

**CONTRACT BETWEEN
WASHINGTON STATE
EMPLOYMENT SECURITY DEPARTMENT
AND
LUMA INSTITUTE, LLC**

This Contract is made and entered into by and between the Washington State Employment Security Department, hereinafter called "ESD," located at P.O. Box 9046, Olympia, WA 98507-9046, and LUMA Institute, LLC, hereinafter called "Contractor," "LUMA," or "LUMA Institute" at 444 Liberty Avenue, Suite 1600, Pittsburgh, PA 15222.

PURPOSE

It is the purpose of this Contract to purchase the proprietary LUMA Institute "Advancing Innovation through Human Centered Design" workshop, materials and coaching hours necessary to certify an additional 10 ESD participants as LUMA Human Centered Design Instructors to help complete the Human-Centered Design training of its WorkSource staff and partners, per Exhibit A, Statement of Work.

In consideration of the terms and conditions contained herein, including attached exhibits, the parties mutually agree as follows:

CONTRACT MANAGEMENT

ESD's Program Manager, or his/her successor, shall provide the Contractor the assistance and guidance necessary for the performance of this Contract. ESD's Program Manager shall be responsible for the review and acceptance of the Contractor's performance, deliverables, invoices and expenses, and accepting any reports from the Contractor.

ESD Program Manager responsible for management of this Contract is:

Name:	Keoni Fontaine
Title:	Management Analyst
Telephone/Fax Number:	360-529-7308
E-mail:	kfontaine@esd.wa.gov

Contractor staff member responsible for management of this Contract is:

Name:	Tyson Weinert
Title:	Senior Program Director
Telephone/Fax Number:	412-488-1990
E-mail:	tyson@luma-institute.com

STATEMENT OF WORK

The Contractor shall furnish the necessary personnel and services and otherwise do all things necessary for or incidental to the performance of the work set forth in Exhibit A, Statement of Work, attached hereto and incorporated herein.

TERMS AND CONDITIONS

All rights and obligations of the parties to this Contract shall be subject to and governed by the Terms and Conditions contained in the text of this Contract instrument and the General Terms and Conditions attached hereto as Exhibit B and incorporated herein.

COMMENCEMENT OF CONTRACT WORK

The provisions of Chapter 39.26 RCW require the agency to file this sole source contract with the Department of Enterprise Services (DES) for approval. The effective date of this contract is either upon DES approval of the contract or the tenth (10th) working day after it is filed with DES, whichever is later.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Contract shall start on June 27, 2017 or when signed by both parties, whichever is later, and end on March 16, 2018 unless terminated sooner as provided herein. The Department reserves the right to extend for not more than two additional periods of up to one year each.

PROJECTED SCHEDULE

The Projected Schedule for "Delivery of Human-Centered Design Training content and workshop supplies," as shown in the Statement of Work, Exhibit A, may be revised at the mutual consent of both parties.

REPORTING

The Contractor shall provide the ESD Program Manager with periodic written status reports on contract activity per Exhibit A, Statement of Work.

PAYMENT SCHEDULE

The parties have agreed that the total compensation including all expenses, fees, taxes, etc., payable to the Contractor, for satisfactorily accomplishing the work set forth in Exhibit A, Statement of Work, **will not exceed \$127,720 plus applicable taxes estimated at \$11,239.36, estimated total not to exceed \$138,959.36 .**

BILLING PROCEDURE

The Contractor shall submit invoices for services performed under this Contract on an Invoice Voucher. Invoices shall include such information as is necessary for ESD to determine the exact nature of all expenditures, identify all personnel for whom compensation is sought, and goods or services provided to and received by ESD. ESD must receive all invoices no later than 15 days after completion of the month in which services were rendered, and final invoice no later 30 days after the contract end date. Failure by the Contractor to submit the bill by the date specified above may result in non-payment. ESD shall pay the Contractor for completed and approved work within thirty (30) days of receipt of invoice.

Each invoice will clearly indicate that it is "FOR SERVICES RENDERED IN PERFORMANCE UNDER ESD CONTRACT NUMBER **K5156**." The original shall be submitted in electronic format via email to: to:

Employment Security Department
Attention: Keoni Fontaine
kfontaine@esd.wa.gov

Payment for work performed shall be made in accordance with satisfactory acceptance of each deliverable and a valid invoice.

COPYRIGHT PROVISIONS

ESD shall own, upon payment of fees incurred hereunder, all right, title and interest in all customized deliverables specified in Exhibit A (e.g. customized agendas) specifically prepared and customized by Contractor for ESD hereunder ("Deliverables"), including all intellectual property rights therein, but specifically excluding the Contractor Tools (as defined herein) and excluding the LUMA Digital Platform (which is separately licensed as set forth below).

All customized Deliverables shall, to the extent possible, be considered a work made for hire for ESD within the meaning of 17 U.S.C. § 101. Subject to ESD's payment of fees incurred hereunder, Contractor hereby assigns and agrees to assign, any right, title, or interest Contractor may have in and to the Deliverables (excluding the Contractor Tools and LUMA Digital Platform) to ESD. Upon the request of ESD, Contractor shall take such further actions, at ESD's expense, as may be reasonably appropriate or necessary to confirm such rights.

ESD acknowledges that the customized Deliverables shall contain certain generic and reusable templates, tools, processes, workshop objectives and examples, methodologies or materials

developed by Contractor which have been and/or will be used by Contractor for other customers (collectively, the "Contractor Tools"). Contractor retains title to all such Contractor Tools and grants ESD a nonexclusive, royalty-free, perpetual, license to use such Contractor Tools solely in connection with the Deliverables solely for ESD's internal business use (which includes reporting to applicable government authorities and funding sources) as such Contractor Tools are embedded in or provided with the Deliverables. If ESD or any Licensee (defined below) desire to sublicense or otherwise commercially exploit Contractor Tools, a separate written license from Contractor must be obtained for that purpose.

In recognition that Contractor may perform similar services for others, this Agreement shall not prevent Contractor from providing services or developing materials that are competitive with those developed or provided under this Agreement. Subject to the confidentiality restrictions contained in this Agreement, Contractor shall be free to use its general knowledge, skills, and experience, and any ideas, concepts, know-how and techniques used in the course of providing the services, on other engagements; and Contractor's other clients shall have the right to use materials incorporating such ideas, concepts, know-how and techniques.

All ownership of, title to, and rights to all Contractor's intellectual property that exists as of the Effective Date of this Agreement or that may be created by Contractor thereafter (excluding Deliverables as set forth above), including patent, trademark, service mark, copyright, trade secrets, tools, materials, products, and Content ("LUMA IP") will remain with Contractor. Excluding only the license set forth above with respect to Contractor Tools, ESD, including all Licensees, may not (i) copy, sell, rent, modify, lease, distribute, broadcast, or sublicense LUMA IP; (ii) save or otherwise preserve LUMA IP on computer or other technology or otherwise assign any rights to LUMA IP to any third party; (iii) remove any proprietary notice or label on LUMA IP, including any copyright, service mark, or trademark notices; (iv) encourage, assist or authorize any other person to bypass, modify, defeat, or circumvent security features that protect LUMA IP; or (v) modify or create derivative works in whole or in part with LUMA IP.

