

**TALX CORPORATION
UNEMPLOYMENT COMPENSATION SERVICES MODEL AGREEMENT**

This Agreement is executed on this 1st day of May 2006, between TALX Corporation, a Missouri corporation, 11432 Lackland Road, St. Louis, Missouri, 63146, hereinafter called the "Contractor," and the County of _____, a political subdivision of the State of California, hereinafter called the "County."

Whereas, CPAAC wishes to assist its member counties in maintaining unemployment coverage, if required, and in reducing the heavy costs thereof; and

Whereas, CPAAC conducted RFP #CPAAC 04-05 for group unemployment compensation administration services for those of its members who wish to participate.

Whereas, the Contractor, a leading unemployment compensation administration firm, has been selected to provide training, claims administration, management information, and related services to participating counties on a group basis, for which services the Contractor is specially trained, experienced, expert and competent; and

Whereas, the County wishes to participate in such program and to utilize the services of CPAAC and the Contractor, and is authorized to contract for such services under Section 31000 of the California Government Code.

Now, therefore, the parties agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement, the following terms and abbreviations shall have the meanings stated:

1. **Group Services:** All those services to be provided by CPAAC and the Contractor to the County under this Agreement and to other member counties of CPAAC under like agreements.
2. **Participating County:** Any county contracting with CPAAC and the Contractor for provisions of group services.
3. **FTE:** A full-time equivalent; i.e., one full-time county employee, or two or more part-time county employees working an amount of time equivalent to that of one full-time employee. All employees on the county payroll, including those funded by the State or the Federal Government, are considered county employees for purposes of FTE counts.
4. **EDD:** The Employment Development Department of the State of California.

SECTION 2. CONTRACTS WITH OTHER COUNTIES-CONTRACTING DEADLINES

County and the Contractor agree that contracts with Participating Counties for provision of Group Services shall contain essentially the same terms and conditions as this Agreement, such that all Participating Counties shall have the same rights and duties with regard to such Group Services. Effective with the date of this Agreement, the Contractor further agrees that it will not contract with any new nonparticipating county for provision of services of the type to be provided hereunder at terms more advantageous to that county than those contained herein.

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Nothing in the foregoing paragraph shall prevent minor changes or additions in contract terms and conditions, from one Participating County to the next, to satisfy individual county contracting policies or requirements. Also, any Participating County may contract separately with the Contractor for additional services supplemental to the Group Services.

Any county which chooses not to participate in the program effective May 1, 2006, but wishes to participate at a later date, may do so by contracting or authorizing a contract with CPAAC and the Contractor; provided, however, that the expiration date of any such contract shall be the same as that provided in Section 3 of this Agreement; and provided further that any such later contract shall provide for fees to CPAAC and the Contractor as outlined in this Agreement.

SECTION 3. TERMS

This Agreement shall be for a period of thirty-six (36) months, commencing on May 1, 2006, and continuing through April 30, 2009. Either party may terminate this Agreement by providing written notification of termination to the other party at least sixty (60) days prior to the end of the initial term, or any succeeding term.

SECTION 4. SERVICES

The following Group Services shall be provided to the County during the term of this Agreement. Except as otherwise specified, such services shall be performed by the Contractor, consistent with this agreement. All services shall cover all county employees and claimants, including those funded by the State or the Federal Government.

A. Orientation and Start-Up Services. These shall be available to any county not a party to a prior unemployment compensation service agreement with CPAAC and shall include, but not limited to:

- (1) Recommendations by the Contractor for improvement in hiring, termination and other procedures to minimize future benefit charges.
- (2) Training seminars for County management and administrative personnel, conducted by the Contractor at a County facility or other convenient location. Topics to be covered shall include, but not limited to:
 - History and concept of unemployment compensation.
 - Unemployment law and regulations.
 - Eligibility requirements.
 - Interviewing process.
 - Hiring, warning and termination procedures.
 - Documentation requirements.
 - What to do when contacted by the EDD.
 - Serving as a witness at hearings.
 - The Contractor's services and procedures.

These topics shall be treated in the context of the County's specific personnel circumstances and practices, with focus upon the evaluation and recommendations developed for the County. The seminar shall be conducted as soon as the County has reviewed such recommendations and, in consideration thereof, has adopted personnel procedures for the future.

