

GRANT SUBCONTRACTOR AGREEMENT
BETWEEN
MIRACOSTA COMMUNITY COLLEGE DISTRICT
AND
SAN DIEGO COMMUNITY COLLEGE DISTRICT
FOR
THE STRONG WORKFORCE LABOR MARKET RESEARCH

This Grant Subcontractor Agreement (“Agreement”) is made and entered on _____, by and between the **MiraCosta Community College District** (“District”), a public community college district organized and existing under the laws of the State of California with its principal place of business at 1 Barnard Drive, Oceanside, CA 92056, and **San Diego Community College District**, (“SDCCD” or “Subcontractor”), a public community college district organized and existing under the laws of the State of California with its principal place of business at 3375 Camino Del Rio South, Suite 125, San Diego, CA 92108, in response to the **Regional Strong Workforce Labor Market Research Grant** (“Grant”) received by District. District and Subcontractor are sometimes individually referred to as “Party” and collectively as “Parties.”

WHEREAS, the District received the Grant to provide services through the San Diego & Imperial Counties Regional Center of Excellence for Labor Market Research (“COE”) hosted by the District, and executed a master agreement with the Foundation for Grossmont and Cuyamaca Colleges (“Foundation”) for the Regional Strong Workforce Program (“Master Agreement”), attached to this Agreement as Exhibit “A,” which reflects the general terms of the Grant and is fully incorporated into this Agreement by this reference.

WHEREAS, the District and the Foundation amended the Master Agreement by entering into Amendment #18, dated May 3, 2024 (“Amendment #18”), attached to this Agreement as Exhibit “B” and fully incorporated into this Agreement by this reference.

WHEREAS, Amendment #18, among other things, provides the funds for this particular project of the Grant.

WHEREAS, the District seeks to work with an entity to provide critical research, data, labor market information, and professional development for evidence-based decision-making in the region by expanding the capacity of the COE in support of the Grant.

WHEREAS, the Subcontractor is willing to provide these services in support of the Grant as set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants set forth in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties' signatures, the Parties agree as follows:

1.0 SCOPE OF WORK. Subcontractor, in partnership with District, shall provide the following (collectively “Services”):

1.1 Employ a Career and Technical Education (“CTE”) Research Expert who will conduct institutional and related research associated with the Grant, and as outlined in the Memorandum of Understanding between the San Diego and Imperial Counties Community Colleges Regional Consortium and Subcontractor executed on June 30, 2023 attached hereto as Exhibit C. The CTE Researcher will support the Strong Workforce data needs under the day-to-day direction of the Dean of Career Education and Workforce Development and the Director of Institutional Effectiveness and Research at Subcontractor.

1.2 Subcontractor shall submit biannual reports (by January 15 and July 15, respectively) to the District of work completed in the preceding six months by the CTE Researcher.

- 1.3 Subcontractor agrees to perform the Services consistent with the professional skill and care of Subcontractor's profession and in compliance with all applicable laws and regulations. All of Subcontractor's activities will be at its own risk and Subcontractor is hereby given notice of responsibility for arrangements to guard against physical, financial, and other risks as appropriate. Subcontractor assumes full responsibility for the acts or omissions of Subcontractor's employees, agents, consultants, and subcontractors as they relate to this Agreement or the Services. The Parties agree that the Subcontractor will immediately remove any of Subcontractor's employees, agents, consultants, or subcontractors from the District's facilities upon the District's instruction, as determined by the District in its sole discretion, for any or no reason. Subcontractor agrees to promptly provide a replacement employee, agent, consultant, or subcontractor acceptable to the District to perform the Services.
- 1.4 Subcontractor and all of Subcontractor's employees, agents, consultants, and subcontractors, will secure and maintain in force throughout the term of this Agreement all licenses, permits, qualifications, and approvals as are required by law, in connection with the performance of the Services.
- 1.5 Subcontractor shall furnish, at its own expense, all labor, materials, equipment, supplies, license, permits, and other items necessary to complete the Services under this Agreement. If the District furnishes any goods, materials, or other equipment to Subcontractor, Subcontractor assumes complete liability for those goods, materials, or other equipment. Subcontractor agrees to promptly pay the District the repair or replacement costs for such goods, materials, or other equipment not returned to the District in a satisfactory condition, as solely determined by the District.
- 1.6 Subcontractor shall not provide Services through other providers, agencies, contractors or entities without the District's prior written approval.

2.0 TERM AND TERMINATION. The term of this Agreement shall correspond with that of the Grant and shall commence on **the last day that a party executes this Agreement**, and end on **June 30, 2025, with the potential for a one-year extension upon mutual agreement of the Parties.** This Agreement may be terminated by the either Party, at any time with or without cause by giving written notice to the other no less than thirty (30) calendar days prior to the requested termination date. In such event, District shall pay compensation for Services satisfactorily completed through the date of termination. Subcontractor will refund to the District a pro rata share of any prepaid amounts or fees within thirty (30) calendar days of the effective date of termination.

