

CONTRACT

**34715**

THIS CONTRACT ("Contract") is entered into, in duplicate, effective as of July 28, 2017, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on July 18, 2017, by and between CAREER DEVELOPMENT SOLUTIONS LLC, a California limited liability company with offices located at 1900 S. State College Blvd., Suite 100, Anaheim, California 92806 ("Contractor"), and the CITY OF LONG BEACH, a municipal corporation ("City") and administering entity for Pacific Gateway Workforce Investment Network.

WHEREAS, City submitted an application ("Application") to the Employment Development Department of the State of California (the "State"), for funds to provide meaningful training and employment opportunities for economically disadvantaged, unemployed and underemployed persons consistent with the Workforce Investment Act of 1998 ("WIA") codified as Section 504 of the Rehabilitation Act, 29 U.S.C. 794(d) and all regulations, directives, policies, procedures and amendments issued thereto and/or legislation, regulations, policies, directives, and/or procedures which may replace the Workforce Investment Act; and

WHEREAS, Congress reauthorized the Workforce Investment Act of 1998 on July 22, 2014 as the "Workforce Innovation and Opportunity Act (WIOA)" to provide workforce investment activities, through statewide and local workforce investment systems such as Pacific Gateway Workforce Investment Network (PGWIN), administered by the City of Long Beach; and

WHEREAS, the Application was approved by the State and a Workforce Investment Act/Workforce Innovation and Opportunity Act subgrant has been executed by and between the State and the City authorizing such programs and providing the funding therefore under Workforce Investment Act/Workforce Innovation and Opportunity Act Master Subgrant Agreement which has been designated as K7102038 CFDA No. 17.258 and 17.278 the ("Prime Contract"); and

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

4           WHEREAS, City is willing to utilize Contractor to provide vocational training  
5 in various information technology sectors to Pacific Gateway participants;

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

8           1.     DOCUMENT INCORPORATION.

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

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

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

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

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

1 by each party under the Contract Documents.

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

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

8 2. TERM.

9 A. The term of this Contract ("Term") shall be deemed to have  
10 commenced as of January 1, 2017, and unless sooner terminated pursuant to the  
11 provisions hereof, shall terminate on December 30, 2018. Either of the parties  
12 hereto shall have the right to terminate this Contract in its entirety at any time during  
13 the Term for any or no reason whatsoever by giving fifteen (15) days prior written  
14 notice of termination to the other party. City shall have the additional right to cancel  
15 any part of this Contract at any time during the Term for any reason whatsoever by  
16 giving fifteen (15) days' notice of such cancellation to the Contractor.

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

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

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

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

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

20           4.     PERFORMANCE REVIEW.

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

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

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

8 5. CONTRACT AMOUNT AND PAYMENT.

9 A. The total amount which shall be payable by City to Contractor  
10 for Contractor's allowable services during the Term shall not exceed Two Hundred  
11 Seventy Thousand Dollars (\$270,000).

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

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

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

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

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

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

24 G. Public or private non-profit contractor revenues in excess of  
25 costs are considered program income or profits in accordance with Code of Federal  
26 Regulations definition of "Income" pursuant to 29 CFR 97.32(2). When authorized,  
27 program income may be added to the funds committed to the grant agreement. The  
28 program income shall be used for the purposes and under the conditions of the grant

1 agreement or as amended unless the Governor of the State of California requires  
2 that such income be turned over to the State.

3 6. RECORDS.

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

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

15 7. FINANCIAL REPORTS.

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

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

8                   8.     ACCOUNTING PROCEDURES.

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

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

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

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

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

28                   (c)    Maintain bank validated copies for every deposit



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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 purchase order or purchase requisition, if such is used by the

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Contractor.

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

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

- (a) Bank statements and bank reconciliations.
- (b) Deposit slips and supports.
- (c) Checks and supports.
- (d) Time sheets or documentation to verify

Contractor's labor costs.

- (e) Cash receipts and cash disbursement journals.
- (f) Requests for reimbursement and supports.
- (g) Financial statements.
- (h) Maintain and file all required tax and personnel

reports with appropriate agencies.

