

SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as “City”) and County of Merced, on behalf of its Department of Workforce Investment, a political subdivision of the State of California, whose address of record is 2222 M Street, Merced, California, 95340, (hereinafter referred to as “Contractor”).

WHEREAS, City is undertaking a project to provide a youth job training program as permitted under the American Rescue Plan Act; and,

WHEREAS, on March 11, 2021, the American Rescue Plan Act of 2021 (H.R. 1319) (“ARPA”) was signed into law providing federal funding relief for American workers, families, industries, and state and local governments; and,

WHEREAS, on May 10, 2021, the United States Department of Treasury released an interim final rule on allowed uses of funds and allocated \$350 billion for state, local, territorial, and Tribal governments from the American Rescue Plan Act Fund; and,

WHEREAS, on December 6, 2021, the Merced City Council approved a One Million and Twenty-Five Thousand Dollars (\$1,025,000.00) appropriation of the American Rescue Plan Act Funding for the youth job training program; and,

WHEREAS, on May 1, 2023, the Merced City Council approved an additional One Million, One Hundred and Seventy-Five Thousand Dollars (\$1,175,000.00) appropriation of the American Rescue Plan Act Funding for the youth job training program; and,

WHEREAS, Contractor represents that its Department of Workforce Investment possesses the professional skills to provide job training services in connection with said project and will follow all applicable rules and regulations set forth in the American Rescue Plan Act.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Contractor shall furnish the following services: Contractor shall provide the youth job training program services described in Exhibit "A" attached hereto.

No additional services shall be performed by Contractor unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the City Manager or designee. However, the means by which the work is accomplished shall be the sole responsibility of the Contractor.

2. **TIME OF PERFORMANCE.** All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Exhibit "A" attached hereto and incorporated herein by reference. By mutual agreement and written addendum to this Agreement, the City and the Contractor may change the requirements in said Schedule.

3. **TERM OF AGREEMENT.** The term of this Agreement shall commence upon the day first above written and end on December 30, 2025.

4. **COMPENSATION.** Payment by the City to the Contractor for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance with the fee schedule set forth in Exhibit "A" attached hereto and incorporated herein by reference. The Contractor agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "A". For Contractor's services rendered under this Agreement, City shall pay Contractor the not to exceed sum of \$One Million, One Hundred and Seventy-Five Thousand dollars (\$1,175,000). All invoices need to be submitted no later than December 30, 2025.

5. **METHOD OF PAYMENT.** Compensation to Contractor shall be paid by the City after submission by Contractor of an invoice delineating the services performed.

6. **RECORDS.** It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Contractor relating to the matters covered by this Agreement shall be the property of the City, and Contractor hereby agrees to deliver the same to the City upon termination of the

Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. **CONTRACTOR'S BOOKS AND RECORDS.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. **INDEPENDENT CONTRACTOR.** It is expressly understood that Contractor is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Contractor shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Contractor desire any insurance protection, the Contractor is to acquire same at its expense.

In the event Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

9. **INDEMNITY.** Contractor shall indemnify, protect, defend (with legal counsel selected by the City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Contractor or Contractor's officers, employees, volunteers, and agents during performance of this Agreement; Contractor shall indemnify, protect, defend (with counsel selected by the City) save and hold City, its officers, employees and agents harmless from any and all claims or causes of action for any violation of any federal, state, or municipal law or ordinance, to the extent caused,

in whole or in part, by the willful misconduct, negligent acts, or omissions of Contractor or its employees, subcontractors, or agents, or by the quality or character of Contractor's work, or resulting from the negligence of the City, its officers, employees, volunteers and agents, except for loss caused by the sole negligence or willful misconduct of the City or its officers, employees, volunteers or agents. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

10. **INSURANCE.** During the term of this Agreement, Contractor shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. **Workers' Compensation Insurance.** Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. **General Liability.**

- (i) Contractor shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- (ii) Contractor shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Contractor.

- (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Contractor and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
- (v) Contractor shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

- (i) Contractor shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Contractor.
- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Contractor and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Contractor shall carry professional liability insurance appropriate to Contractor's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Contractor shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Contractor's insurance policies are not current.

