

**Exhibit A**  
**to**  
**SAMPLE MEMORANDUM OF UNDERSTANDING**  
**Center for Employment Opportunities**  
**&**  
**Prospective Partner Organization**

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**Center for Employment Opportunities**  
**&**  
**Prospective Partner Organization**

RECITALS

WHEREAS, the City of Chula Vista (CITY) is the second largest city in San Diego County and one of the safest cities in the region;

WHEREAS, statistics show that a large percentage of those committing crimes are repeat offenders; and

WHEREAS, studies have demonstrated that individuals with a criminal justice history who gain employment are less likely to re-offend; and

WHEREAS, the CITY has been approached by Center for Employment Opportunities to participate in a unique program proven to reduce rates of recidivism by providing a venue for individuals with criminal histories to learn job skills and perform regular work; and

WHEREAS the Center for Employment Opportunities, Inc. ("CEO") has offered comprehensive employment services for people with criminal convictions, including immediate paid transitional work, job development and employment retention services, in New York City as an independent organization since 1996 and as part of the Vera Institute of Justice since 1978;

WHEREAS CEO offers paid transitional work to its participants through operating work crews of 5-7 people that provide indoor and outdoor maintenance, cleaning, beautification and grounds-keeping services to state and municipal agencies and a variety of public and private corporations;

WHEREAS, there are several necessary services for which the CITY has never had full-time staff and does not currently have the resources to perform; and

WHEREAS, CEO and the CITY believe that the performance of some of these necessary services would provide the program participants meaningful work opportunities, create a real and visible impact on the communities and, most importantly, help in reducing the rates of recidivism within the County of San Diego and the City Of Chula Vista's borders; and

WHEREAS, the CITY and CEO shall work together to identify the services that would best meet the goals of the program; and

WHEREAS CEO will provide the CITY at least one work crew of 5-7 individuals to perform the identified services;

WHEREAS, CEO shall fund the program from resources that may include the Federal Social Innovation Fund, associated matching dollars and potentially other sources; and

WHEREAS, the CITY will subsidize a portion of the program in the initial six months of this agreement, and based on satisfactory service of CEO during that period, will make every effort to fund a larger portion program for the remaining term of this agreement;

WHEREAS, the CITY recognizes that participation in this program will benefit all of the citizens of this community.

NOW, THEREFORE, the City and CEO, based on mutual consideration, the receipt and sufficiency is hereby acknowledged, enter into this Memorandum of Understanding ("MOU") subject to the following terms and conditions:

## **TERMS AND CONDITIONS**

### **A. TERM:**

The term of this MOU shall be for twenty-four (24) months beginning December 1, 2011 and ending November 30, 2013, unless otherwise extended or terminated by mutual agreement or terminated pursuant to Section I.

### **B. DESIGNATION OF PROJECT LEADERS:**

Each party agrees to designate an individual or individuals who shall serve as project leaders or managers within their respective organization. Each such individual shall be responsible for implementing the terms of this MOU and coordinating all program activities.

1. CEO designates Keiara Auzenne as CEO project leader
2. City designates Bob Beamon as City project leader.

### **C. PROGRAM PARTICIPANTS:**

The parties agree that participants in any CEO work crew providing services to the CITY will be comprised of individuals who live in San Diego County have criminal conviction(s), and have been thoroughly screened by CEO to ensure that they will be suitable participants for a program of this nature.

### **D. RESPONSIBILITIES OF CEO:**

CEO responsibilities shall include the following:

1. Perform all outreach, recruitment, and enrollment for program participants.
2. Enroll 70 participants overall from County of San Diego over the course of one year in CEO's paid transitional employment program, a minimum of 20 of whom shall reside in Chula Vista and work on projects designated by the City of Chula Vista.

- a. CEO has the exclusive right to terminate or suspend participants who fail to adhere to CEO's employment program policies.
3. Screen all program participants for their employment eligibility and fitness to work
  - a. Individuals with sexual offenses or arson offenses shall be prohibited from enrolling in the program
  - b. The eligibility of violent felony offenders shall be thoroughly reviewed by CEO on a case-by-case basis prior to any acceptance of such offenders into the program.
4. Provide a minimum of one work crew of up to 7 persons for 6.5 hours a day, Monday through Friday, excluding holidays, to perform agreed upon services and assignments and additional crews if jointly agreed between CEO and the CITY.
5. Ensure the safety of all CEO work-crew members, including providing them with safety and other equipment for their person, including items such as steel-toed boots, CEO IDs and safety vests.
6. Receive work assignments from City Liaison and communicate with such personnel about the work to be performed prior to performance, about the progress of the work during performance, and about what was done after performance.
7. Supervise the work of any CEO work crew, including providing line of sight supervision of work-crew members during the 6.5 daily work hours.
8. Provide compensation to program participants in accordance with all local, state and federal minimum wage laws.
  - a. City shall have no obligation to pay any compensation directly to program participants.
9. Make available to all program participants the following services/activities:
  - Pre-employment training classes including resume writing and interview skill building to be delivered by CEO's Participant Engagement Leader (PEL) during a one week Life Skills Education class at CEO's office that commences the program;
  - Job Coaching and Job placement services to be delivered by the PEL and Employment Specialist (ES) respectively at CEO's offices one day per week while participants are actively enrolled in transitional work ;
  - Post-placement services to increase labor-force retention, for one year from the date of full-time job placement to be delivered by the PEL and ES at monthly intervals at minimum either at CEO's offices or another convenient meeting place for program participants who are working full time.