3.0 COMPENSATION, EXPENSES AND INVOICING. District agrees to compensate Subcontractor as itemized below, subject to the **Not-To-Exceed amount of ONE HUNDRED TWENTY THOUSAND, FOUR HUNDRED SEVENTEEN DOLLARS (\$120,417.00):**

- 3.1 District shall reimburse for costs and expenses incurred in the performance of the Agreement, in accordance with the Grant, upon receipt of an itemized list with copies of paid invoices, receipts or other proof of payment..
- 3.2 District shall pay on a net-45 day basis upon receipt of Subcontractor's undisputed invoice. Invoices shall identify the billing period, Contract Number of this Agreement, and Taxpayer Identification Number. Invoices shall itemize services performed by service date with a brief description and associated hours worked and billing rates.
- 3.3 District must receive a Department of the Treasury IRS Form W-9 to make payment.
- 3.4 Upon execution of the Agreement, Subcontractor may invoice the District for 60% of the total subaward (i.e. \$96,333.60). Subcontractor shall submit a final invoice by June 1, 2025.

4.0 INDEMNIFICATION. To the furthest extent provided by law, Subcontractor shall indemnify, defend, and hold the District, its Board of Trustees, officers, agents, employees, consultants, and volunteers (“Indemnitee(s)”) harmless against any and all liability, claims, suits, demands, causes of action, damages, losses, injuries, and expenses of any kind, including reasonable attorneys’ fees and costs, whether actual or alleged, in law or equity, to property or persons, including personal injury or death, contractual liability, infringement of a third party’s intellectual property rights, or damage to property (“Claim”), arising from or related to any act or omission of Subcontractor or its employees, officers, consultants, agents, subcontractors, or volunteers. This obligation does not extend to an Indemnitee to the extent (if any) the Claim is caused by the gross negligence or willful misconduct of that Indemnitee. This provision will survive the termination or expiration of this Agreement or the Grant.

5.0 INSURANCE. Subcontractor agrees to procure and maintain, during the term of the Agreement, the following insurance coverages with the limits of not less than those specified below:

- (a) **Workers' Compensation:** Statutory Form.
- (b) **Employers' Liability:** \$1,000,000 per occurrence.
- (c) **Commercial General Liability:** \$2,000,000 combined single limit per occurrence, including bodily injury, broad form property damage and blanket contractual liability, written on an “occurrence” basis.
- (d) **Automobile Liability Insurance:** \$1,000,000 combined single limit covering all owned, non-owned, and hired vehicles.

5.1 Prior to commencing work, Subcontractor shall furnish the District with properly endorsed certificates of insurance evidencing such coverage. Each policy, except for workers’ compensation, shall be endorsed with specific language designating the MiraCosta Community College District, its Board of Trustees, officers, agents, volunteers, and employees as additional insureds (“Additional Insureds”). The policies must specify that the coverage will not be canceled or materially changed except upon thirty (30) days written notice to the District. Each policy will be primary and any insurance or self-insurance maintained by the District shall be non-contributory. All endorsements must waive any right to subrogation against the Additional Insureds. All certificates must be mailed to the address for notices per this Agreement. Subcontractor is solely responsible for the payment of any and all premiums, deductibles, or self-insurance retentions. Subcontractor will ensure insurance is placed with insurers with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to the District. Subcontractor’s provision of the required insurance hereunder shall not act as a potential limitation on Subcontractor’s liability

6.0 INDEPENDENT CONTRACTOR. Each Party, in the performance of this Agreement, shall be and act as an independent contractor. Each Party understands and agrees that its employees shall not be considered officers, employees or agents of the other, and are not entitled to benefits of any kind or nature normally provided employees of the other, including, but not limited to, State Unemployment Compensation or Workers’ Compensation insurance. Subcontractor shall perform the Services and obligations under this Agreement according to the Subcontractor’s own means and methods of work which shall be in the exclusive charge and under the control of Subcontractor, and which shall not be subject to control or supervision by the District, except as to the results of the Services. Subcontractor assumes the full responsibility for its acts or liabilities including those of its employees or agents as they relate to the Services performed under this Agreement. Subcontractor shall assume full responsibility for payment of all federal, state, and local taxes or contributions, including unemployment insurance, social security, and income taxes, with respect to its employees. Subcontractor agrees to indemnify, defend and hold the District harmless from and against any and all liability arising from any failure of the other to pay or withhold any applicable tax when due.

