



Sample Collaboration Agreement

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2000

BAY AREA _____ COLLABORATIVE (BAC)

COLLABORATION AGREEMENT

This Collaboration Agreement (the "Agreement") is made and entered into effective as of May 1, 2000, by and among the undersigned community-based organizations ("CBOs").

BACKGROUND AND PURPOSE

For the past three years, a collaborative of Bay Area CBOs that prepare, place and assist in the retention of persons with multiple employment barriers has been meeting to promote employment opportunities. By working together, these CBOs have sought to coordinate efforts to insure that the interest and concerns of economically disadvantaged communities are represented and addressed at discussions and/or negotiations for projects in the area. This collaborative, known as the Bay Area ___ Collaborative ("BAC", or the "Collaborative"), has served as the primary spokesperson to bring to these communities employment opportunities and financial assistance from these projects.

This Agreement provides for the continuation of the activities of BAC while formalizing the relationship among its member organizations. This Agreement describes the rights, duties, and obligations of the members to each other as participants in this collaborative effort. This Agreement sets forth the roles and responsibilities of members, and the terms and conditions pursuant to which they will collaborate on project discussions and negotiations.

As a collaborative of CBOs, BAC has no independent legal status. Therefore, this Agreement designates a Fiscal Sponsor to receive and disburse funds on behalf of BAC, and if funds are available for this purpose, to engage personnel that will carry out necessary day-to-day activities under the direction of BAC.

The undersigned parties mutually agree as follows:

MEMBERSHIP

Qualifications

BAC shall be governed by its Member Organizations, acting through their designated representatives. Appendix A lists the organizations that have been invited to participate in BAC as charter Member Organizations, subject to their execution of the BAC Collaboration Agreement. The charter Member Organizations, and all subsequent Member Organizations, shall be CBOs that for at least two (2) years have met all the following qualifications for membership in BAC:

- 1) Has either (a) established its tax-exempt status under Internal Revenue Code Section 501(c)(3) and California Revenue and Taxation Code Section 23701d, or (b) a governing body of ten (10) or more persons and a demonstrated history of service to and representation of an economically disadvantaged community.
- 2) A demonstrated history of successful fundraising, fiscal management, and program performance.
- 3) Provides training and/or supportive services specifically to enable persons to obtain employment.
- 4) Provides such training and/or services to persons in the San Francisco Bay Area, with particular emphasis on ___ County.

5) Provides such training and/or services to persons who face multiple employment barriers.

Associate Members

CBOs that meet the qualifications for membership in BAC but have done so for less than two (2) years may apply to become Associate Members of BAC. Associate Members shall be entitled to notice of and to attend meetings of the BAC Governing Body, but shall not be counted for quorum purposes and shall have no vote. Associate Members may serve on BAC committees, and shall have all other rights and obligations of Member Organizations, except as otherwise specified by BAC's Governing Body, but shall not be eligible to receive funding from BAC.

Affiliates

Public agencies, labor organizations, and other organizations and institutions with relevant resources may become Affiliates of BAC. Affiliates shall have no vote, and shall not be eligible to receive funding from BAC. Affiliates shall have such rights and obligations as are specified in this Agreement and by BAC's Governing Body.

Supporters

Individuals who support the purposes and goals of BAC may become Supporters. Supporters shall have no vote, and shall not be eligible to receive funding from BAC. Supporters shall have such rights and obligations as are specified in this Agreement and by BAC's Governing Body.

Admission of New Member Organizations

Associate Members and other CBOs that meet the qualifications of and desire to become a Member Organization shall submit an application for membership on such form as is approved by the BAC Governing Body. The application shall be promptly reviewed by the Membership Committee, which shall recommend either acceptance or denial of the application by the Governing Body. Acceptance of the application is at the Governing Body's sole discretion. Upon acceptance of the application by the Governing Body, membership shall be conferred effective as of the date that the CBO executes this Agreement and agrees to be bound by all of its provisions.

Applications for Associate Membership or Affiliate or Supporter status shall be processed in a similar manner, with such status conferred effective as of the date the Governing Body accepts the application.

Resignation or Removal of Member Organization

A Member Organization may resign from membership in BAC at any time.

