



FOUNDATION *for* CALIFORNIA
COMMUNITY COLLEGES

FRESH SUCCESS EMPLOYMENT & TRAINING ACTIVITIES SUB-AWARD AGREEMENT

Contracting Agency:	FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES (FCCC), a California nonprofit 501(c)(3) corporation
Contractor Name:	Chabot-Las Positas Community College District (SUB-AWARDEE)
Contractor Tax ID Number:	94-1670563
Agreement No.:	00006191
CFDA Number:	10.561
CFDA Program Title:	State Administrative Matching Grants for the Supplemental Nutrition Assistance Program
Contract Term:	October 1, 2022 – September 30, 2023 (Term)

EXHIBITS

This Agreement includes the following Exhibits, which are attached hereto and are hereby incorporated by reference:

EXHIBIT A: Payment Provisions

EXHIBIT B: Confidentiality and Information Security Requirements, as amended

EXHIBIT C: Fresh Success Budget and Budget Narrative for Federal Fiscal Year (FFY) 2023

EXHIBIT D: Fresh Success Provider Employment and Training (E&T) Plan for FFY 2023, as amended

EXHIBIT E: Fresh Success Provider Invoice, as amended

EXHIBIT F: Fresh Success Handbook, as amended

SIGNATURES

The individuals signing below have the authority to enter into and agree to all of the terms, requirements, and conditions set forth in this Agreement and commit their respective organizations to comply with them.

FCCC Authorized Signature

Signature: _____ Date: _____

Name: Joseph Quintana Title: Chief Operating Officer

Signature: _____ Date: _____

Name: Tim Aldinger Title: Executive Director, Workforce Development

SUB-AWARDEE Authorized Signature:

Signature: _____ Date: _____

Name: Jonah Nicolas Title: Vice Chancellor, Business Services

PRIMARY CONTACTS FOR CONTRACT

SUB-AWARDEE Responsible Administrator (*Appropriate Program Area*):

Name: Matt Kritscher
Title: Vice President, Student Services
Email: mkritscher@chabotcollege.edu
Phone: (510) 723-6744
Address: 25555 Hesperian Blvd. Hayward, CA 94545

SUB-AWARDEE Fresh Success Director/Coordinator:

Name: Elsa Saenz
Title: Coordinator
Email: esaenz@chabotcollege.edu
Phone: 510-723-6745
Address: 25555 Hesperian Blvd. Hayward, CA 94545

SUB-AWARDEE Chief Business Officer

Name: Dale Wagoner
Title: Vice President, Administrative Services
Email: dwagoner@chabotcollege.edu
Phone: (510) 723-6618
Address: 25555 Hesperian Blvd. Hayward, CA 94545

FCCC Fresh Success Director

Name: Tim Aldinger
Title: Executive Director of Workforce Development
Email: taldinger@foundationccc.org
Phone: (916) 491.4499
Address: 1102 Q Street, Suite 4800, Sacramento, CA 95811

FCCC Contracts

Contracts Department
contracts@foundationccc.org
Address: 1102 Q Street, Suite 4800, Sacramento, CA 95811

1. FUNDING BACKGROUND & AVAILABILITY

This Contract Agreement (Agreement) is for the purpose of providing funding, fiscal management, and accountability for the CalFresh Employment & Training project (Fresh Success) operated by the SUB-AWARDEE. This Agreement is made in order to facilitate an agreement between FCCC and California Department of Social Services (CDSS). Nothing contained in this Agreement or otherwise shall create any direct contractual relationship between CDSS and SUB-AWARDEE. All references to the Federal Fiscal Year (FFY) in this Agreement refer to the time period of October 1st of the prior calendar year through September 30th.

FCCC receives funding for Fresh Success from an agreement with CDSS. FCCC may provide centralized fiscal and administrative services to organizations with CalFresh E&T funding as set forth in this Agreement.

CDSS has responsibility for implementation and oversight of the State Supplemental Nutrition Assistance Program (SNAP) Employment & Training Plan under the program and funding guidelines of the United States Department of Agriculture, Food and Nutrition Service (USDA FNS).

- 1.01 It is mutually understood and agreed between the parties that this Agreement may have been written before the appropriation of federal, state, and/or local funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- 1.02 It is mutually understood and agreed that this Agreement is valid and enforceable only if sufficient funds are made available to FCCC by CDSS for the applicable fiscal year for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by CDSS that may affect the provisions, term, or funding of this Agreement in any manner.
- 1.03 SUB-AWARDEE shall inform any subcontractors that any work performed prior to approval of the state or federal budget, as applicable, will be rendered on a voluntary basis, and shall not be compensated unless and until funding is authorized.
- 1.04 In addition, this Agreement is subject to any additional restrictions, funding restrictions, limitations, or conditions enacted in the state or federal budget, any amendments thereto, or in the laws and Executive Orders that may affect the provisions, terms, or funding of this Agreement in any matter.
- 1.05 In the event that federal, state, and/or local funds are sufficiently appropriated, but CDSS suspends payments to FCCC for the services performed under this Agreement for any reason, FCCC shall have the option to suspend performance of this Agreement and suspend payments to SUB-AWARDEE until CDSS rescinds suspension.
- 1.06 It is mutually understood and agreed between the parties that all elements of this contract are contingent upon the following:
 - a. USDA FNS approval of a CalFresh E&T State Plan that includes FCCC and SUB-AWARDEE budget and program descriptions. When FNS approval of the State CalFresh E&T Plan is delayed, billing costs can be claimed retroactively to the effective date of the annual E&T Plan. Any amendment to the E&T Plan is effective only on the date of approval and costs may not be claimed retroactively.

