1. CALL TO ORDER
   1.1. Roll call / Establish quorum

2. ACTION ITEM
   2.1. Consideration of Adopting a Resolution Re-Authorizing Findings in Support of Allowing Remote Meetings Pursuant to AB361 (Modifies Brown Act Procedures During a Declared Emergency) and Direction Regarding Holding MLJT Board Meetings in Person or Remotely

3. PUBLIC COMMENTS
   The Mother Lode Workforce Development Board welcomes public comments. A member of the public may comment on agenda items or any item that is within the subject matter jurisdiction of the Board, even though subject matter may not be on the agenda. The Chair will limit the time allocated for each individual public speaker to no more than five (5) minutes.

4. CONSENT CALENDAR
   All items under the Consent Calendar are considered routine and will be approved in one action without discussion. If a Board member requests that an item be removed from the Consent Calendar or a citizen wishes to speak on an item, the item will be considered under Action Items.

   4.1. Accept the February 17, 2022 meeting minutes

5. ACTION ITEMS
   5.1. Approve Plan Year 2020-21 Single Audit Report from Harshwal & Company LLP

6. INFORMATION/DISCUSSION ITEMS
   6.1. Resolution of EDD finding – Final Determination
   6.3. Funding Pipeline (Dave & Amy)
   6.4. Director’s Report (Dave Thoeny)

7. 2022 MEETINGS (All on Thursday, 12:00 – 2:00 pm)
   August 18; November 17

8. ADJOURN
FINDINGS OF THE MOTHER LODE WORKFORCE DEVELOPMENT BOARD

RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS

FOR THE PERIOD MAY 19, 2022 – JUNE 18, 2022

PURSUANT TO THE RALPH M. BROWN ACT.

WHEREAS, all meetings of the Mother Lode Workforce Development Board and its legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and view the legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions and requirements; and

WHEREAS, a required condition of Government Code section 54953(e) is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558(b); and

WHEREAS, a further required condition of Government Code section 54953(e) is that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body holds a meeting to determine or has determined by a majority vote that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency declaring a state of emergency exists in California due to the threat of COVID-19, pursuant to the California Emergency Services Act (Government Code section 8625); and,

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-07-21, which formally rescinded the Stay-at-Home Order (Executive Order N-33-20), as well as the framework for a
gradual, risk-based reopening of the economy (Executive Order N-60-20, issued on May 4, 2020) but did not rescind the proclaimed state of emergency; and,

WHEREAS, on June 11, 2021, Governor Newsom also issued Executive Order N-08-21, which set expiration dates for certain paragraphs of the State of Emergency Proclamation dated March 4, 2020 and other Executive Orders but did not rescind the proclaimed state of emergency; and,

WHEREAS, as of the date of this Finding, neither the Governor nor the state Legislature have exercised their respective powers pursuant to Government Code section 8629 to lift the state of emergency either by proclamation or by concurrent Finding the state Legislature; and,

WHEREAS, the California Department of Industrial Relations has issued regulations related to COVID-19 Prevention for employees and places of employment. Title 8 of the California Code of Regulations, Section 3205(5)(D) specifically recommends physical (social) distancing as one of the measures to decrease the spread of COVID-19 based on the fact that particles containing the virus can travel more than six feet, especially indoors; and,

WHEREAS, on February 17, 2022, the Mother Lode Workforce Development Board previously adopted findings that the requisite conditions existed for the Mother Lode Workforce Development Board to conduct remote teleconference meetings without compliance with Government Code section 54953(b)(3), as authorized by Section 54953(e); and,

WHEREAS, as a condition of extending the use of the teleconferencing provisions for another 30 days beyond the Finding adopted on February 17, 2022, pursuant to Government Code Section 54953(e), the Mother Lode Workforce Development Board must reconsider the circumstances of the state of emergency that exists and find that either the state of emergency continues to directly impact the ability of the members to meet safely in person or state or local officials continue to impose or recommend measures to promote social distancing; and,

WHEREAS, the Mother Lode Workforce Development Board has reconsidered the circumstances of the state of emergency and finds that state or local officials continue to impose or recommend measures to promote social distancing, based on the California Department of Industrial Relations regulations related to COVID-19 Prevention, specifically, Title 8 of the California Code of Regulations, Section 3205(5)(D), continuing to remain in effect; and,
WHEREAS, as a consequence, the Mother Lode Workforce Development Board does hereby find that it may continue to conduct their meetings by teleconferencing without compliance with Government Code section 54953 (b)(3), pursuant to Section 54953(e), and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed by Government Code section 54953(e)(2).