A Member Organization may be removed from membership in BAC by the Governing Body for:

- 1) Nonperformance, including failure to meet the criteria for membership, failure to pay dues within thirty (30) days of a written request to do so, and failure to participate in BAC. Failure to have a representative in attendance at three (3) consecutive meetings of the BAC Governing Body or six (6) meetings of the Governing Body in a calendar year without an acceptable excuse shall be grounds for removal.
- 2) Malperformance, including the taking of unauthorized actions or the making of unauthorized statements in the name of BAC, the misuse of BAC funds, the making of false or misleading statements about the Member Organization to BAC or others, the improper behavior of its

representative, and other actions that might cause harm to the reputation of BAC or its ability to achieve its purposes.

Prior to removal, a Member Organization shall be notified of the grounds for removal. The proposed removal and the grounds therefor shall be included in the notice of the meeting of the BAC Governing Body. At the meeting, the Member Organization shall be given an opportunity to be heard. The Governing Body shall also consider the recommendation of the Membership Committee.

Upon receipt of a CBO's written resignation, or upon removal from membership in BAC, this Agreement shall terminate with respect to that CBO, except for any outstanding amounts owed pursuant to this Agreement to BAC or its Fiscal Sponsor. Resignation or removal of the CBO shall also remove its representative from the BAC Governing Body. Termination of this Agreement does not terminate the CBO's obligations under other agreements executed by the CBO with BAC's Fiscal Sponsor for performance of services, except as provided in those other agreements.

The above provisions shall also apply to resignation or removal of an Associate Member, Affiliate, or Supporter.

Rights of Membership

A Member Organization shall have the right to designate a voting representative to the BAC Governing Body. A Member Organization shall be eligible to receive funding from BAC for the performance of services pursuant to a written agreement between the Member Organization and BAC's Fiscal Sponsor. Member Organizations shall receive minutes of meetings of the BAC Governing Body and periodic reports of the activities and financial condition of BAC.

Each Member Organization, Associate Member, Affiliate, and Supporter (collectively, "Collaborative Participant") shall receive a certificate of participation and shall be entitled to a free copy of each BAC publication.

Obligations of Membership

- 1) Each Collaborative Participant shall pay such dues as are determined by the BAC Governing Body.
- 2) No Collaborative Participant shall purport to represent BAC in any forum without appropriate authorization.
- 3) A Member Organization or Associate Member shall notify BAC in a timely manner of the Member's position on any matter addressed or to be addressed by BAC and within BAC's purpose, before the Member makes its position public.
- 4) As appropriate, each Member Organization and Associate Member shall notify its own membership or other constituency of BAC's activities.
- 5) BAC shall provide each Member Organization and Associate Member with a current description of the type and amount of funding that it intends to pursue. Similarly, each Member Organization and Associate Member shall notify BAC in a timely manner (by announcement at a meeting of the Governing Body or by contacting an officer of BAC) of their intended ___-related fundraising. Member Organizations and Associate Members are expected to seek funds in order to carry out their responsibilities as a member of BAC, but shall attempt to avoid competing with BAC for funds.

- 6) Each Member Organization shall maintain a policy of comprehensive general liability insurance of at least \$1 million in coverage (\$500,000 if the Member Organization's annual budget is less than \$50,000), and such other bonding and liability insurance, including but not limited to unemployment and workers' compensation insurance, required by law or usual and customary with respect to the conduct of its activities, including its activities as a Member Organization of BAC. Such policy may be maintained by another organization that includes the Member Organization as an additional insured.

GOVERNING BODY

Powers and Authority

All decisions on behalf of BAC shall be made by its Governing Body, except as provided herein for actions by committees and officers.

Number and Designation of Representatives

The Governing Body shall consist of one representative of each Member Organization. Each Member Organization may also select an alternate to act in the absence of its representative. Designations of representatives and alternates shall be made in writing. A Member Organization may amend such designation at any time, and all such designations and amendments shall be kept with the records of BAC. Representatives and alternates shall not be compensated as such by BAC.

Removal of Representative

A representative may be removed from the Governing Body for the same reasons and following the same procedure as specified above for the removal of a Member Organization, without also removing the Member Organization if it agrees to designate another representative.

Place and Notice of Meetings

Regular meetings may be held at such regular times and location as are fixed by the Governing Body. Special meetings may be called by any officer. Special meetings shall be held at a location previously specified by the Governing Body for the holding of special meetings, or if not so specified, at such location in the City of ___ as is specified in the notice of the meeting.