- b. CDSS approval of FCCC Fresh Success Employment & Training Plans that incorporate the SUB-AWARDEE's Fresh Success Provider Employment & Training Plans and specifically state the names of each SUB-AWARDEE, services to be delivered, program requirements, and SUB-AWARDEE budget, which are incorporated herein and by this reference (see Exhibit D)
- c. FCCC approval of the Fresh Success Provider Plan for each applicable federal fiscal year
- d. SUB-AWARDEE must have an approved Memorandum of Understanding or Contract or be included in an FCCC MOU or Contract with each applicable County Welfare Department prior to claiming costs for program implementation; however, planning costs can be incurred prior to completion of these items. SUB-AWARDEE must have infrastructure in place to comply with any data security requirements imposed by each applicable County Welfare Department.
- e. Only amounts actually reimbursed to FCCC by CDSS shall be eligible for payment to SUB-AWARDEE. Should any amount be determined to be ineligible for reimbursement, FCCC will clarify the reasons for ineligibility, determine whether it is possible to correct any deficiencies that caused the ineligibility, and assist the SUB-AWARDEE in preventing any future such incidents.

2. TERM AND TERMINATION

- 2.01 Agreement Term: The term of this Agreement shall be as described in the chart on the cover sheet on page 1 of this Agreement. The official contract start date is contingent on final approval from the USDA FNS and expenditures cannot be incurred nor reimbursed until official notice of approval is received.
- 2.02 Termination for Convenience: Either party may terminate this Agreement by providing thirty (30) day written notice to the other, specifying the final date (Termination Date) for services to be performed. Any termination of this Agreement will not relieve FCCC from its obligation to pay SUB-AWARDEE (i) any amounts owing from any current or prior invoices, and (ii) the amounts for any services performed or out-of-pocket expenses incurred by SUB-AWARDEE on behalf of FCCC for the time period up to and including Termination Date, any and all such amounts will be immediately due and payable to SUB-AWARDEE on such Termination Date. In addition, FCCC shall reimburse SUB-AWARDEE for any approved out-of-pocket expenses incurred during this time period. This Agreement shall become effective on the date shown on the first page and will continue in effect until Termination Date.
- 2.03. Termination for Funding or Other Contingencies: It is mutually understood and agreed that if sufficient federal, state, and/or local funds are not appropriated for this program, or if any of the contingencies listed in 1.06 above are not met, FCCC shall have no liability to pay any funds whatsoever to SUB-AWARDEE or to furnish any consideration under this Agreement, and SUB-AWARDEE shall not be obligated to perform any provisions of the Agreement. Depending on whether funding is reduced or terminated, FCCC in its sole discretion, may either (a) terminate this Agreement without further liability to FCCC or (b) propose an amendment to this Agreement for a reduced scope of services and/or at a lower price, which may be retroactive to the beginning of the term of this Agreement. Any such amendment shall require mutual agreement of the parties.

3. CONTRACT AMOUNT

- 3.01 In consideration of satisfactory performance of services described in this Agreement and

Exhibits, FCCC agrees to pay SUB-AWARDEE a total amount not to exceed the maximum reimbursement amount set forth in the Fresh Success Budget (Exhibit C), as amended for each FFY, attached hereto and incorporated by reference.

- 3.02 Funds shall be expended only for items and amounts identified (e.g., Supportive Services) as allowable Fresh Success expenditures in this contract and the Fresh Success Provider E&T Plan for FFY 2023, as amended (Exhibit D).

4. DUTIES OF SUB-AWARDEE

Throughout the Term of the contract and any renewal term, SUB-AWARDEE shall:

- 4.01 Provide CalFresh Employment & Training activities for the CalFresh Program in accordance with the State Supplemental Nutrition Assistance Program Employment & Training Regulations (7 Code of Federal Regulations (Part 273.7 and 277)) and CDSS Manual of Policies and Procedures (MPP) (Division 63, Section 63-000 to 63-1436).
- 4.02 Commit non-federal share funding for CalFresh E&T and certify that the sources of funding and costs meet CalFresh E&T requirements as described in this contract's Payment Provisions (Exhibit A), the Fresh Success Handbook (Exhibit F), and Fresh Success Provider Invoice (Exhibit E).
- 4.03 Ensure the appropriate stewardship of funds and adherence to county, state, and federal laws, guidelines, and regulations for maintaining financial management expectations and procedures. This includes, but is not limited to, ensuring that expenditures made pursuant to this Agreement are in compliance and in conformity with the applicable provisions of the Office of Management and Budget (OMB) Circular, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," *OMB 2 CFR 200*. SUB-AWARDEE is responsible for maintaining familiarity with this document, which can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=d4f3d988a003c362c4ce04d6dbdb8e54&mc=true&node=pt2.1.200&rgn=div5>,
- 4.04 Conduct activities as defined in the Fresh Success Provider E&T Plan, as amended (Exhibit D).
- 4.05 Complete the tasks and requirements described in the approved Fresh Success Provider E&T Plan for FFY 2023 as amended (Exhibit D) and when approved.
- 4.06 Actively manage daily administrative, fiscal, and programmatic activities in accordance with relevant rules, guidelines, forms and templates, policies, and procedures.
- 4.07 Monitor the day-to-day operations of Fresh Success activities to assure compliance with applicable county, federal, and state requirements.
- 4.08 Comply with all provisions of Fresh Success design, operation, monitoring, and evaluation contained in the Fresh Success Handbook (Exhibit F). This handbook may be updated from time to time by FCCC to ensure both FCCC and SUB-AWARDEE are complying with all obligations under this contract, as well as state and federal law. FCCC will provide notice to SUB-AWARDEE should the Fresh Success Handbook be updated during the term of this Agreement.