- (3) Assistance to the County by the Contractor in evaluating the available options for funding of unemployment benefit cost, taking into account the county's employee separation experience, probable benefit liability and other specific circumstances.
- B. Continuing Training. After the introductory training seminar required under A. (2) above, the Contractor shall provide continuing training to the County throughout the term of this Agreement, in the form of:
- (1) Visits to or other communications with County personnel, as needed, to inform them of changes in applicable law and regulations, of claims activity indicating a need for specific change in procedure, or of other matters of a significant and urgent nature.
 - (2) A training seminar, conducted at a County facility or other convenient location, which like the introductory seminar, shall be County-specific in nature if necessary. (In the first year, this seminar may be supplemental to the introductory seminar.) Additional seminars may be conducted upon request by the County or upon determination of need by the Contractor.
- C. Claims Administration. Commencing May 1, 2006, the Contractor shall provide claims administration services to the County, including, but not limited to the following:
- (1) Provision of separation report forms to the County, assistance as needed in the completion of separation reports, receipt of completed reports from the County, and maintenance of the reports and related data for the full period of potential unemployment liability. Manner of reporting separation data may be modified by mutual agreement of each individual County and Contractor without modifying or breaching this Agreement.
 - (2) Service as addressee of record, receiving base period notices (DE1545 forms) directly from the EDD and initial claims (DE1101 C forms) from the County.
 - (3) Response to all claims communications in the manner and to the extent necessary to secure the most favorable results for the County. Such response shall include: thorough review of each claim; timely protest of the claim, if a reasonable basis for protest is found; and, if an adverse decision is reached on a protested claim and a reasonable basis for appeal is found, timely appeal through all administration review levels, including re-determination, administrative law judge hearings and appeals board hearing. As a condition to the foregoing, it is agreed that the County may at any time direct that a protest or appeal be dropped and the Contractor shall comply with such direction.
 - (4) Audit of all EDD benefit charges to verify their correctness and challenge of incorrect charges by protest, appeal, or other necessary action.
 - (5) Collection and maintenance of all records and data necessary to satisfy performance of the above functions.
 - (6) Provision of all relevant records and data to the County and other assistance to the County, as needed, should either the County or a claimant decide to challenge an appeals board ruling in court.

- (7) Participating Counties agree that current and accurate data is necessary for the Contractor to provide the Group Services. Participating Counties agree to provide such data to the Contractor in a mutually acceptable format within _____ days of the end of Participating County's pay period. Participating Counties further agree to test and validate the accuracy of the data on a mutually acceptable frequency using paper-based or electronic data validation reports provided by the Contractor. In the event data is identified by either party to be incorrect or improperly formatted, the parties agree to notify each other as quickly as possible. Both parties agree to work together to identify and resolve all identified historical and ongoing data errors within two (2) Participating County's pay periods. Participating Counties agree that any action required of the Contractor to correct the data for Participating County may result in additional fees.

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D. Management Reporting. Contractor agrees to submit to each participating CPAAC County the following reports:

- (1) Quarterly Claims Activity Report. This report will contain a detailed listing of all claims that were filed during the quarter. The report will identify the activity on protestable claims as well as non-protestable claims. The report identifies those claims filed during the quarter, listing the reasons for separation and the outcome of the action taken. Additionally, this report will detail those claims that went to an unemployment hearing and state the determination as rendered by the Administrative Law Judge. This report can be sorted by location, department, budget unit, etc. This will enable each County to identify those departments that are complying with the unemployment program as well as spotting those departments where compliance is not being properly followed. In addition, this report allows each County the opportunity to rehire those claimants who are currently drawing unemployment and where charges are being assessed against a particular County. Individual counties will have the option to select and submit the departmental codes that best suits their needs.

Finally, this report summarizes the information contained in the detailed claims analysis. The summary will contain the Reason for Separation, Claims by Status (eligible, ineligible, or pending), and by Claim Type (separating employer or base period employer).

- (2) Quarterly Claims Financial Report. This report will be generated when the State issues the quarterly charges and will contain a detailed listing of all active claims. This report will detail the potential liability on all filed claims, those claims with actual charges during the quarter, charges on claims filed prior to the quarter, remaining liability on the filed claims and any liability removed due to the protesting or erroneous charges (credits) or favorable determinations on protested claims. This report can be sorted by location, department, or budget unit.

Additionally, this report will give detailed summary categorizing reasons for separation as well as benefits and credits processed during the period. Finally, this report summarizes the type of claims filed and the financial status during the quarter.

- (3) County Statistical Report (Ranking Report). This report will be generated annually and will contain a detailed listing showing all Counties' claims and hearings activities.

Likewise, the charges are classified and ranked comparing year-to-year charges. This report can assist Counties in their budgeting projections.

- (4) Periodic Newsletter/Bulletin. This is available via Client's website, www.ucexpress.com, for each participating County, covering changes in unemployment law and regulations, precedent making claims decisions, current questions received from counties and answers provided, and other matters of general interest.
- (5) Inquiry Service. The Contractor shall promptly respond to inquiries received from the County concerning the handling of a termination, the status or chargeability of a claim, or similar matters. If the inquiry is made by telephone call and cannot be answered during such call, it shall be answered by prompt return call. Calls may be placed to any California office of the Contractor. The County caller shall not be referred from one of the Contractor's offices to another. Rather, the person receiving the call shall gather information from other offices, as necessary, and relay it to the caller.

