. Training Vendor must maintain insurance for the duration of the training program, as set forth in **Article 9**.

**ARTICLE 13
CERTIFICATION OF CONDUCT**

The Training Vendor shall comply with all federal, state and local laws related to conflict of interest, nepotism and criminal and fraudulent activities.

**ARTICLE 14
CODES OF CONDUCT**

The Training Vendor shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her domestic partner, or an organization which employs or is about to employ any of the Parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements. The Training Vendor agrees to comply with the Miami-Dade County, Conflict of Interest and Code of Ethics Ordinance codified at Section 2-11.1 et al. The Training Vendor shall set and/or adopt standards of conduct which describe its obligations under Section 2-11.1 et al. and provide for

disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Training Vendor.

ARTICLE 15 GRATUITIES

The Training Vendor agrees that the Training Vendor shall not accept a gift from, or offer to give or give any gift to any **SFWIB member, SFWIB employee, SFWIB Contractor**, or to any **family member** of an SFWIB member, SFWIB employee, or SFWIB Contractor.

The term "family member" includes, but is not limited to father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandfather, grandmother, grandson, granddaughter, and domestic partner.

The term "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, food, beverage, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.

Violation of this provision will constitute a breach of this Agreement. In addition to any other remedies available to the SFWIB, any violation of this provision will result in referral of the Training Vendor's name and description of the violation of this term to the State of Florida, Department of Management Services for the potential inclusion of the Training Vendor's name on the suspended vendors list for an appropriate period. A Vendor violating the gift ban will also be removed from the SFWIB's list of approved Vendors and its programs will be deactivated. This provision will survive the Agreement for a period of two (2) years.

ARTICLE 16 CODE OF BUSINESS ETHICS

The Training Vendor shall comply with Sec. 2-8.1 of the Code of Miami-Dade County requiring contractors to adopt a Code of Business Ethics. The Training Vendor shall adopt the Greater Miami Chamber of Commerce Model Code of Business Ethics or a similar code and shall submit a **Code of Business Ethics Affidavit, Exhibit B**, attached hereto and incorporated herein by reference hereto as if fully set forth herein stating that the Training Vendor has adopted a Code that complies with the requirements of Sec. 2-8.1 of the Code of Miami-Dade County.

ARTICLE 17 APPLICABLE LAW AND VENUE

- 17.1. The Training Vendor shall comply with all applicable federal, state, and local laws and regulations, including those of the Workforce Innovation and Opportunity Act (Pub. L. 113-128) and Temporary Assistance to Needy Families (TANF) (as presently in effect and as same may be amended from time to time during the term of this Agreement) as well as all applicable SFWIB's directives, policies and procedures, in the implementation of the terms and conditions of this Agreement or modifications thereto.
- 17.2. The Training Vendor shall ensure that all its activities under this Agreement shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 74 and/or 45 CFR Part 92 and/or 29 CFR Part 97 and/or 20 CFR Part 600 *et seq.*, and/or 20 CFR Part 667, Subpart B, 45 CFR 98, the Temporary Assistance for Needy Families Program (TANF), 45 CFR Parts 260-265, and all other applicable federal regulations.
- 17.3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any legal controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Eleventh Judicial Circuit of Miami-Dade County, Florida.

ARTICLE 18 TERMINATION

- 18.1. Termination Without Cause.** The SFWIB may terminate this Agreement without cause by providing thirty (30) days' prior written notice to the Training Vendor. The Training Vendor shall be entitled to receive compensation for services performed in accordance with the conditions set forth herein through and including the date of termination. However, the SFWIB shall not be liable for any expenses incurred by the Training Vendor after the effective date of termination of this Agreement. The Training Vendor shall not be entitled to recover any cancellation charges or lost profits incurred as a result of said termination.
- 18.2. Termination for Default and Circumstances beyond the Training Vendor's Control.** The SFWIB may terminate this Agreement for default and circumstances beyond the Training Vendor's control including, but not limited to, labor disputes, strikes, fire, riot, war, terrorism, acts of God, or any other causes beyond the control of the Parties. In the event of termination of this Agreement under this provision, neither party will be responsible for failure or delay in performance of this Agreement and the failure or delay in performance will not result in any additional charge or costs, under this Agreement to either Party. The Party seeking termination of the Contract under this provision shall provide immediate notice of termination to the other Party. In no event shall notice not be provided later than thirty (30) days of the occurrence triggering termination.

ARTICLE 19 BREACH OF AGREEMENT

A non-exhaustive list of breaches of this Agreement is as follows:

1. The Training Vendor fails, in whole or in part, to provide the training services set forth in the **Statement of Work, Exhibit A**;
2. The Training Vendor ineffectively or improperly uses the SFWIB's funds provided to the Training Vendor under this Agreement;
3. The Training Vendor fails to submit the documentation required under **Article 7** of this Agreement;
4. The Training Vendor does not furnish proof of licensure, certification or both as required under **Article 8** of this Agreement in accordance with the time periods set forth therein;
5. The Training Vendor does not furnish the Certificates of Insurance as required under **Article 9** of this Agreement or as determined by the SFWIB;
6. The Training Vendor fails to comply with the Gratuities provision set forth in **Article 15**;
7. The Training Vendor fails to submit, or submits improperly supported or erroneous invoices, or for charges which violated the terms of this Agreement, applicable local, state or federal regulations, and the SFWIB's Policies, Procedures and Directives;
8. The Training Vendor does not submit or submits incomplete or incorrect required reports;
9. The Training Vendor refuses to allow the SFWIB full access to the SFWIB funded participant records or refuses to allow the SFWIB to monitor, evaluate and review the Training Vendor's program(s);
10. The Training Vendor unlawfully discriminates under any of the laws of the United States of America, State of Florida, or of Miami-Dade County, if providing services in Miami-Dade County, or of Monroe County, if providing services in Monroe County;
11. The Training Vendor attempts to meet its obligations under this Agreement through fraud, misrepresentation or material misstatement;
12. The Training Vendor fails to correct deficiencies discovered during a monitoring, evaluation or review by the SFWIB and/or any governmental body acting within the scope of its jurisdiction within the time period specified by the SFWIB and/or the governmental body;
13. The Training Vendor fails to comply, in whole or in part, with **Article 41, Information Security Obligations**;
14. The Training Vendor fails to maintain, throughout the term of this Agreement, qualified staff, equipment, approved training services and other pertinent quality control standards as may be required by the SFWIB;
15. The Training Vendor fails to meet the terms and conditions of any obligation under this agreement or any repayment schedule to the SFWIB, or any of its agencies or instrumentalities;
16. The Training Vendor fails to comply with **CareerSource Florida Administrative Policy#90 (Attachment 6)**, WIOA, State of Florida and/or the SFWIB's Policies.