7.0 AVOIDANCE OF CONFLICTS OF INTEREST. Subcontractor shall take all reasonable steps to ensure that its officers and employees and members of its governing board, will avoid any actual or potential conflicts of interests, and that no officer, employee, or board member who exercises any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit which either directly or indirectly arises from this Agreement. The term “financial interest” shall include the financial interest of the officer, employee, or board member’s spouse or dependent child.

- 8.0 COMPLIANCE WITH APPLICABLE LAWS.** The Services must meet the approval of District and shall be subject to the District's general right of inspection to secure the satisfactory completion thereof. Subcontractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances that are now or may in the future become applicable to Subcontractor or the Services. Subcontractor agrees to fully comply with the requirements and provisions set forth in the Grant and all applicable District rules, policies, and procedures.
- 9.0 RECORDS ABOUT INDIVIDUALS.** California law, as well as District policy, sets forth certain requirements and safeguards regarding records pertaining to individuals.
- 9.1 Unless otherwise provided in writing, records containing confidential or personal information about individuals will become the property of District and subject to state law and District policies governing privacy and access to files.
- 9.2 The District shall have access to and the right to examine any pertinent books, documents, papers, and records of Subcontractor or its employees, agents, or consultants involving transactions, Services, and work related to this Agreement until the expiration of five years after final payment hereunder. Subcontractor shall retain such records for a period of at least five years from the date of final payment.
- 9.3 Subcontractor understands and acknowledges that during its performance of the Services it or its employees, agents, consultants, or subcontractors may have access to private and confidential information in the District's possession, custody, or control, including but not limited to private information regarding students, families, faculty, employees, staff, donors, alumni, or other personnel data or information, including a student's education records as defined by 20 USC section 1232g, and other District related trade secrets, business plans, and other proprietary information ("Confidential Information"). Subcontractor will not disclose, copy, or modify any Confidential Information without the District's prior written consent unless otherwise required by law. Subcontractor will immediately notify the District if it becomes aware of any possible unauthorized disclosure or use of the Confidential Information. Subcontractor agrees to promptly return all copies of Confidential Information to the District upon expiration or termination of this Agreement. If the Subcontractor has access to Confidential Information, Subcontractor shall limit its employees', agents', consultants', and subcontractors' access to the records to those persons for whom access is essential to the performance of the Services. At all times during and after the term of this Agreement, Subcontractor shall comply with the applicable terms of the Family Educational Rights and Privacy act of 1974 (FERPA). Subcontractor may be required to execute supplemental confidentiality and non-disclosure agreements as solely determined by the District. This section shall survive the termination or expiration of this Agreement.
- 10.0 RECORDS AND AUDITS.** Subcontractor must maintain records regarding the Services it performs, use of Grant funds, and its progress made towards performance of the Services, and placement and use of equipment purchased pursuant to this Agreement, if any, for a period of three (3) years after the ending date of this Agreement. Subcontractor agrees that the District, the Foundation, the Chancellor's Office, the Bureau of State Audits, and any other appropriate state or federal oversight agency, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Subcontractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment or until any audit findings have been resolved, unless a longer period of records retention is stipulated. Subcontractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Subcontractor agrees to include a similar right of the District, the Foundation, the Chancellor's Office, the Bureau of State Audits, any other appropriate state or federal oversight agency, or their designated representative(s) to audit records and interview staff in any subcontract related to performance of this Agreement.
- 11.0 DRUG-FREE WORKPLACE POLICY AND REQUIREMENTS.** While performing any Services under this Agreement, the Parties' employees, agents, or subcontractors shall not: (a) be under the influence of alcohol or any controlled substance, (b) use, possess, distribute, or sell illicit or

unprescribed controlled drugs, drug paraphernalia, or alcoholic beverages, or (c) misuse legitimate prescription drugs.