11. PREVAILING WAGES.

A. Labor Code Compliance. If the work performed under this Agreement falls within Labor Code Section 1720(a)(1) definition of a "public works" the Contractor agrees to comply with all of the applicable provisions of the Labor Code including, those provisions requiring the payment of not less than the general prevailing rate of wages. The Contractor further agrees to the penalties and forfeitures provided in said Code in the event a violation of any of the provisions occurs in the execution of this Agreement.

B. These wage rate determinations are made a specific part of this Agreement by reference pursuant to Labor Code Section 1773.2. General Prevailing Wage Rate Determinations may be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov/>.

C. After award of the Agreement, and prior to commencing work, all applicable General Prevailing Wage Rate Determinations, if applicable, are to be obtained by the Contractor from the Department of Industrial Relations. These wage rate determinations are to be posted by the Contractor at the job site in accordance with Section 1773.2 of the California Labor Code.

D. Contractor agrees to include prevailing wage requirements, if applicable, in all subcontracts when the work to be performed by the subcontractor under this Agreement is a “public works” as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771.

12. ASSIGNABILITY OF AGREEMENT. It is understood and agreed that this Agreement contemplates personal performance by the Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Contractor under this Agreement will be permitted only with the express written consent of the City.

13. TERMINATION FOR CONVENIENCE OF CITY. The City may terminate this Agreement any time by mailing a notice in writing to Contractor that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Contractor. If the Agreement is so terminated, the Contractor shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

14. CONFORMANCE TO APPLICABLE LAWS. Contractor shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Contractor in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Contractor hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys’ fees, incurred by the City in connection therewith.

15. WAIVER. In the event that either City or Contractor shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether

of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

16. **INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS.** In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

17. **AMBIGUITIES.** This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

18. **VENUE.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

19. **AMENDMENT.** This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

20. **INTEGRATION.** This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

21. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

22. COUNTERPARTS. This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
D. Scott McBride
City Manager

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

BY: Craig Cornwell 6/18/2024
City Attorney Date

ACCOUNT DATA:
M. VENUS RODRIGUEZ, FINANCE OFFICER

BY: _____
Verified by Finance Officer

{Signatures continued on next page}

CONTRACTOR
COUNTY OF MERCED, a Political
Subdivision of the State of California

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. _____

ADDRESS: 2222 M Street
Merced, CA 95340

TELEPHONE: (209) 385-7366 _____

FAX: (209) 726-7977 _____

E-
MAIL:erick.serrato@countyofmerced.co
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EXHIBIT A CONSULTANT SCOPE OF WORK

This Scope of Work describes the tasks to be completed by the Consultant for the City of Merced's youth employment program ("Program"). The purpose of the Program is to provide Merced City youth ("Participants") with work readiness and employment activities and, wherever possible, a bridge to long-term employment, career development, and career-centered education opportunities.

The Program is made possible with City funds, drawn from the City's allocation of the American Rescue Plan Act (ARPA). Where allowable, the Consultant will complement these funds with the federal Workforce Innovation and Opportunity Act (WIOA) and State workforce grant programs.

The Consultant agrees to fulfill the following responsibilities:

1. Provide wages to a minimum of one hundred sixty (160) participants ages 16-24 through an earn-and-learn model in which they are paid the minimum State of California wage, or more. Participants will be City of Merced residents and participating businesses will be in Merced unless otherwise approved by the City.
2. Participants will work one hundred eighty (180) hours at local small businesses and community-based organizations.
3. Provide Workforce Readiness with college units to a minimum of one hundred forty (140) Participants, totaling 20 hours.
4. Provide Student Fellowships to 25 Undocumented Participants.

The Scope of Work includes overall coordination and delivery of program services, administrative and financial management, Participant and employer recruitment, reporting and communication, and presentation of program progress to City staff and Council.

