

Storm National Dislocated Worker Grants Program Work Site Agreement

THIS WORK SITE AGREEMENT (hereinafter “Agreement”) is made and entered into between the Merced County Department of Workforce Investment and City of Merced Public Works.

I. Recitals

- A. Merced County Department of Workforce Investment is the Administrator and Program Operator of the Storm National Dislocated Worker Grants (Storm NDWG) Program. The purpose of this program is to create temporary employment opportunities for dislocated workers, terminated and laid-off men and women, qualifying under the Storm National Dislocated Worker’s Grant, to assist with storm clean-up and recovery efforts.
- B. City of Merced Public Works agrees to provide Participants with the opportunity to work and enhance long term employability skills which in turn prepares them for future employment opportunities.

II. Definitions

For purposes of this Agreement, the Foundation for California Community Colleges is referred to as “Foundation” and Merced County Department of Workforce Investment is referred to as “County.” The term “Participant” shall refer to the individual performing work that is facilitated by this Agreement. The term “Work Site” shall refer to City of Merced Public Works.

III. General Provisions

- A. The term of this Agreement shall be from November 1, 2018 through September 30, 2019. Participants are authorized to work a maximum of 29 hours per week. The total hours of work for each Participant shall not exceed 522.
- B. This Agreement may be terminated by either party at any time without cause or legal excuse by providing the other party with fourteen (14) days written notice.
- C. This is a no cost agreement for Work Site. All funding for this Agreement is provided by and conditioned upon the Storm NDWG Grants.
- D. County has separately contracted with the Foundation to facilitate the Storm NDWG Program. The Foundation is the employer of record for all Participants. It is understood that no employer-employee relationship is or will be created between Work Site or County and Participant(s), and that Participant(s) shall have no claim against Work Site or County for vacation pay, sick leave, retirement or social security benefits,

occupational or non-occupational injury, disability or illness, or loss of life or income by whatever cause.

- E. The Foundation will provide the following services for all Participants: on-boarding assistance, respond to employee relations issues, provide payroll services, be the single point of contact for administrative and medical leaves of absence, be the single point of contact for worker's compensation claims, and the single point of contact for all unemployment claims. County shall not be responsible for the services provided by the Foundation.
- F. County and the Foundation's obligation to make any payments required by this agreement shall be subject to the availability of funds.
- G. If funds anticipated to be received by County are suspended or terminated in whole or in part, funding for this agreement may cease at the option of County. Acceptance of this agreement is based solely upon the allocation of anticipated revenues and the funding of the agreement is limited by the actual availability of County funding.
- H. The Work Site and County agree to the retention of all required records, as per 29 CFR 95.53, for no less than 3 years following the completion of this agreement.
- I. Written notice issued pursuant to this Agreement by either Party shall be sent by registered mail to the following:

DEPARTMENT:	WORKSITE:
Special Project Unit	City Attorney
1205 W. 18 th Street Merced, CA 95340	678 W. 18 th Street Merced, CA 95340
ATTN:	ATTN:

IV. Work Site Responsibilities and Assurances

- A. Work Site shall provide training and job duties for Participants in the following categories: weed abatement, creek clean up, debris removal, park clean-up, road repair, Use safety equipment appropriately, identify and fill potholes in city and county streets, clean and paint parks structures and bathrooms, cleaning up and removing dead or hazardous trees
- B. Work Site shall train Participant in work maturity skills and work readiness skills and in accordance with the agreed upon workplace competencies (See attachment A for

Training Outline). Work Site shall provide necessary instruction to enable the Participant to become proficient for an entry-level position.

