

**BAY AREA COMMUNITY COLLEGE CONSORTIUM
STRONG WORKFORCE PROGRAM REGIONAL FUND
AGREEMENT
BETWEEN
CABRILLO COMMUNITY COLLEGE DISTRICT
and
Chabot-Las Positas CCD on behalf of Las Positas College**

This Agreement is between Cabrillo Community College District, hereinafter referred to as “Fiscal Agent,” and Chabot-Las Positas CCD on behalf of Las Positas College, hereinafter referred to as “Subrecipient”. The Fiscal Agent and Subrecipient are also referred to collectively as “Parties” and individually as “Party.” This Agreement is based on the Strong Workforce Program Regional Fund Agreement between the Fiscal Agent and the California Community Colleges Chancellor’s Office, i.e., Prime Sponsor, and is effective to cover activities beginning July 1, 2016 supported by a series of Strong Workforce Program Regional Fund Allocations (hereinafter “Allocations”) beginning with Round 1, Year 1 (7/1/16 - 12/31/18) and Round 2, Year 1 (7/1/17-12/31/19). This agreement may be extended to include additional Allocations through amendments to Exhibit B.

This agreement supersedes any previous agreements for Strong Workforce Program Regional Fund Allocations between the Fiscal Agent and the Subrecipient.

WHEREAS, the Fiscal Agent has received funds for the Strong Workforce Program Regional Consortia allocation from the California Community Colleges Chancellor’s Office (hereinafter “Sponsor”), for the purpose of implementing the program entitled Strong Workforce Program established by Education Code Sections 88820-88826 (hereinafter “Program”).

WHEREAS, the Fiscal Agent has been designated as the Regional Fiscal Agent for the Program for the Bay Area Community College Consortium (hereinafter “BACCC”) and is responsible for dispensing, monitoring and auditing sub-grants developed with each community college district within the region once spending decisions have been authorized by the CTE Regional Consortium as stipulated in Strong Workforce legislation.

WHEREAS, Fiscal Agent, Cabrillo Community College District, has the right to enter into agreements with outside entities for various services with the approval of its Board of Trustees; and

WHEREAS, the Subrecipient is a community college district, located within the boundaries of the regional consortium, and agrees to participate in the BACCC in accordance with the rules and procedures as approved by Sponsor and as stipulated in the Strong Workforce Program.

NOW, THEREFORE, the Parties agree as follows:

1. PERIOD OF PERFORMANCE

The period of performance for this Agreement shall be from July 1, 2016 through December 31, 2019 unless terminated earlier in accordance with this Subcontract or modified by mutual written agreement. Extensions to this agreement may be made through amendments to Exhibit B.

2. CERTIFIED PROJECT PROPOSALS

Subrecipient shall perform the Scopes of Work detailed using individually certified Project Proposals contained in NOVA (nova.cccco.edu). Certified Project Proposals covered by this agreement are those proposals entered on the on-line Regional Strong Workforce Program platform, NOVA, in which the Subrecipient has committed Strong Workforce Program 40% Regional funds on one or more budget line items, and which have been fully completed and formally *certified*, indicating the Subrecipient's certification that their expenditures in the project meet the intention and requirements of the Strong Workforce Program legislation. Such certified Project Proposals shall fully detail the scopes of work between Parties. By signing this Agreement, the Fiscal Agent and Subrecipient agree that the Certified Project Proposals will be binding under this Agreement without further action by the Parties.

Subrecipient agrees to make the investments and to conduct the work as described in the Certified Project Proposals submitted by or on behalf of the Subrecipient. Subrecipient agrees that funds will be used for the purpose of meeting the following goals established through the BACCC Regional Collaborative Planning Process:

- Goal A: Meet the needs of employers for well-qualified candidates for middle-skill positions that pay livable wages
- Goal B: Provide pathways that enable all Bay area residents to find employment and advance to livable wages
- Goal C: Ensure equity in participation, completion, and employment

3. TIMELY SUBMISSION AND UPDATING OF CERTIFIED PROJECT PROPOSALS

In order to ensure timely and full expenditure of funds Subrecipient shall submit and certify Project Proposals in NOVA, with budgets equal to the funds allocated to Subrecipient as shown in Exhibit B, by the deadlines established and communicated by the Chancellor's Office and BACCC. It is understood that Subrecipient's portfolio of projects and their budgets will evolve over time. Subrecipient agrees that the balance between the total budget of the Subrecipient's portfolio of Certified Project Proposals shall equal the Subrecipient's Allocation in each quarterly and annual report submitted on NOVA.

