

1 is incorporated herein by reference as though fully set forth; and

2 WHEREAS, Contractor desires to participate in said program and is qualified
3 by procurement for the reason of experience, preparation, organization, staffing and
4 facilities to provide services; and

5 WHEREAS, City is willing to utilize Contractor to provide training and
6 employment services to residents;

7 NOW, THEREFORE, in consideration of the mutual terms, covenants, and
8 conditions in this Agreement, the parties agree as follows:

9 1. DOCUMENT INCORPORATION.

10 A. The following documents are attached hereto as exhibits and
11 incorporated herein and made a part hereof by this reference as if fully set forth:

12 i. The Prime Contract, and any extension or continuation
13 thereof or any grant agreement which is the successor thereto which
14 authorizes a training and employment program for the economically
15 disadvantaged, unemployed and underemployed persons, and the
16 documents incorporated therein and attachments thereto, including the
17 assurances and certifications made by the State to the City.

18 ii. Contractor's program description, statement of work
19 performed, Contractor's operation plan for participants, program conditions
20 and standards for Contractor's performance under this Contract (collectively,
21 the "Statement of Work") attached hereto as Exhibit "A".

22 B. Contractor and City agree to be bound by all the terms,
23 conditions and provisions contained in the Prime Contract, the Application, and the
24 Statement of Work (collectively, the "Contract Documents").

25 C. Contractor hereby agrees to assume full responsibility for the
26 performance of the operation, coordination and administration of such program
27 pursuant to all the terms and conditions of the exhibits to the extent that said
28 documents are applicable to the delivery of services by Contractor hereunder; and

1 the parties hereto agree to perform all duties, obligations and tasks to be performed
2 by each party under the Contract Documents.

3 D. In the event there is any conflict between the provisions of this
4 Contract and the provisions of the Prime Contract, including the attachments thereto
5 and the documents incorporated therein, as presently worded or amended in the
6 future, the parties agree that the provisions of the Prime Contract shall control.

7 Contractor shall conduct training and employment activities in accordance
8 with the provisions of the Contract Documents.

9 2. TERM.

10 A. The term of this Contract ("Term") shall be deemed to have
11 commenced as of October 1, 2021, and unless sooner terminated pursuant to the
12 provisions hereof, shall terminate on December 31, 2022. Either of the parties
13 hereto shall have the right to terminate this Contract in its entirety at any time during
14 the Term for any or no reason whatsoever by giving fifteen (15) days prior written
15 notice of termination to the other party. City shall have the additional right to cancel
16 any part of this Contract at any time during the Term for any reason whatsoever by
17 giving fifteen (15) days' notice of such cancellation to the Contractor.

18 B. Notwithstanding the foregoing, the City shall have the right to
19 terminate and cancel this Contract without notice, in its sole discretion, if the actions
20 or non-action of Contractor subjects the City to liability, legal obligations or program
21 operation obligations beyond the liability and obligations under the Contract
22 Documents. If this Contract is terminated prior to the expiration of the Term,
23 Contractor shall be reimbursed for all eligible program allowable costs which have
24 been accrued but not paid through the effective date of termination. Contractor
25 agrees to accept such amount, plus all amounts previously paid, as full payment
26 and satisfaction of all obligations of City to Contractor.

27 3. AWARD UNDER SPECIAL CONDITIONS. The City may award a
28 contract under special conditions if it determines the Contractor as "high risk" under the

1 following categories:

2 A. (1) A history of unsatisfactory performance, or (2) Is not
3 financially stable, or (3) Has a management system which does not meet the
4 management standards, or (4) Has not conformed to terms and conditions of
5 previous awards, or (5) Is otherwise not responsible; and if the City determines that
6 an award will be made, special conditions and/or restrictions shall correspond to the
7 high risk condition and shall be included in the award.

8 B. Special conditions or restrictions may include: (1) Payment on
9 a reimbursement basis; (2) Withholding authority to proceed to the next phase until
10 receipt of evidence of acceptable performance within a given funding period; (3)
11 Requiring additional, more detailed financial reports; (4) Additional project
12 monitoring; (5) Requiring the Contractor to obtain technical or management
13 assistance; or (6) Establishing additional prior approvals.

14 C. If the City decides to impose such conditions, the City will either
15 include such corrective action in the Statement of Work or notify the Contractor as
16 early as possible, in writing, of: (1) The nature of the special conditions/restrictions;
17 (2) The reason(s) for imposing them; (3) The corrective actions which must be taken
18 before they will be removed and the time allowed for completing the corrective
19 actions and (4) The method of requesting reconsideration of the conditions or
20 restrictions imposed.

21 4. PERFORMANCE REVIEW.

22 A. After each quarter during the Term, the City will conduct a
23 review of Contractor's performance by comparing the Contractor's planned
24 performance and/or contract earning levels with the actual performance and
25 contract earning levels achieved by Contractor. If the Contractor is ten percent
26 (10%) or more below their planned total at the end of the first quarter or any quarter
27 thereafter, the City has the right to unilaterally cancel the contract or de-obligate
28 funds up to the amount of the under expenditure or underperformance.

1 Alternatively, upon review and approval of the City, Contractor may be allowed to
2 submit a corrective action plan demonstrating that program performance is
3 attainable and expenditure levels can be met. At the discretion of the City,
4 Contractor may be allowed to continue program services.

5 B. Underperformance at the end of the second quarter or any
6 quarter thereafter, shall permit the City to unilaterally cancel this Contract or, in the
7 alternative and at the sole discretion of the City, deobligate funds from this Contract
8 up to the amount of the underexpenditures.

9 5. CONTRACT AMOUNT AND PAYMENT.

10 A. The total amount which shall be payable by City to Contractor
11 for Contractor's allowable services during the Term shall not exceed Two Hundred
12 Thousand Dollars (\$200,000).

13 B. The City shall, in due course, reimburse the Contractor for the
14 actual, allowable, reasonable and necessary costs and expenses incurred by
15 Contractor in the performance of this Contract which are authorized and approved
16 by Exhibit "A" and are in accordance with and pursuant to the Prime Contract, to the
17 extent that such Prime Contract is applicable to the Contractor's performance
18 hereunder.