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

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

9. INDEPENDENT CONTRACTOR STATUS. It is distinctly understood that in the performance of this Contract, the Contractor shall at all times be considered a wholly independent contractor and that Contractor's obligations to and authority from the City are solely as are preserved by this Contract. Contractor expressly warrants that it will not, at any time, hold itself out or in any manner represent that Contractor or any of its

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

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

23           11. INDEMNITY.  
24           A. Contractor shall indemnify, protect and hold harmless City, its  
25 Boards, Commissions, and their officials, employees and agents ("Indemnified  
26 Parties"), from and against any and all liability, claims, demands, damage, loss,  
27 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
28 costs and expenses, including attorneys' fees, court costs, expert and witness fees,

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

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

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

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

27 12. EMPLOYMENT TRAINING ACT CLAUSES. Contractor shall  
28 administer contract within the policies and procedures mandated by the Workforce

1 Investment Act of 1998, subsequently reauthorized as Workforce Innovation and  
2 Opportunity Act, and the Network and agrees to comply with the following contract clauses,  
3 as applicable, during the duration of the contract period:

- 4 A. Compliance with requirements and/or regulations related to  
5 patent rights, copyrights, and rights in data;
- 6 B. Maintenance of records for 7 years;
- 7 C. The Equal Employment Opportunity Act provisions;
- 8 D. The Americans with Disabilities Act of 1990;
- 9 E. The Contract Work Hours and Safety Standards Act;
- 10 F. The Clean Air Act and Environmental Protection Agency  
11 regulations;
- 12 G. The Energy Policy Conservation Act;
- 13 H. The Byrd Anti-Lobbying Amendment;
- 14 I. Veteran's Priority Provisions;
- 15 J. Whistle Blower Protection;
- 16 K. Buy American Requirements.

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

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

27 B. Automobile Liability in an amount not less than Five Hundred  
28 Thousand Dollars (\$500,000.00) combined single limit per accident for bodily injury and

1 property damage covering owned, non-owned and hired vehicles.

2 C. Workers' Compensation as required by the Labor Code of the State of  
3 California and Employers' Liability Insurance with limits of one Million Dollars  
4 (\$1,000,000.00) per occurrence.

5 D. Accidental Medical, Death and Dismemberment Insurance for all  
6 participants not entitled to workers' compensation benefits under the provisions of Section  
7 3700 of the Labor Code of the State of California, unless this requirement has been waived  
8 in writing by the Risk Manager. Said insurance shall have limits of not less than One  
9 Hundred Thousand Dollars (\$100,000.00) Accident Medical and Twenty-Five Thousand  
10 Dollars (\$25,000.00) Accidental Death and Dismemberment.

11 E. Blanket Honesty or Comprehensive Crime Bond in an amount of fifty  
12 percent (50%) of sums payable under this Contract, or Twenty-Five Thousand Dollars  
13 (\$25,000.00), whichever is higher, to safeguard the proper handling of funds by those  
14 employee's agents or representatives of the Contractor who sign as the maker of checks  
15 or drafts or in any manner authorize the disbursement or expenditure of said funds.

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

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

26 Contractor shall furnish the City with certificates of insurance and with original  
27 endorsements affecting coverage as required above. The certificates and endorsements  
28 for each insurance policy shall be signed by a person authorized by that insurer to bind

1 coverage on its behalf. Policies written on a “claims made” basis shall provide for an  
2 extended reporting period of not less than One Hundred Eighty (180) days. No claims  
3 made policies shall be acceptable to City unless the City Manager determines that no  
4 occurrence policy is available in the market for the particular risk being insured. Any  
5 modification or waiver of the insurance requirements contained in this Contract shall only  
6 be made with the written approval of the Risk Manager in accordance with established city  
7 policy.

8 14. DRUG-FREE WORKPLACE. Contractor shall comply with  
9 Government Code Sections 8350 et seq. and 29 CFR Part 98, in matters relating to  
10 providing a drug-free workplace including, but not limited to, the following:

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

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

- 17 i. The dangers of drug abuse in the workplace,  
18 ii. The person’s or organization’s policy of maintaining a  
19 drug-free workplace;  
20 iii. Any available counseling, rehabilitation and employee  
21 assistance programs, and  
22 iv. Penalties that may be imposed upon employees for drug  
23 abuse violations.

24 C. Ensuring that every employee who provides services under this  
25 Contract:

- 26 i. Will receive a copy of Contractor’s drug-free policy  
27 statement, and  
28 ii. Will agree to abide by the terms of Contractor’s

1 statement as a condition of employment on this Contract:

2 D. Payments due Contractor may be subject to suspension or  
3 termination for failure to carry out the requirements of Government Code Sections  
4 8350 et seq. and 29 CFR Part 98, Debarment and Suspension; Drug Free  
5 Workplace. As provided in Government Code Section 8357, the City shall not be  
6 required to ensure that Contractor provides a drug-free workplace.

7 15. NONDISCRIMINATION.