4. COLLABORATION

Where proposals involve multiple colleges, all Parties agree to work collaboratively with all other colleges specifically referenced in the Project Proposals in order to complete the Scope of Work.

5. TOTAL COSTS

The total cost for performance of this Agreement is set forth in Exhibit B.

6. BUDGET

Subrecipient agrees that expenditure of funds under the Agreement will be in accordance with the project budgets submitted by the Subrecipient in the Certified Project Proposals submitted on NOVA (nova.cccco.edu) in accordance with Section 2, which by reference are incorporated into this Agreement.

Funds are to be utilized by the Subrecipient in accordance with the terms and conditions of both this Agreement and guidance on the allowable use of funds from the California Community Colleges Chancellor's Office ([Strong Workforce Program Guidance Memos](#)).

If there is a reduction in funding by the Chancellor's Office, the Fiscal Agent reserves the right to require adjustment to the scope of work and funding of the Agreements accordingly, up to and including the end of all activities under this Agreement.

Subrecipient understands that each Allocation must be fully expended according to the schedule specified in Exhibit B. Subrecipient agrees to work with Fiscal Agent to accomplish Project revisions, transfers, and reallocations in a timely way to ensure all funds for an Allocation are fully spent or released and reallocated to another college that can fully spend the funds.

7. BUDGET MANAGEMENT

The Subrecipient will manage its budgets so that there is a clear distinction between Local Strong Workforce funds and Regional Strong Workforce Funds (which are the subject of this Agreement).

A Strong Workforce Certified Proposal's expenditures may be funded from any of the Allocations listed in Exhibit B, provided that the expenditures occur within the Allocation's eligible expenditure period. Expenditures are to be managed in a first in, first out (FIFO) manner, with any given year's Allocation being fully spent before beginning expenditures of the subsequent year's Allocation.

8. PAYMENT

The Fiscal Agent shall make payments to the Subrecipient up to the amounts listed in Exhibit B.

Fifty percent (50%) of each year's Allocation will be issued as an advance payment to Subrecipient within 45 days of full expenditure of the previous year's Allocation, except in those cases where less than twelve (12) months remain in the expenditure period of the Allocation. With the exception of the advance payment, the Fiscal Agent shall reimburse Subrecipient for the cost of the work performed through an invoicing process, up to but not exceeding the amounts listed in Exhibit B.

9. INVOICES

Invoices shall be submitted on a form provided by Fiscal Agent and must be supported by financial detail reports that itemize costs by Project. Invoices shall be submitted no more frequently than quarterly and no less frequently than after the close of each fiscal year. Invoices may be submitted at other times to accommodate large capital expenditures. Fiscal Agent may request back-up documentation for expenditures, if required to adhere to compliance terms and standards. Payment of invoices is contingent upon completion and approval by Fiscal Agent of any reports due on or before the date of the submitted invoice. Invoices should be submitted electronically to Fiscal Agent contact named in Exhibit A. Final invoices for all performance for each allocation under this Agreement are due according to the schedule specified in Exhibit B.

10. REPORTING

Subrecipient agrees to provide qualitative and quantitative progress reports and a final report according to the schedule provided by and as required by the California Community College Chancellor's Office and the Bay Area Community College Consortium. Subrecipient will be provided with thirty days notice of report due dates and any changes to the the reporting schedule

11. MODIFICATIONS

When Subrecipient wishes to substantively change the outcomes of a project, timeline, or the investments being made, Subrecipient should consult with Fiscal Agent to determine if the Project Proposal requires formal modification and approval by the Fiscal Agent.

Modifications to Project Budgets

Modifications to the budgets, as detailed in the Certified Project Proposals, are allowed without prior approval, as long as all budget items comply with the Strong Workforce Program requirements and authorized uses of funds, and the outcomes of the Projects will not be materially affected.

