d. Have not within a 3-year period preceding this Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

29. Lobbying. The **Contractor** certifies, to the best of its knowledge and belief, that:

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

b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the **Contractor** shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The **Contractor** shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

30. Drug Free Workplace: The **Contractor** certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's/Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;
(2) The grantee's/Contractor's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed on employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant/Agreement be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant/Agreement, the employee will:

(1) Abide by the terms of the statement, and
(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such a conviction;

(e) Notifying the agency, in writing, within ten (10) calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

31. Conflicts of Interest. The **City** and **Contractor** shall ensure the prohibition of conflict of interest or the appearance of such in awarding and fulfilling the contractual obligations. **Contractor** shall establish safeguards to prohibit employees, agents, etc. from using their position(s) for a purpose that is/gives the appearance of any gain for themselves, their relatives or others with whom they have a business, personal or other ties.

The **Contractor** warrants that no part of the total Agreement amount shall be paid directly or indirectly to an employee or official of the State of Tennessee, the **City** of Memphis, or the Workforce Investment Network as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the **Contractor** in connection with any work contemplated or performed relative to this Agreement.

32. License. The **Contractor** shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules and regulations and shall upon request provide proof of all licenses.

33. Monitoring: The **Contractor's** activities conducted and records maintained pursuant to this Agreement shall be subject to monitoring and evaluation by the **City**, the Federal government, the State government or their duly appointed representatives.

34. Progress Reports. The **Contractor** shall submit periodic, progress reports as well as all required performance data to the **City** and/or State as requested.

35. Waiver. Failure by any party to this Agreement to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

36. Independent Contractors. The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

37. Liability. The **City** shall have no liability except as specifically provided in this Agreement.

38. Force Majeur. The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

39. Compliance. The **Contractor** shall comply with all applicable local, state and federal laws and regulations in the performance of this Agreement.

40. Prior Employment. The **Contractor** shall not employ any employees prior to the start date of this on-the-job training Agreement. Any such employment shall void this Agreement.

41. Referral. The **Contractor** shall employ only those individuals eligible under the appropriate WIA program

guidelines and only those participants with an original referral form authorized by a WIN representative.

Contractor certifies that any Participant(s) employed pursuant to this OJT Agreement are not currently employed by the **Contractor** and has not previously been employed by the **Contractor** in the same, similar or an upgraded position.

42. Referral and Training Completion. The **City** shall not refer any individuals for OJT if said individual(s) will not complete the training on or before the contract ending date.

43. Employment Commitment. The **Contractor** agrees to hire referred WIN participants as a member of the regular workforce and train the participants for the position. **Contractor** further commits to retain the Participant as a regular, full-time employee, for a minimum of one (1) full year upon successful completion of the on-the-job training, and upon successful work performance of the participant, pursuant to the performance standards set forth herein.

The Participants must complete the **Contractor's** normal hiring process and qualify for employment with **Contractor**. The **Contractor** is not obligated to employ Participants referred by the **City** if such Participants do not meet the minimum qualifications for employment.

44. Nepotism. The **Contractor** may not hire an individual in an administrative, managerial, supervisory or subordinate capacity if that individual's immediate family is employed with the **Contractor** in an administrative, managerial or supervisory capacity.

"Immediate family means": siblings, in-laws, parents, children, grandparents, grandchildren, nieces, nephews, aunt, uncles, or other family members.

45. OJT Duration. Employment of participants under the Agreement shall be limited to a period not in excess of that generally required for the acquisition of skills needed for the position.

46. Workers Compensation/Tax Payments. The **Contractor** shall be responsible for payment of income, federal tax and social security taxes. WIN participant(s) shall be covered under **Contractor's** on-the-job injury policy during the duration of the on-the-job training and thereafter during the subsequent full-time, unsubsidized employment.

47. Employee Displacement: The **Contractor** assures that the WIN participant(s) are not being placed in a position or substantially equivalent position to one that is vacant due to a layoff, hiring freeze or termination with the intention of filling the position with subsidized employment, and/or will not reduce the hours of non-overtime work, wages, promotion or unemployment benefits of currently employed individuals.

48. Excessive Absences/Discipline Problems. The **Contractor** shall inform the **City** of any excessive absenteeism, sickness or other problems that may arise regarding an OJT participant at the onset of the problem; thereby affording the **WIN** the opportunity to intervene and counsel the participant in hopes of rectifying the situation.