NOW, THEREFORE, BE IT RESOLVED, FOUND AND ORDERED by the Mother Lode Workforce Development Board, in regular session assembled on May 19, 2022, does hereby find as follows:

Section 1. Recitals. All of the above recitals are true and correct and are incorporated into this Finding by this reference.

Section 2. Reconsideration of the State of Emergency. The Mother Lode Workforce Development Board has reconsidered the circumstances of the state of emergency that continues to exist and was proclaimed by the Governor through a State of Emergency Proclamation on March 4, 2020.

Section 3. State or Local Officials Continue to Impose or Recommend Measures to Promote Social Distancing. The Mother Lode Workforce Development Board hereby proclaims that state officials continue to impose or recommend measures to promote social (physical) distancing based on the continuance of California Department of Industrial Relations regulations related to COVID-19 Prevention through Title 8 of the California Code of Regulations, Section 3205(5)(D).

Section 4. Remote Teleconference Meetings. The Mother Lode Workforce Development Board is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Finding including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date. This Finding shall take effect immediately upon its adoption and shall be effective until the earlier of (i) June 18, 2022, or (ii) such time the Mother Lode Workforce Development Board adopts a subsequent Finding in accordance with Government Code section 54953(e)(3) to extend the time during which its legislative bodies may continue to teleconference without compliance with Section 54953(b)(3).

ADOPTED this 19th day of May, 2022 by the Mother Lode Workforce Development Board, by the following vote:
YES:

NO:

ABSENT:  Tyler Newton

ABSTAIN:  Chair, Mother Lode Workforce Development Board
MEETING AGENDA
Mother Lode Workforce Development Board
Thursday, February 17, 2022 (12:00pm)

Via Teleconference: https://us02web.zoom.us/j/6067573943
197 Mono Way, Suite B
Phone audio: (669) 900-9128
Sonora, CA 95370
Meeting ID: 606 757 3943
(209) 588-1150

1. CALL TO ORDER
   1.1. Roll call / Establish quorum

<table>
<thead>
<tr>
<th>Name</th>
<th>Present?</th>
<th>Absent?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ardria Weston</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Bill Petrone</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Cathy Parker</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Cory Thomas-Fisk</td>
<td>X</td>
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<tr>
<td>Debra Rockwood</td>
<td>X</td>
<td></td>
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<tr>
<td>Frank Leschinsky</td>
<td>X</td>
<td></td>
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<tr>
<td>Jason Wood</td>
<td>X</td>
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<tr>
<td>JC Rieger</td>
<td></td>
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<tr>
<td>Stephen Kautz</td>
<td>X</td>
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<tr>
<td>Kathryn Gallino</td>
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<td>LaChelle Adams</td>
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<td>Mark Luster</td>
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<td>Mike Lemke</td>
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<td>Scott Nanik</td>
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<td>Steve Amador</td>
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<td>Steve Woodward</td>
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<tr>
<td>Tim Hildabrand (Vice Chair)</td>
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<td>Tyler Newton (Chair)</td>
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<td><strong>Non-Voting Members</strong></td>
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<td>Joe Bors</td>
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<td>Rebecca Espino</td>
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<td>Rebecca Mendibles</td>
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<tr>
<td>Velma Whitebear</td>
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2. ACTION ITEM
   2.1. Consideration of Adopting a Resolution Re-Authorizing Findings in Support of Allowing Remote Meetings Pursuant to AB361 (Modifies Brown Act Procedures During a Declared Emergency) and Direction Regarding Holding MLJT Board Meetings in Person or Remotely
   Motion approved. (M) T. Hildabrand, (S) K. Gallino, ayes carried, 6 absent.
3. PUBLIC COMMENTS
   None.

4. CONSENT CALENDAR
   4.1. Accept the November 18, 2021 meeting minutes
   Minutes accepted. (M) T. Hildabrand, (S) K. Kautz, ayes carried, 6 absent.