Except as provided below, notice of the date, time, and place of all meetings of the Governing Body shall be delivered personally to all representatives and alternates, or communicated by telephone (including a voice messaging system that records and communicates messages), facsimile, or electronic mail at least three (3) calendar days prior to the meeting, or communicated by telegraph, express mail service, first-class mail, or by other means of written communication, charges prepaid, deposited in the mails or given to the telegraph company or express mail company or other carrier at least five (5) calendar days before the date of the meeting.

No vote shall be taken on the following matters unless at least ten (10) calendar day notice has been provided in the manner described above:

- 1) Amendment of this Agreement or its termination prior to the expiration of its term.
- 2) Admittance or removal of a Member Organization or Associate Member.
- 3) Authorization to apply for funding in excess of \$25,000 from any source.

- 4) Authorization to distribute funds in excess of \$25,000 to any recipient.
- 5) The taking of any public policy position, unless the situation requires earlier action.

Each notice shall include an agenda for the meeting. Each notice shall include appropriate detail to inform the Governing Body about any matter on which a vote may be taken at the meeting. Notice of meetings shall also be given to Associate Members, and shall be given to Affiliates and Supporters as appropriate.

Action at Meetings

A quorum shall consist of representatives/alternates of 25% of the Member Organizations, but not less than seven (7) Member Organizations shall be represented. Representatives/alternates may participate in person or by conference telephone or similar communications equipment, through individual telephone connections (telephone poll), or by proxy. Every act done or decision made by a majority of persons entitled to vote and voting on any matter shall be the decision of the Governing Body, provided that votes were cast by representatives/alternates of at least 25% of the Member Organizations, but not less than seven (7) Member Organizations, or such greater number as otherwise provided in this Agreement.

Conduct of Meetings

Meetings shall be open to Associate Members and other interested persons, except that the Governing Body may decide to close all or any portion of any meeting for any reason.

Conflict of Interest

The representative/alternate of a Member Organization shall not vote on any matter in which the Member Organization is financially interested, and shall not be counted for purposes of meeting the minimum number of required votes for taking such action. Prior to the vote, the representative/alternate shall fully disclose, or the Governing Body shall ascertain, all material facts regarding the Member Organization's financial interest in the matter. The Governing Body may authorize, approve, or ratify any contract or transaction between BAC's Fiscal Sponsor and a Member Organization if the contract or transaction is just and reasonable to BAC at the time it is authorized, approved, or ratified.

OFFICERS

Number, Selection, and Term

In May of each year, the Governing Body shall select from among the representatives a Chairperson, Co-Chairperson, Treasurer, Secretary, and Co-Secretary, who shall serve at the pleasure of the Governing Body. An officer may be re-appointed for any number of consecutive terms. The Governing Body may remove any officer with or without cause at any time. Any officer may resign at any time by giving written notice to the Governing Body or any other officer. The Governing Body shall fill a vacancy in any office. No person shall concurrently hold more than one office. In addition to the duties specified in this Agreement, officers shall perform such additional duties as the Governing Body shall assign from time to time.

Chairperson and Co-Chairperson

The Chairperson shall, when present, preside at all meetings of the Governing Body and Executive Committee. The Chairperson, or his or her designee, shall act as spokesperson for BAC and shall represent BAC at meetings with funders, public agencies, labor unions, and other entities as appropriate.

The Chairperson is authorized to execute in the name of BAC all contracts and other documents authorized by the Governing Body to be executed by BAC.

The Co-Chairperson, in the absence of the Chairperson or in the event of his or her inability to act, shall perform all the duties of the Chairperson.

Treasurer

The Treasurer shall supervise the activities of BAC's Fiscal Sponsor, and shall report to the Governing Body on the financial condition of BAC as requested.

Secretary and Co-Secretary

The Secretary shall act as secretary of all meetings of the Governing Body and the Executive Committee, and shall keep the minutes of all such meetings. The Secretary shall give and serve all notices of meetings of the Governing Body. The Co-Secretary shall assist the Secretary in the performance of these duties.

Executive Director

The Governing Body may authorize BAC's Fiscal Sponsor to employ an Executive Director on BAC's behalf. Subject to the control, advice, and consent of the Governing Body, the Executive Director shall have general supervision, direction, and control over BAC's affairs, including supervision of other staff employed by the Fiscal Sponsor on BAC's behalf. The Executive Director shall keep the Governing Body fully informed and shall freely consult with them concerning BAC's activities, and shall see that all decisions of the Governing Body are carried into effect. The Executive Director shall be empowered to act, speak for, or otherwise represent BAC between meetings of the Governing Body, and to negotiate all material transactions on behalf of BAC. The Executive Director shall be authorized to execute in the name of BAC all contracts and other documents authorized by the Governing Body to be executed by BAC.

