

**AT-WILL EMPLOYMENT AGREEMENT FOR
INTERIM EXECUTIVE DIRECTOR AND INTERIM PRESIDENT/CEO**

This At-Will Employment Agreement (“**Agreement**”) is effective as of _____ (“**Effective Date**”) and entered by and between the Policy Board of the San Diego Consortium (“**Consortium**” or “**Policy Board**”) and the San Diego Workforce Partnership, Inc. (“**Partnership**”) on the one hand, and, Tony Young, an individual (“**Employee**”) on the other. The Consortium, the Partnership, and Employee shall may be referred to herein individually as the “**Party**” or collectively as the “**Parties**.”

RECITALS

WHEREAS, the Consortium was created by a Joint Exercise of Powers Agreement between the City of San Diego and the County of San Diego. The Policy Board is the governing body of the Consortium. The Partnership was created, in part, to administer the affairs of the Consortium;

WHEREAS, the Partnership has been formed for public benefit purposes to serve as the local Workforce Development Board for the San Diego Local Workforce Investment Area (“**LWIA**”) as those terms are defined in the Workforce Innovation and Opportunity Act of 2014 (Pub. L. 113-128) (“**WIOA**”) and exists to empower job seekers to meet the current and future workforce needs of employers in San Diego County;

WHEREAS, the Consortium has decided the size and composition of the Workforce Development Board;

WHEREAS, pursuant to a partnership agreement between the Consortium and the Partnership, effective April 29, 2016, as amended, the representatives of the Policy Board, the Partnership, and the Workforce Development Board, serve on a joint personnel committee (“**Joint Personnel Committee**”), which make determinations regarding the hiring, evaluating, and compensation, among other actions, of the Executive Director of the Consortium and the President and Chief Executive Officer (“**CEO**”) of the Partnership;

WHEREAS, the President and CEO of the Partnership also serves as the Executive Director of the Consortium;

WHEREAS, the Consortium and the Partnership desire to hire an Interim Executive Director and Interim President and CEO while they search for a permanent replacement;

WHEREAS, the Consortium and the Partnership, in consultation with the Joint Personnel Committee, believe that Employee is an individual who is experienced and qualified to serve as the “Interim Executive Director” of the Consortium and the “Interim President and CEO” of the Partnership; and

WHEREAS, the Parties desires to retain the services of Employee as the Interim Executive Director of the Consortium and the President and CEO of the Partnership on a temporary, at-will basis while the Consortium and the Partnership search for a permanent Executive Director and Present/CEO, respectively, and subject to the terms and conditions set forth herein.

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

AGREEMENT

1. **At-Will Employment.** The Parties agree that Employee shall be employed on an at-will basis as the Interim Executive Director of the Consortium and the President and CEO of the Partnership during the length of time which the Consortium and the Partnership deem necessary and appropriate. The Parties agree and understand that Employee's employment with the Consortium and the Partnership as the Interim Executive Director and President and CEO is for a temporary, undefined period, and is intended to support each entity while it searches for a permanent Executive Director and President and CEO. The Parties agree and understand that, at all times during the employment relationship, the employment will be at-will, which means that either Party may terminate the relationship at any time with or without cause or with or without advance notice. Similarly, the Parties understand, acknowledge, and agree that Consortium and the Partnership may change the terms and conditions of Employee's employment (for example, position, duties, salary, promotions, demotions, etc.) at-will, without prior notice at any time for any reason or no reason at all. Nonetheless, the Parties will endeavor to give each other advance notice of at least two weeks of the decision to terminate the employment relationship. Such advance notice cannot be guaranteed if Employee is being terminated for misconduct or violation of any policy or procedure that applies to Employee. The at-will nature of the employment relationship may not be altered unless it is in writing, signed by the Chairperson of the Consortium, the Chairperson of the Workforce Development Board, and Employee, and approved by their respective governing boards.

2. **Employment/Contractual Relationship.** Notwithstanding any provision set forth herein, the Consortium and the Partnership shall be joint employers of Employee, and Employee agrees to comply with the personnel policies that apply to the employees of the Partnership. As provided in Section 4 of this Agreement, the Partnership shall be responsible for payment of Employee's salary and other compensation or benefits provided herein.