17. The Training Vendor fails to fulfill in a timely and proper manner any and all of its obligations, covenants and agreements set forth in this Agreement.
18. The Contractor fails to maintain and ensure its compliance, as applicable, with federal, state, county, and local laws, which includes, but is not limited to, adherence to IRS rules and regulations requiring timely filing of tax returns and payment of payroll taxes, as applicable, throughout the term of this Contract or any other contractual agreement the Contractor has with the SFWIB.

Waiver of breach of any provisions of this Agreement by the SFWIB shall not be deemed to be a waiver of any other breach of any other provision and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 20 BREACH OF AGREEMENT: SFWIB'S REMEDIES

If the Training Vendor breaches this Agreement, the SFWIB may pursue any or all of the following remedies:

1. The SFWIB may terminate this Agreement by providing written notice to the Training Vendor of such termination and specifying the effective date thereof. In the event of termination, the SFWIB may: (a) seek reimbursement of the SFWIB's funds awarded to the Training Vendor under this Agreement; and (b) terminate or cancel any other agreements entered into between the SFWIB and the Training Vendor. The Training Vendor shall be responsible for all program and administrative costs associated with such termination, in addition to the SFWIB's attorneys' fees;
2. The SFWIB may suspend payment in whole or in part under this Agreement by providing written notice to the Training Vendor of such suspension and specifying the effective date thereof. All payments to the Training Vendor as of the effective date of suspension shall cease. On the effective date of suspension, if requested by the SFWIB, the Training Vendor shall immediately cease to provide services pursuant to this Agreement. If payments are suspended, the SFWIB shall specify in writing the actions that shall be taken by the Training Vendor as a condition precedent to resumption of payments and shall specify a date for compliance. The SFWIB may also suspend any payments, in whole or in part, under any other agreements entered into between the SFWIB and the Training Vendor. The SFWIB may also require repayment of funds in accordance with **CareerSource Florida Administrative Policy #90**. The Training Vendor shall be responsible for all program and administrative costs associated with such suspension, in addition to the SFWIB's attorneys' fees;
3. The SFWIB may seek enforcement of this Agreement by any action at law or equity available to the SFWIB, including, but not limited to, filing an action in a court of competent jurisdiction. The venue of any such action shall be in Miami-Dade County, Florida. The Training Vendor shall be responsible for all program and administrative costs of the SFWIB associated with such enforcement, in addition to the SFWIB's attorneys' fees;
4. The SFWIB may debar the Training Vendor from future SFWIB agreements resulting in removing the Training Vendor from the eligible Training Vendor list;
5. If, for any reason, the Training Vendor attempts to meet its obligations under this Agreement through fraud, misrepresentation or material misstatement, the SFWIB shall, whenever the SFWIB deems it to be in the SFWIB's best interest, terminate this Agreement by providing written notice to the Training Vendor of such termination and specifying the effective date thereof. In such case, the SFWIB may terminate or cancel any other agreements which the Training Vendor has with the SFWIB. The Training Vendor shall be responsible for all of the SFWIB's program and administrative costs associated with any such termination or cancellation, in addition to the SFWIB's attorneys' fees. Any Training Vendor who attempts to meet its contractual obligations with the SFWIB through fraud, misrepresentation or material misstatement may be debarred from the SFWIB contracting for a period not less than 2 years, but not to exceed five (5) years;
6. Any other remedy available at law or equity or administratively; and

7. All remedies provided herein and otherwise shall be deemed independent and cumulative.

ARTICLE 21 NOTICES

It is understood and agreed between the Parties that written notice addressed to the Executive Director of the SFWIB, and mailed or delivered to the address appearing on page one (1) of this Agreement and written notice addressed to the Training Vendor and mailed or delivered to the address appearing on page one (1) of this Agreement shall constitute sufficient written notice to the respective party.

ARTICLE 22 CHANGE IN CONDITION/NOTIFICATION OF LEGAL ACTION

The Training Vendor shall notify the SFWIB in writing within five (5) days of any material change from the Training Vendor's present financial or other condition, which could significantly affect the Training Vendor's ability to perform or comply with any provision of this Agreement, or any continuation of services to participants enrolled in training under this Agreement. Material changes include, but are not limited to: bankruptcy of the Training Vendor, lawsuits or other legal action which may impact the financial viability of the Training Vendor, suspicions or official investigations of fraud or abuse on the part of the Training Vendor's staff, officers or directors, resignation of key staff, theft or loss of funds, and a change in status or loss of accreditation, licensing, certifications or equipment which support this Agreement for training services.

ARTICLE 23 AUTONOMY

Both Parties agree that this Agreement recognizes their independence and autonomy and implies no affiliation of any kind between the contracting Parties. The Training Vendor is an independent contractor in all respects under this Agreement. It is expressly understood, agreed, and intended that the Training Vendor is only an approved vendor and is not an agency or instrumentality of any kind of the SFWIB. Furthermore, the Training Vendor's officers, agents, servants, and employees are not officers, agents, servants, or employees of the SFWIB or any of the SFWIB's agencies or instrumentalities.