19 C. Payment to the Contractor shall be limited to the amounts
20 specified in Exhibit "A" for the categories, criteria and rates established in said
21 Exhibit. The allocation of the total contract amount among the items in the Budget
22 may vary by as much as ten percent (10%) without the approval by Workforce
23 Innovation Board's Executive Director ("Executive Director"). Additionally,
24 Contractor may, with the prior written approval of the Executive Director or his
25 designee, make adjustments within and among the categories of expenditures in
26 the Budget in excess of ten percent (10%), and modify the performance to be
27 rendered hereunder as provided in Exhibit "A"; provided, however, that any such
28 adjustment in expenditures shall not result in an increase in the amount of the total

1 contract. The agent or representative of Contractor who signs as the maker of
2 checks or drafts or in any manner authorizes the disbursement of said funds or
3 expenditure of same shall be covered by a blanket fidelity or comprehensive crime
4 bond regarding the handling of said funds in an amount set out in Section 13,
5 paragraph E of this Contract.

6 D. Contractor shall not charge nor receive compensation under
7 this Contract for any services or expenses unless said services or expenses are
8 directly and exclusively related to the purposes of this Contract, and provided that
9 payment is not also received by Contractor from some other source for said services
10 or expenses.

11 E. Disbursement of funds received from the State shall be under
12 the direction of the City Manager or his designee and shall be in accordance with
13 the provisions of this Contract and made pursuant to the Prime Contract and any
14 additional procedures, regulations and reporting requirements which are
15 established by the City that do not conflict with applicable procedures, regulations
16 and reporting requirements of the State.

17 F. All payments to Contractor by the City will be based upon
18 invoices and the necessary supporting documents which the State and the City may
19 require Contractor to submit. The expenditure of all funds shall be accounted for
20 promptly and submitted with the funded "Period of Availability" for the program year.
21 Reimbursement will not be made for claims generated beyond contract end date or
22 ninety (90) days after the contract end date for properly accrued expenditures.
23 Contractor shall keep separate detailed accounts for each expenditure for each
24 component part of this project.

25 G. Public or private non-profit contractor revenues in excess of
26 costs are considered program income or profits in accordance with Code of Federal
27 Regulations definition of "Income" pursuant to 20 CFR§683.200(c)(7). When
28 authorized, program income may be added to the funds committed to the grant

1 agreement. The program income shall be used for the purposes and under the
2 conditions of the grant agreement or as amended unless the Governor of the State
3 of California requires that such income be turned over to the State.

4 6. RECORDS.

5 A. Records relating to the performance of this Contract shall be
6 kept and maintained by Contractor in accordance with the manner and method
7 prescribed by applicable State regulations and guidelines and City requirements,
8 and will be current, complete and available for purposes of inspection and audit
9 during business hours as deemed necessary upon request by representatives of
10 federal, state and local agencies.

11 B. Contractor shall provide access to all documents and materials
12 related to this Contract and shall provide any information that the City, or its
13 designee requires in order to monitor and evaluate Contractor's performance
14 hereunder. All such records shall be maintained and accessible for a period of
15 seven (7) years from the expiration or earlier termination of this Contract.

16 7. FINANCIAL REPORTS.

17 A. Contractor shall promptly distribute to the City Manager or his
18 designee copies of all correspondence including, but not limited to, financial,
19 operational and performance reports which Contractor submits to or receives from
20 the State. Contractor shall provide such other reports, documents or information as
21 may be requested or required by the City or the State within three (3) days of written
22 request. Upon expiration or earlier termination of this Contract, and within the time
23 and in the manner prescribed by the City, the Contractor shall perform all necessary
24 close-out procedures required by the State and the City, including preparation of
25 close-out reports and transmittal to the City of all documents in the possession of
26 Contractor which relate to the Conduct of the Program, within the time and in the
27 manner prescribed by the City. Final payment to the Contractor under this Contract
28 will be paid only after the City has determined that Contractor has satisfactorily

1 completed said close-out procedures.

2 B. If the Contractor is subject to the Single Audit Act (SAA), the
3 Contractor shall include this Contract within the scope of the SAA audit. A copy of
4 the SAA final audit report shall be delivered by Contractor to the City of Long Beach
5 within thirty (30) calendar days after its request and, in any event, no later than six
6 (6) months after the end of the then-current fiscal year of Contractor. In the event
7 the Contractor fails to comply with this requirement, the Contractor shall be liable
8 for any costs incurred by City for a substitute audit or review.

9 8. ACCOUNTING PROCEDURES.

10 A. On a monthly basis, commencing on the last day of the month
11 next succeeding the Effective Date of this Contract, the Contractor will submit an
12 invoice with supporting documentation for payment based upon the cost categories
13 in Exhibit "A". These invoices will be due by the tenth (10th) working day after the
14 end of each month. Contractor shall complete the monthly payment requests in the
15 format required by the City.

16 B. The Contractor will establish separate account numbers within
17 its accounting system to account for the expenditures and revenues of this Contract.
18 The Contractor's accounting system will be in compliance with all applicable
19 procedures and Federal and State authorities having jurisdiction over this Contract,
20 and shall be consistent with the fiscal and accounting procedures, including accruals
21 set forth herein. Without limiting the generality of the foregoing, the Contractor shall
22 adhere to the following fiscal and accounting procedures:

23 i. Maintain a bank account and perform monthly bank
24 reconciliations.

25 (a) Deposit all receipts in the bank account promptly
26 and intact.

27 (b) Do not pay any expense directly out of cash
28 receipts.

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(c) Maintain bank validated copies for every deposit slip in chronological order. Each deposit slip should include sufficient detail to explain the source of the funds being deposited. (This may be done by recording the details on the deposit slip or by attached supporting documentation which may have been received with the receipts).