3. **Work Hours and Duties.**

a. Employee shall be employed on a full-time basis as the Executive Director of the Consortium and the President and CEO of the Partnership, and shall work a minimum of forty (40) hours per week. Employee is required to report to, and perform all duties onsite for a minimum of three (3) days per week, unless otherwise agreed upon in writing. It is anticipated that Employee's work hours will encompass the Consortium and the Partnership's normal days and hours of operation as well as any additional hours which are necessary to the accomplishment of Employee's duties. As an exempt employee, Employee understands that Employee is not entitled to additional compensation for such any hours worked in excess of eight (8) hours per day or forty (40) hours per week.

b. As the Consortium's Executive Director and the Partnerships' President and CEO, Employee shall perform any and all duties that are customarily performed in Employee's position, and such other duties that the Consortium and/or the Partnership assigns to Employee from time to time, including but not limited to, those set forth in the job description for each position, as applicable. However, given the temporary nature of Employee's employment with the Consortium and Partnership, not all job duties may apply, and Employee's decision-making authority may be limited. Employee acknowledges that Employee will report to the Policy Board and the Workforce Development Board.

c. As part of Employee's duties, Employee acknowledges and understands that: (a) Employee will devote Employee's utmost knowledge and best skill to the performance of Employee's duties; (b) Employee shall devote Employee's full business time to the rendition of such services; and (c) Employee will not engage in any other gainful occupation which requires Employee's personal attention without prior consent of the Consortium and the Partnership.

4. **Compensation & Benefits.** In consideration for the services to be provided hereunder by Employee, the Consortium and the Partnership agree as follows:

a. **Salary.** The Partnership, on behalf of the Consortium and the Partnership, agrees to pay Employee based on an annual salary of two-hundred thousand Dollars and zero Cents (\$200,000.00) (“**Annual Salary**”), less applicable taxes, withholdings, and deductions, and any other deductions that may be authorized by Employee, in accordance with applicable federal, state, and/or local law. The Annual Salary shall be paid in regular bi-weekly installments, in accordance with the Partnership’s normal payroll practices. Employee acknowledges and understands that Employee’s position of employment is considered “exempt,” as that term is defined under the Fair Labor Standards Act and applicable state or local law. As an exempt employee, Employee is not eligible to receive overtime pay.

b. **Additional Benefits.** During Employee’s employment with the Consortium and the Partnership, Employee may be eligible to receive and/or participate in such other benefits generally available to Partnership employees subject to the eligibility requirements. The Partnership reserves the right to modify, suspend or discontinue any and all benefit plans, policies, and practices at any time without notice to or recourse by Employee. Employee is not eligible for benefits offered to Consortium employees, if any.

5. **Evaluation.** The Joint Personnel Committee may formally or informally evaluate the performance of Employee from time-to-time. In addition, the Joint Personnel Committee may also formally and informally assess and provide performance feedback to Employee on an ongoing basis. Failure to evaluate Employee shall not prevent the Policy Board from disciplining Employee, terminating Employee’s employment, or otherwise altering the terms and conditions of Employee’s employment with the Consortium and/or the Partnership.

6. **Personnel Policies and Procedures.** The Partnership shall have the authority to establish from time to time personnel policies and procedures to be followed by its employees. Employee agrees to comply with the policies and procedures of the Partnership. To the extent any provisions in Employer’s personnel policies and procedures differ with the terms of this Agreement, the terms of this Agreement shall govern.

7. **Confidential Information.**

a. Employee agrees not to use or disclose, produce, publish, permit access to, or reveal Confidential Information, whether before, during or after the period of Employee’s employment with the Consortium and the Partnership except to perform Employee’s duties as an employee of either entity or as may otherwise be required to by law.

b. “Confidential Information” means all information and material that is proprietary to the Consortium and/or the Partnership, whether or not marked as “confidential” or “proprietary,” and which is disclosed to or obtained by Employee, which relates to the Consortium and/or the Partnership’s past, present or future business activities, which are not known generally to the public. Confidential Information includes, without limitation, all of the following: any past, present or future information, techniques, know-how, designs, drawings, processes, experimental and development work, methodologies, works in progress, inventions, formulas, protocols, proposed and future products, Trade Secrets (as defined below), data, discoveries, developments, devices, research activities, audit information, audit results, audit plans, grant activities, fundraising activities or plans, investment research or plans, investment information, philanthropy research, plans or information, strategies, forecasts or compilations of information, Employer owned and developed computer hardware and software, computer

systems information, codes and passwords, programming notes and software, illustrations, writings, manuals, documentation, PowerPoint or similar presentations, models, texture maps, materials, visual effects, plans, learning programs, grant or funding information (including contract information), donor or grantor information (including all contact information, donor or grantor practices or habits, and special requirements as to grant funding), grant proposals or plans, prospect lists (including all contact information), financial information relating to Employer's services, practices or techniques of Employer or any of its affiliates, donors, grantors, consultants, contractors or licensors, information pertaining to employees or independent contractors of Employer (including but not limited to their contact information and private personnel information) and any other nonpublic information that has commercial value to Employer or relates to the actual or anticipated business or research of Employer, and has not been made available to the general public by authorized representatives of Employer. Confidential Information also includes any information Employer has received from others that Employer is obligated to treat as confidential or proprietary (including but not limited to information provided under the attorney client privilege), which was made known to Employee by Employer, a third party or otherwise during Employee's employment with Employer. Information regarding employee benefits, including salary/wage information (other than Employee's own salary/wage information), is also Confidential Information that belongs to Employer. The California Uniform Trade Secrets Act (California Civil Code section 3426 et seq.), defines a "Trade Secret" (as used herein, "Trade Secret(s)") to mean information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