5. ACTION ITEMS
   5.1. Elect Chair and Vice-Chair for 2022
   The board elected Tyler Newton as the Chair and Tim Hildabrand as the Vice Chair.
   (M) T. Hildabrand, (S) C. Fisk, ayes carried, 6 absent.

6. INFORMATION/DISCUSSION ITEMS
   6.1. Welcome Stephen Kautz from Ironstone Vineyards to the WDB Board, representing Tourism/Hospitality & Manufacturing business sectors

   6.2. Industry Initiatives
   See Attachment A.

   6.3. Funding Summary
   See Attachment B.

   6.4. Director’s Report
   See Attachment C.

7. 2022 MEETINGS (All on Thursday, 12:00 – 2:00 pm)
   February 17; May 19; August 18; November 17

8. ADJOURN
<table>
<thead>
<tr>
<th>INDUSTRY</th>
<th>ACTIVITIES</th>
</tr>
</thead>
</table>
| CONSTRUCTION        | • Construction Industry Partnership – Contact list of 51 private sector businesses – March 29 meeting  
                            • SB1/CCI - SFPUC Construction Cohort MC3 pre-apprenticeship program  
                            • Workforce Accelerator Fund 10 – Training the homeless in construction trades                                                                 |
| HEALTH SERVICES     | • Good Jobs Challenge Grant – Nursing career pathways  
                            • Calaveras CTE Advisory Committee – Medical Assistant and EMT program  
                            • Incumbent Worker Training – Maynord’s Chemical Dependency Recovery Center                                                                 |
| LEISURE & HOSPITALITY | • Incumbent Worker Training Opportunities  
                            • Workforce Planning with The Armory, Dodge Ridge  
                            • Work Based Learning with Crazy Eddie’s in San Andreas  
                            • Murphys Business Association, Calaveras Winegrape Alliance, Calaveras Visitors Bureau                                           |
| MANUFACTURING       | • Targeted as next industry partnership (Q2/2022 launch)  
                            • Jamestown pellet manufacturer - Golden State Natural Resources (GSNR)  
                                - 50 jobs at plant + 40 trucker jobs; 300,000 metric tons annually                                          |
| NATURAL RESOURCES   | • Forestry Corps (CalFire grant with Fresno WDB and Columbia College)  
                            • Tuolumne County Natural Resources Workforce Development Program                                                                                   |
### MOTHER LODE JOB TRAINING - FUNDING SUMMARY