COMMITTEES

Number, Selection, and Term

BAC shall have the following standing committees: Executive, Membership, Funding, Allocations and Oversight, and Program and Community Development. The Governing Body may create additional standing or special committees as needed.

An officer of BAC shall chair each standing committee. The Governing Body shall determine committee size, and shall appoint all members of each committee, fill vacancies, and substitute new committee members at any time. Except for the Executive Committee, committee membership is open to anyone, and is not limited to Governing Body representatives or alternates. Committee members are encouraged to seek out and nominate additional persons to serve on committees.

Meetings and Actions of Committees

Except for the Executive Committee, all committees are advisory only. Advisory committee recommendations to the Governing Body shall be made by majority vote of the entire committee. Recommendations may be made without a meeting as long as all committee members are given the opportunity to vote.

A committee member shall not vote on any matter in which the committee member or any organization represented by that committee member is financially interested, and shall not be counted for purposes of meeting the minimum number of required votes for taking such action. Prior to the vote, the committee member shall fully disclose, or the committee shall ascertain, all material facts regarding the committee member's financial interest in the matter.

Each committee shall keep minutes of its meetings and a record of its actions, which shall be filed with BAC's records. Committee records shall include the vote of each committee member (or their failure to vote) on each matter on which a vote is taken. Committees may determine their meeting location, and may adopt such rules for meetings as they deem appropriate.

Executive Committee

The Executive Committee shall consist of the five (5) BAC officers: Chairperson, Co-Chairperson, Treasurer, Secretary, and Co-Secretary. The Executive Committee is authorized to act on any matter that requires immediate action, that is, any matter that must be acted upon before a meeting of the Governing Body can be held. Executive Committee decisions shall be made by at least three officers. The Executive Committee shall deliver a report of its actions at the next succeeding Governing Body meeting.

The Executive Committee shall be responsible for supervising and administering the day-to-day activities of BAC, including supervision of the Fiscal Sponsor, Executive Director, other staff, and consultants.

Membership Committee

The Membership Committee shall review and make recommendations concerning applications for membership, associate membership, and affiliate and supporter status, and shall review and make recommendations concerning the removal of any Collaborative Participant.

Funding Committee

The Funding Committee shall prepare and/or review proposals and fundraising plans.

Allocations and Oversight Committee

The Allocations and Oversight Committee shall recommend the distribution of BAC funds, and shall review and evaluate the performance of fund recipients.

Program and Community Development Committee

The Program and Community Development Committee shall provide capacity building assistance to member and non-member organizations, and shall disseminate information on matters relevant to the mission and purpose of BAC, including new issues and trends.

FISCAL SPONSOR

Designation

The _____ has agreed to serve and is hereby designated as the initial fiscal sponsor. On each anniversary date of this Agreement, BAC and the Fiscal Sponsor shall review the role and performance of the Fiscal Sponsor and determine by mutual consent whether to continue such relationship for another year. Either BAC or the Fiscal Sponsor may request termination of the relationship at any time upon delivery of a notice to the other party at least thirty (30) days prior to the effective date of termination,

identifying a substitute Fiscal Sponsor and providing any necessary third party approvals. Approval by the other party of the substitute Fiscal Sponsor shall not be unreasonably withheld. The substitute Fiscal Sponsor shall sign this Agreement and/or any other appropriate agreements prior to assuming the duties of Fiscal Sponsor.

Duties

The Fiscal Sponsor shall:

- 1) Be the legal recipient of all BAC funds, which it shall hold in a bank account or accounts on behalf of BAC;
- 2) Prepare regular monthly and annual financial reports for BAC, and such financial reports as BAC's funders shall require;
- 3) Submit such narrative and other reports to BAC's funders as are prepared by BAC and approved by its Governing Body;
- 4) Disburse BAC funds at the direction of BAC's Governing Body;
- 5) Execute such agreements in the name of and on behalf of BAC as are approved by BAC's Governing Body;
- 6) Represent BAC and speak on its behalf at the request of BAC's Governing Body;
- 7) Arrange for an annual audit that includes an audit of funds received on behalf of BAC, with the increased audit cost, if any, borne by BAC;
- 8) Employ and provide administrative support and supervision for staff and consultants selected by BAC from funds received on behalf of BAC for this purpose;
- 9) Maintain all BAC records and documents, and make all such records available for inspection as provided in this Agreement;
- 10) Perform such other administrative and fiscal duties on behalf of BAC as are usually and customarily performed by a fiscal sponsor; and
- 11) Deliver all financial and other records of BAC to the substitute Fiscal Sponsor, if any, or to any other person so designated by BAC at the termination of the relationship.