SECTION 5. CONTRACTOR'S STAFF

During the term of this Agreement, the Contractor shall maintain not less than one office in California. This office shall be capable of providing all Group Services for which the Contractor is responsible to Participating Counties in its respective portion of the state.

The Contractor shall establish and maintain a separate CPAAC Department within its organization to provide Group Service to Participating Counties. Each member of the Department shall be assigned primarily to the performance of such Group Services. All members shall be experienced and qualified in their jobs. All non-clerical members shall be selected, to the extent reasonably possible, from existing employees of the Contractor. Any future replacements of such individuals shall be similarly selected.

The CPAAC Team shall function under the direction of a Program Coordinator who shall be subject to written approval of CPAAC, as shall any further successor to that position. Such approval shall not be unreasonably withheld.

The Contractor shall consult CPAAC concerning the selection of the CPAAC Department's Service Representatives, and concerning any future replacement for these positions.

SECTION 6. CONTRACT REPRESENTATIVES AND ADVISORY COMMITTEE

The Vice-President of CPAAC shall represent CPAAC under this Agreement.

The Contractor's Program Director shall represent the Contractor under this Agreement.

The County's Human Resources Department shall represent the County under this Agreement.

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SECTION 7. RECORDS

The Contractor shall retain at one or more of its California offices, all records pertaining to this Agreement, including those required under Section 4. C (5), throughout the term of this Agreement, and shall permit members of the CPAAC Advisory Committee and other authorized CPAAC representatives reasonable access to such records, during normal business hours, for purpose of inspection and audit. Upon termination of this Agreement, the Contractor shall deliver to the

Participating County within a reasonable period of time, all records required under Section 4. C (5) that are requested by the Participating County except for separation notices, those previously returned, or those destroyed in the ordinary course of business. Should this Agreement be renewed, the parties shall review and re-determine record retention requirements.

SECTION 8. NOTICES

All notices, billings, payments and other formal communications required under this Agreement shall be sent to the appropriate contacts at the Participating Counties.

SECTION 9. DEFAULT BY CONTRACTOR

If the Contractor defaults in the performance of its obligations hereunder ("Default"), the Participating County may terminate this Agreement by providing written notice to the Contractor and CPAAC. Contractor shall have the right to cure such Default within ten (10) business days. If Default continues, the Agreement shall be terminated immediately. In such event, the Contractor shall be paid for services performed as provided in Section 15. PAYMENT; provided however, that each of the parties shall retain all rights and remedies it may have as a result of such default or of such termination. CPAAC shall in no way be liable for any such default of the Contractor or termination by the Participating County.

The Participating County's failure to exercise its rights under this section upon a default by the Contractor shall not constitute a waiver of such rights, which may be exercised at any subsequent time.

SECTION 10. OPTION TO RENEW

If, prior to the expiration of this Agreement and like agreements with other Participating Counties, the CPAAC membership decides to continue a program of Group Services for Participating Counties, the Participating County shall have the right to renew this Agreement following its expiration date, by written notice to the Contractor at least thirty (30) days in advance of such date. Renewal shall be on the same terms and conditions that govern provision of Group Services under this Agreement insofar as they are then applicable, except that the Contractor, at his option, may negotiate to increase the rate of payment to be used in computing its annual fee.

SECTION 11. INDEMNIFICATION, INSURANCE AND LIMITATION OF LIABILITY

The parties shall indemnify and hold harmless the other parties and their officers, agents and employees from any claim or liability for injury, damage, or other loss to persons or property arising from or in any way connected with the performance of the Group Services under this Agreement. The Contractor further agrees to maintain such insurance as will fully protect it and the other parties from any such claim or liability under this Agreement. As a condition to execution of this Agreement and like agreements with other participating counties, the Contractor shall, at its sole cost and expense, obtain and maintain throughout the entire term of this Contract, the following described insurance and furnish to Participating County certificates of coverage:

1. Comprehensive Auto Liability, including owned, hired and non-owned automobiles, \$1,000,000 combined aggregate; and

2. Commercial General Liability, including protective, completed operations, broad form contractual, and personal injury, \$1,000,000 combined aggregate; and
3. Workers' compensation insurance as required by the state of California.

Each certificate shall provide for thirty (30) days' notice to CPAAC of policy cancellation.