Upon ESD's payment of the fees set forth herein, Contractor will grant a nontransferable, nonexclusive, limited license to view, print, use, and display the materials on Contractor's LUMA Workplace located at www.lumaworkplace.com ("Content") as permitted in writing by Contractor for the number of licenses and the period set forth herein (including Exhibit A and Exhibit F). Each license set forth herein is one individual license which may not be shared, transferred, or otherwise assigned to more than one person ("Licensee"). Licensee may use the Content solely for his/her own use, but Licensee shall not duplicate, provide access to the Content, or provide the Content or any derivative thereof to any other person.

The Contractor shall use commercially reasonable efforts to advise the Agency, at the time of delivery of data furnished under this Contract, of all known or potential invasions of privacy contained therein. The Agency shall receive prompt written notice of each notice or claim of infringement received by the Contractor with respect to any data delivered under this Contract.

INDEMNIFICATION, INSURANCE AND BONDING

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless the state of Washington, the Agency, and all officials, agents, and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of this Contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any Subcontractor, or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any Subcontractor's performance or failure to perform this Contract. Contractor's obligation to indemnify, defend and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees or officials.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

CONTRACTOR shall, during the term of this Contract, maintain in full force and effect, the insurance described in this Section. CONTRACTOR shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. In the event of cancellation, non-renewal, revocation, or other termination of any insurance coverage required by this Contract, CONTRACTOR shall provide written notice of such to Purchaser within five Business Days of CONTRACTOR's receipt of such notice. Failure to buy and maintain the required insurance may, at Purchaser's sole option, result in this Contract's termination.

All insurance provided by CONTRACTOR shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.

Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit CONTRACTOR's liability or responsibility.

CONTRACTOR shall furnish to Purchaser copies of certificates of all required insurance within thirty (30) calendar days of this Contract's Effective Date and copies of renewal certificates of all required insurance within thirty (30) days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this Section. Failure to provide evidence of coverage may, at Purchaser's sole option, result in this Contract's termination.

By requiring insurance herein, Purchaser does not represent that coverage and limits will be adequate to protect CONTRACTOR. Such coverage and limits shall not limit CONTRACTOR's liability under the indemnities and reimbursements granted to Purchaser in this Contract.

For Professional Liability Errors and Omissions coverage and Crime Coverage, CONTRACTOR shall continue such coverage for one year beyond the expiration or termination of this Contract and providing Purchaser with certificates of insurance on an annual basis.

CONTRACTOR shall pay premiums on all insurance policies. Such insurance policies shall reference this Contract number and shall have a condition that they not be revoked by the insurer until 30 calendar days after notice of intended revocation thereof shall have been given to Purchaser by the insurer.

1. Minimum Acceptable Limits

The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

- a. Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
- b. Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, with a combined single limit of not less than \$1 million per accident;
- c. Employers Liability insurance covering the risks of CONTRACTOR's employees' bodily injury by accident or disease with limits of not less than \$500,000 per accident for bodily injury by accident and \$500,000 per employee for bodily injury by disease;
- d. Umbrella policy providing excess limits over the primary policies in an amount not less than \$3 million;
- e. Professional Liability Errors and Omissions, with a deductible not to exceed \$25,000, conditioned upon this Section, and coverage of not less than \$1 million claims;
- f. Directors and Officers insurance with limits of not less than \$2 million per occurrence/\$2 million aggregate.

ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and State Statutes and Regulations;
2. Those Terms and Conditions as contained in this basic contract instrument;
3. The General Terms and Conditions attached hereto as Exhibit B and incorporated herein;
4. The Statement of Work attached hereto as Exhibit A and incorporated herein; and
5. The LUMA Proposal Phase IV dated May 30, 2017 attached as Exhibit E; and
6. Any other provisions of this Contract whether incorporated by reference or otherwise.

USE AND DISCLOSURE OF INFORMATION

The Contractor shall use any private and confidential information provided under this Contract solely for the purpose for which the information was disclosed. The Contractor shall not misuse any private and confidential information under this Contract. The Contractor shall not disclose any private and confidential information unless the disclosure is authorized by law. The misuse or unauthorized release of private and confidential information shall subject Contractor, its employees or agents to a civil penalty of Five Thousand dollars (\$5,000) and other applicable sanctions under state and federal law.

PUBLICITY

The award of this Contract to CONTRACTOR is not in any way an endorsement of CONTRACTOR or CONTRACTOR's products by Purchaser and shall not be so construed by CONTRACTOR in any advertising or other publicity materials.

CONTRACTOR agrees to submit to Purchaser, all advertising, sales promotion, and other publicity materials relating to this Contract or any Product furnished by CONTRACTOR wherein Purchaser's name is mentioned, language is used, or Internet links are provided from which the connection of Purchaser's name therewith may, in Purchaser's judgment, be inferred or implied. CONTRACTOR further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of Purchaser prior to such use.

ELECTRONIC SIGNATURES, COUNTERPARTS, AND DELIVERY

The parties agree that this contract may be executed in counterparts or in duplicate originals, each of which is deemed an original and all of which constitute only one agreement for all purposes.

The parties also agree that electronic signature, or e-signature, of this contract shall be the same as execution of an original ink signature; and that E-mail, electronic, or facsimile delivery of a signed copy of this contract shall be the same as delivery of an original.

ALL WRITINGS CONTAINED HEREIN

This Contract sets forth in full the entire agreement of the parties in relation to the subject matter hereof. Any other agreement, representation, or understandings, verbal or otherwise, relating to the professional services of the Contractor or otherwise dealing in any manner with the subject matter of this Contract is hereby deemed to be null and void and of no force and effect whatsoever.

IN WITNESS WHEREOF, the parties have executed this Contract.