#### **E. RESPONSIBILITIES OF THE CITY:**

1. Provide a liaison to identify and secure for CEO appropriate work crew projects in properties controlled and maintained by the City (City Liaison) and communicate daily with designated CEO staff members about the scope and progress of the work.
2. Ensure the work projects identified by the City provide program participants with meaningful work experience and have a tangible community impact.
  - a. City shall ensure that none of the work or tasks identified for performance by the CEO participants are those that would otherwise be performed by employees represented by City recognized bargaining units.
3. Ensure that CEO has legal access to the properties that it will be maintaining and beautifying.
4. Have the City project leader, as defined in Section B, meet with CEO's project leader on a quarterly basis to discuss the project's progress.

#### **F. COMPENSATION**

1. The cost of a CEO work crew, inclusive of wages for participants; supervision; personal safety equipment including steel toed boots, work goggles, reflective vests, among other items; transportation; payroll processing and other associated costs shall be paid by CEO.
2. For the first six months of this MOU, CITY shall pay CEO \$20,000
  - a. After the first six (6) months, provided that the CITY, in its sole discretion, has determined that it is satisfied with the work performed by CEO participants and the program, CITY shall make reasonable efforts to secure additional funding to subsidize a larger portion of the costs of the CEO program work within the CITY for the second twelve (12) months of the Agreement and the CITY shall make further efforts to increase subsidy funding for the CEO program in the final six months of Agreement.

#### **G. INSURANCE:**

1. General. CEO must procure and maintain, during the period of performance of this Agreement, and for twelve months after completion, policies of insurance from insurance companies to protect against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under this Agreement and the results of that work by the CEO, his agents, representatives, employees or subcontractors, and provide documentation of same prior to commencement of work.
2. Minimum Scope of Insurance. Coverage must be at least as broad as:
  - a. CGL. Insurance Services Office Commercial General Liability coverage (occurrence Form CG0001).

- b. Auto. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
  - c. WC. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
  - d. E&O. Professional Liability or Errors & Omissions Liability insurance appropriate to the CEO's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.
3. Minimum Limits of Insurance. CEO must maintain limits no less than those included in the table below:

1. General Liability: (Including operations, products and completed operations, as applicable).	<b>\$1,000,000</b> per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit.
2. Automobile Liability	<b>\$1,000,000</b> per accident for bodily injury and property damage.
3. Workers' Compensation Employer's Liability:	<b>Statutory</b> <b>\$1,000,000</b> each accident <b>\$1,000,000</b> disease-policy limit <b>\$1,000,000</b> disease-each employee

4. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer will reduce or eliminate such deductibles or self-insured retentions as they pertain to the City, its officers, officials, employees and volunteers; or the CEO will provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
5. Other Insurance Provisions. The general liability, automobile liability, and where appropriate, the worker's compensation policies are to contain, or be endorsed to contain, the following provisions:
- a. Additional Insureds. City of Chula Vista, its officers, officials, employees, agents, and volunteers are to be named as additional insureds with respect to all policies of insurance, including those with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the CEO, where applicable, and, with respect to liability arising out of work or operations performed by or on behalf of the CEO, including providing materials, parts or equipment furnished in connection with such work or operations. The general liability additional insured coverage must be provided in the form of an endorsement to the CEO's insurance using ISO CG 2010 (11/85) or its equivalent. Specifically, the endorsement must not exclude Products/Completed Operations coverage.