c. Confidential Information does not include any information that (i) was in the lawful and unrestricted possession of Employee before its disclosure by the Consortium and/or the Partnership, (ii) is or becomes generally available to the public by acts other than those of Employee after receiving it, or (iii) has been received lawfully and in good faith by Employee from a third party who did not derive it from the Consortium and/or the Partnership. Employee must take all necessary and appropriate steps to protect and safeguard all proprietary, confidential, and sensitive information of Employer and is to return all copies, including any and all soft copies or computer versions, of any and all of Employer's materials in Employee's possession, whether or not such materials are Confidential Information. Employee's obligations under this Section shall survive the termination of employment and the termination of this Agreement.

8. **Miscellaneous Provisions.**

a. **Entire Agreement.** This Agreement and any attachments and/or exhibits contains the entire agreement between the Parties. It supersedes any and all other agreements, either oral or in writing, between the Parties with respect to Employee's employment by the Consortium and the Partnership. Each Party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not embodied herein and acknowledges that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. To the extent the practices, policies or procedures of the Consortium and/or the Partnership, now or in the future, are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

b. **Governing Law; Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any action arising out of or concerning this Agreement or Employee's employment with the Consortium and/or the Partnership shall be commenced in the federal or state courts located in San Diego County, California.

c. **Notices.** Any notice required or permitted to be given under this Agreement may be personally served, mail via U.S. mail, or sent via electronic mail to the other party by sending them to the following:

CONSORTIUM

[insert name]

[insert title]

[insert address]

[insert address]

Email: [insert email address]

PARTNERSHIP

[insert name]

[insert title]

[insert address]

[insert address]

Email: [insert email address]

EMPLOYEE

[insert name]

[insert title]

[insert address]

[insert address]

Email: [insert email address]

d. **Severability.** Should any part or provision of this Agreement be held by a court of competent jurisdiction to be illegal, unenforceable, invalid or void, the remaining provisions of this Agreement shall continue in full force and effect and the validity of the remaining provisions shall not be affected by such holding.

e. **Survival.** Upon the termination of this Agreement, Section 7, shall survive such termination or expiration, and shall continue, with full force and effect, in accordance with their respective terms and conditions.

f. **Interpretation.** This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the Party receiving a benefit nor against the Party responsible for any particular language in this Agreement. The headings and captions contained in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement and shall not be used in the construction or interpretation of this Agreement.

g. **Amendment; Waiver.** This Agreement may not be modified or amended by oral agreement or course of conduct, but only by an agreement in writing signed by the Consortium, the Partnership, WDB, and Employee. The failure of any Party hereto at any time to require the performance by the other Party hereto of any provision hereof shall in no way affect the full right to require such performance at any time thereafter, nor shall the waiver by either Party hereto of a breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or waiver of the provision itself or a waiver of any other provision of this Agreement.

h. **Successor and Assigns.** This rights and obligations of the Consortium and the Partnership shall inure to the benefit of and shall be binding upon the successors and assigns of the Consortium and the Partnership, as appropriate. Employee shall not be entitled to assign any of Employee's rights or obligations under this Agreement.

i. **Counterparts; Digital Signatures.** This Agreement may be executed in counterparts, and each counterpart, when executed, shall have the efficacy of a signed original. Photographic, scanned, digital, or faxed copies of such signed counterparts may be used in lieu of the originals for any purpose. The headings in this Agreement are only for convenience and ease of reference and are not to be considered in construction or interpretation. All exhibits, schedules, and appendices attached to this Agreement are an integral part of it.

j. **Legal Representation; Independent Counsel.** Employee is aware of Employee's right to obtain legal counsel with respect to the negotiation and execution of this Agreement and acknowledges that the Consortium, the Partnership, and WDB have recommended that Employee

retain Employee's own counsel for such purpose. Employee further acknowledges that Employee (i) has read this Agreement and its exhibits and attachments (if any); (ii) has had the opportunity to retain separate counsel in connection with the negotiation and execution of this Agreement; and (iii) has relied on the advice of separate counsel with respect to this Agreement or made the conscious decision not to retain counsel in connection with the negotiation and execution of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first set forth above.

EMPLOYEE

Tony Young

SAN DIEGO CONSORTIUM

Chair of the Policy Board
Council President Pro Tem Monica Montgomery Steppe

SAN DIEGO WORKFORCE PARTNERSHIP, INC.

Chair of the Workforce Development Board
Rick Vaccari