- 4.09 Submit quarterly invoices to FCCC by the tenth (10) day of the month following the end of each federal fiscal quarter and hold liability as SUB-AWARDEE for expenses that are disallowed as a result of its own negligence.
- 4.10 Cooperate with program and fiscal reviews and address any corrective actions. Records must be retained for a minimum of three years for purposes of program and fiscal review.
- 4.11 Adhere to SUB-AWARDEE's established grievance procedures for the resolution of any disputes by a person participating in Fresh Success.
- 4.12 Maintain Internet and e-mail capability.
- 4.13 Comply with all confidentiality provisions required by FCCC and/or CDSS, as described in Confidentiality and Information Security Requirements (as amended), attached hereto as Exhibit B and incorporated by reference. Should CDSS provide FCCC with updated Confidentiality and Information Security Requirements, SUB-AWARDEE shall be bound by the terms of those requirements upon notice by FCCC to SUB-AWARDEE. SUB-AWARDEE must also comply with any and all confidentiality or data security provisions described in any agreement SUB-AWARDEE has entered into with County Welfare Departments and any provisions described in any applicable Agreements between FCCC and County Welfare Departments. Agreements between FCCC and County Welfare Departments will be attached hereto, if applicable.
- 4.14 SUB-AWARDEE agrees to perform all its duties as SUB-AWARDEE and to comply with all county, state, and federal laws and regulations applicable to Fresh Success, including, but not limited to those identified in this Agreement.
- 4.15 FCCC hereby delegates to SUB-AWARDEE official authority to conduct participant assessment and enrollment into the CalFresh E&T program, Fresh Success, pursuant to the delegation of such authority by CDSS to FCCC.
- 4.16 Prior to implementation and as required, establish a fully executed agreement with each applicable local county welfare department, which includes local procedures for referrals, E&T assessment and enrollment, data sharing, and STAT 47 reporting.
- 4.17 Actively engage in ongoing training and technical assistance activities of FCCC, whereby at least two participants attend trainings.
- 4.18 Submit Fresh Success Provider Plan for FFY 2024 in accordance with guidelines provided by FCCC, if SUB-AWARDEE intends to continue participation in FFY 2024.
- 4.19 As applicable, complete responsibilities under its agreement(s) with the local county welfare department(s), which includes local procedures for referrals, E&T assessment and enrollment, data sharing, and reporting.
- 4.20 Conduct outreach to identify potential participants, assess them, and if appropriate, enroll them into the Fresh Success program pending confirmation of CalFresh E&T eligibility.
- 4.21 Accept and fulfill the delegated role of CalFresh E&T orientation, assessment, and enrollment pursuant to 7 CFR 273.7(c)(2), including;

- a. Determining if potential participants have the appropriate interest, skills, and/or employment goals for success prior to assigning them to a particular training program or activity.
 - b. Obtaining a signed release of information form from each potential participant prior to sharing confidential information with named parties and accessing confidential information from named partner agencies.
- 4.22 Prepare and submit Fresh Success documentation to student or county for use in CalFresh and E&T eligibility determination related to student eligibility rules and refer applicants who are not already CalFresh participants to county or CalFresh Outreach agencies.
- 4.23 Complete, submit, and comply with use and confidentiality requirements of the CDSS CalFresh Confirm Organization and User Access Forms.
- 4.24 Ensure that participants are actively participating in the Fresh Success program and are participating in Fresh Success-permissible activities.
- 4.25 Review data on CalFresh eligibility each month to ensure that claims are made only for current CalFresh E&T eligible participants.
- 4.26 Maintain records, including time and effort reporting, participation data, records of services provided, and participant files. Documents in participant files shall include, but not be limited to, intake forms; monthly CalFresh E&T eligibility verification; orientation, assessment and enrollment documentation; records of purpose for and receipt of supportive services; and, for community colleges, enrollment in Fresh Success-permissible courses.
- 4.27 Monitor participant progress and issue participant supportive services.
- 4.28 Ensure that accurate participation data is included in FCCC's data management tool by the fifth (5) day of the month following the end of each federal fiscal quarter.
- 4.29 Provide participation and evaluation data to FCCC, as specified in the Fresh Success Handbook (Exhibit F), participate in evaluation activities, and engage in continuous quality improvement.

5. DUTIES OF FCCC

FCCC Shall:

- 5.01 Ensure Fresh Success is in alignment with CDSS and USDA FNS CalFresh E&T guidance and objectives on an ongoing basis and support SUB-AWARDEE in implementing the Fresh Success program vision and direction.
- 5.02 Produce, modify, and disseminate a Fresh Success Handbook (Exhibit F), forms, planning tools, and templates for implementation.
- 5.03 Support SUB-AWARDEE by providing technical assistance and training for startup and helping draft SUB-AWARDEE's Fresh Success Provider Plans. FCCC shall support SUB-AWARDEE in creating a data sharing agreement with applicable counties or in the alternative, FCCC will work directly to enter into an agreement with applicable counties to support SUB-AWARDEE's data sharing.

- 5.04 Submit FCCC Fresh Success E&T Plan that incorporates Fresh Success Provider Plan information for SUB-AWARDEE to CDSS for FFY 2024, if SUB-AWARDEE intends to continue participation in FFY 2024.
- 5.05 Convene (through webinars, etc.) and facilitate Fresh Success workgroups for training, mutual learning, evaluation, communication of relevant CDSS and FNS guidance, and coordination.
- 5.06 Provide ongoing one-on-one technical assistance to SUB-AWARDEE as needed.
- 5.07 Monitor SUB-AWARDEE's financials, process invoices, and assist SUB-AWARDEE in preventing inappropriate expenditures.
- 5.08 Reimburse SUB-AWARDEE quarterly for a portion of qualifying non-federal expenditures submitted on the quarterly invoice.
- 5.09 Prepare quarterly progress reports and submit required data to county welfare departments and CDSS, incorporating SUB-AWARDEE data.
- 5.10 Conduct program and fiscal reviews of SUB-AWARDEE in compliance with the Fresh Success Provider Monitoring Policy as described in the Fresh Success Handbook (Exhibit F, as amended) and assist SUB-AWARDEE to address any corrective actions.
- 5.11 Support continuous quality improvement for SUB-AWARDEE, using reviews and evaluation data for guidance.
- 5.12 Obtain County, Foundation, and CDSS approvals for SUB-AWARDEE's CalFresh Confirm Organization and User Access Forms.