- b. Primary Insurance. The CEO's General Liability insurance coverage must be primary insurance as it pertains to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance of the CEO and in no way relieves the CEO from its responsibility to provide insurance.
  - c. Cancellation. The insurance policies required by this Agreement shall not be canceled by either party, except after thirty days' prior written notice to the City by certified mail, return receipt requested. The words "will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" shall be deleted from all certificates.
  - d. Active Negligence. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insureds in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
  - e. Waiver of Subrogation. CEO's insurer will provide a Waiver of Subrogation in favor of the City for each required policy providing coverage for the term required by this Agreement.
6. Claims Forms. If General Liability, Pollution and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are written on a claims-made form:
  7. Retro Date. The "Retro Date" must be shown, and must be before the date of the Agreement or the beginning of the work required by the Agreement.
  8. Maintenance and Evidence. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the work required by the Agreement.
  9. Cancellation. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the effective date of the Agreement, the CEO must purchase "extended reporting" coverage for a minimum of five years after completion of the work required by the Agreement.
  10. Copies. A copy of the claims reporting requirements must be submitted to the City for review.
  11. Acceptability of Insurers. Insurance is to be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of no less than A V. If insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers ("LESLI") with a current A.M. Best's rating of no less than A X. Exception may be made for the State Compensation Fund when not specifically rated.

12. Verification of Coverage. CEO shall furnish the City with original certificates and amendatory endorsements effecting coverage required by Section I.C. of this Agreement. The endorsements should be on insurance industry forms, provided those endorsements or policies conform to the requirements of this Agreement. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

## H. INDEMNIFICATION

1. CEO shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers, agents and employees, from and against any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of CEO, its officials, officers, employees, agents, and contractors, arising out of or in connection with this MOU or the performance of the services hereunder. This indemnity provision does not include any claims, damages, liability, costs and expenses (including without limitations, attorneys fees) arising from the negligence, active negligence or willful misconduct of the City, its officers, employees. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which is in combination with the active or passive negligent acts or omissions of the CEO, its employees, agents or officers.
2. Costs of Defense and Award. Included in the obligations in Sections H(1) above, is CEO's obligation to defend, at CEO's own cost, expense and risk, any and all suits, actions or other legal proceedings, that may be brought or instituted against the City, its directors, officials, officers, employees, agents and/or volunteers, subject to the limitations in Sections H(1). CEO shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents and/or volunteers, for any and all related legal expenses and costs incurred by each of them, subject to the limitations in Sections H(1).
3. Insurance Proceeds. CEO's obligation in Section H to defend and indemnify the City shall be restricted to its insurance proceeds, if any, received by the City, its directors, officials, officers, employees, agents, and/or volunteers.
4. Declarations. CEO's obligations under this Section H, Indemnification, shall not be limited by any prior or subsequent declaration by the CEO.
5. Enforcement Costs. If the City is the prevailing party to an applicable indemnity enforcement suit, CEO agrees to pay any and all costs City incurs enforcing the indemnity and defense provisions set forth in Section H.
6. Survival. CEO's obligations under Section H shall survive the termination of this Agreement.



## I. TERMINATION

1. Termination for Cause. If, through any cause, CEO shall fail to fulfill in a timely and proper manner CEO's obligations under this MOU, or if CEO shall violate any of the covenants, agreements or stipulations of this MOU, City shall have the right to terminate this MOU by giving notice to CEO of such termination and specifying the effective date thereof. The notice may be either in writing or oral; however, if such notice is communicated orally, it shall be followed, within two (2) business days, by a written notice.
2. Termination of MOU for Convenience. Either party shall have the right to terminate this MOU at any time and for any reason, by giving specific written notice to the other party of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In the event that CEO terminates this MOU prior to the end of the first six (6) months, CEO shall reimburse the City a pro rata share of the funds City committed and paid to CEO.

## J. NOTICE

1. Notices. All notices, demands, requests or other communications required or permitted hereunder (collectively, "Notices") shall be in writing, shall be addressed to the receiving party, and shall be personally delivered, sent by overnight mail (Federal Express or another carrier that provides receipts for all deliveries), or sent by certified mail, postage prepaid, return receipt requested, to the address listed below:

If to CEO:

Mindy S. Tarlow  
Executive Director/Chief Executive Officer  
Center for Employment Opportunities  
32 Broadway, 15<sup>th</sup> Floor  
New York, New York 10004

With copies to:

Sam Schaeffer  
Executive Director, CEO National  
Center for Employment Opportunities  
32 Broadway, 15<sup>th</sup> Floor  
New York, New York 10004

If to City:

City of Chula Vista  
276 Fourth Avenue  
Chula Vista, California 91910  
Attention: Jim Sandoval, City Manager  
Fax No.: (619) 409-5997

With copies to:

All Notices shall be effective upon receipt at the appropriate address. Notice of change of address shall be given by written Notice in the manner detailed in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no Notice in accordance with this Section was given shall be deemed to constitute receipt of such Notice. The providing of copies of Notices to the parties' respective counsels is for information only, is not required for valid Notice and does not alone constitute Notice hereunder.