ARTICLE 24 INDEMNIFICATION

24.1. All Entities Which are Not Florida Governmental Entities The Training Vendor shall indemnify and hold harmless the SFWIB and its officers, employees, agents, servants, agencies and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the SFWIB and its officers, employees, agents, servants, agencies or instrumentalities may incur as a result of any and all claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Training Vendor or the Training Vendor's officers, employees, agents, servants, partners, principals, subcontractors or any other individual performing work on the Training Vendor's behalf under this Agreement. The Training Vendor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the SFWIB, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. The Training Vendor expressly understands and agrees that any insurance policies required by this Agreement or otherwise provided by the Training Vendor shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the SFWIB and its officers, employees, agents, servants, agencies and instrumentalities as herein provided.

24.2. Term of Indemnification The provisions of this indemnification shall survive the expiration of this Agreement and shall terminate upon the expiration of the applicable statute of limitation.

ARTICLE 25 PRIOR AGREEMENTS

This document and its Attachments and Exhibits specified herein incorporate and include all prior negotiations,

correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement which are not contained in this document and its Attachments and Exhibits. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

The following is a List of Attachments/Exhibits that are incorporated into this Agreement:

<u>Type</u>	<u>Number/Letter</u>	<u>Description</u>
Attachment	1	Confidentiality Agreement
Attachment	2	Individual Non-Disclosure and Confidentiality Certification Form
Attachment	3	CareerSource Florida State and Local Workforce Development Board Contracting Conflict of Interest Policy
Attachment	4	Trafficking Victims Protection Act of 2000, as amended
Attachment	5	Disclosure and Certification of Conflict of Interest in a Contract
Attachment	6	CareerSource Florida Administrative Policy #90
Exhibit	A	Statement of Work
Exhibit	B	Code of Business Ethics Affidavit
Exhibit	C	Approved Training Program Cost Listing
Exhibit	D	Assurances and Certifications
Exhibit	E	Assurances-Non-Construction Programs

**ARTICLE 26
NO ASSIGNMENT**

The Training Vendor shall not assign this Agreement or any rights accruing hereunder in whole or in part.

**ARTICLE 27
AUTHORITY TO EXECUTE AGREEMENT**

Each person executing this Agreement represents and warrants that he or she is duly authorized and has full legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the other party and enforceable in accordance with its terms.

**ARTICLE 28
MODIFICATIONS**

Any alterations, variations, modifications, extensions or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly approved and signed by both Parties hereto.

The Training Vendor Agreements are subject to change based upon the SFWIB's actions, funding availability, changes to the Region's Targeted Occupations List, the SFWIB's Industry/Employer priorities and changes in the Individual Training Account (ITA) cost structure and/or Policy.

**ARTICLE 29
PERSONS WITH DISABILITIES AND ACCESSIBILITY OF FACILITIES**

The Training Vendor shall conduct all activities under this Agreement in accordance with the Americans with Disabilities (ADA) Act of 1990 as amended, Section 504 of the Rehabilitation Act of 1973 as amended, Title VI of the Civil Rights Act of 1964 as amended, and the regulations promulgated under such Acts, with respect to persons with disabilities.

The Training Vendor shall assure that programs and activities under this Agreement are accessible to individuals with disabilities without discrimination, including:

1. Making reasonable accommodations;
2. Providing services in the most appropriate integrated setting;
3. Providing auxiliary aids for individuals with vision and hearing impairments during recruitment, referral, and assessment of prospective program participants; and
4. Having resource materials available in alternate formats.

The Training Vendor shall ensure that the physical facilities utilized under this Agreement are accessible at all times to individuals with disabilities; in accordance with the applicable standards of the State of Florida as set forth in DEO/Office of Civil Rights "Facility Accessibility Checklist" posted on the Florida Department of Economic Opportunity (DEO) web site at: www.floridajobs.org or shall submit to the SFWIB an alternate plan to achieve physical accessibility to individuals with disabilities provided services under this Agreement.

ARTICLE 30 COPYRIGHT, PATENTS, RIGHT TO DATA

Except for the Training Vendor's own internal use, the Training Vendor shall not publish or reproduce any data or information, in whole or in part, that is recorded in any form or medium whatsoever and that is delivered or specified to be delivered under this Agreement, nor may the Training Vendor authorize or permit others to do so without the written consent of the federal government, through the State of Florida until such time as the federal government may have released such data or information to the public.

As authorized by 49 CFR 18.34, the federal government, through the State of Florida, reserves a royalty free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize the State of Florida and others to use:

1. Any work developed under this Agreement or a resulting subcontract irrespective of whether it is copyrighted.
2. Any rights of copyright to which the Training Vendor or subcontractor purchases ownership with funds provided for under this Agreement.

ARTICLE 31 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the federal government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

ARTICLE 32 INTELLECTUAL PROPERTY RIGHTS

The federal government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: (i) The copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and (ii) any rights of copyright to which the grantee, subgrantee or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or licensing fee associated with such copyrighted material, although they may be used to pay costs for obtaining a copy which, are limited to the developer/seller costs of copying and shipping. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income is added to the grant and must be expended for allowable grant activities (2 CFR § 215.36).

If applicable, grantees must include the following language on all products developed in whole or in part with grant funds:

"This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and

Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes is permissible. All other uses require the prior authorization of the copyright owner.”

ARTICLE 33 PERFORMANCE

Performance shall be defined as the Training Vendor having attained the goals and objectives set forth in this Agreement, in accordance with **Exhibit A, Statement of Work**, attached hereto and incorporated by reference as if fully set forth herein.

ARTICLE 34 ACCESS TO TRAINING SITE

The Training Vendor shall allow access to the training site to the SFWIB or the SFWIB’s authorized representative to provide counseling to participants and conduct on site visits.