8 A. In connection with performance of this Agreement and subject  
9 to applicable rules and regulations, Contractor shall not discriminate against any  
10 employee or applicant for employment because of race, religion, national origin,  
11 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap, or  
12 disability. Contractor shall ensure that applicants are employed, and that employees  
13 are treated during their employment, without regard to these bases. These actions  
14 shall include, but not be limited to, the following: employment, upgrading, demotion  
15 or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay  
16 or other forms of compensation, and selection for training, including apprenticeship.

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

28 16. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in



1 accordance with the provisions of the Ordinance, this Agreement is subject to the  
2 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
3 Long Beach Municipal Code, as amended from time to time.

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

8                     “During the performance of a contract with the City of Long Beach, the  
9 Contractor will provide equal benefits to employees with spouses and its employees  
10 with domestic partners. Additional information about the City of Long Beach’s Equal  
11 Benefits Ordinance may be obtained from the City of Long Beach Business Services  
12 Division at 562-570-6200.”

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

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

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

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

27           17.    CONFIDENTIALITY.

28           A.     Contractor shall keep confidential all financial, operations, and

1 performance records relating to its performance of this Contract ("Data") and shall  
2 not disclosed the Data or use the Data directly or indirectly other than in the course  
3 of services provided hereunder. The obligation of confidentiality shall continue  
4 following expiration or earlier termination of this Contract. In addition, Contractor  
5 shall keep confidential all information, whether written or oral, or visual, obtained by  
6 any means whatsoever in the course of Contractor's performance hereunder for the  
7 same period of time. Contactor shall not disclose Data to any third party, nor use it  
8 for Contractor's own benefit or the benefit of others without first obtaining the prior  
9 written authorization and consent of the City.

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

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

18 A. Contractor demonstrates Contractor knew prior to the time City  
19 disclosed it; or

20 B. Is or becomes publicly available without breach of this Contract  
21 by Contractor; or

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

24 D. Must be disclosed pursuant to subpoena, court order, state or  
25 federal WIA rules and regulations, federal Department of Labor rules and  
26 regulations, or the rules and regulations of any other governmental agency having  
27 jurisdiction over WIA administration.

28 19. NOTICES. Any notice or approval required by this Agreement shall

1 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
2 postage prepaid, addressed to Consultant at the address first stated above, and to the City  
3 at 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager with a  
4 copy to the Pacific Gateway's Executive Director at 3447 Atlantic Avenue, Long Beach, CA  
5 90806. Notice of change of address shall be given in the same manner as stated for other  
6 notices. Notice shall be deemed given on the date deposited in the mail or on the date  
7 personal delivery is made, whichever occurs first.

8           20. CONTRACT ADMINISTRATION. The City Manager, or designee, is  
9 authorized and directed, for and on behalf of the City, to administer this Contract and all  
10 related matters, and any decision of the City Manager, or his designee, in connection  
11 herewith shall be final.

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

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

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

26           24. TAX REPORTING. As required by federal and state law, City is  
27 obligated to and will report the payment of compensation to Contractor on Form 1099-Misc.  
28 Contractor shall be solely responsible for payment of all federal and state taxes resulting

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lona Beach, CA 90802-4664

1 from payments under this Agreement. Contractor shall submit Contractor's Employer  
2 Identification Number (EIN), or Contractor's Social Security Number if Contractor does not  
3 have an EIN, in writing to City's Accounts Payable, Department of Financial Management.  
4 Contractor acknowledges and agrees that City has no obligation to pay Contractor until  
5 Contractor provides one of these numbers.

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

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

CAREER DEVELOPMENT SOLUTIONS  
LLC, a California limited liability company

13  
14  
15 8/21, 2017

By [Signature]  
Name Cindy Sutherland  
Title VP of Career Dev

16  
17 8/21, 2017

By [Signature]  
Name Anna Nursalim  
Title CFO

"Contractor"

CITY OF LONG BEACH, a municipal  
corporation

18  
19  
20  
21  
22 August 28, 2017

By [Signature]  
City Manager  
EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

"City" Tom Modica  
Assistant City Manager

This Contract is approved as to form on Aug. 21, 2017.