- C. Work Site agrees to maintain accurate time and attendance records on the Participant that reflect the actual hours worked. Work Site agrees to verify, by signature, the accuracy of timesheet(s).
- D. Work Site agrees to provide Participant with work direction, work requirements and a safe location for work in accordance with Local, State and Federal laws and regulations. Work Site shall inform Participants of all work-related responsibilities, and provide sufficient training to assure that each Participant can adequately perform work-experience responsibilities.
- E. Work Site shall provide Participant with supervision, safety instructions and safety related equipment that is required and/or is reasonable to protect against injury and/or illness while working at Work Site.
- F. Work Site shall ensure that Participant is exposed to all the customary practices of Work Site and the normal requirements of the job, including Work Site's personnel practices and policies.
- G. Participant shall not be permitted to drive a Work Site vehicle, his/her own vehicle while conducting business for the Work Site or the County, or a County owned vehicle. (This includes a driving trip as simple as going to pick-up the mail, or moving the vehicle to the back lot, etc.) There are absolutely no exceptions.
- H. Work Site shall not participate in this program when an employee is on layoff from the same or substantially equivalent job to be filled by Participant, or when the Work Site has terminated an employee or otherwise reduced its work force with the Participant filling the vacancy(s). The Work Site agrees to abide by the "Maintenance of Effort" guidelines (see Attachment B).
- I. Work Site shall not participate in this program if experiencing abnormal labor conditions such as strikes, lockouts, or layoffs and the work experience Participant will dislocate or affect employment or promotional opportunities for Work Site's current or laid-off employees.
- J. Work Site shall ensure that Participant will be treated without regard to race, color, national origin, disability, sex, political affiliation, belief, or citizenship, and will

maintain an environment that prohibits sexual harassment of employees or retaliation of employees.

- K. Work Site shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Merced and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for immediate termination of this Agreement by County.
- L. Work Site agrees to comply with the requirements of Workforce Innovation and Opportunity Act ("WIOA") and with the regulations and policies promulgated by the Department of Labor, the State of California, or County.
- M. Work Site assures the no person with responsibility in the operation of any program under this agreement will discriminate with respect to any program client or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation or beliefs, or other State or Federal protected status.
- N. Work Site assures services and activities provided under this agreement will be administered by the Work Site and shall not be subcontracted without prior written authorization from County. Work Site is legally responsible for all terms of this agreement whether services and activities are subcontracted or not.
- O. Work Site assures conditions of employment are appropriate and reasonable with regards to the type of work, the geographical region and the proficiency of the Participant.
- P. The Work Site is in compliance with all applicable local, State, and Federal business licensing, taxation, and insurance requirements.
- Q. To the extent permitted by law, Work Site shall maintain the confidentiality of any information regarding the Participant or his/her immediate family, which may be obtained through application forms, interviews, reports, or any other source.
- R. Work Site agrees that no Work Site employee who supervises or trains Participant(s) will provide training for a member of his/her immediate family (defined as: wife, husband, son, daughter, step-child, mother, father, step-parent, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, grandparent or grandchild).

- S. Work Site agrees to comply with all Cal-OSHA safety rules and procedures. Work Site agrees to provide Participants with new-hire safety orientation and regular safety training and meetings in accordance with Cal-OSHA for the worksite industry. Work Site agrees to provide County a copy of their IIPP and, if deemed necessary, copies of safety plans and meetings. The IIPP must be provided to County within 30 days of employment of a participant. Work Site agrees to comply with specific job duties and prohibited equipment/duties outlined in this agreement.

V. County Responsibilities

- A. County will visit the work site intermittently, but at least on a monthly basis for the purpose of monitoring this agreement and reviewing Participant progress.
- B. County will collect timesheets from Work Site and submit them to Foundation for payroll processing.
- C. County does not provide medical benefits, vacation leave or sick leave to the participant throughout the term of this agreement.

VI. Indemnity

- A. Work Site shall indemnify, defend and hold harmless, County, its officers, employees and agents from and against any and all liability, expense including defense cost, legal fees, and claims for damages of any nature whatsoever, including but not limited to personal injury or damages arising from or related to Work Site's acts or omissions in the performance of services or provisions of this Agreement, or expense arising from or connected with services.
- B. The County shall indemnify, defend and hold harmless, Work Site, its officers, employees and agents from and against any and all liability, expense including defense cost, legal fees, and claims for damages of any nature whatsoever, including but not limited to personal injury or damages arising from or related to County's acts or omissions in the performance of services or provisions of this Agreement, including but not limited to any suits, or expense arising from or connected with services.

VII. Insurance

- A. Prior to commencement of work, Work Site shall purchase and maintain the following types of insurance for minimum limits indicated during the term of this Agreement and

provide a Certificate of Endorsement from Work Site's Insurance Carrier guaranteeing such coverage to the County. Such certificate shall be mailed directly to the County.