6. REPORTS

SUB-AWARDEE shall prepare the following reports (forms will be provided by FCCC), which must be received by FCCC by the specified dates. Failure to meet report deadlines may jeopardize funding.

SUB-AWARDEE Reporting Responsibilities:

- 6.01 Participant Data: Ensure that up-to-date and accurate data is provided to FCCC using required data management tool by the fifth (5th) day following the federal fiscal quarter in which services were provided.
- 6.02 Quarterly Reimbursement Invoices and Required Attachments: Submitted to FCCC by the tenth (10th) day of the month following the federal fiscal quarter in which the expenditures were incurred, using Fresh Success Provider Invoice Template.
- 6.03 Narrative Report: Provide a two- to four-page narrative report annually using the provided template and submit to FCCC pursuant to the Fresh Success Handbook (Exhibit F).

7. PROGRAM EVALUATION AND DATA COLLECTION

- 7.01 SUB-AWARDEE shall provide all data and reports that may be requested by FCCC, CDSS, and/or third-party evaluators, pursuant to the Fresh Success Handbook (Exhibit F).

8. AUDIT, PROGRAM AND FISCAL REVIEWS, AND RECORDKEEPING

- 8.01 SUB-AWARDEE agrees to obtain a timely independent audit in accordance with applicable audit guidelines, including the audit requirements of the OMB 2 CFR 200 (currently the OMB 2 CFR 200 requires an independent audit if the sum of federal expenditures from all federal grants and contracts exceed \$750,000 where required.) The portion of the SUB-AWARDEE's expenditures that is reimbursable is considered an expenditure of federal funds and is subject to the requirements for federal awards, including those pertaining to audits. The reimbursable amounts are considered an expenditure of federal funds at the time of expenditure. Therefore, the SUB-AWARDEE should consider 50 percent of each Fresh Success invoice's total expenditures to be federal for purposes of determining whether the SUB-AWARDEE is subject to single audit requirements. When the reimbursement is dispersed to the SUB-AWARDEE by FCCC, the funds become the SUB-AWARDEE's own funds and are not properly regarded as federal funds past that point.
- 8.02 The parties entering this Agreement and all subcontracts or sub-grants entered into pursuant to this Agreement shall be subject to the examination and program/fiscal review by FCCC, CDSS, the Department of General Services, the Bureau of State Audits, or their designated representative. Said entities shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The SUB-AWARDEE agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The SUB-AWARDEE agrees to allow the auditor(s) or reviewer(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, SUB-AWARDEE agrees to include a similar right of the state to audit records and interview staff in any subcontract related to performance of this Agreement.

9. INTELLECTUAL PROPERTY, INVENTIONS, AND NEW TECHNOLOGIES

- 9.01 Any ideas, concepts, know-how, or techniques relating to intellectual property and applied technologies, developed during the course of this Agreement by SUB-AWARDEE, or jointly by SUB-AWARDEE and FCCC, can be used by either party, during the grant period, in any way it may deem appropriate unless otherwise specified in writing.
- 9.02 All inventions, discoveries, or improvements of the intellectual property and applied technologies developed pursuant to this Agreement, shall be the property of FCCC. FCCC agrees to grant a nonexclusive royalty-free license for any such invention, discovery, or improvement to SUB-AWARDEE or any person, and further agrees that SUB-AWARDEE or any such person may sub-license additional persons on the same royalty-free basis unless limitations are clearly negotiated prior to development.
- 9.03 This Agreement shall not preclude SUB-AWARDEE from developing materials outside this grant that are competitive, regardless of their similarity to materials which might be delivered to FCCC pursuant to this Agreement.
- 9.04 If this Agreement involves private sector participants, patent rights for subject inventions (if any) shall be defined in a private sector agreement between SUB-AWARDEE institution and private sector participants. FCCC shall retain limited intellectual property rights. This limited right is a royalty-free, non-exclusive, non-transferable, irrevocable license, for governmental use of any knowledge, data, know-how, and materials (including devices and prototypes) conceived and first actually reduced to practice during the term of this Agreement.

- 9.05 SUB-AWARDEE shall obtain these same rights for FCCC from all subcontractors and others who produce copyrightable material, intellectual property, and applied technologies under this Agreement. SUB-AWARDEE shall incorporate these paragraphs, modified appropriately, into its agreements with subcontractors.
- 9.06 No subcontract shall be entered into without these rights being assured to FCCC from subcontractor.
- 9.07 Any Audio/Visual material, software, or other works that the Federal government pays for must be provided with a non-exclusive royalty free right to use and to authorize others to use these materials.

10. PERSONAL AND REAL PROPERTY

- 10.01 Personal and real property procured with these funds will be used for the purpose of the Agreement and will remain the property of the SUB-AWARDEE. SUB-AWARDEE will adhere to all property management and resale procedures and property accountability requirements as published in OMB 2 CFR 200.

11. STANDARDS OF CONDUCT

SUB-AWARDEE hereby assures that, in administering this Agreement, it will comply with the standards of conduct hereinafter set out, for maintaining the integrity of the grant and avoiding any conflict of interest in its administration.