LUMA Institute, LLC

Washington State
Employment Security Department

By: _____

By: _____

Title: _____

Title: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

Attachments:

- Exhibit A** **Statement of Work**
- Exhibit B** **General Terms and Conditions**
- Exhibit C** **Certification Regarding Lobbying**
- Exhibit D** **Certification Regarding Debarment and Suspension**
- Exhibit E** **LUMA Proposal Phase IV dated May 30, 2017**

Exhibit A Statement of Work

1	LUMA Innovating Through Human Centered Design Advanced Workshop	
1.a.	<p>Provide one onsite Train the Trainer Workshop: June 28th and 29th that provides participants with the knowledge and expertise needed to teach other staff Human Centered Design methodologies and tools, facilitate training workshops and provide coaching, Innovating Through Human Centered Design” Advanced workshop to 8-10 Washington State Employment Security Department (ESD) to enable ESD’s LUMA certified Human Centered Design instructors to conduct 2-Day "LUMA Fundamentals of Innovation through Human-Centered Design" workshops.</p>	<p>LUMA Institute will provide proprietary Advancing workshop training to prepare up to 10 participants selected by ESD to become instructors. Selected participants must have completed the proprietary LUMA Fundamentals workshop prior to attending the proprietary Advanced workshop.</p> <p>Workshop includes:</p> <p>Labor related to the design and delivery of the workshop</p> <ul style="list-style-type: none"> - 2 LUMA-certified instructors in support of the workshop - All printing, procurement, shipping and handling of materials needed for the event (e.g., tools, templates, supplies), as well as the materials (e.g., supplies) themselves <p>Fee does not include:</p> <ul style="list-style-type: none"> - Fees for additional workshop participants (each additional participant above the 8, will cost \$1000 per participant)
2	LUMA Workshop-in-a-Box	
2.a.	<p>“Workshop-in-a-Box” and training materials to ensure use and sustainability of Human Centered Design Methodologies and tools across the organization.</p>	<p>LUMA will provide proprietary training materials needed to ensure the use and sustainability of Human Centered Design</p>

		<p>Methodologies and tools across the organization.</p> <p>LUMA will provide Washington State ESD LUMA Certified Instructors 10 proprietary "Workshop in a Box" at a volume discount rate of \$1,250 per box (normally \$2,000 per box) to conduct LUMA 2-day proprietary "Fundamentals of Innovation through Human-Centered Design" workshops for WorkSource staff and partners. Each box contains: proprietary Innovating for People handbooks; proprietary Innovating for People Project Planning kits; Proprietary LUMA 90 Days to Impact Practitioner Passports; proprietary workshop activity templates and supplies needed to conduct a workshop for a 25-person training cohort. .</p>
3	Subscription to LUMA Workplace	
3.a.	<p>Provide Access to On-Demand resources that support effective learning and application of Human-Centered Design.</p>	<p>LUMA will equip Washington State Employment Security Department personnel and its WorkSource partners with on-demand support for deepening their capabilities in Human-Centered Design and helping them apply it successfully in their daily activities.</p> <p>Each subscriber will have full access to LUMA proprietary Workplace, which includes:</p> <ul style="list-style-type: none"> ○ Basic instruction and quick guides for all 36 methods in

		<p>the proprietary LUMA System of Innovation</p> <ul style="list-style-type: none">○ The library of proprietary expert videos with tips from the global team of LUMA instructors and coaches○ The library of proprietary Recipes that provide detailed instructions for applying design thinking to common challenges○ Downloadable proprietary Activity Templates for each method○ Downloadable proprietary Method Slide modules to support training and facilitated sessions (Enterprise Plan only)○ Proprietary self-paced direct learning classes, which can introduce people to Human-Centered Design and basic application, and also extend the capabilities of people who have attended in person training. <p>LUMA will provide Washington State Employment Security Department and its WorkSource partners with 250 1-Year Subscriptions to proprietary LUMA Workplace, at a volume discount rate of</p>
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		<p>\$150 per subscription (normally \$250 per person per year). Washington State Employment Security Department and its WorkSource partners can activate these subscriptions in groups of 25 or more, and the 1-year term for those subscriptions will start at date of activation. Each of the subscriptions must be activated within 1 year of the execution of this agreement.</p> <p>As part of this agreement, Washington State Employment Security Department and its WorkSource partners would be able to implement Single Sign-On (SSO) to manage activation and provide direct access from Washington State Employment Security Department and WorkSource partner intranets. LUMA technical staff is available to support this onboarding and deployment.</p>
4	Coaching	
4a.	12 Virtual (monthly) Instructor Community Coaching Check-ins (3-hour sessions)	LUMA will provide facilitated virtual coaching check-in sessions for up to 20 ESD Instructors (3 hours per month for a one year period)

4b.	Four 1-day facilitated coaching sessions	LUMA will provide a 1-day onsite proprietary Instructor Community Coaching Facilitated Session for up to 20 ESD instructors. These sessions include: <ul style="list-style-type: none">- Workshop customization, which includes the creation of a customized agenda and the selection of LUMA methods to meet the unique needs of the engagement- Labor related to the planning and delivery of the workshop- Preparation and teaching time for 1 LUMA-Certified Instructor in support of the event- All shipping, printing and procurement of materials needed for the event (e.g., tools, templates, supplies), as well as the materials (e.g., supplies) themselves
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Exhibit B

GENERAL TERMS AND CONDITIONS

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GENERAL TERMS AND CONDITIONS

PART I - DEFINITIONS

As used throughout this Contract, the following terms shall have the meanings set forth below.

- A. "CLIENT" shall mean any agency, firm, organization, individual or other entity applying for or receiving services under this Contract.
- B. "CONTRACTOR" shall mean that agency, firm, organization, vendor, individual or other entity performing services under this Contract. It shall include any SUBCONTRACTOR retained by the prime contractor as permitted under the terms of this Contract.
- C. "AGENCY" shall mean the Employment Security Department of the state of Washington, any division, section, office, unit or other entity of that Agency or any of the officers or other officials lawfully representing the Agency.
- D. "MINORITY BUSINESS ENTERPRISE," "MINORITY-OWNED BUSINESS ENTERPRISE," or "MBE" shall mean a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by the Office of Minority and Women's Business Enterprises. The minority owners must be United States citizens or lawful permanent residents.
- E. "SUBCONTRACTOR" shall mean one, not in the employment of the Contractor, who is performing all or part of those services under this Contract under Contract from the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" mean SUBCONTRACT(s) in any tier.
- F. "WOMEN'S BUSINESS ENTERPRISE," "WOMEN-OWNED BUSINESS ENTERPRISE," or "WBE" shall mean a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises certified by the Office of Minority and Women's Business Enterprises. The women owners must be United States citizens or lawful permanent residents.

PART II - GENERAL CONDITIONS

A. ACCEPTANCE

It is understood and agreed by and between the Agency and the Contractor that the Contractor's payment is conditioned upon satisfactory performance and acceptance by the Agency. The Agency reserves the right to withhold payment of any deliverable contingent upon acceptance of the deliverable by the Agency. If defects preventing acceptance of a deliverable are present, the Agency shall immediately notify the Contractor in writing of the nature of the defects and the method of remedy of those defects. The Contractor will take timely action to remedy defects as to permit acceptance of the subject deliverable. Notwithstanding the other provisions of this Contract, the Agency shall not unreasonably withhold acceptance of a deliverable nor reimbursement of the Contractor.

B. ACCESS TO RECORDS AND FACILITIES / AUDITS

The Office of the State Auditor, federal grantor agency, the Comptroller General of the United States or any of their duly authorized representatives, and any persons duly authorized by the Agency shall have full access to and the right to examine and copy any or all books, records, papers, documents and other material regardless of form or type which are pertinent to the performance of this Contract, or reflect all direct and indirect costs of any nature expended in the performance of this Contract. In addition, these entities shall have the right to access, examine and inspect any site where any phase of the program is being conducted, controlled or advanced in any way. Such sites may include the home office, any branch office, or other locations of the Contractor. The Contractor shall maintain its records and accounts in such a way as to facilitate the audit and examination, and assure that Subcontractors also maintain records that are auditable. Access shall be at all reasonable times not limited to the required retention period but as long as records are retained, and at no additional cost to the Agency.