Transfer of Funds Between Certified Projects

For projects that are fully contained within a college and have no other participating colleges, funds may be transferred from one project to another at the discretion of the Subrecipient as long as the intended outcomes of the projects are not substantively changed. Certified Project Proposal budgets should be updated in the online NOVA system and/or through the reporting system to reflect these reallocations. Further direction will be provided on how to report these changes to the Subrecipient's Primary Contact as identified in Exhibit A.

Transfers of Funds Impacting Regional Joint Ventures

Budget transfers away from Projects that include budget commitments from multiple colleges (Regional Joint Ventures) require consultation with other colleges participating in the Joint Venture to ensure the transfer does not jeopardize the outcomes of the other colleges. Transfers of Regional Joint Venture Funds require specific written approval from the Fiscal Agent. The following process should be followed in these circumstances:

- A. The Subrecipient Primary Contact notifies the Fiscal Agent and the Project Lead for the Regional Joint Venture Project of the desired changes.
- B. Subrecipient notifies the other colleges involved in the Regional Joint Venture Project and secures agreement to the change(s) from the other colleges and/or the Project Lead.
- C. The Fiscal Agent will conduct a technical review of the requested changes to ensure compliance with the grant terms and conditions. The Subrecipient updates and certifies the Project Proposal. Exhibit B is modified to reflect the changes.

New Projects

New Projects, made possible through the reallocation of funds, should be entered into the NOVA system and certified by the Subrecipient as meeting the intention and requirements of the Strong Workforce Program legislation.

12. TIME EXTENSIONS

Subrecipient must spend the funds allocated through this Agreement within the timeframes as specified in Exhibit B.

13. CONTACTS

All invoices, supporting documentation, progress reports, and requests for modifications from the Subrecipient will be submitted online or via email to the Fiscal Agent Strong Workforce Program Project Manager.

Contact information for these Fiscal Agent and Subrecipient roles is to be provided in Exhibit A, Contacts. Contacts may be updated at [Bay Region SWP Regional Fund College Contacts](#).

Both Parties agree to notify the other, in writing, within 30 days of changes to project contacts.

14. INTELLECTUAL PROPERTY

Any work product resulting from this Agreement falls under the California Community Colleges, Chancellor's Office Creative Commons Attribution license which gives permission to the public to reproduce, distribute, perform, display or adapt the licensed materials for any purpose, so long as the user gives attribution to the author.

15. SUBCONTRACTS

The Subrecipient agrees to be as fully responsible to the Fiscal Agent for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Subrecipient. The Subrecipient's obligation to pay its subcontractors is independent from the obligation of the Fiscal Agent to make payments to the Subrecipient. As a result, the Fiscal Agent shall have no obligation to pay or enforce the payment of any monies to any subcontractor.

16. RECORDS AND AUDITS

- A. The Subrecipient must maintain records regarding the use of Program funds and progress made toward objectives and/or performance under the applicable Agreement.
- B. The Subrecipient agrees that the Fiscal Agent, 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. The Subrecipient agrees to maintain such records relevant to the expenditure of each Allocation for possible audit for a minimum of three (3) years after the final payment for that particular Allocation or until any audit findings have been resolved, unless a longer period of records retention is stipulated. The Subrecipient 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, the Subrecipient agrees to include a similar right of the Fiscal Agent, 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 or any Participation Agreement.
 - a. If any audit or other actions involving the records for a particular Allocation has been started before the expiration of that Allocation's performance period, the records must be retained for that Allocation until the completion of the action and resolution of all issues which arise from it or until the end of the three (3) year period, whichever is later.
 - b. All records must be retained throughout the project. The three (3) year period of retention for any Allocation starts on the last day of the performance period for that Allocation as stipulated in Exhibit B.

17. NOTICES

A Party to this Agreement may give notice to the other Party by sending an email and receiving acknowledgement of its receipt or through certified mail to the addresses specified in Exhibit A. Such notice shall be effective when received. Each Party has the responsibility of keeping notice contact information accurate and current. Contact information is specified in Exhibit A, Contacts.