- 11.01 General Assurance: Every reasonable course of action will be taken by SUB-AWARDEE in order to maintain the integrity of this expenditure of public funds and to avoid any favoritism, questionable, or improper conduct. The grant will be administered in an impartial manner, free from personal, financial, or political gain. SUB-AWARDEE, its executive staff, and employees, in administering the grant, will avoid situations that give rise to a suggestion that any decision was influenced by prejudice, bias, special interest, or personal gain.
- 11.02 Conducting Business: No relative by blood, adoption, or marriage of any executive or employee of SUB-AWARDEE will receive favorable treatment for enrollment in services provided by, or employment with SUB-AWARDEE.
- 11.03 Avoidance of Undue Influence: Executives and employees of SUB-AWARDEE must be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates and, in administering the grant, will exercise due diligence to avoid situations which may give rise to an assertion that favorable treatment is being granted to friends and associates.
- 11.04 Documentation of Interested Party Transaction: When it is in the public interest for SUB-AWARDEE to conduct business with a friend or associate of an executive or employee of SUB-AWARDEE, an elected official in the area, or a member of the SUB-AWARDEE governing board, a permanent record of the transaction will be retained.
- 11.05 Avoidance of Conflict of Economic Interest: An executive or employee of SUB-AWARDEE, an elected official in the area, or a member of the SUB-AWARDEE governing board, may not solicit or accept money or any other consideration from a third person for the performance of any act, only to the extent it was or will be reimbursed by SUB-AWARDEE or state. Supplies,

materials, equipment, or services purchased with grant funds will be used solely for purposes allowed under this Agreement.

- 11.06 Abstention from Voting: No member of the SUB-AWARDEE governing board may cast a vote on the provision of services by that member (or any organization which that member represents) or vote on any matter which would provide direct financial benefit to that member or any business or organization which the member directly represents.

12. GENERAL TERMS AND CONDITIONS

- 12.01 Assignment: This Agreement may not be assigned or otherwise transferred by either party without the prior written consent of the other party; however, either party will have the right to assign its rights and obligations under this Agreement in connection with a merger, acquisition, or sale transfer of substantially all of its assets. Any assignment not in accordance with this section will be void.
- 12.02 Entire Agreement; Conflicting Terms; Amendment: This Agreement, including Exhibits, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous communications. In the event of a conflict between the terms contained in the body of this Agreement and the terms contained in any Exhibit, the terms contained in the Exhibits will control. This Agreement may be modified only by a written agreement dated subsequent to the effective date and signed by authorized representatives of each party, provided, however, that FCCC may update Exhibit B, "Confidentiality and Information Security Requirements", Exhibit E, "Fresh Success Provider Invoice", and Exhibit F, "Fresh Success Handbook" upon written notice to SUB-AWARDEE of the update. FCCC shall only update Exhibit B upon receipt of updated requirements from CDSS.
- 12.03 Severability and Waiver: If this Agreement is terminated or held by a court of competent jurisdiction to be invalid, illegal, or unenforceable as to particular provisions, this Agreement will remain in full force and effect as to the remaining provisions. No verbal or implied waiver of any breach of any provisions of this Agreement will constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions in this Agreement. Any waiver by either party must be in writing and delivered to the other party.
- 12.04 Notices: All notices that either party may give the other pursuant to this Agreement will be in writing and will be hand delivered, delivered electronically, or sent by registered or certified mail postage prepaid, return receipt requested, or by overnight courier service, postage prepaid, to the contacts set forth in this Agreement.
- 12.05 Governing Law: This Agreement is made under and will be governed by and construed in accordance with the laws of the State of California. Any litigation resulting from a dispute or claim arising under or relating to this Agreement shall be resolved in state or federal court in Sacramento, California. The parties specifically submit to the personal jurisdiction and subject matter jurisdiction of the state and federal courts located in Sacramento, California.
- 12.06 Indemnification: SUB-AWARDEE ("Indemnitor") will indemnify, defend and hold FCCC, and its directors, officers, employees, agents, subcontractors, sub consultants, and representatives (collectively, "Indemnitees") harmless from all losses, liabilities, claims, demands, costs, expenses and damages, including reasonable attorney's fees, resulting from, arising out of, or connected with (a) Indemnitor's performance of services or other obligations

under this Agreement, (b) the acts or omissions of SUB-AWARDEE, its officers, agents, employees, subcontractors, sub consultants, or any person or entity for whom SUB-AWARDEE is responsible (collectively, "Indemnitors"); (c) any breach by Indemnitor of this Agreement. Indemnitor's indemnification obligations will not be limited by any assertion or finding that (1) Indemnitees are liable by reason of non-delegable duty, or (2) losses were caused in part by the negligence, breach of contract, or violation of law by Indemnitees. Indemnitor will cooperate in the defense, and upon request, furnish the Indemnitee with all related evidence in its control. The duty to defend (including by counsel) shall arise regardless of any claim or assertion including, but not limited to those claims or assertions that Indemnitees caused or contributed to the losses, liabilities, claims, demands, costs, expenses or damages. Nothing in this Agreement shall constitute a waiver or limitation of any rights which Indemnitees may have under applicable law, including without limitation, the right to implied indemnity.

12.07 Dispute Provisions: If SUB-AWARDEE disputes a decision of FCCC regarding the performance of this Agreement or on other issues for which FCCC is authorized by this Agreement to make a binding decision, SUB-AWARDEE shall provide written dispute notice to FCCC within fifteen (15) calendar days after the date of action. The written dispute notice shall contain the following information:

- a. the decision under dispute;
- b. the reason(s) SUB-AWARDEE believes the decision of FCCC to have been in error (if applicable, reference pertinent Agreement provisions);
- c. identification of all documents and substance of all oral communication which support SUB-AWARDEE's position; and,
- d. the dollar amount in dispute, if applicable.

Upon receipt of the written dispute notice, FCCC will examine the matter and issue a written decision to SUB-AWARDEE within thirty (30) calendar days. The decision of FCCC shall contain the following information:

- a. a description of the dispute;
- b. a reference to pertinent contract provisions, if applicable;
- c. a statement of the factual areas of agreement or disagreement; and,
- d. a statement of the representative's decision with supporting rationale.

