

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach CA 90802-4664

SECOND AMENDMENT TO AGREEMENT NO. 36251

36251

THIS SECOND AMENDMENT TO AGREEMENT NO. 36251 is made and entered, in duplicate, as of January 10, 2023 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on November 1, 2022, by and between INSTRUMENT PERSONNEL, INCORPORATED DBA COLLEGE OF INSTRUMENT TECHNOLOGY, a California corporation ("Contractor"), with a place of business at 17909 Elaine Avenue, Artesia, California 90701, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City and Contractor (the "Parties") entered into Contract No. 36251 (the "Contract") on March 23, 2022 whereby Contractor agreed to provide training and employment services for Pacific Gateway Workforce Innovation Network through the Workforce Innovation and Opportunity Act (WIOA); and

WHEREAS, the Parties entered into a First Amendment on July 8, 2022 to increase the amount of the Contract by One Hundred Thousand Dollars (\$100,000) and attach an updated Statement of Work;

WHEREAS, the Parties desire to add One Hundred and Fifty Thousand Dollars (\$150,000) with a total amount not to exceed Four Hundred Fifty Thousand Dollars (\$450,000), and extend the term by one (1) additional one-year (1) term;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions herein contained, the Parties agree as follows:

1. Section 2.A. of the Agreement is hereby amended to read as follows.

"A. The Term of this Contract ("Term") shall be deemed to have commenced as of October 1, 2021, and unless sooner terminated pursuant to the provisions hereof, shall terminate on December 31, 2023. Either of the parties hereto shall have the right to terminate this Contract in its entirety at any time during the Term for any or no reason whatsoever by giving fifteen (15) days prior written notice of termination to the other party. City shall have the additional right to cancel any part of this Contract at any

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1 time during the Term for any reason whatsoever by giving fifteen (15) days' notice of such
2 cancellation to the Contractor.

3 2. Section 5.A. of the Agreement is hereby amended to read as follows.

4 "A. The total amount which shall be payable by City to Contractor for
5 Contractor's allowable services during the Terms shall not exceed Four Hundred Fifty
6 Thousand Dollars (\$450,000)."

7 3. The Statement of Work attached to the First Amendment as Exhibit
8 "A-1" is hereby amended and replaced with Exhibit "A-2", attached hereto and incorporated
9 herein.

10 4. Except as expressly modified herein, all of the terms and conditions
11 contained in Agreement No. 36251 are ratified and confirmed and shall remain in full force
12 and effect.

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

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

January 13, 2023
By Marcia June Durbin
Name Marcia June Durbin
Title CFO

January 13, 2023
By Harold E. Durbin
Name Harold E. Durbin
Title President

"Consultant"

CITY OF LONG BEACH, a municipal
corporation

February 2, 2023
By Linda F. Jabum
City Manager

"City"

This Second Amendment to Agreement No. 36251 is approved as to form on

January 30, 2023.

DAWN MCINTOSH, City Attorney

By [Signature]
Deputy

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EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

EXHIBIT "A-2"
Statement of Work

Statement of Work

Second Amendment

Training Provider	Instrument Personnel, Inc. dba College of Instrument Technology
Term	February 8, 2022 – December 31, 2023
Amount/Award	\$450,000
Master Agreement	17.258, 17.278, and 17.277

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 College** 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 its 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.

G. INVOICING:

3. Pacific Gateway shall pay the Training Provider as per stipulations set forth in this Agreement.
4. The Training Provider shall submit invoices for payment in accordance with the payment schedule explained below. Invoices must include the following:
 1. Name of Trainee
 2. Name of Training Program
 3. Start and End Dates
 4. Amount Due
 5. Payments Made to Date
 6. Balance
 7. Specify Pay Point, e.g., 1 or 2, see below

3. Original invoices must be mailed for verification and review to: The WorkPlace, 4811 Airport Plaza Dr., Suite 200, Long Beach, CA 90815, Attn: Karla Olivas. Please address all inquiries regarding the status of payment to the Fiscal Unit, at (562) 570-4726.
4. Payments will be issued within 45 days upon receipt of invoices. Payments for training shall be disbursed as follows:

Pay Point #1: At the 30th day of active participation **50%**
within 30 calendar days

Pay Point #2: At the completion of training **50%**

- i. **At the Beginning of Training (50%):** After the participant has completed their 30th training day of active participation, an invoice with the progress report and proof of attendance must be sent for 50% of the tuition payment.
- ii. **At Completion (50%):** Upon the Trainee's satisfactory completion of training and demonstration of the following:
 - Attained competencies as outlined in the Training Provider's course curriculum per training schedule.
 - Attained satisfactory test score(s) or achievement level prescribed for completion.

An invoice should be sent within fifteen (15) days after completion of training with the following:

- A copy of the certificate(s) of completion
- A measurable skill gains (MSG) or other form of progress made by the participant in a training program that leads to a credential or employment.
- The notice of award or denial for financial aid

- 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