C. ADVANCE PAYMENTS PROHIBITED

No payment in advance or in anticipation of services or supplies to be provided by this Contract shall be made by the Agency. In cost reimbursement contracts, the Contractor shall be entitled only to reimbursement for expenses incurred during the contract period for work accomplished as provided elsewhere in this Contract. In fixed unit price contracts, the Contractor shall be entitled only to payment for work accomplished during the contract period and in accordance with the terms of this Contract.

D. ASSIGNMENT

The work to be provided under this Contract, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

E. ASSURANCES

The Agency and the Contractor agree that all activity pursuant to this Contract will be in accordance with all applicable current or future federal, state or local laws, rules and regulations.

If this Contract is funded by the Workforce Investment Act (WIA), the Contractor shall conduct the program in accordance with the existing or hereafter amended WIA, the U.S. Department of Labor's regulations relating to WIA, and the Washington State WIA Policies.

Assurances Under Title I of WIA

As a condition to the award of financial assistance from the Department of Labor under Title I of WIA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- a. Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship status as a lawfully admitted immigrant authorized to work in the United States, or participation in any WIA Title I – financially assisted program or activity;
- b. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
- c. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- d. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- e. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.
- f. The grant applicant also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title I – financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIA Title I – financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

F. ATTORNEY FEES AND COSTS

If any litigation is brought to enforce this Contract or any litigation arises out of any contract term, clause or provision, each party shall be responsible for its own expenses, costs and attorney fees.

G. CHANGES AND MODIFICATIONS

- a. The Agency or Contractor may, from time to time, request changes in the services to be performed, or in the project undertaken. Such changes, including any increase or decrease in the amount of payment or reimbursement, which are mutually agreed upon by and between the Agency and the Contractor shall be incorporated in written modifications to this Contract.
- b. The Contractor may make changes to the budget, without a formal modification to the contract and without securing the prior approval of the Agency, under the following conditions:
 - i. The revisions must not result in the need for additional funding.
 - ii. Such changes must not alter the scope of the Contract's Statement of Work and must not be prohibited by applicable federal or state statutes or regulations.
 - iii. No transfers are allowed from the training category or direct payments to trainees to other expense categories without a formal contract modification.
 - iv. The Contractor may vary actual expenditures within the major cost categories of the budget without securing the prior approval of the Agency when such variances do not exceed ten percent (10%) of the total costs originally budgeted in that category. Such variances may be between line items only and may not alter the total amount of money originally budgeted in the major cost category. The Contractor will send written notices of such changes to the Agency.
- c. Alteration of the terms of this Contract shall be valid only when in writing and signed by the authorized representatives of the parties.

H. COMMENCEMENT OF CONTRACT WORK

Unless specifically exempted, the state of Washington Office of Financial Management (OFM) requires that all sole source personal service contracts and amendments thereto and competitively bid personal service contracts for management consulting, organizational development, marketing, communications, employee training and employee recruiting be approved by OFM to become binding. The personal service contract and amendments thereto must be filed with OFM at least ten (10) working days prior to the effective date. No work may be performed nor any payment be rendered or obligation for future payment be incurred prior to the completion of the ten (10) working day period and approval of OFM.

I. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Agency may, in its sole discretion, by written notice to the Contractor terminate this Contract if it is found after due notice and examination by the Agency that there is a violation of the Ethics in Public Service Act, RCW 42.52, or any similar statute involving the Contractor in the procurement of, or performance under, this Contract.

In the event this Contract is terminated as provided above, the Agency shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of this Contract by the Contractor. The rights and remedies of the Agency provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Agency makes any determination under this clause shall be an issue and may be reviewed as provided in the DISPUTES clause of this Contract.

J. CONFORMANCE

If any provision of this Contract is in conflict with or violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

K. CONTRACTOR REGISTRATION

The Contractor agrees to complete registration with the Department of Revenue, Department of Labor and Industries New Account Division and Employment Security Tax Administration by having filed a master business application prior to the execution of this Contract and to pay any taxes, fees, or deposits required by the state as a condition of providing services under this Contract. Contractor will provide the Agency with its Washington Unified Business Identifier (UBI) number and its Washington Department of Revenue tax account number, and, if applicable, its Labor and Industries account number and its Unemployment Insurance tax number, if registration with these agencies occurred prior to January 2, 1987. Required information will be provided prior to the Contractor commencing services under this Contract.

L. INTENTIONALLY OMITTED

M. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agent maintained by the Contractor for the purpose of securing business. The Agency shall have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the contract price or consideration or otherwise recover by other means the full amount of such commission, percentage, brokerage or contingent fees. In no event shall the Agency be liable for any brokerage or contingent fees.

N. DEBARMENT AND SUSPENSION

The Contractor has provided, in Exhibit D to this Agreement, its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal

Assistance Programs under Executive Order 12549, and "Debarment and Suspension, codified at 29 CFR part 98.

O. *DISALLOWED COSTS*

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

P. *DISPUTES*

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties agree to participate in mediation in good faith. The mediator shall be chosen by agreement of the parties. If the parties cannot agree on a mediator, the parties shall use a mediation service that selects the mediator for the parties. Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternative resolution method such as a disputes hearing, a Dispute Resolution Board, or arbitration.

Q. *DUPLICATION OF BILLED COSTS*

The Contractor shall not bill the Agency for costs if the Contractor is being paid by another funding source for those same costs. Workforce Investment Act (WIA) costs are defined as any (1) administration, (2) direct training or (3) training related or supportive service charges.

R. *GOVERNING LAW*

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

S. *INTENTIONALLY OMITTED*

T. *INDEPENDENT CAPACITY OF CONTRACTOR*

The parties intend that an independent Contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Agency. The Contractor will not hold himself/herself out as, nor claim to be an officer or employee of, the Agency or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

U. *INFORMATION TECHNOLOGY RESOURCES*

All WorkSource partners, customers and WIA service providers are required to conserve and protect state resources for the benefit of the public interest. This requirement is necessary to maintain public trust, conserve public resources and protect the integrity of

state information resources and systems. Active compliance with this requirement will limit risk and liability for WorkSource partners and customers, as well as individual employees.

All WorkSource partners, customers and WIA service providers must conform to WIA Policy #3460 and ESD Policy and Procedure #2016, each of which is hereby incorporated by reference when using ESD-provided state-owned information technology resources.

V. INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Agency may collect from the Contractor the full amount payable to the Industrial Insurance accident fund.

The Agency may:

- a. Deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by Agency under this Contract; and
- b. Transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services.