The decision of the representative shall be final unless, within thirty (30) days from the date of receipt of the representative's decision, SUB-AWARDEE files with FCCC a notice of appeal addressed to:

Foundation for California Community Colleges
1102 Q Street, Suite 4800
Sacramento, CA 95811
Attn: Tim Aldinger

Pending resolution of any dispute, SUB-AWARDEE shall diligently continue all contract work and comply with all FCCC orders and directions.

12.08 Debarment and Suspension: For federally funded agreements, SUB-AWARDEE as subcontractor, hereby certifies by signing this Agreement, that to the best of his/her knowledge and belief that he/she and their principals or affiliates or any subcontractor utilized under this

Agreement, are not debarred or suspended from federal financial assistance programs and activities nor proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. SUB-AWARDEE also certifies that it or any of its subcontractors are not listed with any active exclusions on the System for Award Management (<http://www.sam.gov>) (Executive Order 12549, 2 CFR Parts 180, 376, 417 and 2336).

- 12.09 Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which together shall constitute one and the same instrument. If this Agreement is executed in counterparts, no signatory hereto shall be bound until both the parties have fully executed a counterpart of this Agreement.
- 12.10 Use of Electronic Signatures: Unless otherwise prohibited by law or County policy, an electronic signature shall have the same force and effect as a contract executed with an original ink signature. An electronic signature is an electronic sound (e.g., audio files of a person's voice), symbol (e.g., a graphic representation of a person in JPEG file), or process (e.g., a procedure that conveys assent), attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.
- 12.11 Electronic copies of signed Contracts: Unless otherwise prohibited by law or County policy, an electronic copy of a signed contract shall have the same force and effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format.

13. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

- 13.01 SUB-AWARDEE shall take affirmative action to ensure that applicants and employees are treated during employment without regard to race, color, religion, ancestry, national origin, sex, sexual orientation, gender, gender identity, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable federal and state anti-discrimination laws and regulations. Such action shall include but is not limited to employment, upgrading, demotion, transfer, recruitment or recruitments advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 13.02 SUB-AWARDEE certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender, gender identity, age, physical or mental disability, marital status, or political affiliation.
- 13.03 SUB-AWARDEE certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable federal and state laws and regulations to the end that no person shall, on the grounds of, race, color, religion, ancestry, national origin, sex, sexual orientation, gender, gender identity, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.
- 13.04 SUB-AWARDEE assures that it will comply with federal and state laws and guidance related to non-discrimination and affirmative action, including:

- a) Titles VI and VII, Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.) inclusive of Subchapter VI, 42 USC §§ 2000(e)(1) to (17);
- b) Unruh Civil Rights Act (Section 51 of the California Civil Code);
- c) Fair Employment and Housing Act (Section 12940 of the Government Code);
- d) CDSS nondiscrimination requirements of [Chapter 21-100](#) (Nondiscrimination in Federally Assisted Programs) outlined in the CDSS Manual of Policies and Procedures (MPP), inclusive of MPP 21-117 (Staff Development and Training);
- e) Civil Rights compliance guidance for SNAP Employment & Training, available from the USDA Food and Nutrition Service at <https://www.fns.usda.gov/snap/snap-et-guidance-civil-rights-requirements>;
- f) §§ 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 793 794);
- g) Title IX, Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
- h) Chapter 1, Subchapter 4 (beginning with §30), Division 1, Title 5, California Code of Regulations; and
- i) § 613(a), Individuals with Disabilities Education Act of 1975, as amended.

13.05 SUB-AWARDEE shall allow FCCC representatives access to SUB-AWARDEE's employment records during regular business hours to verify compliance with the provisions of this section when so requested by FCCC.

13.06 If FCCC finds that any of the above provisions have been violated, such violation shall constitute a material breach of contract upon which FCCC may determine to terminate this Agreement. While FCCC reserves the right to determine independently that anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Opportunity Commission or the Federal Equal Employment Opportunity Commission that SUB-AWARDEE has violated federal or state anti-discrimination laws or regulations shall constitute a finding by FCCC that SUB-AWARDEE has violated the anti-discrimination provisions of this Agreement.

13.07 The parties agree that in the event SUB-AWARDEE violates any of the anti-discrimination provisions of the Agreement, FCCC shall, at its sole option, be entitled to the sum of \$500 for each such violation pursuant to California Civil Code §1671 as liquidated damages in lieu of terminating or suspending this Agreement.

14. ADDITIONAL ADHERENCE

14.01 Certification Regarding Lobbying: SUB-AWARDEE agrees to comply with all applicable limitations on the use of Agreement funds to influence certain federal contracting and financial transactions as described in 31 USC §.1352.

14.02 SUB-AWARDEE shall comply will all applicable provisions of the Federal Fair Labor Standards Act, and California State Labor Laws and shall indemnify, defend, and hold harmless FCCC and its agents, officers, and employees from any and all liability, including but not limited to, wages overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including but not limited to, the Federal Fair Labor Standards Act, for work performed by SUB-AWARDEE's employees for which FCCC may be found jointly or solely liable.

- 14.03 In addition, SUB-AWARDEE shall comply with all applicable federal laws and policies, including but not limited to those herein specified, procurement rules and regulations, the Copeland Anti-kickback Act, and the Davis-Bacon Act.