- i. Commercial General Liability: \$1,000,000 per occurrence covering bodily injury, personal injury and property damage.
- ii. Workers Compensation: The Foundation has separately contracted with the County to provide worker's compensation coverage for all Participants subject to this Agreement. The City of Merced Public Works will maintain statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident for City of Merced Public Works employees.
- iii. Insurance is to be primary and non-contributory with any insurance of the County and placed with admitted insurers rated by A.M. Best Co. as A:VII or higher. Lower rated, or approved but not admitted insurers, may be accepted if prior approval is given by the County's Risk Manager.
- iv. Each of the above required policies shall be endorsed to provide County with 30 days prior written notice of cancellation. County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of Work Site to furnish insurance during the term of this Agreement.

VIII. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both Parties. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

WORK SITE:

Signature of authorized representative

Printed name

Title

Date

Direct Training Supervisor / Mentor

Job Title & Phone Number

Alternate Supervisor

Job Title & Phone Number

Approved as to form and content -



COUNTY

Printed Name

Title

Date

ATTACHMENT A
TRAINING OUTLINE:

CLIENT Name: []
Total Weeks / Hours: 18 weeks
Total hours authorized per week: 29 hours
Hourly compensation: \$14
CLIENT contact person & phone number: []

Workplace competencies:

- No participant shall work without being enrolled in the program or without completing the on-boarding (right-to-work verification) process with The Foundation.
- Participants shall work no more than 24 hours per week for 18 weeks.
- All participants must receive appropriate safety training to ensure compliance with Occupational Safety and Health Act of 1970.
- Report unsafe working conditions or practices to County and The Foundation
- Train participants on using equipment effectively and efficiently prior to assigning work
- Worksite Supervisors must provide safety training and sign off Safety Acknowledgement Forms to be returned by each Participants to the County.
- Allowable activities:
 - Clean up and recovery efforts including demolition, repair, renovation and reconstruction of damaged and destroyed structures, facilities and lands located within the disaster area and in offshore areas related to the emergency or disaster victims.
 - Clean up and repair of storm damaged park grounds and bathroom; flood damaged walls and paint, dangerous tree branches, trees, and foliage.
 - Clean-up storm debris along creek bank and repaired damage caused by the storms and flooding to the parking lot and benches.
 - Repaired pothole in roadways and parking lot; Storm damaged drainage system, highway shoulders, and city streets; clear bushes and weeds alongside of roads caused by abundance of rainfall during the storms caused by the massive rainfall and flooding during the storms.
 - Shovel mud from walkways

ATTACHMENT B

MAINTENANCE OF EFFORT

Maintenance of Effort is violated by substituting Workforce Innovation and Opportunity Act (“WIOA”) funds for purposes that would otherwise have been funded by other sources.

WIOA funds are prohibited by law in the following situations:

1. **Displacement of workers**, in which regular employees are laid off so that their positions can be filled with WIOA participants.
2. **Partial displacement of workers**, in which non-over time hours of regular employees are reduced, while WIOA participants absorb the remaining workload.
3. **Impairment of contracts for service**, in which contracts for service with private business and other organizations are canceled or not renewed, while WIOA participants are hired to provide the equivalent service.
4. **Substitution for existing federally assisted jobs**, in which WIOA participants fill jobs already supported under other (non-WIOA) federal programs.
5. **Layoffs**, in which regular employees are laid off, while WIOA participants remain working in the same or equivalent positions.
6. **Rehires**, in which regular employees are laid off, then rehired with WIOA funds.
7. **Hiring freeze**, in which WIOA participants work in positions the same as or the equivalent to those which are vacant due to a hiring freeze unless the freeze resulted from lack of funds to sustain staff levels and was not established in the anticipation of availability of WIOA funds. (This applies to Proposition 13.)
8. **Reduction of customary level of service**, in which state, political subdivision, or local educational agency reduces services it customarily provides, while granting WIOA funds to a private non-profit organization to provide the same services.
9. WIOA positions created in a promotional line that infringe upon promotional opportunities for people currently in jobs not funded by WIOA.