49. On-the-Job Injury/Termination. The **Contractor** shall provide the **City** with a written notification and explanation of any on-the-job injury or termination of a participant for any reason within three (3) days of the injury or termination.

50. Replacement/ Refills. Once the **Contractor** has employed a WIN Participant to fill a position under the Agreement, that position is considered filled and another WIN Participant cannot be employed for that particular position. In other words, if, for whatever reason, a Participant quits or is terminated from a position under the current Agreement, the **Contractor** cannot employ another Participant to replace that Participant under the Agreement.

51. Performance Standards. The **Contractor** shall meet applicable local, state, and/ or national performance

standards prescribed by the Local Workforce Investment Board (LWIB) policies and/ or Workforce Investment Network staff.

52. Records. **Contractor** shall make and keep as the same accrue, full and complete records and books of accounts of revenue and income, and costs and expenses that specifically relate to performance under this Agreement for a period of **three (3) years** after the completion of the contract obligations or the final payment under this Agreement, whichever is later. Such records that may be kept, maintained or possessed by the **Contractor**, shall be open to examination during regular business hours by the **City**, the state government, the federal government or any duly authorized representatives for the purposes of inspecting, auditing, verifying, or copying the same or making extracts therefrom.

In addition, if any litigation, audit or other action involving this Agreement or records pertaining to this Agreement has been started prior to the expiration of the three-year retention period, **Contractor** shall retain the records until the litigation, audit findings or other action is completed and all issues are resolved.

Should **Contractor** cease to do business within the three-year retention period or thereafter during the required retention period, **Contractor** agrees to forward all contract records to the **City**.

53. Hold Harmless. To the extent permitted by applicable law, **Contractor** shall, at its own expense, save, hold harmless, protect, indemnify and defend the **City**, **WIN** and their officers, agents and employees from and against any and all claims, demands, suits, actions, penalties, damages, settlements, costs, expenses, or other liabilities of any kind and character arising out of or in connection with the breach of this Agreement by **Contractor**, its employees, agents or servants or any negligent act or omission to act of the **Contractor**, its employees, agents or servants which occurs pursuant to performance of this Agreement. This indemnification shall survive the expiration or earlier termination of this Agreement. The provisions of this paragraph shall not apply to any loss or damage caused solely by the acts, errors, or omissions of the WIN, its officers, employees and agents.

This Hold Harmless provision is not applicable to departments, divisions or other subunits of the State of Tennessee.

54. Subcontracting. The **Contractor** shall not assign this Agreement or enter into a subcontract for any of the services performed under this Agreement without obtaining the prior written approval of the WN and/or the **City**. If such subcontracts are approved by the WIN and/or the City, they shall contain, at a minimum, sections of this Agreement pertaining to Conflicts of Interest, Lobbying, Nondiscrimination, Public Accountability, and Public Notice.

Notwithstanding any use of approved subcontractors, the **Contractor** shall be the prime contractor and shall be responsible for all work performed.

55. Public Accountability. If this Agreement involves the provision of services to citizens by the **Contractor** on behalf of the State, the **Contractor** agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the **Contractor** agrees to display a sign stating:

"NOTICE: This **Contractor** is a recipient of taxpayer funding. If you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"
Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public enters in order to receive Grant supported services.

56. Public Notice. All notices, informational pamphlets, press releases, reports, signs and similar public notices prepared and released by the **Contractor** shall include the statement, "This project is funded under an agreement with the Department of Labor and Workforce Development." **Contractor** agrees to include statements in all advertisements that assure that qualified applicants will receive consideration for employment

and/or participation without regard to race, color, sex, religion or national origin. Any such notices by the **Contractor** shall be approved by the State.

57. Union Agreement. If the **Contractor** is unionized, it shall discuss this agreement with the union's representatives and shall not violate the union contract. The union shall be given no less than five (5) days to inform the **Contractor**, in writing, which section(s) of the collective bargaining agreement that the proposed on-the-job training contract violates.

58. Grievances. Complaints or grievances arising out of this Agreement shall be resolved in accordance with the grievance procedures established by the Workforce Investment Network. **Contractor** must notify the Participant of the grievance procedures to follow.