#### K. GENERAL PROVISIONS

1. **Headings.** All article headings are for convenience only and shall not affect the interpretation of this MOU.
2. **Gender & Number.** Whenever the context requires, the use herein of (i) the neuter gender includes the masculine and the feminine genders and (ii) the singular number includes the plural number.
3. **Reference to Paragraphs.** Each reference in this MOU to a section refers, unless otherwise stated, to a section of this MOU.
4. **Incorporation of Recitals.** All recitals herein are incorporated into this MOU and are made a part hereof.
5. **Covenants and Conditions.** All provisions of this MOU expressed as either covenants or conditions on the part of the City or CEO, shall be deemed to be both covenants and conditions.
6. **Integration.** This MOU and any Exhibits and references incorporated into this MOU fully express all understandings of the Parties concerning the matters covered in this MOU. No change, alteration, or modification of the terms or conditions of this MOU, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties or an amendment to this MOU agreed to by both Parties. All prior negotiations and agreements are merged into this MOU.
7. **Severability.** The unenforceability, invalidity, or illegality of any provision of this MOU shall not render any other provision of this MOU unenforceable, invalid, or illegal.
8. **Drafting Ambiguities.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this MOU, and the decision of whether or not to seek advice of counsel with respect to this MOU is a

decision that is the sole responsibility of each Party. This MOU shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the MOU.

9. **Conflicts Between Terms.** If an apparent conflict or inconsistency exists between the main body of this MOU and any Exhibits, the main body of this MOU shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this MOU, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this MOU, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this MOU.
10. **Prompt Performance.** Time is of the essence of each covenant and condition set forth in this MOU.
11. **Good Faith Performance.** The parties shall cooperate with each other in good faith, and assist each other in the performance of the provisions of this MOU.
12. **Further Assurances.** City and CEO each agree to execute and deliver such additional documents as may be required to effectuate the purposes of this MOU.
13. **Exhibits.** Each of the following Exhibits is attached hereto and incorporated herein by this reference: N/A
14. **Controlling Law.** The laws of the State of California shall govern and control the terms and conditions of this MOU.
15. **Jurisdiction, Venue, and Attorney Fees.** To the extent permitted by law, the venue for any suit or proceeding concerning this MOU, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.
16. **Municipal Powers.** Nothing contained in this MOU shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.
17. **Third Party Relationships.** The execution and delivery of this MOU shall not be deemed to confer any rights upon, nor obligate any of the parties to this MOU to, any person or entity other than the parties hereto. Nothing in this MOU shall create a contractual relationship between City and any third party.
18. **Non-Assignment.** CEO shall not assign any of its obligations under this MOU without the prior written authorization of the City.
19. **Successors in Interest.** This MOU and all rights and obligations created by this MOU shall be in force and effect whether or not any Parties to the MOU have been succeeded by

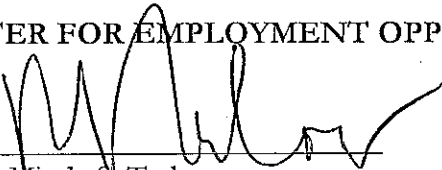
another entity, and all rights and obligations created by this MOU shall be vested and binding on any Party's successor in interest.

20. No Waiver. No failure of either the City to insist upon the strict performance of any covenant, term or condition of this MOU, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this MOU, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this MOU, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.
21. Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this MOU, against the City unless a claim has first been presented in writing and filed with the City and acted upon by the City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by the City in the implementation of same.
22. Counterparts; Facsimile Signatures. This MOU may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument. A facsimile signature shall be deemed an original signature.
23. Signing Authority. The representative for each Party signing on behalf of such Party hereby declares that authority has been obtained to sign on behalf of the City and/or District, as applicable and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

IN WITNESS WHEREOF, City and CEO have executed this MOU, indicating that they have read and understood same, and indicate their full and complete consent to its terms:

CENTER FOR EMPLOYMENT OPPORTUNITIES, INC.

By:

  
Mindy S. Tarlow  
Executive Director/  
Chief Executive Officer

Date:

12/7/11

THE CITY OF CHULA VISTA

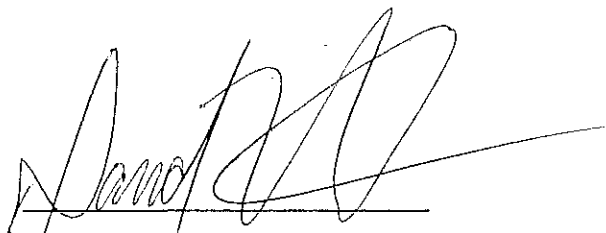
By:

  
[INSERT]

Date:

1/9/12

Approved as to Form:



Glen R. Googins