Through 12/31/2021  

Key: Purple = Underexpended; Green = Overexpended

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Status</th>
<th>Start Date</th>
<th>End Date</th>
<th>Current Date</th>
<th>Funding Amount</th>
<th>Funds Expended</th>
<th>Funds Remaining</th>
<th>On-Track Spending</th>
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<tr>
<td>Adult</td>
<td></td>
<td>7/1/21</td>
<td>6/30/22</td>
<td>50%</td>
<td>$ 403,650</td>
<td>$ 280,374</td>
<td>$ 123,276</td>
<td>$ 77,440</td>
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<td>Dislocated Worker</td>
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<td>7/1/21</td>
<td>6/30/22</td>
<td>50%</td>
<td>$ 291,157</td>
<td>$ 175,474</td>
<td>$ 115,683</td>
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<td>Youth (Out of School Youth &gt;75% Req)</td>
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<td>7/1/21</td>
<td>6/30/22</td>
<td>50%</td>
<td>$ 348,703</td>
<td>$ 111,421</td>
<td>$ 237,282</td>
<td>$ (63,889)</td>
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<td>Rapid Response</td>
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<td>7/1/20</td>
<td>6/30/22</td>
<td>75%</td>
<td>$ 490,400</td>
<td>$ 202,475</td>
<td>$ 287,925</td>
<td>$ (166,166)</td>
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<td>RR Layoff Aversion</td>
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<td>7/1/20</td>
<td>6/30/22</td>
<td>75%</td>
<td>$ 116,405</td>
<td>$ 21,592</td>
<td>$ 94,813</td>
<td>$ (65,911)</td>
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<td><strong>Discretionary Grants</strong></td>
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<tr>
<td>Regional Plan Implementation 3.0</td>
<td></td>
<td>4/1/20</td>
<td>3/31/22</td>
<td>88%</td>
<td>$ 245,000</td>
<td>$ 218,461</td>
<td>$ 26,539</td>
<td>$ 3,707</td>
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<td>Regional Plan Implementation 4.0</td>
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<td>4/1/21</td>
<td>9/30/22</td>
<td>50%</td>
<td>$ 251,858</td>
<td>$ 63,226</td>
<td>$ 188,632</td>
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<td>Opioid Crisis - Nat. Dislocated Worker</td>
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<td>10/1/18</td>
<td>3/21/22</td>
<td>94%</td>
<td>$ 358,366</td>
<td>$ 346,260</td>
<td>$ 12,106</td>
<td>$ (62,933)</td>
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<td>Employment Recovery - Dislocated Worker</td>
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<td>4/10/20</td>
<td>3/31/23</td>
<td>58%</td>
<td>$ 150,000</td>
<td>$ 150,000</td>
<td>$ -</td>
<td>$ -</td>
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<tr>
<td>Prison to Employment IDS</td>
<td></td>
<td>10/1/19</td>
<td>3/31/22</td>
<td>90%</td>
<td>$ 506,350</td>
<td>$ 392,724</td>
<td>$ 113,626</td>
<td>$ (63,657)</td>
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<td>Prison to Employment SSEL</td>
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<td>10/1/19</td>
<td>3/31/22</td>
<td>90%</td>
<td>$ 796,073</td>
<td>$ 647,406</td>
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<td>$ (70,107)</td>
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<td>D.E.A. Employment Accelerator for the Mother Lode</td>
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<td>4/1/21</td>
<td>3/31/23</td>
<td>38%</td>
<td>$ 350,000</td>
<td>$ 106,226</td>
<td>$ 243,774</td>
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<td><strong>Contracts</strong></td>
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<tr>
<td>Calaveras HHS - ESEP</td>
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<td>7/1/21</td>
<td>6/30/22</td>
<td>50%</td>
<td>$ 55,567</td>
<td>$ 22,877</td>
<td>$ 32,690</td>
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<td>Mariposa DHS - ESEP</td>
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<td>7/1/21</td>
<td>6/30/22</td>
<td>50%</td>
<td>$ 100,000</td>
<td>$ 14,468</td>
<td>$ 85,532</td>
<td>$ (35,807)</td>
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<td>Mariposa DHS - CalWORKs</td>
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<td>7/1/21</td>
<td>6/30/22</td>
<td>50%</td>
<td>$ 30,000</td>
<td>$ 1,800</td>
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<td>$ (13,282)</td>
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<td>Tuolumne DSS - CalFresh</td>
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<td>9/30/22</td>
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<td>$ 89,947</td>
<td>$ 1,138</td>
<td>$ 88,809</td>
<td>$ (21,349)</td>
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<td>Tuolumne DSS - CalWORKS</td>
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<td>$ 9,042</td>
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<td>$ (24,929)</td>
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<td>Fresno SB 1</td>
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<td>3/31/23</td>
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<td>$ 45,000</td>
<td>$ 23,521</td>
<td>$ 21,479</td>
<td>$ 9,172</td>
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</table>

Total: $5,175,442 $2,810,709 $2,364,733 $863,765
Directors’ Report
Mother Lode Workforce Development Board Meeting
February 17, 2022

Project Pipeline

- **Awarded**
  1. $15,000 Tuolumne County Community Grant Program – Equipment

- **Pending**
  1. Good Jobs Challenge - EDA (with Central Valley)
    - **Healthcare sector**
    - Develop new and expand existing health career development projects
  2. Workforce Accelerator Fund (WAF) 10.0
    - Target population: Homeless and Housing Insecure
    - Which industry sector / occupations?
      - Natural Resources or Construction (apprenticeships)

- **Developing**
  1. Forestry Corps - CalFire (With Fresno & Columbia College)
    - **Natural Resources sector**
    - Produce sustainable skilled labor supply for forest health & biomass reclamation projects
    - Planning meeting with Fresno December 7 at Columbia Coll.
  2. Regional Equity & Recovery Partnerships (RERP)
    - Partnership with Columbia College
    - Equity, Good Jobs, Climate Change
    - $600,00 minimum (3 years)
  3. Community Economic Resilience Fund (CERF) – Planning Grant
    - $5 million for each of 13 California regions – “Eastern Sierra”
    - Create “planning tables” of stakeholders across 7 counties
    - Produce actionable regional CED
  4. PG&E power line burial project (with Fresno)
    - 10,000 miles; $30 billion; announced July 21, 2021
    - Dozens of subcontractors; hundreds of workers; multi-years
    - Seeking commitment to hire n% local workers
    - Advocating with both PG&E and PUC
April 6, 2022