ARTICLE 35 FLORIDA PUBLIC RECORDS LAWS

35.1. The Training Vendor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by the Training Vendor in connection with this Contract, except that public records which are made exempt and/or confidential from public record disclosure by law must be protected from disclosure and includes, but is not limited to criminal history information derived from the U.S. Department of Justice. Failure of the Training Vendor to allow such public access shall result in the immediate termination of this Agreement or any renewal. The Training Vendor shall maintain public records stored in electronic record keeping systems in accordance with Chapter 119, Florida Statutes, and Rule IB-26.003 of the Florida Administrative Code.

35.2. Pursuant to Section 119.0701 of the Florida Statutes, the Training Vendor shall:

35.2.1. Keep and maintain public records required by the SFWIB in order to perform the service;

35.2.2. Upon request from the SFWIB’s custodian of public records, provide the SFWIB with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;

35.2.3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Training Vendor does not transfer the records to the SFWIB; and

35.2.4. Meet all requirements for retaining public records and transfer to the SFWIB, at no cost to the SFWIB, all public records created, received, maintained and or directly related to the performance of this Agreement that are in possession of the Training Vendor upon termination of this Agreement. Upon termination of this Agreement, the Training Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the SFWIB, upon request from the SFWIB’s custodian of public records, in a format that is compatible with the SFWIB’s information technology systems.

35.3. For purposes of this Article, the term “public records” shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of the SFWIB’s official business.

35.4. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**Via e-mail: recordsrequest@careersourcesfl.com
Office of the Executive Director. Telephone: 305-929-1500
South Florida Workforce Investment Board
The Landing at MIA
7300 Corporate Center Drive, Suite 500
Miami, Florida 33126-1234**

35.5. In the event the Training Vendor does not comply with the public records disclosure requirement set forth in Section 119.0701 of the Florida Statutes and this **Article 35** of this Agreement, the SFWIB shall avail itself of the remedies set forth in **Articles 18, 19 and 20** of this Agreement.

35.6. A Training Vendor who fails to provide the public records as required by law, within a reasonable time, may be subject to penalties under section 119.10 of the Florida Statutes.

**ARTICLE 36
AUDIT, INSPECTION AND ACCESS TO RECORDS**

The Training Vendor shall permit the SFWIB or the SFWIB's designees, the State of Florida and the federal government or any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy or transcribe the Training Vendor's client records, financial records, supporting documents, statistical records, and any other documents (including storage media) pertinent to this Agreement during the term of this Agreement and for a period of **six (6) years** following termination of this Agreement or final payment hereunder, whichever is later, to assure compliance with the terms hereof, or to evaluate the Training Vendor's performance hereunder. The Training Vendor shall also permit any or all these aforesaid entities to monitor all activities conducted by the Training Vendor pursuant to the terms of this Agreement. The monitoring agency may, in its sole discretion, deem necessary or appropriate such monitoring which may consist of internal evaluation procedures, examination of program data, evaluation of participants files, special analyses, on-site reviews or any other procedure.

The Training Vendors shall provide full and unrestricted access to any and all records for services paid for under this Agreement to the SFWIB, the State of Florida or the U. S. Department of Labor or the Comptroller General of the United States, or any of their duly authorized representatives. Participant records for services paid under this Agreement shall be the property of the SFWIB and the Training Vendor agrees to turn over records at the request of the SFWIB.

The Training Vendor shall allow timely and reasonable access to its school records of participants referred to training through an SFWIB voucher for the purpose of interviews, discussions and inspections of all documents that are relevant to this Agreement.

**ARTICLE 37
RECORDS RETENTION**

Six (6) Year Requirement. The Training Vendor shall keep all records, accounts, and documents related to the operation and performance of this Agreement or any modification hereto for six (6) years following the expiration of this Agreement. However, if any audit, claim, litigation, negotiation or other action involving this Agreement or modification hereto has commenced before the expiration of the six (6) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular six (6) year period, whichever is later. The Training Vendor shall cooperate with the SFWIB to facilitate the duplication and transfer of any of said records or documents during the required retention period. The Training Vendor shall advise the SFWIB of the location of all records pertaining to this Agreement upon the request of the SFWIB and shall notify the SFWIB by certified mail within ten (10) days of moving said records if and when the records are moved to a new location.

**ARTICLE 38
CONFIDENTIALITY OF RECORDS**

The Training Vendor shall maintain the confidentiality of any information regarding program participants that identifies or may be used to identify program participants and which may be obtained through proposal forms, interviews, tests, reports from public agencies or counselors, or any other source. The Training Vendor shall not divulge such information without the written permission of the participant, or participant's responsible parent or guardian when authorized by law, if applicable, except that such information which is necessary, as determined by the SFWIB, for purposes related to the performance or evaluation of the Contract may be divulged to the SFWIB or such other persons as the SFWIB may designate who have responsibilities for monitoring or evaluating the services and performances under the Contract, or to governmental authorities to the extent necessary for the proper administration of the law and the provision of services. All releases of information shall be in accordance with applicable federal and state laws as well as the policies and procedures of the SFWIB. No release of information by the Training Vendor, if such release is required by federal or state law, shall be construed as a breach of this Contract. The Training Vendor shall abide by all applicable federal, state and local laws and regulations regarding confidential information, including personally identifiable information (PII) from educational records, as identified in, but not limited to, 20 CFR Part 603, 45 CFR Section 205.50, 20 USC 1232g and 34 CFR 361.38. The Training Vendor shall provide a completed **Confidentiality Agreement, Attachment 1**, attached hereto and incorporated by reference as if fully set forth herein.

**ARTICLE 39
INDIVIDUAL NON-DISCLOSURE AND CERTIFICATION FORM**

The Training Vendor, in the course of receiving and utilizing confidential workforce program information for the purpose of performing the Training Vendor's duties under this Agreement, shall ensure the **Individual Non-Disclosure and Confidentiality Certification Form, Attachment 2**, attached hereto and incorporated by reference, as if fully set forth herein is completed as required for all staff, security officers, contractors, subcontractors, and any subsequent subcontractors and their employees who have access to confidential information.