Compensation

The Fiscal Sponsor shall be reimbursed for all of its direct and indirect expenses incurred in the performance of the above services, not to exceed ten percent (10%) of the amount received on behalf of BAC. The Fiscal Sponsor shall provide BAC with a monthly accounting of all expenses so incurred.

Insurance

The Fiscal Sponsor shall maintain a policy of comprehensive general liability insurance of at least \$2 million in coverage, and such other bonding and liability insurance, including but not limited to unemployment and workers' compensation insurance, required by law or usual and customary with respect to the conduct of its activities, including its activities as Fiscal Sponsor. All such insurance shall

cover the Fiscal Sponsor's services pursuant to this Agreement, if such coverage is available, with the increased cost, if any, borne by BAC.

Mediation

The parties agree to make a good faith effort to resolve any and all differences arising between BAC and the Fiscal Sponsor in the interpretation or performance of this Agreement. If agreement is not reached on any matter, then prior to taking other action, BAC and the Fiscal Sponsor shall attempt to engage, at no cost, the services of a third person mutually acceptable to them to mediate the dispute within five (5) days of appointment. If BAC and the Fiscal Sponsor are unable to agree on such third person within five (5) days of the request for mediation, or if on completion of such mediation, BAC and the Fiscal Sponsor are unable to settle the dispute, then either BAC or the Fiscal Sponsor may request arbitration or may take such other action as it deems appropriate.

TERM

This Agreement shall terminate as of the close of business on April 30, 2003, unless earlier terminated by the affirmative vote of the representatives/alternates of a majority of the Member Organizations, taken at a meeting the notice of which specified the proposed termination. The parties desiring to do so may extend this Agreement for another three (3) year term or such other term as they so desire.

AMENDMENT

This Agreement may be amended by the affirmative vote of the representatives/alternates of a majority of the Member Organizations, taken at a meeting the notice of which specified the proposed amendment. Amendments of this Agreement must be in writing.

GENERAL PROVISIONS

Authority

Each party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to do so.

Non-Discrimination

Each party represents that it is an equal opportunity employer and agrees not to discriminate in hiring and employment practices against any person on any ground prohibited by law or regulation for any position for which an employee or applicant for employment is qualified.

Independent Contractor

Each party has or will secure all personnel required in carrying out its duties and performing its services under this Agreement, and shall be responsible for all taxes and other payments, and all reporting requirements, for the personnel that it so utilizes.

Inspection

Upon reasonable notice, on behalf of BAC, an officer of BAC may inspect any books, records, or other materials of any party that pertain directly to this Agreement, with the right to make copies of any or all such material.

Upon reasonable notice, for a purpose reasonably related to its interests as a member, any Member Organization may inspect any books, records, or other materials of BAC, with the right to make copies of any or all such material.

Entire Agreement

This Agreement constitutes the entire agreement of the parties, superseding any prior written or oral agreements between or among them on the same subject matter.

Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Counterparts

This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed an original instrument, but all of them together shall constitute but one Agreement.

Severability

If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such enforcement shall frustrate the purpose of this Agreement.

Compliance With Laws

In carrying out its duties and performing its services under this Agreement, each party agrees that it will comply with all laws, ordinances, rules, and regulations of any government or administrative agency, federal, state, or local, that affect performance of its duties and services.

Assignment

No party shall assign, subcontract, or transfer its membership in BAC or its interest in this Agreement.

As the authorized representative of the community-based organization named below, I hereby execute the foregoing Bay Area ____ Collaborative (BAC) Collaboration Agreement, effective as of May 1, 2000.

Name of Organization: _____

Typed Name of Representative:

Title of Representative: _____

Signature of Representative: _____

Date:

Name of Organization:

The following person is hereby designated as the initial representative to the Governing Body of BAC:

The following person is hereby designated as the initial alternate to the Governing Body of BAC:

Date:

APPENDIX A

The following is a list of organizations that have been invited to participate in BAC as charter Member Organizations, subject to their execution of the BAC Collaboration Agreement.