15. INSURANCE COVERAGE REQUIREMENTS

- 15.01 SUB-AWARDEE and participating colleges with SUB-AWARDEE shall purchase and maintain throughout the term of this Agreement evidence of the required insurance coverage set forth below. All insurances required to be carried pursuant to this Agreement shall be primary, and not contributory, to any insurance or self-insurance carried by FCCC or the State of California. SUB-AWARDEE is required to provide to FCCC properly executed Certificate(s) of Insurance, via certificate of insurance, including copies of additional insured endorsement adding “Foundation for California Community Colleges, its officers, directors, and employees” to the Commercial General Liability policy. Insurance coverage requirements include:

- a. General Liability Insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$ 2 million
Products/Completed Operations Aggregate:	\$ 1 million
Personal and Advertising Injury:	\$ 1 million
Each Occurrence:	\$ 1 million

- b. Automobile Liability Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned,” “hired,” and “non-owned” vehicles, or coverage for “any auto.”
- c. Workers’ Compensation and Employers’ Liability insurance providing workers’ compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the SUB-AWARDEE is responsible. If the SUB-AWARDEE’s employees will be engaged in maritime employment, coverage shall provide workers’ compensation benefits as required by the U.S. Longshore and Harbor Workers’ Compensation Act, Jones Act or any other federal law for which SUB-AWARDEE is responsible.

Please note that partnering County Welfare Department agreements may require additional insurance coverage. In the event that FCCC has entered into an agreement with a County Welfare Department related to this Agreement, SUB-AWARDEE agrees to comply with any and all insurance provisions set forth in such Agreement.

16. CONFIDENTIALITY REQUIREMENTS

- 16.01 SUB-AWARDEE and its employees agree to comply with the confidentiality and security provisions set forth in Confidentiality and Information Security Requirements (as amended), Exhibit B, attached hereto and incorporated by reference. The provisions of Exhibit B pertain to devices and individuals with access to confidential, sensitive, and/or personal information that becomes available to SUB-AWARDEE through the activities of this agreement. This includes, but may not be limited to, information related to an individual’s CalFresh benefits

status. SUB-AWARDEE also agrees that all of its employees or subcontractors, if any, with actual or potential access to CDSS confidential data shall read and sign a Confidentiality Agreement that includes the provisions of the sample agreement attached herein. Signed Confidentiality Agreements shall be kept in SUB-AWARDEE files and available for inspection upon request.

- 16.02 SUB-AWARDEE and its employees agree to comply with any and all confidentiality and security provisions set forth in any Agreement between SUB-AWARDEE and a County Welfare Department for data sharing services related to this Agreement. In the event that FCCC has entered into an agreement with a County Welfare Department related to this Agreement, SUB-AWARDEE and its employees agree to comply with any and all confidentiality and security provisions set forth in such Agreement.

17. CRIMINAL CLEARANCE

- 17.01 For the safety and welfare of the children to be served under this Agreement, SUB-AWARDEE agrees, as permitted by law, to ascertain arrest and conviction records for all current and prospective employees, independent contractors, volunteers, or subcontractors who may come in contact with children in the course of their work, volunteer activity or performance of the subcontract and shall maintain such records in a confidential file of each such person.
- 17.02 SUB-AWARDEE shall immediately notify FCCC of any arrest and/or subsequent conviction, other than for minor traffic offenses, of any employee, independent contractor, volunteer staff, or subcontractor who may come in contact with children while providing services under this Agreement when such information becomes known to SUB-AWARDEE.
- 17.03 SUB-AWARDEE agrees to conduct a criminal history background check for all employees funded in whole or in part by CalFresh E&T funds who provide CalFresh E&T services. SUB-AWARDEE agrees to abide by EEOC, California and applicable local laws, regulations and guidelines addressing the consideration of an individual's criminal history in determining suitability for employment for the purpose of providing services under this Agreement. A criminal history check shall consist of a check for criminal convictions within the geographic regions of the individual's residence and work through a Consumer Reporting Agency conducted in compliance with the Fair Credit Reporting Act (FCRA) and the California Investigative Consumer Reporting Agencies Act (ICRAA). SUB-AWARDEE shall retain each member's background check documentation for a period of three years following the termination of this Agreement.

EXHIBIT A

PAYMENT PROVISIONS

- I. Original, accurate invoices using the approved Fresh Success Provider Invoice template shall be signed by an authorized financial employee or agent of the SUB-AWARDEE and the SUB-AWARDEE Fresh Success Program Coordinator or Director, and emailed quarterly in arrears to:

Foundation for California Community Colleges

freshsuccess@foundationccc.org

Each invoice shall be submitted timely and be bundled with the following supporting documentation:

- A. Completed Invoice and Invoice Guide worksheet for the appropriate quarter (using the approved Fresh Success Provider Invoice template, as amended)
 - B. General Ledger detail for each line item in the invoice
 - C. Signed time records for each staff or volunteer (including timesheets that maintain the policies of the Fresh Success Time Records template, as amended, or use approved Random Moment Time Studies forms)
 - D. Subcontractor invoices and, upon FCCC request, subcontractor general ledger detail, and signed time records, if applicable
- II. All invoices must be reviewed and approved for payment by the Foundation, which will in turn submit aggregated invoices to the California Department of Social Services for its review and approval. FCCC reserves the right to withhold payment of quarterly invoices and/or the final invoice should any reports or information not be received as specified by FCCC.
 - III. Invoices shall be submitted in the format provided in Exhibit E. FCCC reserves the right to modify the Invoice form and/or require additional invoicing information from SUB-AWARDEE.
 - IV. For a period of three years from the end of the contract term, SUB-AWARDEE shall maintain and supply to FCCC, CDSS, or USDA upon request adequate fiscal documentation for review and audit of all expenses claimed pursuant to this agreement and the Fresh Success Handbook (Exhibit F) to permit a determination of expense allowability.

A. SUB-AWARDEE's Non-Federal Share Requirements

1. The SUB-AWARDEE is responsible for maintaining verifiable records of all Fresh Success expenditures on each invoice. The SUB-AWARDEE shall be reimbursed for 44.44% of total allowable Non-Federal Fresh Success expenditures. The reimbursement amount reflects an FCCC fee that is applied to the Administrative costs.
2. The SUB-AWARDEE's Non-Federal Share contribution must be from Non-Federal sources unless the use of Federal funds for this purpose is specifically authorized by the U.S. Department of Agriculture Food and Nutrition Service. The SUB-AWARDEE's Non-Federal Share contribution cannot be used as match or reimbursement under any other Federal program. The federal Employment & Training reimbursement funds received under this contract are eligible to be

reinvested in E&T as non-federal expenditures in future periods.