18. TERMINATION

Either Party may terminate this Agreement, with or without cause upon sixty (60) days written notice served upon the other Party. Notice shall be deemed served on the date of mailing. Upon termination, or notice thereof, the Parties agree to cooperate with one another in the orderly transfer of contract responsibilities, records, and pertinent documents.

The obligations of Fiscal Agent under this Agreement are contingent upon the availability of State funds, as applicable, for the reimbursement of expenditures to the Subrecipient. In the event that such funding is terminated or reduced, Fiscal Agent shall provide the Subrecipient with

written notification of such determination and Fiscal Agent shall reimburse the Subrecipient for costs incurred up to the termination date. If Subrecipient has not fully spent funds advanced by the Fiscal Agent, Subrecipient agrees to return to Fiscal Agent funds unspent as of the termination date. Notice shall be deemed served on the date of receipt by the Subrecipient; with receipt determined by certified mail delivery confirmation. Upon termination, or notice thereof, the Parties agree to cooperate with one another in the orderly transfer of contract responsibilities, records, and pertinent documents.

19. DISPUTES

In the event of a dispute between the Parties, the aggrieved Party shall notify the other Party and provide a detailed description of the alleged problem. The Parties agree to use reasonable efforts to resolve such dispute by good faith negotiations and mutual agreement. In the event such informal resolution is not successful within a reasonable period of time, the Parties hereby agree that such dispute will be resolved in the manner specified below.

Except as otherwise provided in this Agreement, any dispute concerning any question arising under this Agreement shall be decided by the Fiscal Agent and/or the Prime Sponsor. In such a case, the decision shall be reduced to writing and a copy thereof shall be mailed or otherwise furnished to the Subrecipient. The decision shall be final and conclusive unless within thirty (30) calendar days from the mailing or delivery of such copy, the Fiscal Agent receives from Subrecipient a written request to appeal said decision. Pending final decision of the appeal, Subrecipient shall act in accordance with the written decision of the Fiscal Agent or the Prime Sponsor, whichever is the final arbiter of the dispute. The handling of non-criminal complaints, including discrimination complaints, and complaints and reports of criminal fraud, waste and abuse shall be as prescribed by the State of California, and/or the Prime Sponsor, whichever is applicable, in accordance with applicable provisions of the Code of Federal Regulations.

20. INDEMNIFICATION

Each Party to this Agreement agrees to defend, indemnify, and hold harmless the other Parties, their officers, agents, employees, and volunteers, from and against all loss, cost, and expense arising out of any liability or claim of liability, sustained or claimed to have been sustained, arising out of activities, or its performance or nonperformance of obligations under this Agreement, of the indemnifying Party, or those of any of its officers, agents, employees, or volunteers. The provisions of this Article do not apply to any damage or losses caused solely by the negligence or willful misconduct of the Parties seeking indemnification or any of its agents or employees.

21. INSURANCE

Acceptance of this agreement constitutes that Subrecipient is not covered under Fiscal Agent's general liability insurance and that Subrecipient agrees, during the term of this Agreement, to maintain, at the Subrecipient's sole expense, all necessary insurance for its officers, agents, and employees, including but not limited to worker's compensation (if required by law), liability, disability, and unemployment insurance. Certificates of insurance shall be provided to Fiscal

Agent. Specifically, during the term of this agreement, Subrecipient shall maintain in full force and effect the kinds of insurance, containing the limits of liability set forth below:

- A. Workers' Compensation – Subrecipient shall comply with the workers' compensation law of the state wherein the services are to be rendered. Such policy shall provide coverage for all persons engaged in the activities described in this agreement under the employ, supervision or control of Subrecipient.
- B. General Liability - The policy shall contain a combined single limit of liability of not less than \$2,000,000 per occurrence and not less than \$5,000,000 in the aggregate.
- C. Automobile Liability - If automotive vehicles are operated by Subrecipient in Subrecipients performance of Subrecipient's obligations under this agreement, Subrecipient shall maintain an automobile liability policy which shall include coverage on all owned, non-owned and hired vehicles and shall have a minimum limit of liability of not less than \$1,000,000 per occurrence.