(d) Disburse all funds by check, preferably signed or approved electronically by two (2) employees, neither of whom is the bookkeeper or the accounting clerk.

ii. Designate specific employees to perform each of the following functions:

(a) Receipt for goods and services provided to Contractor.

(b) Approve the purchase of goods and services for Contractor.

(c) Approve employee time sheets.

(d) Each above function shall be designated to a different employee.

iii. Maintain documented support for every check written which should include:

(a) Original invoice from each vendor.

(b) Indication by signature and date of an authorized employee that the goods or services were received by the Contractor. This may be done on a separate receiving report, a copy of a packing slip or on the invoice itself.

(c) Indication that the goods or services were approved for purchase by an authorized individual. This should be by signature and date and should appear on the invoice or on the

1 purchase order or purchase requisition, if such is used by the
2 Contractor.

3 iv. Maintain a copy of each invoice submitted to the
4 Operations Division with copies of all supporting documents.

5 v. Maintain the following records in an orderly fashion by
6 grant period or Contractor's fiscal year:

- 7 (a) Bank statements and bank reconciliations.
- 8 (b) Deposit slips and supports.
- 9 (c) Checks and supports.
- 10 (d) Time sheets or documentation to verify
11 Contractor's labor costs.

- 12 (e) Cash receipts and cash disbursement journals.
- 13 (f) Requests for reimbursement and supports.
- 14 (g) Financial statements.
- 15 (h) Maintain and file all required tax and personnel
16 reports with appropriate agencies.

17 vi. Contractor must adhere to all audit requirements as
18 outlined in Contractor's respective OMB Circular, 29 CFR 95, and 29 CFR
19 Part 96, and A 133, 29 CFR 97.26 and 29 CFR 95.26 as applicable.

20 C. All invoices and billings will be considered final and must be
21 submitted within forty-five (45) calendar days from the end of the Term. Resolution
22 of disputed matters must be resubmitted within fifteen (15) calendar days from date
23 mailed to Contractor. City, in its sole discretion, may elect not to pay any invoices
24 or billings submitted after the cut-off date, or if funding is no longer available.

25 9. INDEPENDENT CONTRACTOR STATUS. It is distinctly understood
26 that in the performance of this Contract, the Contractor shall at all times be considered a
27 wholly independent contractor and that Contractor's obligations to and authority from the
28 City are solely as are preserved by this Contract. Contractor expressly warrants that it will

1 not, at any time, hold itself out or in any manner represent that Contractor or any of its
2 agents, volunteers, subscribers, members, officers or employees are in any manner the
3 officers, employees or agents of the City or the Pacific Gateway Workforce Innovation
4 Network (Pacific Gateway), an unincorporated non-profit association. Contractor shall not
5 have any authority to bind the City or Pacific Gateway at any time or for any purpose.
6 Contractor nor any of Contractor's officers, employees or agents shall have any power or
7 authority as agents or employees of the City or Pacific Gateway and shall not be entitled
8 to any of the rights, privileges or benefits of a City or Pacific Gateway employee.

9 10. ASSIGNMENT AND SUBCONTRACTING. This Agreement
10 contemplates the personal services of Contractor and Contractor's employees, and the
11 parties acknowledge that a substantial inducement to City for entering this Agreement was
12 and is the professional reputation and competence of Contractor and Contractor's
13 employees. Contractor shall not assign its rights or delegate its duties under this
14 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval
15 of City, except that Contractor may with the prior approval of the City Manager of City,
16 assign any moneys due or to become due the Contractor under this Agreement. Any
17 attempted assignment or delegation shall be void, and any assignee or delegate shall
18 acquire no right or interest by reason of an attempted assignment or delegation.
19 Furthermore, Contractor shall not subcontract any portion of its performance without the
20 prior approval of the City Manager or designee, or substitute an approved subconsultant
21 or contractor without approval prior to the substitution. Nothing stated in this Section shall
22 prevent Contractor from employing as many employees as Contractor deems necessary
23 for performance of this Agreement.

24 11. INDEMNITY.

25 A. Contractor shall indemnify, protect and hold harmless City, its
26 Boards, Commissions, and their officials, employees and agents ("Indemnified
27 Parties"), from and against any and all liability, claims, demands, damage, loss,
28 obligations, causes of action, proceedings, awards, fines, judgments, penalties,

1 costs and expenses, including attorneys' fees, court costs, expert and witness fees,
2 and other costs and fees of litigation, arising or alleged to have arisen, in whole or
3 in part, out of or in connection with (1) Contractor's breach or failure to comply with
4 any of its obligations contained in this Agreement, including any obligations arising
5 from the Project's compliance with or failure to comply with applicable laws, including all
6 applicable federal and state labor requirements including, without limitation, the
7 requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful acts,
8 errors, omissions or misrepresentations committed by Contractor, its officers,
9 employees, agents, subcontractors, or anyone under Contractor's control, in the
10 performance of work or services under this Agreement (collectively "Claims" or
11 individually "Claim").

12 B. In addition to Contractor's duty to indemnify, Contractor shall
13 have a separate and wholly independent duty to defend Indemnified Parties at
14 Contractor's expense by legal counsel approved by City, from and against all
15 Claims, and shall continue this defense until the Claims are resolved, whether by
16 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
17 breach, or the like on the part of Contractor shall be required for the duty to defend
18 to arise. City shall notify Contractor of any Claim, shall tender the defense of the
19 Claim to Contractor, and shall assist Contractor, as may be reasonably requested,
20 in the defense.

21 C. If a court of competent jurisdiction determines that a Claim was
22 caused by the sole negligence or willful misconduct of Indemnified Parties,
23 Contractor's costs of defense and indemnity shall be (1) reimbursed in full if the
24 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
25 percentage of willful misconduct attributed by the court to the Indemnified Parties.