This provision does not waive any of L&I's right to collect from the Contractor.

W. LICENSING AND ACCREDITATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements/standards, necessary for the performance of this Contract.

X. LIMITATION OF SIGNATURE AUTHORITY

Only the Commissioner or Commissioner's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Contract is not effective or binding unless made in writing and signed by the Commissioner or Commissioner's delegate.

Y. LOBBYING ACTIVITIES

The Contractor has provided, in Exhibit C to this Agreement, its certification that it is in compliance with the requirements of 29 CFR Part 93, restricting lobbying activities. The Contractor shall also make available upon request required disclosure information if the Contractor participates in lobbying activities during the Contract period.

Z. MAINTENANCE OF EFFORT

The Contractor shall ensure the following:

- a. That funds for training programs do not impair existing contracts for services, or result in the substitution of Federal funds for other funds in connection with work to be performed, including services normally provided by temporary, part-time or seasonal workers, or through subcontracting such services; and
- b. That funds for training programs result in an increase in employment and training opportunities over those which would otherwise be available.

AA. NONDISCRIMINATION

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity funded in whole or in part by this Contract on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity.

The Contractor shall comply with the nondiscrimination and equal opportunity laws described in Section 188 of WIA of 1998, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972; and the Americans with Disabilities Act of 1990.

The Contractor must not discriminate in any of the following areas:

- a. Deciding who will be admitted, or have access, to any WIA Title I - financially assisted program or activity;
- b. Providing opportunities in, or treating any person in regard to, such a program or activity; or
- c. Making employment decision in the administration of, or in connection with, such a program or activity.

The Contractor also ensures that it will comply with 29 CFR, Part 37; including the Methods of Administration (MOA) developed by the state of Washington Employment Security Department and any WIA policies and procedures issued.

The Contractor shall promptly notify the State Equal Opportunity (EO) Officer at the Employment Security Department of any administrative enforcement actions or lawsuits filed against it alleging discrimination on the grounds of race, color, religion, sex, national origin, age, disability, or political affiliation or belief; and against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity. The State EO Officer will notify the Director, Civil Rights Center (CRC), Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

The Contractor shall post the attached "Equal Opportunity is the Law" notice prominently in reasonable numbers and places; shall disseminate the notice in internal memoranda, other written or electronic communications; shall include the notice in handbooks or manuals; make the notice available during orientations and to each participant. A signed copy of the notice will also be made a part of the participant's file. All medical information and/or information regarding a participant's disability must be kept confidential and maintained in a file that is separate from the participant's file.

The Contractor shall include the following Equal Opportunity tagline in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe WIA Title I financially assisted programs or activities:

"CONTRACTOR is an equal opportunity employer and provider of employment and training services. Auxiliary aids and services are available upon request to persons with disabilities."

In the event that one of the parties hereto refuses to comply with the above provision, the TERMINATION, SUSPENSION AND REMEDIES clause (Section NN) may be utilized.

BB. PATENT RIGHTS

The Agency retains the entire right, title and interest to each invention developed during the performance of Contract services. The Agency shall receive prompt, written notice of each notice or claim of patent infringement received by the Contractor with respect to patents developed during its performance of Contract services.

CC. PELL GRANTS

If this Contract is WIA funded and involves participant training at institutions that are certified to participate in student financial aid, as appropriate the Contractor shall incorporate the use of Pell Grants to offset the costs of training, such as tuition, books, supplies, transportation, child care, miscellaneous expenses, and/or special costs for disabled participants.

DD. PRICE WARRANT

The Contractor warrants that the cost charged for services under the terms of this Contract are not in excess of those charged any other client for the same services performed by the same individuals.

EE. RECORD RETENTION

Contractor shall retain all books, records, documents and other material which reflect all direct and indirect costs of any nature expended in the performance of this Contract, including participant data for a period of three years after final payment under this Contract if WIA funded, or six years from termination of the Contract if non-WIA funded. Records

shall be retained beyond the above referenced retention periods if litigation or audit is begun prior to the end of the period referenced above, or if a claim is instituted prior to the end of the period referenced above involving the Contract covered by the records. In these instances, the records will be retained until the litigation, claim or audit has been finally resolved.

Records regarding discrimination complaints under WIA and actions taken thereunder shall be maintained for a period of not less than three years from the date of resolution of the complaint.

FF. SAFEGUARDING OF CLIENT INFORMATION

The use or disclosure by any party of any information concerning a program recipient or client for any purpose not directly connected with the administration of the Agency's or the Contractor's responsibilities with respect to contracted services provided under this Contract is prohibited except by written consent of the recipient or client, his/her attorney or his/her legally authorized representative.

The Contractor shall use any private and confidential information provided under this Contract solely for the purpose for which the information was disclosed. The Contractor shall not disclose or misuse any private and confidential information under this Contract unless the disclosure is authorized by law. The misuse or unauthorized release of private and confidential information shall subject contractor, its employees or agents to a civil penalty of \$5,000 and other applicable sanctions under state and federal law (50.13 RCW).

GG. SALARY AND BONUS LIMITATIONS (NOT APPLICABLE TO VENDORS)

In compliance with Public Law 109-234, none of the funds appropriated in Public Law 109-149 or prior Acts under the heading 'Employment and Training' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109-149. This limitation shall not apply to vendors providing goods and services as defined in OMB 2 CFR 200. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from sub-recipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs. See Department of Labor Training and Employment Guidance Letter (TEGL) 5-06 for further clarification.

The incurrence of costs and receiving reimbursement for these costs under this award certifies that your organization has read the above special condition and is in compliance.

HH. SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Contract.

II. SINGLE AUDIT ACT REQUIREMENTS

JJ. INTENTIONALLY OMITTED

KK. SITE SECURITY

While on Agency premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

LL. SMALL, MINORITY, AND WOMEN-OWNED BUSINESS ENTERPRISES

The Contractor shall provide to qualified small, minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Contract.

MM. SUBCONTRACTING

The Contractor shall not subcontract work or services contemplated under this Contract and/or use an outside consultant, except as provided for in the Statement of Work, without obtaining the prior written approval of the Agency for the authority to enter into subcontracts. Contractor acknowledges that such approval for any subcontract does not relieve the Contractor of its obligations to perform hereunder. The Agency retains the authority to review and approve or disapprove all subcontracts. At the Agency's request, the Contractor will forward copies of subcontracts and fiscal, programmatic and other material pertaining to any and all subcontracts.

For any proposed Subcontractor the Contractor shall:

- a. Be responsible for Subcontractor compliance with these General Terms and Conditions and the subcontract terms and conditions; and
- b. Ensure that the Subcontractor follows the Agency's reporting formats and procedures as specified by the Agency.

NN. TAXES

It is mutually agreed and understood that all payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor staff be the sole liability of the Contractor.