All completed forms shall be retained as required herein in accordance with **Article 37** of this Agreement. The Training Vendor shall maintain the completed confidentiality forms in each employee's personnel file and forward copies to the SFWIB's IT Department upon requesting access to State and/or Local System(s).

**ARTICLE 40
VIOLATION OF THE PRIVACY ACT**

Funds awarded under this Contract cannot be used in contravention of the 5 USC 552a or regulations implementing that section.

**ARTICLE 41
INFORMATION SECURITY OBLIGATIONS**

41.1. The Training Vendor agrees to abide by the SFWIB's Information Technology Security procedures and policies.

41.1.1. The Training Vendor (including its officers, employees, subcontractors, agents, partners, principals, servants, representatives or any other individuals to whom Training Vendor exposes or authorizes to access confidential information obtained under this Agreement), shall not store, or allow to be stored, any confidential information on any portable storage media (e.g., laptops, thumb drives, hard drives, etc.) or peripheral device with the capacity to store information. The Training Vendor shall not electronically transmit, or allow to be transmitted, any personal or confidential information. Failure to strictly comply with this provision shall constitute a breach of this Agreement.

41.1.2. During the term of this Agreement, the Training Vendor must obtain signed confidentiality access agreements, which are required by the SFWIB and/or the Department of Economic Opportunity for systems access privileges, for any individual including, but not limited to all of the Training Vendor's officers, employees, subcontractors, agents, partners, principals, servants, representatives

and security officers, prior to their access to electronic data systems.

- 41.1.3. The Training Vendor shall ensure that the Training Vendor's staff with access to client information through the Workforce Management System (WFMS) and/or any other information systems as required, complete the Information Security and Awareness Training annually.
- 41.1.4. The Training Vendor shall make every effort to protect and avoid unauthorized release of any personal or confidential information, as set forth in **Article 38 – Confidentiality of Records.**
- 41.1.5. The Training Vendor shall notify the SFWIB in writing of any disclosure of SFWIB's and/or State of Florida's confidential information or data by the Training Vendor, its officers, employees, subcontractors, agents, partners, principals, representatives or any other individuals to whom Training Vendor exposes or authorizes to access confidential information obtained under this Agreement, which is not in compliance with the terms of the Agreement (of which it becomes aware).
- 41.1.6. The Training Vendor shall also report to the SFWIB any Security Incidents of which it becomes aware, including those incidents reported to the Training Vendor by its officers, employees, subcontractors, agents, partners, principals, servants, representatives. For purposes of this Agreement, "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of SFWIB or DEO information in the Training Vendor's possession or electronic interference with the SFWIB's operations; however, random attempts at access shall not be considered a security incident.
- 41.1.7. The Training Vendor agrees to notify the SFWIB's Help Desk, not later than **24 hours** following the determination of any breach or potential breach of personal and confidential data, as required by the SFWIB's Information Technology Security procedures and policies.
- 41.1.8. In the event of a breach of security concerning confidential personal information involved with this Agreement, the Training Vendor shall comply with section **501.171 Florida Statutes.**, as applicable. When notification to affected persons is required under this section of the statute, the Training Vendor shall provide such notification, using the SFWIB's approved format, not later than **seven (7) calendar days** following the determination of any potential breach of personal or confidential data.
- 41.1.9. For purposes of this Agreement, "breach of security" or "breach" means the unauthorized access of data in electronic form containing personal data. Good faith acquisition of personal information by an employee or agent of the Training Vendor is not a breach, provided the information is not used for a purpose unrelated to the Training Vendor's obligations under this Agreement or is not subject to further unauthorized use.
- 41.1.10. The Training Vendor shall be wholly liable for security breaches and personal identity theft committed by its officers, employees, subcontractors, agents, partners, principals, servants, representatives or any other individuals to whom the Training Vendor exposes or authorizes to access confidential information obtained under this Agreement, including, but not limited to volunteers. The Training Vendor shall be liable for: (1) direct payment and/or reimbursement of all costs incurred for notifying and providing identity theft protection services to customers who may be victims of the security breaches and personal identity theft; (2) resolving any and all claims related thereto; and (3) all other costs and damages resulting from security breaches or personal identity theft.
- 41.1.11. The Training Vendor shall notify the SFWIB's Regional Security Officer(s) at the time of termination or transferring of an employee. Notification requesting system access removal must be submitted via email to the Helpdesk at helpdesk@careersourcesfl.com with the appropriate system form, as follows:
 - WFMS – CareerSource South Florida (CSSF) Application Development Unit Security Access Form.

41.1.12. If the employee has security access to multiple systems, the Training Vendor shall submit all corresponding forms.

41.1.13. For employees that only have a CSSF **network account and/or VPN account**, only an email requesting disabling of the account(s) is required at time of termination.

41.2. Failure to comply with this **Article 41, Information Security Obligations**, shall constitute a breach of this Agreement.

ARTICLE 42 PELL GRANT AND OTHER FINANCIAL ASSISTANCE

The Training Vendor shall first access PELL and other federal, state, and local financial assistance prior to accessing Individual Training Account (ITA) funds under this Agreement as specified in **Section L of Exhibit A, Statement of Work**.

ARTICLE 43 GRIEVANCE PROCEDURES

The Training Vendor agrees to comply with all applicable Grievance and Complaint Procedures of the SFWIB and as required by state and federal laws.

ARTICLE 44 LIMITED ENGLISH PROFICIENCY (LEP)

Title VI of the Civil Rights Act of 1964 has prohibited discrimination on the bases of race, color, or national origin in any program or activity that receives federal financial assistance. The Training Vendor shall take reasonable steps to ensure meaningful access to their programs and activities by LEP individuals as required by Title VI of the Civil Rights Act of 1964.