ANY OTHER TERM OR PROVISION OF THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, IN NO EVENT SHALL EITHER PARTY OR ITS OFFICERS, AGENTS OR EMPLOYEES BE LIABLE FOR LOSS OF PROFITS OR FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THE PERFORMANCE OF THIS AGREEMENT, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL DAMAGES OF ANY KIND PAYABLE BY EITHER PARTY HEREUNDER EXCEED THE GREATER OF (A) THE TOTAL FEES PAID BY CLIENT TO TALX DURING THE TWELVE MONTHS PRIOR TO THE ACT OR OCCURRENCE WHICH GIVES RISE TO THE CLAIM, OR (B) THE SUM OF ONE HUNDRED THOUSAND DOLLARS (\$100,000).

SECTION 12. ASSIGNMENT

Except as hereinafter provided, a party may not delegate its duties or assign its rights under this Agreement, either in whole or in part, without the prior consent of the other parties. Notwithstanding the foregoing, Contractor may assign this Agreement to a subsidiary without the prior consent of CPAAC or Participating County, provided that Contractor shall continue to be responsible for the performance of its obligations hereunder.

SECTION 13. RELATIONSHIP OF CONTRACTOR

The Contractor is an independent contractor for all purposes under this Agreement and shall be fully responsible for the manner and means of performing the services required of it hereunder. No officer or employee of the Contractor shall in any way be considered an employee of the County or of CPAAC.

SECTION 14. COMPLIANCE WITH CALIFORNIA'S FAIR EMPLOYMENT AND HOUSING ACT

Contractor shall comply with California's Fair Employment and Housing Act in the performance of this Agreement, and shall make no distinction on the grounds of race, color, religious creed, national origin/ancestry, physical disability, mental disability, medical condition, marital status, sex, age, and sexual orientation, either in providing services or in employment practices.

SECTION 15. PAYMENT

- A. Contractor's Fee. Commencing May 1, 2006, the County shall pay to the Contractor an annual fee for all services provided by the Contractor during the calendar year, computed at the rate of \$.70 per FTE in County employment as of January 1 of the respective year provided that such rate shall be subject to adjustment as hereinafter provided.

By February 1 of each year, the County shall report to the Contractor the number of FTE's in its employment as of January 1 of that year, based upon actual head count (not budgeted positions).

Payment shall be made quarterly, in arrears, upon submission of a billing by the Contractor confirming the FTE count upon which it is based and setting forth any necessary adjustment in prior billings. Service fees applicable to contract periods, which are less than a calendar quarter, shall be prorated. Invoices are payable within thirty (30) days from date of issuance.

The Contractor may audit the County's employment and payroll records to verify FTE counts, and any error shall be corrected in the next billing.

If this Agreement is terminated pursuant to sections 3, 9 and 10, the County shall pay only the portion of the Contractor's fee representing services performed between January 1 of the respective year and the date of termination, calculated pro rata at a daily rate. Contractor will generate current payroll information upon termination date and invoice the County for any outstanding balances.

- B. It is understood by the parties hereto that County is a public entity, which may not expend funds for services or equipment not budgeted in a given fiscal year. It is also understood that in the normal course, County will adopt a proposed budget prior to a given fiscal year, but the final adoption of a budget does not occur until after the beginning of given fiscal year. County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget not providing for funds sufficient and necessary to pay for the services required herein. Such notice shall become effective only upon the date of adoption of a final budget which does not provide funds for the services to be provided herein or for similar or substitute services performing the same or similar functions as set forth in this Agreement.

If this Agreement is terminated pursuant to Sections 3, 9 or 10 after May 1, 2006, the County shall pay only that portion of its continuing service fee representing services performed through the date of termination, calculated pro rata at a daily rate. Any balance of the fee paid by the County shall be returned by CPAAC.

SECTION 16. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California. It constitutes the entire Agreement of the parties regarding its subject matter, and supersedes any and all other agreements of the parties, oral or in writing, with respect to its subject matter. If any provision of this Agreement is held by any court to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force.

SECTION 17. PROPRIETARY RIGHTS

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The Group Services, specifications and computer hardware and software associated with the Group Services are proprietary to the Contractor and title thereto is and will at all times remain exclusively in the Contractor. All applicable rights to patents, copyrights, trademarks, trade secrets in the Group Services, specifications and computer hardware and software are and shall remain the exclusive property of the Contractor. This Section shall survive termination of this Agreement.

SECTION 18. FORCE MAJEURE

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Neither party shall be responsible for any failure or delay in the performance of any obligations (excepting obligations to pay money) to the extent that failure is caused by acts of God, acts of

terror, flood, fire, labor disputes, acts or omissions of the other party, or non-delivery or delays in delivery by any other supplier of goods or services deliverable under this Agreement.

Contractor: TALX Corporation

County of

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____