David Thoeny
Executive Director
Mother Lode Consortium
197 Mono Way, Suite B
Sonora, CA 95370

Dear David Thoeny:

FINAL DETERMINATION FOR
CASE NUMBER 2018-SA-006
SINGLE AUDIT REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2019
MOTHER LODE CONSORTIUM

AND

CATS REFERRAL CASE NUMBER 2020-CR-001
WORKFORCE INNOVATION AND OPPORTUNITY ACT
NATIONAL DISLOCATED WORKER GRANT – 2017 STORM GRANT REVIEW
SUBGRANT NUMBERS K7102043, K8106645, AND K9110027
FINAL MONITORING REPORT - PROGRAM YEAR 2018-19, FINDING CATS 2002
MOTHER LODE CONSORTIUM


MLC Response and Corrective Actions Taken to Date

(1) MLC hired a Compliance Analyst to review contracts to ensure alignment with state and federal guidelines.
(2) MLC provided a budget and cost breakdown of services provided and percentage of costs analysis from the contractor, Foundation for California Community Colleges (FCCC), showing how direct and indirect costs are calculated; that there was no profit made; and evidence of FCCC’s federally approved indirect cost rate.

(3) MLC requested that the FCCC agree to exclude the cost-plus-a-percentage ‘mark-up’ term from future contracts. MLC provided a more recent contract between MLC and FCCC showing the budget to include costs for participant wages, payroll taxes and the discounted indirect cost rate of 15% (this is not the contract related to this finding but provides evidence that MLC and FCCC followed the request; the ‘mark-up’ term is removed).

(4) MLC provided a copy of the 2015/2016 project narrative proposal submitted by the California Workforce Association (CWA) to the California Workforce Development Board (CWDB) outlining the plan to procure on behalf of the 48 Local Workforce Development Boards in California to create the California Training Institute (CTI) (prequalified list). The proposal was WIOA funded and approved by the CWDB. The CTI was established during this time.

(5) MLC provided a document explaining the history and benefit of the CTI for reference.

(6) MLC provided CWA’s piggybacking procurement documentation, including the Employment and Payroll Services Request for Proposal (RFP), price analysis, the FCCC’s proposal, three additional quotes and the justification to select the lowest bid.

(7) MLC provided a copy of the contract between MLC and FCCC.

(8) MLC provided a copy of the contract between CWA and FCCC.

(9) MLC provided copies of all invoices from FCCC and each includes a 15% indirect cost charge not a ‘mark-up’ charge. FCCC billed the 15% as an indirect cost rate from the first invoice to the last.

**Analysis and Issues**

The CRO noted that a contract for payroll and related services, and the procurement thereof, is at issue in both Finding 2019-001 from the FY ending June 30, 2019 SAR and Finding CATS 2002, from the MLC PY 2018-19 Storm Fiscal Monitoring Review, dated September 18, 2020. Accordingly, both findings are addressed simultaneously in this notification.
The CRO reviewed all of the documentation provided by MLC in relation to both Finding 2019-001 and CATS 2002. The review and analysis resulted in the identification of the following two primary issues related to the contract in question: (I) proper procurement evaluation and documentation when using the piggyback method, and (II) contract costs and price must be in compliance with federal requirements.

(I) **Proper Procurement Evaluation and Documentation – Piggyback Method**

**Requirements**

2 CFR §200.318(d), states, “The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.”

2 CFR §200.318 (e) “To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.”

2 CFR §200.318(i), states, “The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.”

2 CFR §200.318(k), states, in relevant part, “The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation…”

2 CFR §200.319(d) states, “The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use…”

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

2 CFR §200.319(e) “The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.”

2 CFR §200.320 (b)(2) states, in relevant part, “Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
(ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;
(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered.”

2 CFR §200.320(c) states, in relevant part, “Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(5) After solicitation of a number of sources, competition is determined inadequate.”

2 CFR §200.324(b) “The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(iv) The non-Federal entity’s procurement procedures or operation fails to comply with the procurement standards in this part;
(v) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation.”