26 D. The provisions of this Section shall survive the expiration or
27 termination of this Agreement.

28 12. EMPLOYMENT TRAINING ACT CLAUSES. Contractor shall

1 administer contract within the policies and procedures mandated by the Workforce
2 Innovation and Opportunity Act of 2014, and Pacific Gateway agrees to comply with the
3 following contract clauses, as applicable, during the duration of the contract period:

- 4 A. Compliance with awarding agency requirement and/or
5 regulations related to patent rights, copyrights, and rights in data;
- 6 B. Termination for Cause and for Convenience;
- 7 C. Maintenance of Records for five (5) years;
- 8 D. Access to Contractor's Records (§200.336(a));
- 9 E. Compliance with Equal Employment Opportunity Act provisions
10 identified in 41 CFR Part 60;
- 11 F. Compliance with Equal Employment Opportunity Act provisions
12 identified in 41 CFR Part 6;
- 13 G. Compliance with the Contract Hours and Safety Standards Act
14 (40 U.S.C 3701-3708);
- 15 H. The Clean Air Act and Environmental Protection Agency
16 regulations;
- 17 I. The State Energy Conservation Plan in compliance with the
18 Energy Policy and Conservation Act;
- 19 J. The Bryd Anti-Lobbying Amendment;
- 20 K. The Veteran's Priority Provisions;
- 21 L. The Whistleblower Protection;
- 22 M. The Buy American Requirements;
- 23 N. The Debarment and Suspension requirements;
- 24 O. The Copeland "Anti-Kickback" Act;
- 25 P. The Davis-Bacon Act as amended (40 U.S.C 3141-3148);
- 26 Q. Labor Standards Provision;
- 27 R. Rights to Inventions Made Under a Contract or Agreement;
- 28 S. The Solid Waste Disposal Act and 40 CFR Part 247;

1 T. Drug Free Workplace Act of 1988; and
2 U. Federal Non-Discrimination Requirements: the
3 nondiscrimination and equal opportunity provisions found in Section 188 of WIOA
4 and Title 29 CFR Part 38 prohibit discrimination on the grounds of race; color;
5 religion; sex (including pregnancy, childbirth, and related medical conditions,
6 transgender status and gender identity); national origin (including LEP); age;
7 disability; political affiliation or belief.

8 13. INSURANCE. Concurrent with the execution of this Contract by
9 Contractor, as a condition precedent to the effectiveness of this Contract, and in partial
10 performance of the obligations of indemnity assumed by Contractor under Section 11
11 above, Contractor shall procure and maintain during the Term at Contractor's expense:

12 A. Comprehensive General Liability in an amount not less than Two
13 Million Dollars (\$2,000,000.00) combined single limit for each occurrence or Four Million
14 Dollars (\$4,000,000.00) General Aggregate for bodily injury, personal injury and property
15 damage. The Indemnified Parties shall be covered as insureds in respect to liability arising
16 out of activities performed by or on behalf of the Contractor and coverage shall be in a form
17 acceptable to the Risk Manager of the City ("Risk Manager").

18 B. Automobile Liability in an amount not less than Five Hundred
19 Thousand Dollars (\$500,000.00) combined single limit per accident for bodily injury and
20 property damage covering owned, non-owned and hired vehicles.

21 C. Workers' Compensation as required by the Labor Code of the State of
22 California and Employers' Liability Insurance with limits of one Million Dollars
23 (\$1,000,000.00) per occurrence.

24 D. Accidental Medical, Death and Dismemberment Insurance for all
25 participants not entitled to workers' compensation benefits under the provisions of Section
26 3700 of the Labor Code of the State of California, unless this requirement has been waived
27 in writing by the Risk Manager. Said insurance shall have limits of not less than One
28 Hundred Thousand Dollars (\$100,000.00) Accident Medical and Twenty-Five Thousand

1 Dollars (\$25,000.00) Accidental Death and Dismemberment.

2 E. Blanket Honesty or Comprehensive Crime Bond in an amount of fifty
3 percent (50%) of sums payable under this Contract, or Twenty-Five Thousand Dollars
4 (\$25,000.00), whichever is higher, to safeguard the proper handling of funds by those
5 employee's agents or representatives of the Contractor who sign as the maker of checks
6 or drafts or in any manner authorize the disbursement or expenditure of said funds.

7 Each insurance policy shall be endorsed to provide that coverage shall not
8 be cancelled by either party, reduced in amount or in limits, except after thirty (30) days
9 prior written notice has been given to the City. All such insurance shall be primary and not
10 contributing to any other insurance or self-insurance maintained by the Indemnified Parties.

11 The insurance required hereunder shall be placed with carriers admitted to
12 write insurance in California, or carriers with a rating of or equivalent to A:VIII by A.M. Best
13 Company and may be subject to such self-insurance or deductible as may be approved by
14 the Risk Manager. Any Contractors which Contractor may use in the performance of
15 services under this Contract shall be required to maintain insurance in accordance with the
16 requirements here in Section 13.

17 Contractor shall furnish the City with certificates of insurance and with original
18 endorsements affecting coverage as required above. The certificates and endorsements
19 for each insurance policy shall be signed by a person authorized by that insurer to bind
20 coverage on its behalf. Policies written on a "claims made" basis shall provide for an
21 extended reporting period of not less than One Hundred Eighty (180) days. No claims
22 made policies shall be acceptable to City unless the City Manager determines that no
23 occurrence policy is available in the market for the particular risk being insured. Any
24 modification or waiver of the insurance requirements contained in this Contract shall only
25 be made with the written approval of the Risk Manager in accordance with established city
26 policy.

27 14. DRUG-FREE WORKPLACE. Contractor shall comply with
28 Government Code Sections 8350 et seq. and 29 CFR Part 98, in matters relating to

1 providing a drug-free workplace including, but not limited to, the following:

2 A. Publishing a statement notifying employees that unlawful
3 manufacture, distribution, dispensation, possession, or use of a controlled
4 substance is prohibited and specifying actions to be taken against employees for
5 violations, as required by Government Code Section 8355(a).

6 B. Establishing a Drug-Free Awareness Program as required by
7 Government Code Section 8355(b), to inform employees about all of the following:

- 8 i. The dangers of drug abuse in the workplace,
9 ii. The person's or organization's policy of maintaining a
10 drug-free workplace;
11 iii. Any available counseling, rehabilitation and employee
12 assistance programs, and
13 iv. Penalties that may be imposed upon employees for drug
14 abuse violations.