ARTICLE 45 ABUSE, NEGLECT, AND EXPLOITATION INCIDENT REPORTING

The Training Vendor shall immediately report knowledge or reasonable suspicion of abuse, neglect, or exploitation of a child, aged person, or disabled adult to the Florida Abuse Hotline on the statewide toll-free telephone number (1-800-96ABUSE) or via the web reporting option at <http://www.dcf.state.fl.us/abuse/report/>, or via fax at 1-800-914-0004 as required by Chapters 39 and 415, Florida Statutes, this provision is binding upon both the Training Vendor and the Training Vendor's employees.

ARTICLE 46 PUBLIC ANNOUNCEMENTS AND ADVERTISING

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing the project or programs funded in whole or in part with federal money, the Training Vendor shall clearly state (1) the percentage of the total cost of the program or project that will be financed with federal money, and (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

ARTICLE 47 RETURN OF FUNDS

The Training Vendor shall return to the SFWIB any overpayments due to unearned funds or funds disallowed that were disbursed to the Training Vendor by the SFWIB and any interest attributable to such funds pursuant to the terms and conditions of this Agreement. In the event that the Training Vendor or its independent auditor discovers that an overpayment has been made, the Training Vendor shall repay said overpayment immediately without prior notification from the SFWIB. In the event the SFWIB first discovers any overpayment has been made, the SFWIB Executive Director will notify the Training Vendor by letter of such findings. Should repayment not be made within thirty (30) calendar days following the SFWIB's notification of overpayment, the Training Vendor will be charged interest at the lawful rate of interest on the outstanding balance after the SFWIB's notification or Training Vendor's discovery.

**ARTICLE 48
PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS**

The Training Vendor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act (P.L. 113-128 S. 502) will be American-made.

**ARTICLE 49
UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS
FOR FEDERAL AWARDS**

The Training Vendor shall comply with 2 CFR Chapter II, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards, 78 FR 78590-01 (Dec. 26, 2013), as supplemented by 2 CFR Part 2900 (December 19, 2014).

**ARTICLE 50
ADMINISTRATIVE PROVISIONS UNDER TITLE I OF THE WORKFORCE INNOVATION AND
OPPORTUNITY ACT ADMINISTRATIVE RULES, COSTS AND LIMITATIONS**

The Training Vendor shall comply with the requirements of the Administrative Provisions under Title I of the Workforce Innovation and Opportunity Act Administrative Rules, Costs and Limitations (20 CFR Part 683, Subpart B).

**ARTICLE 51
UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH
INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT
ORGANIZATIONS**

The Training Vendor shall comply with the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (2 CFR §215.48).

Contracts for construction or facility improvements must require the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the contract or sub-contract exceeds \$100,000. Refer to the HHS rule requirements if the contract or subcontract exceeds \$100,000.

**ARTICLE 52
INCORPORATION OF COMPLIANCE WITH SPECIFIC APPROPRIATION 2006 OF THE 2011
GENERAL APPROPRIATIONS ACT PROVISIO AND 2011 APPROPRIATIONS IMPLEMENTING BILL
REQUIREMENTS BY REFERENCE**

The requirements of “the Specific Appropriation 2006, and associated proviso, of the 2011 General Appropriation Act, section 445.007, Florida Statutes” set forth in **Attachment 3 (CareerSource Florida State and Local Workforce Development Board Contracting Conflict of Interest Policy)** attached hereto are incorporated herein by this reference and Contractor agrees to comply with the same. The Contractor shall provide a completed **Disclosure and Certification of Conflict of Interest in a Contract, Attachment 5**.

**ARTICLE 53
TRAFFICKING VICTIMS PROTECTION ACT OF 2000**

The Training Vendor shall comply with the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g)). The full text of **2 CFR 175.15, Award Term**, is provided as **Attachment 4**.

**ARTICLE 54
LOBBYING - FLORIDA STATUTE**

The Training Vendor shall comply with the provisions of Sections 11.062 and 216.347, Florida Statutes, which prohibit the expenditure of contract funds for the purpose of lobbying the Legislature, judicial branch, or a state agency.

ARTICLE 55
BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. §1352)

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D**.

ARTICLE 56
DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 and 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D**.

ARTICLE 57
GOVERNMENT-WIDE REQUIREMENT FOR DRUG-FREE WORKPLACE

The Training Vendor shall comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 29 CFR part 94. The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D**.

ARTICLE 58
CIVIL RIGHTS REQUIREMENTS

In accordance with Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, or the Florida Civil Rights Act of 1992, as applicable the Training Vendor shall not discriminate against any employee (or applicant for employment) in the performance of this Agreement because of race, color, religion, sex, national origin, disability, age, or marital status. Further, the Training Vendor agrees not to discriminate against any applicant, client, or employee in service delivery or benefits in connection with any of its programs and activities in accordance with 45 CFR 80, 83, 84, 90, and 91, Title VI of the Civil Rights Act of 1964, or the Florida Civil Rights Act of 1992, as applicable. These requirements are applicable to the Training Vendor or others with whom the Training Vendor arranges to provide services or benefits to clients or employees in connection with its programs and activities.

ARTICLE 59
NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

59.1. As a condition to the award of financial assistance from the Department of Health and Human Services, the Department of Labor under Title I of the Workforce Innovation and Opportunity Act, and the Personal Responsibility and Work Opportunity Reconciliation act of 1996 (PRWORA), the Training Vendor assures that it has the ability to comply fully with the non-discrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

1. Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the bases of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, transgender status and gender identity, gender expression or sex stereotyping) (except as otherwise permitted under title IV of the Education Amendments of 1972), national origin (including limited English Proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the bases of either citizenship status or

participation in any WIOA Title I - financially assisted program or activity;

2. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, 42 U.S.C 2000d et. seq. which prohibits discrimination on the bases of race, color, and national origin, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 80), to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Training Vendor receives federal financial assistance;
3. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, 29 U.S.C. 794, which prohibits discrimination against qualified individuals with disabilities, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F. R., Part 84), to the end that, in accordance with Section 504 of that Act and the Regulation, no otherwise qualified handicapped individual in the United States shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Training Vendor receives federal financial assistance;
4. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, 42 U.S.C. 6101, which prohibits discrimination on the basis of age, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R., Part 91), to the end that, in accordance with the Act and the Regulation, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any education program or activity for which the Training Vendor receives federal financial assistance;
5. Title IX of the Educational Amendments of 1972 (Pub. L. 92-318), as amended, 20 U.S.C. 1681 et. seq., which prohibits discrimination on the basis of sex in educational programs, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R., Part 86), to the end that, in accordance with Title IX and the Regulation, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Training Vendor receives federal financial assistance;
6. Section 654 of the Omnibus Budget Reconciliation Act of 1981 as amended, 42 U.S.C. 9849, which prohibits discrimination on the bases of race, creed, color, national origin, sex, handicapping condition, political affiliation or beliefs;
7. Titles I (42 U.S.C. 12111 et seq.), II (42 U.S.C. 12131 et seq.) and III (42 U.S.C. 12181 et seq.) of the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability, respectively, by: (a) private employers, state and local governments, employment agencies and labor unions that employ 15 or more employees; (b) state and local government entities (“public entities”) and requires public entities to provide persons with disabilities an equal opportunity to benefit from their programs, services and activities; and (3) places of public accommodations and mandates that places of public accommodations and commercial facilities be designed, constructed, and altered in compliance with specific accessibility standards;
8. Executive Order (EO) No. 11246, “Equal Employment Opportunity”, as amended by EO No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity”, and as supplemented by regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor”; and in Department of Labor regulation 29 CFR Parts 33 and 37 as well as 45 CFR Part 80; and Part 92, if applicable;
9. Equal Employment Opportunity in Apprenticeship and Training (29 CFR Part 30); and
10. Chapter 11A of the Code of Miami-Dade County, Florida which prohibits discrimination in employment and places of public accommodations on the bases of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, actual or perceived status as a victim of domestic violence, dating violence and stalking, gender identity, gender expression, or

sexual orientation.

- 59.2. The Training Vendor also assures that Training Vendor will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above. This assurance applies to Training Vendor's operation of the WIOA Title I and TANF – financially assisted program or activity.
- 59.3. The Training Vendor understands the United States has the right to seek judicial enforcement of this assurance. The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D.**

ARTICLE 60
PUBLIC ENTITY CRIMES (§287.133 F.S.)

The Training Vendor shall comply with the Public Entity Crimes Act (§ 287.133, Florida Statutes) and the Training Vendor certifies that neither it, nor any person or affiliate of the Training Vendor, has been convicted of a Public Entity Crime as defined in section 287.133, Florida Statutes, nor placed on the convicted vendor list.

The Training Vendor understands and agrees that the Training Vendor is required to inform the SFWIB immediately upon any change of circumstances regarding this status. The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D.**

ARTICLE 61
SARBANES-OXLEY ACT OF 2002

The Training Vendor assures that the Training Vendor will comply with the two provisions of the Sarbanes-Oxley Act (SOX) that apply to all corporate entities, including non-profit organizations. These two provisions are as follows:

1. It is a crime to alter, cover up, falsify, or destroy any document that may be relevant to an official investigation (SOX, Section 1102, Section 1512 of Title 18, USC).
2. It is illegal for any corporate entity to punish whistleblowers or retaliate against any employee who reports suspected cases of fraud or abuse (SOX, Section 1107, Section 1513 of Title 18, USC).

The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D.**

ARTICLE 62
ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN)
FUNDING RESTRICTIONS ASSURANCE

As a condition of the Contract, the Training Vendor assures that it will comply fully with the federal funding restrictions pertaining to ACORN and its subsidiaries per the Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117). The Continuing Appropriation Act, 2011, Section 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117. The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D.**

ARTICLE 63
SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR THE SCRUTINIZED
COMPANIES WITH ACTIVITIES IN IRAN PETROLEUM ENERGY SECTOR LIST

The Training Vendor agrees to refrain from any of the prohibited business activities with the Governments of Sudan and Iran as described in section 215.473, Florida Statutes Pursuant to section 287.135(5), Florida Statutes, the SFWIB may immediately terminate this Contract for cause if the Training Vendor is found to have submitted a false certification or if the Training Vendor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the contract. The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D.**

**ARTICLE 64
DISCRIMINATORY VENDORS**

The Training Vendor shall disclose to the SFWIB if the Training Vendor appears on the discriminatory vendor list. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134, Florida Statutes may not:

1. Submit a bid on a contract to provide any goods or services to a public entity;
2. Submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
3. Submit bids on leases of real property to a public entity; or
4. Be awarded or perform as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or transact business with any public entity.

The Training Vendor shall provide a completed **Assurances and Certifications, Exhibit D**.

**ARTICLE 65
CLEAN AIR ACT (42 U.S.C. §7401 et seq.) AND FEDERAL WATER POLLUTION CONTROL ACT (33
U.S.C. §1251 et seq.), AS AMENDED**

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). As applicable, the Training Vendor shall comply with the Clean Air Act and the Federal Water Pollution Control Act, as amended.

**ARTICLE 66
CERTIFICATION REGARDING FLORIDA CLEAN INDOOR AIR ACT**

The purpose of the **Florida Clean Indoor Air Act** is to protect people from the health hazards of second hand tobacco smoke and to implement the Florida Health initiative in Section 20, Article X of the State Constitution. However, the intent of this legislation is not to inhibit, or otherwise obstruct, medical or scientific research or smoking-cessation programs approved by the Department of Health. The Training Vendor shall provide a completed **Certification Regarding the Florida Clean Indoor Air Act**.

**ARTICLE 67
ENVIRONMENTAL TOBACCO SMOKE**

In accordance with Part C of P.L. 103-227, the "Pro-Children Act of 1994," smoking is prohibited in any portion of any indoor facility owned or leased or contracted by an entity and used regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by federal programs whether directly or through State or local governments. Federal Programs include grants, cooperative agreements, loans, and loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

The Training Vendor shall provide a completed **Certification Regarding Environmental Tobacco Smoke**.