Analysis
The CRO reviewed the procurement documentation provided by MLC, which was relied upon by MLC as the basis for piggybacking the contract in question. Because the contract amount was in excess of the Simplified Acquisition Threshold, federal regulations require that a procurement be conducted in a manner that provides for full and open competition, and that no procurement transaction will contain any requirements that restrict competition or present an organizational conflict of interest. The CRO found that the procurement performed by the CWA complied with the competitive proposal definition and was a full and open competition in which a RFP was released. One agency responded, the FCCC, so the non-competitive process was then followed based on the following criteria:

*Competition is determined inadequate. This usually occurs after a sealed bid or competitive process has been used and there are insufficient bidders.* CWA followed the non-competitive process and drafted a sole source justification and included three additional quotes, justifying the selection of the FCCC Career Catalyst as the most cost effective option to provide employer of record services.

The procurement documentation provided by MLC contained (1) the RFP (2) a copy of the FCCC Career Catalyst proposal, (3) the sole source justification with three additional quotes, and (4) a price analysis.

Non-federal entities, such as MLC, are responsible for the proper procurement, in compliance with federal regulations and grant terms, of all contracts entered into expending WIOA funds, and it is the responsibility of the non-federal entity to retain documentation of any procurement relied upon, such as the procurement upon which MLC relied upon to piggyback the contract in question. Initially, MLC did not have the documents on file. However MLC worked with CWA to attain the documents and have confirmed that when piggybacking occurs in the future they will review all procurement documents and retain copies on file since it is the non-federal entity’s responsibility to document its assessment of the appropriateness of the procurement and applicability of the terms negotiated therein to substantiate why it is the best solution for the non-federal entity’s specific needs when entering into the contract. The non-federal entity must make this information available for review by EDD upon request.

(II) **Contracts Cost and Price Compliance with Federal Requirements**

**Requirements**

2 CFR§200.323 – Contract cost and price. “(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.”

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.”

Additional guidance on contracting requirements may be found in the OMB Compliance Supplements and Guidance for Grants and Agreements.

Analysis

At the time of the initial monitoring review that took place in September of 2019, the CRO reviewed the contract between MLC and FCCC and determined that the contract contained cost-plus-a-percentage of costs provision because it included the term ‘mark-up’ in relation to the 15% fee to facilitate the payroll services and act as the employer of record. A draft monitoring report was sent to MLC in October of 2019 including the cost-plus-a-percentage finding. In December 2019 MLC responded to the finding and provided a copy of FCCC’s federally approved indirect cost rate which was 19.05% at the time, and explained:

1. The definition of a cost-plus-a-percentage contract is “an agreement to reimburse a company for expenses plus a specific amount of profit, usually stated as a percentage of the contract’s full price.” There is no profit in the employer of record contract between MLC and the FCCC. The contract does not qualify as a cost-plus-a-percentage contract.
2. According to 2 CFR Part 200 indirect costs are allowable costs.
3. The FCCC’s attached indirect cost rate determination is 19.05% exceeding the agreed upon 15% fee.

Further, MLC provided copies of all invoices and payments made to the FCCC during the course of the contract and every invoice included a charge for the 15% indirect cost rate and there were never ‘mark-up’ charges. The invoices took place from August 2017 through September 2019, so by the time the finding occurred in October 2019 the contract
had expired therefore the term 'mark-up' could not be revised to ‘indirect cost rate.’ The error existed in the contract language and was mislabeled while the billing was done correctly at the 15% indirect cost rate for the duration of the contract, therefore, there are no disallowed costs.

The MLC and FCCC contract connected to this finding ended in September of 2019 and a new contract was entered into in November 2019 between MLC and FCCC for the same services and that contract reflects the indirect cost language and no longer includes the term ‘mark-up’ showing that both agencies were responsive. MLC was asked to provide a cost analysis of how the FCCC was applying expenses and a cost breakdown was provided displaying how direct and indirect costs are billed, showing that FCCC billed correctly and no profit was made.

**Final Determination**

MLC has responded to each request made by CRO, put forth good faith efforts, spent funds for the purposes of WIOA, and there has been no evidence of malfeasance. Additionally, the contract in question was billed correctly within the federally approved indirect cost rate and MLC has provided sufficient responses to all areas of concern related to this finding therefore there are no disallowed costs. At this time, the CRO considers the CATS Referral Case Number 2020-CR-001 and Case Number 2018-SA-006 to be resolved and closed.