59. Prior Agreements. All other oral and written agreements related to the subject matter of this Agreement and which were made prior to the date of commencement have been reduced to writing and are contained herein, which shall be the sole measure of the liability and duty of each party.

60. Political/Sectarian Activities. The **Contractor** shall not use WIA funding to support political activities or sectarian activities or for lobbying activities. OJT Participants will not be employed on the construction, operation or maintenance of a facility that is used for religious instruction or worship.

61. Insurance. **Contractor** shall not commence any work under this Agreement until it has obtained and keep in force all insurance required herein. **Contractor** shall furnish the **City** a Certificate of Insurance and/or policies attested by a duly authorized representative of the insurance carrier evidencing that the insurance required hereunder is in force and effect. All insurance companies must be acceptable to the City of Memphis and licensed in the State of Tennessee. Insurance shall be evidenced by certificates and/or policies as determined by the **City**.

If any of the insurance requirements are non-renewed at the expiration dates, payment to the **Contractor** may be withheld until those requirements have been met; or at the option of the **City,** the **City** may pay the renewal premiums and withhold such payments from any monies due the **Contractor**.

The **Contractor** shall provide a self-insurance letter to satisfy the following insurance requirements:

A. WORKERS COMPENSATION in accordance with the statutory requirements of the State of Tennessee.

Employers Liability	$100,000 Each Accident $500,000 Disease – Policy Limit $100,000 Disease – Each Employee

B. AUTOMOBILE LIABILITY covering owned, non-owned and hired vehicles.

$1,000,000 Each Occurrence – Combined Single Limits

C. Contractor shall be responsible for maintaining any and all *PROPERTY INSURANCE* on its own equipment.

D. FIDELITY BONDING (EMPLOYEE DISHONESTY/THEFT coverage) in an amount not less than $50,000 per occurrence per employee.
This Bonding coverage is not applicable to departments, divisions, or other subunits of the State of Tennessee.

E. COMMERCIAL GENERAL LIABILITY:

Comprehensive General Liability Insurance, including Premises and Operations, Contractual Liability, Independent Contractor's Liability, and Broad Form Property Damage Liability coverage

General Aggregate	$1,000,000
Products & Completed Operations	$1,000,000
Personal & Advertising	$1,000,000
Each Occurrence	$1,000,000
Fire Damage any One Fire	$50,000
Medical Expense any one Person	$5,000

F. **ADDITIONAL INSURANCE REQUIREMENTS**: Each certificate or policy shall require and state in writing the following clauses:

i. *Insurance Cancellation/Changes*. Thirty (30) days prior to cancellation or material change in the policy, notice thereof shall be mailed to the City of Memphis Risk Manager and Workforce Investment Network by registered mail, return receipt requested, to the following addresses:

City of Memphis
Attn: Risk Management
100 N. Main, Suite 2028
Memphis, TN 38103

Workforce Investment Network Agency
Attn: Quality Assurance Unit
22 North Front Street, Suite 1050
Memphis, TN 38103

ii. *Additional* Insured. The City of Memphis, its officials, agents, employees and representatives shall be named as Additional Insured on all liability policies.

NOTE: The additional insured endorsements shall be attached to the Certificate of Insurance.

62. Investigations. In the event that **City** becomes aware of an investigation conducted by **City** officials, state officials, Federal officials or other officials concerning matters of which **City** has an interest (i.e., misappropriation of funds, abuse, etc.), **City** has the right to cease all referrals to **Contractor** until the matter has been resolved to **City's** satisfaction and/or the investigation has been officially closed by the investigating party. In the event that **Contractor** is found guilty of the allegations/charges, **City** shall immediately terminate this Agreement.

63. Severability. If any terms and conditions of this Agreement are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Agreement are declared severable.

64. Section headings are for reference purposes only and shall not be construed as part of this Agreement.

65. Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The **City**:

Isaac Garrett, Executive Director
Workforce Investment Network
22 North Front Street, Suite 1050
Memphis, TN 38103
Telephone: (901) 576-6811
Fax: (901) 576-6844

The **Contractor**:

John C. Trusty, Administrator of Adm. and Finance
Shelby County Corrections Office
1045 Mullins Station Road
Memphis, TN 38134
Telephone: (901) 377-4503
Fax: (901) 377-4503

All Instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is confirmed telephonically by the sender if prior to 4:30 p.m.

CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

66. Tobacco Smoking. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the **Contractor** shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The **Contractor** shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines.

The Career Center System is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.

TDD telephone number: (901) 545-2209.

Place of Performance

1. Place/Location: Shelby County Division of Corrections
   Address: 1045 Mullins Station Road
   City and County: Memphis Shelby County
   State and Zip Code: Tennessee 38134
   Telephone Number: (901377-4500

2. Place/Location:
   Address:
   City and County:
   State and Zip Code:
   Telephone Number:

3. Place/Location:
   Address:
   City and County:
   State and Zip Code:
   Telephone Number:

4. Place/Location:
   Address:
   City and County:
   State and Zip Code:
   Telephone Number:

NOTE: If you require more space, please provide the information on a blank sheet of paper and include with this contract.

PART II - PROGRAM NARRATIVE SUMMARY

This section describes the specific services and/or training that will be provided under this Agreement between the **CITY** and the **CONTRACTOR** including the reason the program is needed and specific components that will be included in the program.

A. PROBLEM STATEMENT/STATEMENT OF WORK

In the space below, please give a brief statement describing the problem the program addresses and the need for the program or explain the work that is to be performed under this Agreement. Attach additional sheet if necessary.

Scope of Work

During the performance of this Agreement, the **CONTRACTOR** agrees to provide the following service in compliance with applicable laws, policies and procedures governing the WIA Title I Adult and Dislocated Worker programs:

- The **CONTRACTOR** shall provide on-the-job training, at an hourly salary, in accordance with the two attached job descriptions. OJT services will be provided for a maximum of **fifty-one (51)** adult and/or dislocated worker participants referred by an authorized representative of the Workforce Investment Network. No more than *fifty-one (51) participants* shall be trained.

- The **CONTRACTOR** shall provide training to up to a total of nineteen (19) entry-level Counselor B's and up to thirty-two (32) entry level Corrections Officers. The training will involve nine (9) weeks (360) hours. Corrections Officers shall be paid at a salary of $14.79 per hour. Counselors shall be paid at a salary of not less than $14.79 per hour and not more than $15.43 per hour, depending on previous experience.

- The **Contractor** will be offering two separate classes. The first will begin on March 4, 2008 and end on May 7, 2008. The second class will begin on April 2, 2008 and end on June 5, 2008. Both classes will include both Counselor B's and Corrections Officers.

- The **CONTRACTOR** shall furnish the CITY/WIN with progress reports and other necessary records for each participant under this Agreement as requested.

The City of Memphis agrees to compensate the **CONTRACTOR** as follows:

A. The **CONTRACTOR** shall be paid on a reimbursement basis for all charges incurred under this Agreement in accordance with written guidelines or procedures established by the CITY/WIN Fiscal Unit.

B. The **CITY** shall reimburse **CONTRACTOR** fifty percent (50%) of the participants' hourly wages during the training period. A fully executed Agreement must be in the possession of the WIN office before a payment can be made.

The above services will be provided by the contractor, referred to as **Shelby County Government Division of Corrections**, at a maximum cost identified in this Agreement, not to exceed **one hundred thirty-seven thousand nine hundred and sixty-two dollars ($137,962).**

COST CATEGORY IV

TRAINING SERVICES

LINE ITEM: OJT WAGES - 613

MAXIMUM NUMBER OF OJT PARTICIPANTS	AVERAGE HOURLY WAGE	AVERAGE NUMBER TRAINING HOURS	% TO THIS LINE ITEM	TOTAL
19 (Counselor B's)	$15.43	360	50%	$52,771
32 (Corrections Officers)	$14.79	360	50%	$85,191

TOTAL $137,962

OJT participant time sheets signed by participant, supervisor and contractor are required for reimbursement.

Shelby County Government

A C Wharton, Jr.
Mayor

November 8, 2006

Workforce Investment Network
444 N. Main St., 2nd floor
Memphis, TN 38105

RE: Shelby County Government
Self-insured Tort Liability

Dear Sir or Madam:

This letter is to inform you that Shelby County Government is self-insured for its liability exposures as provided by the Tennessee Governmental Tort Liability Act in the Tennessee Code Annotated, §29-20-101 et seq.

Sincerely,

Louise F. Horton, CIC
Insurance Specialist
Department of Finance

LFH:me