OO. TERMINATION, SUSPENSION AND REMEDIES

- a. Termination or Suspension for Cause

In the event the Agency determines the Contractor has failed to comply with the conditions of this Contract in a timely manner, the Agency has the right to suspend or terminate this Contract. Before suspending or terminating this Contract, the Agency may, at its sole discretion, notify the Contractor in writing of the need to take corrective action. If corrective action is not taken the Contract may be terminated or suspended. In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising, and staff time.

The Agency reserves the right to suspend all or part of this Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the Agency to terminate this Contract. A termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the Agency provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

The Agency reserves the right to immediately suspend all, or part of, this Contract, and to withhold further payments, or to prohibit the Contractor from incurring additional obligations of funds when it has reason to believe that fraud, abuse, malfeasance, misfeasance or nonfeasance has occurred on the part of the Contractor under this Contract.

b. Termination for Funding Reasons

The Agency may unilaterally terminate this Contract in the event that funding from federal, state or other sources becomes no longer available to the Agency or is not allocated for the purpose of meeting the Agency's obligation hereunder. In the event funding is limited in any way, this Contract is subject to re-negotiation under any new funding limitations and conditions. Such action is effective upon receipt of written notification by the Contractor.

c. Termination or Suspension for Convenience

Except as otherwise provided in this Contract, the Agency may, by ten (10) days' written notice, beginning on the second day after mailing, suspend or terminate this Contract, in whole or in part. If this Contract is so suspended or terminated, the Agency shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of suspension or termination. If this Contract is suspended, the Schedule shall be delayed for a period of time equal to the period of such suspension. The Agency may, by ten (10) days' written notice, beginning on the second day after mailing, lift the suspension

of the Contract, in whole or in part, at which time the Schedule and the parties' right and obligations shall resume to the extent that the suspension is lifted.

d. Termination for Withdrawal of Authority

In the event that Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, Purchaser may terminate this Contract by seven calendar days or other appropriate time period by written notice to CONTRACTOR. No penalty shall accrue to Purchaser in the event this Section shall be exercised. This Section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar Services from a third party.

PP. TERMINATION PROCEDURE

Upon termination of this Contract, the Agency, in addition to any other rights provided in this Contract, may require the Contractor to deliver to the Agency any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the TREATMENT OF ASSETS clause shall apply in such property transfer.

The Agency shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the Agency and the amount agreed upon by the Contractor and the Agency for (1) completed work and service(s) for which no separate price is stated; (2) partially completed work and services; (3) other property or services which are accepted by the Agency; and (4) the protection and preservation of property, unless the termination is for default, in which case the Agency shall determine the extent of liability of the Agency. Failure to agree with such determination shall be a dispute within the meaning of the DISPUTES clause of this Contract. The Agency may withhold from any amounts due to the Contractor such sum as the Agency determines to be necessary to protect the Agency against potential loss or liability.

The rights and remedies of the Agency provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a notice of termination and except as otherwise directed by the Agency, the Contractor shall:

- a. Stop work under this Contract on the date, and to the extent specified, in the notice;
- b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of work under this Contract as is not terminated;
- c. Assign to the Agency, in the manner, at the times, and to the extent directed by the Agency, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Agency has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Agency to the extent the Agency may require, which approval or ratification shall be final for all purposes of this clause;
- e. Transfer title to the Agency and deliver in the manner, at the times, and to the extent directed by the Agency any property which, if the Contract had been completed, would have been required to be furnished to the Agency;
- f. Complete performance of such part of the work as shall not have been terminated by the Agency; and
- g. Take such action as may be necessary, or as the Agency may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Agency has or may acquire an interest.

QQ. TREATMENT OF ASSETS

- a. Title to all property furnished by the Agency shall remain in the Agency. Title to all property purchased by the Contractor the cost of which the Contractor has been reimbursed as a direct item of cost under this Contract, shall pass to and vest in the Agency upon delivery of such property by the Contractor. The title shall only pass to the Contractor if the Agency specifically agrees to grant title in this Contract for asset(s) purchased.
- b. Any property of the Agency furnished to the Contractor shall, unless otherwise provided herein, or approved by the Program Manager in writing, be used only for the performance of this Contract.
- c. Property will be returned to the Agency in like condition to that in which it was furnished to the Contractor, normal wear and tear excepted. The Contractor shall be responsible for any loss or damage to property of the Agency in the possession of the Contractor which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain said property in accordance with sound management practices.
- d. If any Agency property is damaged or destroyed, the Contractor shall notify the Agency and shall take all reasonable steps to protect that property from further damage.
- e. The Contractor shall surrender to the Agency all property of the Agency upon completion, termination or cancellation of this Contract.
- f. All reference to the Contractor under this clause shall include any employees, agents or Subcontractors.

RR. USE OF NAME PROHIBITED

The Contractor shall not in any way contract on behalf of or in the name of the Agency. Nor shall the Contractor release any informational pamphlets, notices, press releases, research

reports, or similar public notices concerning this project without obtaining the prior written approval of the Agency.

SS. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing signed by authorized representative of the Agency.

TT. ENERGY POLICY AND CONSERVATION ACT

The Contractor shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163, 89 Stat. 871).

UU. CLEAN AIR ACT

The Contractor shall comply with all applicable standards. Orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

VV. DAVIS-BACON ACT

The Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by Grantees and sub-grantees when required by Federal grant program legislation.

WW. COPELAND ANTI-KICKBACK ACT

The Contractor shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair).

XX. WAGES AND HOURS

The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers.)



**STATE OF WASHINGTON
EMPLOYMENT SECURITY DEPARTMENT
PO Box 9046, Olympia, WA 98507-9046**

EQUAL OPPORTUNITY IS THE LAW

29 CFR Part 37.30

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases:

Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and

Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

If you think that you have been subjected to discrimination under a WIA Title I-financially assisted program or activity, you may file a complaint within one hundred eighty (180) days from the date of the alleged violation with either: the recipient's Equal Opportunity Officer (or person whom the recipient has designated for this purpose); or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until ninety (90) days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within ninety (90) days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within thirty (30) days of the ninety- (90-) day deadline (in other words, within one hundred twenty (120) days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within thirty (30) days of the date on which you received the Notice of Final Action.

Exhibit C Certification Regarding Lobbying

APPENDIX A TO TITLE 29, PART 93 - CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned (i.e., the Contractor signatory) certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Contractor acknowledges that this certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, that submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., and that any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Exhibit D Certification Regarding Debarment and Suspension

APPENDIX A TO TITLE 29, PART 98 - CERTIFICATION REGARDING DEBARMENT AND SUSPENSION - *Certification for Contracts, Grants, Loans, and Cooperative Agreements*

1. The undersigned (i.e., the Contractor signatory) certifies, to the best of his or her knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(B) of this certification; and,
 - D. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation of this proposal (or plan).