**Notification of Records Retention Requirement**

In accordance with Title 2 CFR §200.333(a) and (b), MLC is herein notified that all records related to these matters must be retained until all litigation, claims, audit findings, monitoring review findings, and other related actions have been resolved and final action taken.

Please direct any questions regarding this notification to the Compliance Resolution Unit at PACBCROIncidentReports@edd.ca.gov. You may also contact Natalie Villanueva, Compliance Monitoring and Resolution Section Chief, at Natalie.Villanueva@edd.ca.gov.

Sincerely,

Cindy Harrington

CINDY HARRINGTON, Chief
Compliance Review Office
Audit and Evaluation Division
cc: Alicia Mountjoy Reif, MLC
    Amy Thompson, MLC
    Amy Frost, MLC
    Grant Brouqua, MIC 22
    Jennifer Fischer, MIC 50
    Jennifer Gouvaia, MIC 50
    Kathleen Doe, MIC22M
    Margo Hattin, MIC 22M
    Mechelle Hayes, MIC 22M
    Melissa McDaniel, MIC 22M
    Kimberlee Meyer, MIC 50
    Tim Reynaga, MIC 50
    Chuck Tobia, MIC 78
    Natalie Villanueva, MIC 22M
## Mother Lode Job Training - Funding Summary

Through 3/31/2022

**Key:**
- **Purple** = Underexpended
- **Green** = Overexpended

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Status</th>
<th>Start Date</th>
<th>End Date</th>
<th>Current Date</th>
<th>Funding Amount</th>
<th>Funds Expended</th>
<th>Funds Remaining</th>
<th>On-Track Spending</th>
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<td>$251,858</td>
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<td>Calaveras HHS - ESEP</td>
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<td>Tuolumne DSS - CalWORKS</td>
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<td>Biomass Utilization Fund (BUF) - RCAC</td>
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<td>6/30/22</td>
<td>87%</td>
<td>$45,760</td>
<td>$9,328</td>
<td>$36,432</td>
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<td>Fresno SB 1</td>
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<td>6/1/21</td>
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<td>45%</td>
<td>$45,000</td>
<td>$33,305</td>
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Total: $5,175,442 | $3,716,419 | $1,459,023 | (704,928)
Funding Pipeline
Mother Lode Workforce Development Board
May 19, 2022

- **Awarded**
  1. Workforce Accelerator Fund (WAF) 10.0 – CWDB
     - $250,000
     - Target population: Homeless and Housing Insecure
     - Resiliency Village partnership
     - Natural Resources or Construction (apprenticeships)
  2. STEPS (Summer Training and Employment Program for Students) - DOR
     - $140,000
     - 28 students with disabilities in paid work experiences

- **Awaiting**
  1. Good Jobs Challenge - EDA (with Central Valley)
     - $500,000
     - Develop and expand health career development projects
  2. Forestry Corps - CalFire (With Fresno & Columbia College)
     - $2 million
     - Sustainable skilled labor supply for forest health & biomass reclamation projects
     - 4 cohorts of 20 foresters
  3. Pathway Home 3 – DOL
     - $1 million
     - Serve 100 inmates in our 4 county jails, pre- and post-release
  4. Regional Equity & Recovery Partnerships (RERP) - CWDB
     - $840,000
     - Partnership with Columbia College
     - Focus on CNA, MA, Patient Navigator career pathways

- **Developing**
  1. Community Economic Resilience Fund (CERF) – Planning Grant
     - $5 million for each of 13 California regions – “Eastern Sierra”
     - Create “planning tables” of stakeholders across 7 counties
     - Produce actionable regional CEDS
# 2022 Board Meetings

**MLJT Board of Directors**

<table>
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<th>January</th>
<th>April</th>
<th>July</th>
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**Mother Lode Workforce Development Board**

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<td>25 26 27 28 29 30</td>
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If you require reasonable accommodation in order to participate in any of these meetings please contact Kelly Smith, 72 hours in advance, at ksmith@mljt.org

CRS711 (TTY) Auxiliary aids and services are available upon request to individuals with disabilities. EOE/ADA