15 C. Ensuring that every employee who provides services under this
16 Contract:

- 17 i. Will receive a copy of Contractor's drug-free policy
18 statement, and
19 ii. Will agree to abide by the terms of Contractor's
20 statement as a condition of employment on this Contract:

21 D. Payments due Contractor may be subject to suspension or
22 termination for failure to carry out the requirements of Government Code Sections
23 8350 et seq. and 29 CFR Part 98, Debarment and Suspension; Drug Free
24 Workplace. As provided in Government Code Section 8357, the City shall not be
25 required to ensure that Contractor provides a drug-free workplace.

26 15. NONDISCRIMINATION.

27 A. In connection with performance of this Agreement and subject
28 to applicable rules and regulations, Contractor shall not discriminate against any

1 employee or applicant for employment because of race, religion, national origin,
2 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap, or
3 disability. Contractor shall ensure that applicants are employed, and that employees
4 are treated during their employment, without regard to these bases. These actions
5 shall include, but not be limited to, the following: employment, upgrading, demotion
6 or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay
7 or other forms of compensation, and selection for training, including apprenticeship.

8 B. It is the policy of City to encourage the participation of
9 Disadvantaged, Minority and Women-owned Business Enterprises in City's
10 procurement process, and Contractor agrees to use its best efforts to carry out this
11 policy in its use of subconsultants and contractors to the fullest extent consistent
12 with the efficient performance of this Agreement. Contractor may rely on written
13 representations by subconsultants and contractors regarding their status.
14 Contractor shall report to City in May and in December or, in the case of short-term
15 agreements, prior to invoicing for final payment, the names of all subconsultants
16 and contractors hired by Contractor for this Project and information on whether or
17 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as
18 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

19 16. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
20 accordance with the provisions of the Ordinance, this Agreement is subject to the
21 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
22 Long Beach Municipal Code, as amended from time to time.

23 A. During the performance of this Agreement, the Contractor
24 certifies and represents that the Contractor will comply with the EBO. The
25 Contractor agrees to post the following statement in conspicuous places at its place
26 of business available to employees and applicants for employment:

27 "During the performance of a contract with the City of Long Beach, the
28 Contractor will provide equal benefits to employees with spouses and its employees

1 with domestic partners. Additional information about the City of Long Beach’s Equal
2 Benefits Ordinance may be obtained from the City of Long Beach Business Services
3 Division at 562-570-6200.”

4 B. The failure of the Contractor to comply with the EBO will be
5 deemed to be a material breach of the Agreement by the City.

6 C. If the Contractor fails to comply with the EBO, the City may
7 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or
8 to become due under the Agreement may be retained by the City. The City may
9 also pursue any and all other remedies at law or in equity for any breach.

10 D. Failure to comply with the EBO may be used as evidence
11 against the Contractor in actions taken pursuant to the provisions of Long Beach
12 Municipal Code 2.93 et seq., Contractor Responsibility.

13 E. If the City determines that the Contractor has set up or used its
14 contracting entity for the purpose of evading the intent of the EBO, the City may
15 terminate the Agreement on behalf of the City. Violation of this provision may be
16 used as evidence against the Contractor in actions taken pursuant to the provisions
17 of Long Beach Municipal Code section 2.93 et seq., Contractor Responsibility.

18 17. CONFIDENTIALITY.

19 A. Contractor shall keep confidential all financial, operations, and
20 performance records relating to its performance of this Contract (“Data”) and shall
21 not disclosed the Data or use the Data directly or indirectly other than in the course
22 of services provided hereunder. The obligation of confidentiality shall continue
23 following expiration or earlier termination of this Contract. In addition, Contractor
24 shall keep confidential all information, whether written or oral, or visual, obtained by
25 any means whatsoever in the course of Contractor’s performance hereunder for the
26 same period of time. Contactor shall not disclose Data to any third party, nor use it
27 for Contractor’s own benefit or the benefit of others without first obtaining the prior
28 written authorization and consent of the City.

1 B. All Data and other information, in whatever form or medium,
2 compiled or prepared by Contractor in performing its services or furnished to
3 Contractor by City shall be the property of City and City shall have the unrestricted
4 right to use or disseminate same without payment of further compensation to
5 Contractor. Copies of Contractor's work product may be retained by Contractor for
6 its own records.

7 18. BREACH OF CONFIDENTIALITY. Contractor shall not be liable for a
8 breach of confidentiality with respect to Data that:

9 A. Contractor demonstrates Contractor knew prior to the time City
10 disclosed it; or

11 B. Is or becomes publicly available without breach of this Contract
12 by Contractor; or

13 C. A third party who has a right to disclose such information does
14 so to Contractor without restrictions on further disclosure; or

15 D. Must be disclosed pursuant to subpoena, court order, state or
16 federal WIOA rules and regulations, federal Department of Labor rules and
17 regulations, or the rules and regulations of any other governmental agency having
18 jurisdiction over WIOA administration.

19 19. NOTICES. Any notice or approval required by this Agreement shall
20 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
21 postage prepaid, addressed to Consultant at the address first stated above, and to the City
22 at 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager with a
23 copy to the Pacific Gateway's Executive Director at 4811 Airport Plaza Drive, Suite 200,
24 Long Beach CA 90815. Notice of change of address shall be given in the same manner
25 as stated for other notices. Notice shall be deemed given on the date deposited in the mail
26 or on the date personal delivery is made, whichever occurs first.

27 20. CONTRACT ADMINISTRATION. The City Manager, or designee, is
28 authorized and directed, for and on behalf of the City, to administer this Contract and all

1 related matters, and any decision of the City Manager, or his designee, in connection
2 herewith shall be final.

3 21. CORPORATE STATUS. If the Contractor is a corporation, Contractor
4 shall, as a condition precedent to the effectiveness of this Contract, submit to City proof of
5 good standing of the corporate status.