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Proposal to Washington State Employment Security Department

Phase IV: Continued Learning Program through an Advancing Workshop, Coaching, Digital Platform and Program Support

Supporting Innovation through Human-Centered Design

LUMA INSTITUTE™

Prepared: May 30, 2017

1. Overview

This proposal describes LUMA Institute's efforts to support the Washington State Employment Security Department through the statement of work as described within this Corporate Agreement for Services proposal.

2. Goals & Objectives

The goals and objectives of the enclosed engagements are to support the Washington State Employment Security Department's request for the following training events and activities:

1. Conduct one (1) 2-Day "Innovation through Human-Centered Design" Advanced Workshop, for up to 8 people, June 28-29, 2017 at Employment Security Department offices in Olympia, WA.
2. Complete twelve (12) three-hour check-ins with a LUMA Instructor each month (delivered remotely) for a 1-Year period, enabling newly qualified instructors to receive additional coaching and deepen their competence over time by practicing and applying the LUMA System of Innovating for People within their daily work and instructional duties.
3. Conduct four (4) 1-Day Facilitated Coaching Sessions, whereby LUMA-Certified instructors support a full day of instruction, guidance, and support for a community of practice within Washington State Employment Security Department and its selected partnering organizations.
4. Furnish ten (10) Workshop Materials Kits complete with the desired training materials to ensure use and sustainability of Human-Centered Design methodologies and tool across the organization.
5. Provide two-hundred and fifty (250) licenses to LUMA Workplace and its associated on-demand resources that support effective learning and the continued application of Human-Centered Design.

3. Process

Two (2) experienced LUMA-Certified Instructors will be committed to preparing for and delivering the Advanced Workshop; while one (1) experienced LUMA-Certified Instructor will fulfill the coaching and facilitated sessions, as described above.

Agreement

Agreement made this 30th day of May 2017 by and between LUMA Institute, LLC, ("LUMA"), a Pennsylvania corporation located at Four Gateway Center 444 Liberty Avenue, Suite 1600, Pittsburgh, PA 15222, United States, and the Employment Security Department ("Client"), with offices at 212 Maple Park Ave SE, Olympia, WA 98501.

WHEREAS, Client desires to engage LUMA to perform services set forth herein in accordance with the terms and conditions of this Agreement; and WHEREAS, LUMA desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and intending to be legally bound hereby, the parties agree as follows:

1. Scope of Work. LUMA shall provide to Client those services as set forth in the Goals & Objectives and Fee and Schedule Estimate within the timeframe of not longer than 90 days from the signing of this agreement.
2. Compensation. In consideration of services performed, Client shall pay to LUMA the fees set forth in Fee and Schedule Estimate. The fees are exclusive of taxes and Client shall pay any taxes, other than taxes based upon the income of LUMA, applicable to the services.
3. Originality/Professional Skill. LUMA warrants that the individual assigned to perform services under this Agreement shall have the proper skill, training and background so as to be able to perform in a competent and professional manner.
4. Non-Exclusivity. Client acknowledges that LUMA provides services to a broad range of other clients and agrees that this Agreement shall not be construed as precluding or limiting in any way the right of LUMA to work or serve for other clients.
5. Subscription Services. Upon Client's payment of the fee outlined in the Fee and Schedule Estimate, LUMA will grant a nontransferable, nonexclusive, limited license to view, print, use, and display the materials on LUMA's Digital Platform located at www.lumaworkplace.com ("Content") as permitted in writing by LUMA for the number of licenses and the period set forth in the Fee and Schedule Estimate. Each license set forth in the Fee and Schedule Estimate is one individual license which may not be shared, transferred, or otherwise assigned to more than one person ("Licensee"). Licensee may use the Content solely for his/her own use, but Licensee shall not duplicate, provide access to the Content, or provide the Content or any derivative thereof to any other person.
6. Intellectual Property. All ownership of, title to, and rights to all LUMA's intellectual property that exists as of the Effective Date of this Agreement or that may be created by LUMA thereafter without using Client IP or Confidential Information, including patent, trademark, service mark, copyright, trade secrets, tools, materials, products, and Content ("LUMA IP") will remain with LUMA. Client, including all Licensees, may not (i) copy, sell, rent, modify, lease, distribute, broadcast, or sublicense LUMA IP; (ii) save or otherwise preserve LUMA IP on computer or other technology or otherwise assign any rights to LUMA IP to any third party; (iii) remove any proprietary notice or label on LUMA IP, including any copyright, service mark, or

trademark notices; (iv) encourage, assist or authorize any other person to bypass, modify, defeat, or circumvent security features that protect LUMA IP; or (v) modify or create derivative works in whole or in part with LUMA IP. If Client or any Licensee desire to sublicense or otherwise commercially exploit LUMA IP, a separate written license from LUMA must be obtained for that purpose.

7. Limited License. If any LUMA IP is included or part of any Service distributed to participants in a training, workshop, innovation, or other session provided under this Agreement, LUMA grants and covenants that in the future that it will grant to the participants an irrevocable, non-exclusive, limited, paid-up, worldwide license to use such LUMA IP solely for the participants' personal use. LUMA IP incorporated therein shall not be used independently from the services or to perform or develop competing trainings or workshops. This limited license will be granted only upon the receipt of payment due under the applicable Fee and Estimate Schedule.

8. Publicity. Client grants permission for LUMA to include Client by name on its list of clients.

9. Representations and Warranties. LUMA MAKES NO WARRANTIES OR REPRESENTATIONS TO CLIENT OF ANY KIND, EXPRESSED OR IMPLIED, WITH RESPECT TO THE SERVICES. LUMA DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATION THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES OR THE RESULTS OF THE USE OF THE SERVICES WILL BE CORRECT, ACCURATE, OR RELIABLE. LUMA EXPRESSLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SERVICES.

10. Limitation of Liability. OTHER THAN FOR A BREACH BY CLIENT OF THE LICENSE TERMS HEREUNDER, NEITHER PARTY SHALL BE LIABLE FOR ANY LOST REVENUE, LOST PROFITS, OR OTHER INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF ANY BREACH OF THIS AGREEMENT OR FAILURE TO PERFORM ITS OBLIGATIONS HEREUNDER. UNDER NO CIRCUMSTANCES SHALL LUMA'S LIABILITY EXCEED, IN THE AGGREGATE, THE FEES PAID TO LUMA HEREUNDER DURING THE TWELVE-MONTH PERIOD ENDING ON THE DATE THAT A CLAIM OR DEMAND IS FIRST MADE.

11. Independent Contractor. LUMA and LUMA's employees are and shall remain independent contractors with respect to services performed pursuant to this Agreement. LUMA and LUMA's employees shall not be considered employees or agents of Client, shall have no authority to bind or make commitments on behalf of Client and shall not hold themselves out as having such authority. LUMA assumes full responsibility for the actions of LUMA and LUMA's

employees while performing services pursuant to this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), worker's compensation, disability benefits and the like.