Participant Services

- a. Participant Recruitment
The Consultant will recruit eligible City of Merced residents from the City's priority populations using a variety of methods, including social media, presentations to organizations, and coordination with high schools. The Consultant will continue hosting an informational website (www.mercedyouthjobs.com) that will include a registration and inquiry form.
- b. Employer Recruitment and Placement
The Consultant will recruit enough businesses to offer job assignments for all Participants, encompassing various industry sectors. Whenever feasible, Participants will be allowed to choose their job sites, with Program staff aiding in job matching based on interest, future career and education aspirations, and

skills demonstrated during work readiness training. For adult Participants, the Consultant will facilitate access to longer-term job placement, utilizing Program funds to support on-the-job training opportunities where the employer continues employing the worker beyond the subsidy period. Additionally, access to the Consultant's range of workforce programming will be provided. The Consultant will be responsible for overseeing cohorts consisting of 20-25 participants per cohort, with sessions occurring approximately every 3 months.

c. **Work Readiness Training**

The Consultant will make available, either directly or through a vendor, a meaningful work readiness training that prepares Participants for success on the job. The training will be made available in person at the Program site or online, over multiple days, culminating in a work readiness certificate. The training will be approximately fifteen to twenty (15-20) hours.

d. **Technology Training**

The Consultant will leverage resources to grant Participants access to Bay Valley Tech for learning coding and web-based development languages, and internships with local tech-facing businesses. Bay Valley Tech provides in-depth, full-time training and supervision as Participants complete real-world projects connected to local businesses. Non-City funds (WIOA federal, State CaliforniansForAll) launched the partnership and will fund training and apprentice supervision through September 2024. City Funds, via Merced Youth Jobs, will be utilized to pay for wages, supportive services, and other direct Participant costs beyond existing funding sources, enabling 20 Participants to work on or lead technology projects with Merced area businesses through December 2024.

Administration

a. **Program Administration**

The Consultant will administer the Program, including hiring personnel and procurement of vendors and subcontractors, payment for services, and the proper calculation and distribution of wages for Program Participants.

b. **Collaborative Design**

The Consultant will develop and administer a design process in which former and/or current Participants will collaborate on the design of various program features such as work readiness content, supportive services, communication strategies, and related career development content. Participants will be paid for their participation in the series of design sessions.

c. **Employer of Record**

The Consultant through an Employer-of-Record (EOR), will ensure wages are correctly calculated, recorded, and paid to Participants on a biweekly basis. All workers' compensation, payroll fees, and related costs will be properly administered and paid through the program, at no cost to the employer. All

Participants will have access to approximately one hundred eighty (180) hours of employment, plus twenty (20) hours of workforce readiness training. Wherever possible, additional hours will be made available through non-city grant programs to extend the employment opportunity.

Timeline

- a. Participant Recruitment
July 1, 2024 – December 31, 2024
- b. Employer Recruitment
July 1, 2024 – February 28, 2025
- c. Work Readiness
Sessions to occur approximately every 3 months, with each new Participant cohort.
- d. Participant Employment
July 1, 2024 – September 30, 2025

Location of Services

- a. Merced America's Job Center
1205 W 18th St, Merced CA
- b. Community Sites such as Stephen Leonard Park, Merced Hall, and other locations as determined by the City.

Adult: Budget Form

Program:	Merced Youth Jobs- Merced County	
Contract Year:	July 1, 2024 to December 31, 2025	
1. Staff Salaries and Benefits		Total Salaries (Salaries + Benefits)
Staff Salaries & Benefits		\$232,151.00
Subtotal		\$232,151.00
Budget Line Item		
2. Operating Expenses		
Technology		\$5,000
Printing		\$200.00
Office Supplies		\$2,000.00
Marketing		\$2,000.00
Youth Events		\$12,000.00
Travel/Conference		\$3,000.00
Food/Snacks		\$3,000.00
3. Participant Costs		
WEX Wages		\$560,000.00
WEX Benefits		\$79,040.00
4. Supportive Services		
Youth Supportive Services		\$29,173.00
5. Contractual Services		
ELF Fresno		\$81,250.00
Merced College Work Readiness		\$40,000.00
Employer of Record		\$121,186.00
Graphic Design		\$5,000.00
Total Budget Amount:		\$1,175,000.00