6 22. ENTIRE AGREEMENT. This document fully expresses all
7 understandings of the parties concerning all matters covered and shall constitute the total
8 Agreement. Except for the adjustments of Exhibit "A" as provided in Section 5 hereof, no
9 addition to or alteration of the terms of this Contract whether by written or oral
10 understanding of the parties, their officers, agents or employees shall be valid unless made
11 in writing and formally adopted in the same manner as this Contract.

12 23. CAPTIONS AND ORGANIZATION. The various headings and
13 numbers herein and the grouping of the provisions of this Contract into separate Sections,
14 paragraphs and clauses are for the purpose of convenience only and shall not be
15 considered a part hereof, and shall have no effect on the construction or interpretation of
16 any part of this contract.

17 24. TAX REPORTING. As required by federal and state law, City is
18 obligated to and will report the payment of compensation to Contractor on Form 1099-Misc.
19 Contractor shall be solely responsible for payment of all federal and state taxes resulting
20 from payments under this Agreement. Contractor shall submit Contractor's Employer
21 Identification Number (EIN), or Contractor's Social Security Number if Contractor does not
22 have an EIN, in writing to City's Accounts Payable, Department of Financial Management.
23 Contractor acknowledges and agrees that City has no obligation to pay Contractor until
24 Contractor provides one of these numbers.

25 25. AUTHORIZATION TO EXECUTE. Contractor warrants and affirms to
26 City that any and all persons signing this Contract are authorized and empowered to so
27 sign and that the execution of this Contract by such person or persons does bind Contractor
28 to all terms, covenants and conditions of this Contract.

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

INSTRUMENT PERSONNEL,
INCORPORATED DBA COLLEGE OF
INSTRUMENT TECHNOLOGY, a
California corporation

March 31, 2022

By *M J Durbin*
Name Marcia June Durbin
Title CFO & Secretary

March 31, 2022

By *Harold E Durbin*
Name Harold E. Durbin
Title CEO

"Contractor"

CITY OF LONG BEACH, a municipal corporation

April 25, 2022

By *Sandra J. Jarama*
City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

"City"

This Contract is approved as to form on April 5, 20²².

CHARLES PARKIN, City Attorney

By *[Signature]*
Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lana Beach, CA 90802-4664

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EXHIBIT "A"

Exhibit A Statement of Work

Training Provider	Instrument Personnel, Inc. DBA College of Instrument Technology - CIT
Term	<i>October 1, 2021 – December 31, 2022</i>
Amount/Award	\$200,000
Master Agreement	<i>WIOA Adult/DW/Youth, INVEST, NDWG</i>

Administered by the City of Long Beach, Pacific Gateway Workforce Innovation Network (Pacific Gateway) shall enter into an Agreement with **Instrument Personnel, Inc. DBA College of Instrument Technology – CIT**, hereinafter referred to as Training Provider, to administer and deliver the services described in this Agreement.

SCOPE OF SERVICE

A. APPROVED PROGRAMS:

Pacific Gateway agrees to pay with prior approval the cost of the Workforce Innovation and Opportunity Act (WIOA) training program(s) listed on the State of California Eligible Training Provider List (ETPL) and other allowable costs associated with the training(s).

B. TRAINING AUTHORIZATION:

The Training Provider understands that Trainees authorized by Pacific Gateway may be enrolled in approved training under this Agreement. Pacific Gateway will forward the following: Letter of Authorization (LOA), Individual Training Account (ITA) Scholarship (Attachment A), and if applicable, Los Angeles City Referral Notice to the Provider for all authorized trainees. Prior to the approval for training, any cost incurred will be the sole responsibility of the Training Provider.

C. COST:

1. The total amount reimbursed to the Training Provider, shall not exceed the amount as documented in the ETPL. Tuition, fees, estimated length of training, and program requirements must align with the information documented in the ETPL.
2. In no event shall Pacific Gateway reimburse the Provider above the actual expenditures for those services set forth herein. If training is not completed, the Training Provider is entitled to that portion of the total reimbursable amount set forth in this Agreement, based on the total number of hours training was provided in accordance to the Maxine Waters School Reform and Student Protection Act of 1989 Section 94870.
3. Reimbursement to the Training Provider is based on the training services specified in the ITA Scholarship and the submission of the Trainee evaluations, attendance sheets, and

certificate of completion. If specified training services are not adequately provided and/or if Trainee evaluations, attendance sheets and certificate of completion are not provided per the stipulations in this Agreement, payment to the Training Provider by Pacific Gateway may be delayed or withdrawn.

4. The Training Provider agrees that the Trainee will not be asked to pay for any items or services provided under this Agreement unless an amount is specified as a "Total Trainee Obligation" in the ITA Scholarship. The Training Provider understands that a violation of this provision may result in termination of this Agreement, at Pacific Gateway's discretion.
5. The Training Provider agrees to seek and utilize other types of financial aid (i.e., Federal Pell Grant) if applicable/available prior to use of WIOA funds. If applicable, the Training Provider must provide Pacific Gateway with written information concerning financial aid received by each Trainee under this agreement within thirty days of receipt or by the "Completion" payment point specified in section I, item 4, below, whichever comes first. Acceptable documentation to be submitted to the Educational Career Coordinator, shall include a notice of award or denial for financial aid, such as a Federal Pell Grant or other grant(s) issued by the Training Provider. Training Provider will complete the Verification or Training and Leverage Funds Form (Attachment B). If acceptable documentation is not submitted within the timeframe specified, payment to the Training Provider by Pacific Gateway may be delayed or withdrawn. Upon receipt of a notice of award, a revised ITA Scholarship will be issued and specify an amended "Total Obligation (City of Long Beach)" and the amount of "Other Education Related Costs" to be disbursed by the Training Provider to the Trainee, if applicable. If financial aid is not available, it must be documented by completion of the Verification or Training and Leverage Funds Form.
6. The Training Provider agrees to maintain records (including books, paper and computer data, time sheets, attendance and payroll records, and cancelled checks) to document all costs, direct and indirect, incurred under this Agreement and to account for all money received under this Agreement. All records shall be kept for a period of five (5) years from the date final payment is made on this Agreement. All records regarding the Trainee shall be made available to the State, Department of Labor, Comptroller General of the United States, Pacific Gateway or any of their duly authorized representatives. The right to the records includes the right to make excerpts, transcripts, and photocopies. The Training Provider also agrees to provide photocopies of above referenced records, upon request from Pacific Gateway. The Training Provider agrees to provide reasonable and timely access to personnel for interviews and discussions related to the records of the Trainee.
7. This Agreement is subject to WIOA rules and regulations and the availability of WIOA funding. Modifications to this Agreement may be made to reflect any reduction in fund availability and subsequent additions and/or changes to WIOA rules and regulations. This Agreement shall also be governed by all other applicable laws of the State of California.