3. The SUB-AWARDEE shall return any funds necessary to repay FCCC for any FCCC, CDSS, USDA FNS, California Department of General Services, or Bureau of State Audits exceptions to program and fiscal reviews, resulting in the disallowance of agreement funds in which the SUB-AWARDEE has not complied with the requirements of this agreement and applicable Federal or State requirements.
4. Any changes to the SUB-AWARDEE's Budget as referenced in Exhibit C may be proposed by the SUB-AWARDEE, as described in part IV.G. below. All changes are subject to prior written approval by FCCC.

B. Prompt Payment Clause

Payment will be made within 15 days of receipt of reimbursement funds from the California Department of Social Services.

C. Review

FCCC reserves the right to review service levels and billing procedures as they impact charges against this Agreement.

D. Supplemental Invoices

The SUB-AWARDEE may submit up to a maximum of four (4) supplemental invoices during this contract, with each invoice covering a period no less than three (3) months to the FCCC at freshsuccess@foundationccc.org if it has been determined that there are expenses incurred during the term of the contract that have not been previously billed. The SUB-AWARDEE must submit a written justification to accompany the supplemental invoice(s) and shall submit the documents to the FCCC for approval. Supplemental invoices are due no later than 60 days after the end of each quarter, the only exception being the fourth quarter. A fourth quarter supplemental invoice is due no later than November 15. If the SUB-AWARDEE is seeking an exception to these requirements, it must submit a written request to the FCCC and provide justification for an exception. Exceptions may only be granted after FCCC management has reviewed the request and has made a determination.

F. Final Billing

Invoices for services must be received by FCCC within 25 days following the federal fiscal year, or 25 days following the end of the contract term, whichever comes first.

G. Budget Modification without Written Contract Amendment

Line items shifts may be made up to a cumulative maximum of \$20,000 or ten percent (10%) of the annual contract budget, whichever is less, for all line item shifts over the life of the annual contract budget. Redistribution is prohibited between the subtotal of Administrative Costs and the subtotal of Supportive Services without prior FCCC approval. Line item shifts that exceed the 10% threshold may be requested by the SUB-AWARDEE in writing and must not increase the total contract amount allocated. Any line item shifts must be approved in writing by the FCCC Program Director, or his or her designee, and must be sent to the SUB-AWARDEE within 10 days of approval for inclusion in contract folder. If the contract is formally amended, any line item shifts agreed to by the parties must be included in the amendment.

H. Nonresident Tax Withholdings

Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving, rent, lease or royalty payments from property (real or personal) located in California will have seven percent of their total payments withheld for state income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.

I. Assurances

The SUB-AWARDEE certifies that the following assurance statements are understood, and will be met:

1. The SUB-AWARDEE is accountable for the content of the relevant sections of the FCCC Fresh Success E&T Plan for FFY 2023.
2. SUB-AWARDEE is fiscally responsible for CalFresh E&T activities funded under its E&T Plan and is liable for repayment of unallowable costs.
3. State education costs will not be supplanted with Federal SNAP (CalFresh) E&T funds.
4. Cash or in-kind donations from non-federal sources have not been claimed or used as a match or reimbursement under any other Federal program.
5. If in-kind goods and services are part of the budget, only public in-kind services are included. No private in-kind goods or services are claimed.
6. Documentation of SUB-AWARDEE costs, payments, and donations for approved CalFresh E&T activities are maintained by SUB-AWARDEE and available for FCCC, Federal, and CDSS review and audit.
7. Contracts are procured through competitive bid procedures governed by State and federal procurement regulations.
8. Program activities are conducted in compliance with all applicable Federal laws, rules, and regulations including Civil Rights and Office of Management and Budget regulations governing cost issues, if applicable.
9. CalFresh E&T education activities directly enhance the employability of the participants; there is a direct link between the education activities and job-readiness.
10. Program activities are reasonable and necessary to accomplish the goals and objectives of CalFresh E&T.
11. The CalFresh E&T Program is implemented in a manner that is responsive to the special needs of American Indians on Reservations. SUB-AWARDEE shall consult on an ongoing basis about portions of their CalFresh E&T plan which affect the ITO; and, if appropriate, and to the extent practicable, include ITO suggestions in the CalFresh E&T plan.
12. All required reports and data will be submitted in a timely manner to FCCC for submission to the CDSS.

Every quarterly invoice shall reflect only costs incurred for the quarter of invoice, unless FCCC approves otherwise. Up to four (4) supplementary invoices may be submitted during the entire contract period.

Payments shall be made as set forth below:

- a. Payments shall be made quarterly in arrears on a cost reimbursement basis upon FCCC's receipt of the quarterly Fresh Success Provider Invoice form and Invoice Guide from SUB-AWARDEE no later than the tenth (10th) day of the month following the end of the federal

fiscal quarter. Late invoices will require a supplemental invoice to be submitted, which may significantly delay payment.

- b. Payments made to SUB-AWARDEE as specified herein shall include all taxes of any description, federal, state, and municipal, assessed against SUB-AWARDEE by reason of this Agreement.
- c. In order to receive complete reimbursement under this Agreement, SUB-AWARDEE shall ensure that FCCC has received any final Invoices no later than October 25, 2023, and any Supplementary Invoices no later than November 15, 2023. These documents shall be addressed to the freshsuccess@foundationccc.org.

J. TRAVEL

Hotel, meal, travel and per diem expenses charged must not exceed the State of California CalHR rates for comparable classes found in www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx. Travel outside of California must be pre-approved. The purpose of all travel shall be to best accomplish the objectives of Fresh Success. Reimbursement shall be limited to the amount of the most cost-effective mode of travel.