12. Cancellation. Client may cancel a workshop and will not incur any cancellation fees as long as it provides LUMA with thirty-one (31) calendar days' advance notice of such cancellation. In the event that Client cancels a workshop less than 7 calendar days from the start date of such workshop, Client will incur a cancellation fee of one-hundred percent (100%) of the workshop fee. In the event that Client cancels a workshop between 8-14 calendar days from the start date of such workshop, Client will incur a cancellation fee of seventy-five percent (75%) of the workshop fee. In the event that Client cancels a workshop between 15-30 calendar days from the start date of such workshop, Client will incur a cancellation fee of fifty percent (50%) of the workshop fee. In the event of any cancellation, regardless of the notice, Client shall reimburse LUMA for all nonrefundable airfare and other nonrefundable expenses incurred up to the date of cancellation in connection with workshop.

13. Governing Law. This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with the internal laws of the Commonwealth of Pennsylvania, without regard to principles of conflicts of laws. The parties agree that the state and federal courts sitting in Pittsburgh, Pennsylvania shall have exclusive jurisdiction and venue over any claims or disputes arising from or related to this Agreement.

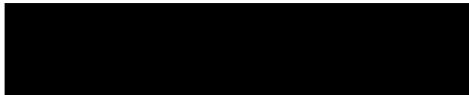
14. Entire Agreement. This Agreement, and the Appendices appended hereto, which are hereby incorporated by reference, set forth and constitute the entire agreement between the parties with respect to the subject matter hereof, and supersede all prior agreements and understandings between the parties with respect to the subject matter hereof, and supersede all prior agreements and understandings between the parties. This Agreement may not be released, discharged, amended, or modified in any manner except by an instrument in writing signed by each of the parties.

15. Order of Precedence. Each Fee and Estimate Schedule shall be governed by the terms of this Agreement and the terms set forth in the Fee and Estimate Schedule. In the event of any conflict or inconsistency between the provisions of this Agreement, any Fee and Estimate Schedule, or a pre-printed form such as a Purchase Order, the same shall be resolved by giving precedence to this Agreement unless the Fee and Estimate Schedule expressly states that the Fee and Estimate Schedule is to be given precedence over the Agreement.

16. Severability. If any provision of this Agreement is or becomes or is deemed invalid, illegal, or unenforceable in any jurisdiction, such provision shall be deemed amended to conform to applicable laws so as to be valid and enforceable, or, if it cannot be so amended without materially altering the intention of the parties hereto, it shall be stricken, and the remainder of this Agreement shall remain in full force and effect.

17. Notices. Any and all written notices, communications and deliveries between the parties shall be sufficiently made on the date of mailing if sent by registered mail to the respective address of the other party, subject to change upon written notice, as follows:

In the case of LUMA:



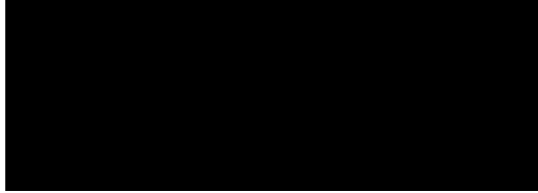
LUMA Institute, LLC
Four Gateway Center
444 Liberty Avenue
Suite 1600
Pittsburgh, PA 15222

In the case of Client:

Kelly Lindseth
EC Director
Washington State Employment Security Department
212 Maple Park Ave SE
Olympia, WA 98501

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized agents as of the date first written above.

LUMA INSTITUTE, LLC



Title: Executive Director, Business Growth

Washington State Employment Security Department

By: _____

Printed Name: Kelly Lindseth

Title: EC Director, Employment Security Department

Fee and Schedule Estimate

Advanced Workshop

Fee includes:

- Admission of up to 8 participants to one (1) 2-Day "Innovation through Human-Centered Design" Advanced Workshop
- Labor related to the design and delivery of the workshop
- Preparation, travel, and teaching time for 2 LUMA-certified instructors in support of the workshop
- All printing, procurement, shipping and handling of materials needed for the event (e.g., tools, templates, supplies), as well as the materials (e.g., supplies) themselves
- Travel-related expenses (hotel, airfare, rental car, meals, airport parking, etc.) incurred in support of delivering the event

Fee does not include:

- Fees for additional workshop participants (each additional participant above the 8, will cost [REDACTED])

Coaching Hours

Fee includes:

- Admission of up to 20 participants to monthly virtual Instructor Community Coaching Check-ins (3 hours per month for a one year period)

1-Day Facilitated Coaching Sessions

Fee includes:

- Admission of up to 20 participants to a 1-day Instructor Community Coaching Facilitated Session
- Workshop customization, which includes the creation of a customized agenda and the selection of LUMA methods to meet the unique needs of the engagement
- Labor related to the planning and delivery of the workshop
- Preparation, travel and teaching time for 1 LUMA-Certified Instructor in support of the event
- All shipping, printing and procurement of materials needed for the event (e.g., tools, templates, supplies), as well as the materials (e.g., supplies) themselves
- Travel-related expenses (hotel, airfare, rental car, meals, airport parking, etc.) incurred in support of delivering the event

Workshop Materials Kits

Fee includes:

- LUMA will provide proprietary training materials needed to ensure the use and sustainability of Human Centered Design Methodologies and tools across the organization.
- LUMA will provide Washington State Employment Security Department and WorkSource Partners who are qualified as LUMA-Certified Instructors 10 proprietary "Workshop Materials Kits" at a reduced rate of [REDACTED] to conduct LUMA 2-day

“Fundamentals of Innovation through Human-Centered Design” workshops for WorkSource staff and partners.

- Each box contains LUMA Institute’s proprietary materials:
 - o Innovating for People handbooks
 - o Handouts and exercise sheets
 - o Proprietary and customized worksheets, templates, posters
 - o 90 Days to Impact materials and Project Planning materials kits
 - o Customized sets of general supplies and materials tailored for LUMA training workshops for 25-person training cohorts

LUMA Workplace Subscriptions

The Subscription Services Fee includes:

- Two hundred and fifty (250) Licenses for one (1) year individual subscriptions to the Content within the LUMAWorkplace™ located at LUMAWorkplace.com.

LUMA will invoice 100% of its fees upon signing. All invoices are payable within 30 days of receipt. Client is responsible for any applicable taxes. Outstanding balances will be subject to a 1.5% per month finance charge (or the highest rate allowed by law, whichever is lower).

Qty	Description	Event Location	Dates event to be performed	Max No. of Participants	Total Cost
1	2-Day “Innovation through Human-Centered Design” Advanced Workshop	Olympia, WA	June 28-29, 2017		
12	Instructor Community Coaching Check-ins (3-hour sessions)	Virtual	July 2017 – June 2018		
4	1-Day Facilitated Coaching Sessions	TBD (selected locations within the state of WA)	July 2017 – June 2018		
10	Workshop Materials Kits	As requested for desired locations within the state of WA	July 2017 – June 2018		
250	LUMA Workplace™ Subscriptions	Virtual	1-year subscription once activated between July 2017 – June 2018		
Total Fees					
Due upon signing					