D. PERFORMANCE:

1. Pacific Gateway retains the right to observe and monitor services provided pursuant to this Agreement, including, but not limited to, quality of training, instructor qualifications and performance, and conduct interviews of Trainee(s) and personnel. If any of these

criteria for service performance are not met, payment to the Training Provider may be delayed or withdrawn.

2. The Training Provider agrees to provide attendance and progress reports on a routine basis (according to the Institutions reporting requirements or as requested by Pacific Gateway) for the duration of training and at completion with certificate (if applicable).

Pacific Gateway requires progress reports contain, at minimum, the following information.

Required Information:

<i>Training Provider Name</i>	<i>Instructor Name</i>
<i>Provider Address and Phone Number</i>	<i>Evaluation Period</i>
<i>Training Program</i>	<i>Attendance</i>
<i>Trainee Name</i>	<i>Training Performance/Progress Reports</i>
<i>Trainee Signature and Date</i>	<i>Instructor Signature and Date</i>

If the Trainee progress report does not contain the required information or partial information is provided, payment to the Training Provider may be delayed or withdrawn.

3. The Training Provider shall act in an independent capacity and not as an officer, employee, or agent of Pacific Gateway in the performance of this Agreement. This provision shall also apply to any agent or employee of the Training Provider. The Training Provider shall not contract or incur expenses in the name of Pacific Gateway, or it's entity.
4. To the extent permitted by applicable law, Training Provider shall defend, indemnify and hold harmless, City of Long Beach, Pacific Gateway, its officials, employees, and agents from all, loss, damage, liability, demands, claims, causes of action, cost and expense (including reasonable attorneys' fees) for injuries to persons (including death) or damage or destruction to property connected with or arising from the negligent acts or omissions, willful misconduct or misrepresentation of Training Provider, its officers, employees, or agents.
5. The Training Provider shall provide sufficient instruction materials pursuant to a planned curriculum appropriate to the Trainee's educational program and establish sufficient attendance, progress, and performance standards to reasonably ensure that Trainees acquire the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the course of instruction is intended to lead. The Training Provider agrees to comply with the Maxine Waters School Reform and Student Protection Act of 1989 Section 94875 (a)(b).
6. The Training Provider shall perform all services herein and documented in the ETPL. Any attempt by the Training Provider to delegate or subcontract, except for the hiring of instructors, its duties under this Agreement shall be void and allow Pacific Gateway to immediately terminate this Agreement and withdraw payment(s).

E. PROVIDER ASSURANCES:

1. The Training Provider shall maintain the confidentiality of any information regarding the Trainee, or their immediate family, which may be obtained through documents obtained from public agencies, counselors, or any other source. Without permission from Pacific Gateway, such information shall be divulged only as necessary for the performance or evaluation of the Agreement and only to persons having responsibilities under this Agreement.
2. The Training Provider shall ensure that the Trainee is provided with a copy of the Training Provider's grievance policy and procedures. Pacific Gateway may also request a copy of the Training Provider's grievance policy and procedures.
3. If Trainee provides notification to Provider to terminate their training program, the Provider shall conduct an exit interview with the Trainee, if possible, to document the reason for termination. The Training Provider shall notify Pacific Gateway in writing to the Educational Career Coordinator within one (1) day of notification of the Trainees' decision.
4. The Training Provider may terminate/suspend the Trainee on the same basis the Training Provider would terminate/suspend any other participant receiving educational services. The Training Provider shall first advise Pacific Gateway by emailing the Educational Career Coordinator, within one (1) business day of the impending termination/suspension. The Training Provider shall provide Pacific Gateway an opportunity to correct the reason for termination/suspension within an agreed upon time frame. Upon termination/suspension, the Training Provider shall conduct an exit interview with the Trainee to document reason for termination/suspension.
5. The Training Provider shall provide the Trainee with two cancellation forms prior to or at the first-class meeting attended by the Trainee in accordance with the Maxine Waters School Reform and Student Protection Act of 1989 Section 94868.
6. The Training Provider shall maintain appropriate standards for health and safety. Shall ensure that the conditions of training are appropriate and reasonable with regards to the type of training, the geographical region and the proficiency of the Trainee.
7. The Training Provider shall, at all times, be in compliance with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) (*42 U.S.C. § 12101*). Compliance with the ADA shall be the sole responsibility of Training Provider. The Training Provider shall defend and hold Pacific Gateway harmless from any expense or liability arising from Training Provider's non-compliance therewith.
8. The Training Provider shall comply fully with applicable Federal, State, and local nondiscrimination and equal opportunity provisions, including:
 - i. That which prohibits discrimination against all individuals in the United States on the basis of race; color; religion; sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity); national origin; age; disability; political affiliation or belief; or against any beneficiary of, applicant to, or participated in, programs financially assisted under Title I of the *Workforce Innovation and Opportunity Act (WIOA)*, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity. (*Section 188 of WIOA and Title 29 CFR Part 38*)