**ARTICLE 68
EQUAL TREATMENT FOR FAITH-BASED ORGANIZATIONS**

Equal Treatment For Faith Based Organizations, 45 CFR 87, prohibits any state or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation.

Equal Treatment For Faith Based Organizations, 45 CFR 87, prohibits religious organizations from engaging in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance.

Equal Treatment For Faith Based Organizations, 45 CFR 87, prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, from discriminating against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

Any restrictions on the use of grant funds shall apply equally to religious and non-religious organizations.

ARTICLE 69
CHARITABLE CHOICE (45 CFR §260.34)

A state or local government in its use of federal TANF or State Maintenance of Effort (MOE) funds shall not, in the selection of service providers, discriminate for or against an organization that applies to provide, or provides TANF services or benefits on the basis of the organization's religious character or affiliation. No federal TANF or State MOE funds provided directly to participating organizations may be expended for inherently religious activities, such as worship, religious instruction, or proselytization.

A religious organization that receives federal TANF or State MOE funds shall not, in providing program services or benefits, discriminate against a TANF applicant or recipient on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice. If an otherwise eligible TANF applicant or recipient objects to the religious character of a TANF service provider, the recipient is entitled to receive services from an alternative provider to which the individual has no religious objection.

If a non-governmental intermediate organization, acting under a contract or other agreement with a state or local government, is given the authority under the contract or agreement to select non-governmental organizations to provide federal TANF or MOE funded services, the intermediate organization must ensure that there is compliance with the Charitable Choice statutory provisions and these regulations.

ARTICLE 70
VETERAN'S PRIORITY PROVISIONS

Federal grants for qualified job training programs funded, in whole or in part, by the U.S. Department of Labor are subject to the provisions of the "Jobs for Veterans Act" (JVA), P.L. 107-288. The JVA provides priority of services to veterans and spouses of certain veterans for the receipt of employment, training, and placement services. To obtain priority service, a person must meet the program's eligibility requirements. 20 CFR Part 1010 provides general guidance on the scope of the veteran's priority statute.

ARTICLE 71
COMPLIANCE WITH ENERGY EFFICIENCY PROVISION

The Training Vendor shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

ARTICLE 72
**COMPLIANCE WITH SECTION 6002 OF THE SOLID WASTE DISPOSAL ACT, AS AMENDED BY THE
RESOURCE CONSERVATION AND RECOVERY ACT FOR THE PROCUREMENT OF RECOVERED
MATERIALS**

The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. As applicable, the Training Vendor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the RCRA.

ARTICLE 73
ASSURANCES – NON-CONSTRUCTION PROGRAMS

The Training Vendor shall provide a completed **Assurances - Non-Construction Programs, Exhibit E**.

ARTICLE 74
INTERGOVERNMENTAL PERSONNEL ACT

The Training Vendor shall comply with the requirements of the Intergovernmental Personnel Act (42 USC §4701). The Training Vendor shall provide a completed **Assurances - Non-Construction Programs, Exhibit E**.

ARTICLE 75
COMPLIANCE WITH THE HATCH ACT

The Training Vendor shall comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds, if applicable. The Training Vendor shall provide a completed **Assurances Non-Construction Programs, Exhibit E**.

ARTICLE 76
DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148)

When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The Training Vendor shall provide a completed **Assurances Non-Construction Programs, Exhibit E**.

ARTICLE 77
COPELAND ANTI-KICKBACK ACT

The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145 and 18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The Training Vendor shall provide a completed **Assurances Non-Construction Programs, Exhibit E**.

ARTICLE 78
CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts

for transportation or transmission of intelligence. As applicable, the Training Vendor shall comply with the Contract Work Hours and Safety Standards Act. The Training Vendor shall provide a completed **Assurances Non-Construction Programs, Exhibit E**.

**ARTICLE 79
WHISTLEBLOWER'S ACT**

In accordance with section 112.3187(2), Florida Statutes, the Training Vendor shall not retaliate against an employee for reporting violations of law, rule, or regulation that creates substantial and specific danger to the public's health, safety, or welfare to an appropriate agency. Furthermore, the Training Vendor shall not retaliate against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee. The Training Vendor shall inform its employees that they and other persons may file a complaint with the Office of Chief Inspector General, the Florida Commission of Human Relations or the Whistle blowers Hotline number at 1-800-543-5353.

**ARTICLE 80
SURVIVAL**

The Parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the SFWIB under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

INTENTIONALLY LEFT BLANK

SIGNATORY FORM

IN WITNESS HEREOF THE PARTIES HERETO HAVE CAUSED TO BE EXECUTED BELOW THE SIGNATURES OF THE AUTHORIZED REPRESENTATIVES OF THE PARTIES HERETO WHO ARE FULLY AND DULY AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF THE RESPECTIVE PARTIES HERETO:

AUTHORIZED SIGNATURES FOR: Apex Training Center, Inc.
AGREEMENT NUMBER: WS-TVA-PY'17-33-00
CFDA NUMBER: WIOA AD: 17.258; WIOA DW: 17.278; WIOA Youth: 17.259;
WIOA RR: 17.278; TAA 17.245; TANF 93.558;
RET: 93.584 & 93.576

(For Use Only When the Training Vendor Is a Corporation)

1a. [Signature] 1b. _____
Signature of President or Vice-President
Date 11/16/17 Date _____

2a. Stephane Lherisson 2b. _____
Typed Name of President or Vice-President

3a. President 3b. _____
Full Title of President or Vice-President

4a. [Signature] 4b. _____
Signature of Person Attesting Signature of Person Attesting
Signature that Appears on Line 1a Signature that Appears on Line 1b

SOUTH FLORIDA WORKFORCE INVESTMENT BOARD

BY: 12/1/17
Rick Beasley, Executive Director
South Florida Workforce Investment Board

[Signature]
Date