- 12.0 ANTIDISCRIMINATION IN EMPLOYMENT.** Each Party agrees that it will not engage in unlawful discrimination in employment of persons because of race, ethnicity, color, religious creed, national origin, ancestry, age, gender, gender identity, gender expression, physical or mental disability, medical condition, genetic condition, ancestry, sexual orientation, marital status, pregnancy, or military and veteran status of such persons.
- 13.0 FORCE MAJEURE.** Neither Party shall be in default for any failure or delay in performance hereunder when such failure or delay is the result of a force majeure, which is hereby defined as any unforeseeable event which is beyond that Party's reasonable control and without its fault or negligence, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing. Such force majeure events may include, but are not restricted to: (a) acts of God or of the public enemy, (b) acts of government in either its sovereign or contractual capacity, (c) strikes, lockouts or other industrial disputes, (d) epidemics, pandemics riots, mutinies, civil commotion, war or war-like operations, or sabotage. For avoidance of doubt, the District's obligation to pay Subcontractor's invoices or other fees is excused to the extent Subcontractor is not performing the Services during a force majeure event.
- 14.0 GOVERNING LAW.** The terms and conditions of this Agreement shall be governed by the laws of the State of California with venue in the County of San Diego, California.
- 15.0 RESOLUTION OF DISPUTES.** If a dispute arises relating to this Agreement, the Parties shall first attempt to resolve it through informal discussions. Any Party may convene such discussions by written notice, and each Party shall reasonably accommodate the other Parties with respect to scheduling. If the dispute is not resolved in this manner within thirty (30) days from the date one Party provides notice to the other to commence informal discussions hereunder, any Party may submit the matter to mediation by providing written notice to the other Party. The cost of such mediation shall be borne equally by the Parties. For avoidance of doubt, the Subcontractor agrees to continue providing Services in the event that the District disputes any portion of Subcontractor's invoices or other requests for payment.
- 16.0 COMPLAINTS AND INVESTIGATIONS.** Subcontractor will fully cooperate with District and will comply with all applicable laws and District and other community college district policies and requirements related to investigations of allegations of discrimination, harassment, and retaliation, including Subcontractor producing its directors, trustees, officers, agents, employees, consultants, and subcontractors for investigative interviews as deemed necessary by District. Subcontractor agrees it will not receive any compensation in connection with such cooperation.
- 17.0 ASSIGNMENT AND APPROVAL TO SUBCONTRACT.** The obligations of one Party to the other pursuant to this Agreement shall not be assigned or subcontracted to another entity or individual without the express written approval of the other.
- 18.0 NO THIRD-PARTY RIGHTS.** Nothing in this Agreement is intended to make any person or entity who has not signed this Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.
- 19.0 NOTICE.** Any notice or demand may be served upon one Party by the other (a) by delivering it, in writing, to the other's representative at the address as set forth below or (b) by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to the other's representative at the address as set forth below, or (c) by sending a email of it to the other's representative at the email set forth below.

MIRACOSTA COMMUNITY COLLEGE DISTRICT:

SAN DIEGO COMMUNITY COLLEGE DISTRICT:

Representative: MiraCosta Community College District
1 Barnard Drive
Oceanside, CA 92056

Mina Hernandez
Director, Purchasing, Contracts &
Material Management
Tel: (760) 795-6797
Mina.Hernandez@miracosta.edu

Representative:

San Diego Community College
District
3375 Camino Del Rio South,
Suite 125, San Diego, CA
92108-3883

Susan Topham, Ed.D. Vice
Chancellor Educational
Services
Tel: (619) 388-6965

Tel: _____

For Notices: MiraCosta Community College District
Purchasing, Contracts & Material
Management
1 Barnard Drive
Oceanside, CA 92056

Email: Mina.Hernandez@miracosta.edu

For Notices:

San Diego Community College
District
3375 Camino Del Rio South,
Suite 125
San Diego, CA
92108-3883

Email: _____

- 20.0 SECTION HEADINGS.** The section headings contained herein are for convenience in reference and are not intended to define the scope of any provision of this Agreement.
- 21.0 EXECUTION IN COUNTERPARTS.** This Agreement may be signed in counterparts, each of which shall constitute an original document.
- 22.0 NON-WAIVER.** The failure of either Party to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Agreement shall not be deemed a waiver by that Party of such term or condition or prevent a subsequent similar act from again constituting a violation of such term or condition.
- 23.0 SEVERABILITY.** If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired, or invalidated in any way.
- 24.0 CONSTRUCTION OF AGREEMENT.** This Agreement has been jointly drafted and negotiated by the Parties. The language in this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any of the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party based upon attribution of drafting to any Party
- 25.0 ENTIRE AGREEMENT; MODIFICATION OF AGREEMENT.** This Agreement and any attachments or exhibits incorporated by reference constitute the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be modified only by a writing signed by both Parties.
- 26.0 AUTHORITY.** Subcontractor warrants that the person signing this Agreement on its behalf is fully authorized to enter into this Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement effective on the later of the date(s) written below:

SAN DIEGO COMMUNITY COLLEGE DISTRICT:

MIRACOSTA COMMUNITY COLLEGE DISTRICT:

By: _____
Signature

By: _____
Signature

*Susan Topham, Ed.D., Vice Chancellor,
Educational Services*

*Tim Flood, Vice President of
Administrative Services*

stopham@sdccd.edu;
aperman@sdccd.edu
E-mail

tflood@miracosta.edu

Tax Identification Number (EIN)

Date: _____

Date: _____

Exhibit "A"
Master Agreement Regional Strong Workforce Program

Exhibit "B"

Amendment #18 to Master Agreement-Regional Strong Workforce Program

Exhibit "C"

Memorandum of Understanding between the San Diego and Imperial Counties Community Colleges Regional Consortium and Subcontractor executed on June 30, 2023