- ii. Title VI and VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin
 - iii. Title V, Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities.
 - iv. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age.
 - v. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.
9. The Training Provider shall ensure compliance with the Pacific Gateway Nondiscrimination and Equal Opportunity policy (*Policy Number: P-WIOA-NEDO-2.A*) that prohibits retaliation or reprisal against an individual that:
 - i. Has filed a complaint.
 - ii. Opposed a practice prohibited by the nondiscrimination and Equal Opportunity provisions of WIOA.
 - iii. Furnished information to or assisted or participated in any manner in an investigation, review, hearing, or any other activity related to the administration of, exercise the privilege secured by the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 38.
 - iv. Otherwise exercised any rights and privileges under the WIOA nondiscrimination and EO provisions.
10. The Training Provider shall permit access to Pacific Gateway or designated agency to records of employment, employment advertisements, application forms and other pertinent data and records, for the purposes of investigation to ascertain compliance with the fair employment practices provisions of this contract.
11. The Training Provider agrees to maintain records that are sufficient to support all data submitted for the ETPL and will make these records available for monitoring or audit by either Pacific Gateway or the State.
12. The Training Provider shall ensure compliance with applicable Federal, State, and/or local regulations with matters relating to providing a drugfree workplace.
13. The Training Provider shall ensure that training involving sectarian or political activities is prohibited.

F. TERMS:

1. The Agreement is of no force and effect until approved and signed by representatives of both parties hereto. There are no oral understandings or agreements not incorporated herein. The Training Provider may not commence training until such approval has been obtained in writing.
2. The Agreement may be terminated by either party upon ten (10) business days written notice to the other.

- Verification of training and leverage funds
- Attendance sheets and progress reports

- iii. **Recovery of Unused Training Funds for Early Withdrawal or Termination of Training Prior to Completion:** The Training Provider is required to report early terminations of Trainees' training to the Educational Career Coordinator. All refunds of unearned training funds must be returned promptly to Pacific Gateway from the Training Provider.

Unless otherwise indicated by the Training Provider refund policy, refunds are based on a proration of services provided, which is calculated by the percentage of training hours completed. Each hour of training equates to a dollar amount.

- ❖ **Invoices for short term training under 90 days will be paid in full upon the participant's satisfactory completion of training**

H. INSURANCE:

The Training Provider agrees to provide a Certificate of Insurance and shall maintain a General Liability coverage (equivalent in coverage to ISO form CG 00 01 11 85 or 88), including cross-liability protection and broad form contractual liability, in an amount not less than \$1,000,000 combined single limit for each occurrence. If the policy has a general aggregate limit, the general aggregate limit must be in an amount not less than \$2,000,000.

Unless the Training Provider provides a Certificate of **Self-Insurance**, the certificate of insurance must show the City of Long Beach as the certificate holder and must also be filed with the City of Long Beach before a purchase order can be issued. The following information must be on the Certificate:

Insurance Requirements:

1. **Certificate of Insurance.** A certificate of insurance, showing the City of Long Beach as the certificate holder at the address given below, must be filed with the City before the purchase order is issued. The certificate must evidence the following insurance placed with an insurer admitted to write insurance in California or an authorized non-admitted insurer having a rating of or equivalent to A:VIII by A.M. Best Company:
 - a. **Commercial general liability** (equivalent in coverage to ISO form CG 00 01 11 85 or 88), including cross-liability protection and broad form contractual liability, in an amount not less than \$1,000,000 combined single limit for each occurrence. If the policy has a general aggregate limit, the general aggregate limit must be in an amount not less than \$2,000,000. The "**The City of Long Beach its boards, commissions, officials, employees, and agents**" must be named as additional insureds and such coverage must not be limited to the vicarious liability or supervisory role of the additional insured.
 - b. **Commercial general liability** insurance equivalent in coverage scope to an ISO CG 00 01 10 93 that does not exclude coverage for **abuse and molestation defense** and names "**The City of Long Beach, and its boards, officials, employees, and agents**" as additional insureds on an endorsement equivalent in coverage scope to an ISO CG 20 26 11 85 from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or

damage to or loss of property arising out activities performed by or on behalf of the Contractor in an amount not less than One Million Dollars (US \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000) in general aggregate.

- c. **Automobile liability** (equivalent in coverage to ISO form CA 00 01 06 92) in an amount not less than \$500,000 combined single limit per accident for bodily injury and property damage covering Auto Symbol 1 (Any Auto).
- d. **Professional liability or errors and omissions** in an amount not less than \$1,000,000 per occurrence If you are providing accounting, actuarial, architectural, auditing, brokerage, computer programming, consulting, counseling, daycare, engineering, environmental, landscape architectural, legal, medical, nursing, pastoral, surveying, real estate, soils engineering, or other professional services.
- e. **Workers' compensation and employer's liability** in an amount not less than \$1,000,000 per accident if workers' compensation coverage is required by the California Labor Code.
- f. **All risk property insurance** in an amount sufficient to cover the full replacement value of Subleasee's personal property, equipment, and improvements, if any, on the premises (for leases and subleases only).

2. **Endorsements.** All applicable original endorsements must also be filed with the City of Long Beach before the purchase order is issued, including but not limited to:

- a. An additional insured endorsement (equivalent in coverage to ISO form **CG 20 26 07 04**) naming "The City of Long Beach its boards, commissions, officials, employees, and agents" as additional insureds under the general liability policy. Failure to comply with this requirement will prevent issuance of a purchase order.
- b. An endorsement to each policy stating that such policy shall not be cancelled by either party or reduced in coverage except after thirty (30) days prior written notice to City and that the policy shall apply on a primary non-contributing basis in relation to any insurance or self-insurance, primary or excess, maintained by or available to City or any employee or agent of City.

3. **Special Risks** - Additional insurance requirements may be imposed on certain risks:

- a. Construction contracts.
- b. Medical, daycare, excavation, drilling, trenching or shoring services, or services involving explosives or pyrotechnics.
- c. Environmental consulting, engineering or related services or operations, including brownfields' redevelopment
- d. Custom manufactured products.
- e. Products or services involving firearms, tobacco, alcohol, or controlled substances.
- f. Marine-related products or services.
- g. Aircraft-related products or services; and
- h. Any unusual or high-risk activities, operations or products