Coverage shall be placed with an insurer having a Best's Key Rating of "A-" or better. Subrecipient shall furnish Fiscal Agent with Certificates of Insurance evidencing such coverage. Such Certificate shall name Fiscal Agent as additional insureds, and provide that it can be cancelled only with thirty (30) days prior written notice to Fiscal Agent. If any of the foregoing coverages expire, change, or are canceled, Subrecipient shall notify Fiscal Agent within thirty (30) days prior to the effective date of such expiration, change or cancellation.

The following sentence shall be included in the additional insured endorsements:

"Cabrillo Community College District, its Governing Board, as individuals and as an entity, its officers, directors, employees, and volunteers, are hereby named as additional insured, with respect to all work performed by or on behalf of the named insured under its contract with the Certificate Holder."

22. INDEPENDENT CONTRACTOR

The Subrecipient, in the performance of this Agreement, shall be and act as independent contractors and not as employees of Fiscal Agent. The Subrecipient understands and agrees that it and all of its employees shall not be considered officers, employees or agents of the Fiscal Agent, and are not entitled to benefits of any kind or nature normally provided to employees of the Fiscal Agent and/or to which Fiscal Agent's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. The Subrecipient assumes full responsibility for its acts and/or liabilities including those of its employees or agents as they relate to the services provided under this Agreement. The Subrecipients shall assume full responsibility for withholding and payment of all: federal, state, local and applicable income taxes; workers' compensation; contributions, including but not limited to, unemployment insurance and social security with respect to the Subrecipient's employees. The Fiscal Agent will not withhold taxes, unemployment insurance or social security for the Subrecipient's employees or independent subcontractors. The Subrecipient agrees to indemnify and hold the Fiscal Agent harmless from and against any and all liability arising from any failure of the Subrecipient to withhold or pay any applicable tax, unemployment insurance or social security when due.

23. ASSURANCES

By signing this Agreement the Parties certify they will comply with the terms and conditions outlined in the Strong Workforce Program established by Education Code Sections 88820-88826, and with the guidance documents provided by the California Community College Chancellor's Office as posted on the Guidance section of the Strong Workforce Program website:

<http://doingwhatmatters.cccco.edu/StrongWorkforce.aspx>

By signing this Agreement the Subrecipient certifies that it complies with state and federal requirements for Standards of Conduct, Workers' Compensation Insurance, Participation in Grant-Funded Activities, Non-Discrimination, Accessibility for Persons with Disabilities, Drug-Free Workplace Certification, Intellectual Property, and Debarment and Suspension, and will adhere to these legal standards and requirements in the performance of work related to this Agreement.

24.COMPLIANCE WITH APPLICABLE LAWS

Contractor shall be subject to and shall comply with all Federal, State and local laws and regulations applicable with respect to its performance of services under this Agreement.

25. UNENFORCEABLE PROVISION

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the Parties agree that all other provisions of this Agreement remain in full force and effect and shall not be affected thereby.

26. WAIVER

Any waiver by Fiscal Agent of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term. Failure on the part of Fiscal Agent to require full, exact, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms of this Agreement, or stopping Fiscal Agent from enforcing the terms of this Agreement.

27. SEVERABILITY

If any provision in 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 without being impaired or invalidated in any way.

28. AGREEMENT IS COMPLETE

No amendment, alteration or variation of the terms of this Agreement shall be valid unless made in writing, signed by the Parties, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the Parties.

29. SIGNATURES

By signing below, the Parties agree to the terms and conditions set forth in this Agreement, which terms and conditions, upon such signatures, shall be incorporated into and become a part of the Agreement between the Cabrillo Community College District and Chabot-Las Positas CCD on behalf of Las Positas College, and are binding upon the Parties without any further action by the Parties.

IN WITNESS WHEREOF, all Parties agree.

FISCAL AGENT
Cabrillo Community College District
Michael Robins
Director, Purchasing, Contracts & Risk
Management

SUBRECIPIENT
Chabot-Las Positas CCD
Lorenzo Legaspi
Vice Chancellor, Business Services

(signature)

(signature)

(date)

(date)