23  
24  
25  
26  
27  
28 CHARLES PARKIN, City Attorney

By [Signature]  
Deputy

# Exhibit A

## WIOA SUBGRANT AGREEMENT

City of Long Beach dba Pacific Gateway

SUBGRANT NO: K7102038  
MODIFICATION NO: 1  
SUBRECIPIENT CODE: LBC  
UNIQUE ENTITY NO: 557396141

PASS-THROUGH ENTITY:  
State of California  
Employment Development Dept.  
Central Office Workforce  
Services Division  
P.O.Box 826880, MIC 69  
Sacramento, CA 94280-0001

SUBRECIPIENT: City of Long Beach dba Pacific  
Gateway  
3447 ATLANTIC AVENUE  
LONG BEACH, CA 90807

GOVERNMENTAL  
ENTITY: Yes

This Subgrant Agreement is entered into by and between the State of California, Employment Development Department, hereinafter the Pass-through Entity, and the City of Long Beach dba Pacific Gateway, hereinafter the Subrecipient. The Subrecipient agrees to operate a program in accordance with the provisions of this Subgrant and to have an approved Workforce Innovation and Opportunity Act (WIOA) Local Plan for the above named Pass-through Entity filed with the Pass-through Entity pursuant to the WIOA. This modification consists of this sheet and those of the following exhibits, which are attached hereto and by this reference made a part hereof:

Funding Detail Chart  
Rapid Response Layoff Aversion  
Rapid Response by Formula  
Dislocated Worker Rd 1  
Adult Formula RD 1

ALLOCATION(s)  
The Pass-through Entity agrees to reimburse the Subrecipient not to exceed the amount listed hereinafter 'TOTAL'

|                    |                |
|--------------------|----------------|
| PRIOR AMOUNT:      | \$2,018,168.00 |
| INCREASE/DECREASE: | \$539,119.00   |
| TOTAL:             | \$2,557,287.00 |


TERM OF AGREEMENT  
From: 4/1/2016 To: 6/30/2018

Terms of Exhibits are as designated on each exhibit

PURPOSE: To add first round formula funds in grant codes 201, 501, 540 and 292.

APPROVED FOR PASS-THROUGH ENTITY(EDD)  
(By Signature)

APPROVED FOR SUBRECIPIENT (By Signature)  
Unilateral modification. Subrecipient Signature not required

  
Name and Title  
JOSÉ LUIS MÁRQUEZ  
CHIEF  
CENTRAL OFFICE WORKFORCE SERVICES  
DIVISION

Name and Title

I hereby certify that to my knowledge, the budgeted funds are available for the period and purpose of expenditures as stated herein

This agreement does not fall within the meaning of Section 10295 of Chapter 2 of Part 2 of Division 2 of the Public Contract Code of the State of California and pursuant to 58 OPS Cal. Atty. Gen 586, is exempt from review or approval of the Dept. of General Services and the Dept. of Finance

  
Signature of EDD Accounting Officer

  
Signature of EDD Contract Officer

Budget Item: 7100 Fund: 0689 Budgetary Attachment: No  
Chapter: Statute: FY: \*\*\*

SUBGRANT AGREEMENT  
FUNDING DETAIL SHEET

SUBGRANT NO:K7102038  
MODIFICATION NO:1

City of Long Beach dba Pacific Gateway

I. Allocation

| Funding Source  | Prior Amount          | Increase            | Decrease      | Adjusted Allocation   |
|---|-----------------------|---------------------|---------------|-----------------------|
| <b>WIA/WIOA 25% - Dislocated Worker Rapid Response</b>  |                       |                     |               |                       |
| 96217 292 Rapid Response Layoff Aversion<br>07/01/2016 to 06/30/2017 Prog/Element<br>61/70 Ref 001 Fed Catlg 17.278 | \$0.00                | \$22,317.00         | \$0.00        | \$22,317.00           |
| 96217 540 Rapid Response by Formula<br>07/01/2016 to 06/30/2017 Prog/Element<br>61/70 Ref 001 Fed Catlg 17.278      | \$0.00                | \$78,791.00         | \$0.00        | \$78,791.00           |
| <b>Total WIA/WIOA 25% - Dislocated Worker Rapid Response</b>  | <b>\$0.00</b>         | <b>\$101,108.00</b> | <b>\$0.00</b> | <b>\$101,108.00</b>   |
| <b>WIA/WIOA Formula</b>   |                       |                     |               |                       |
| 96157 201 Adult Formula RD 1<br>07/01/2016 to 06/30/2018 Prog/Element<br>61/90 Ref 101 Fed Catlg 17.258             | \$0.00                | \$235,112.00        | \$0.00        | \$235,112.00          |
| 96107 301 Youth Formula Rd 1<br>04/01/2016 to 06/30/2018 Prog/Element<br>61/90 Ref 101 Fed Catlg 17.259             | \$2,018,168.00        | \$0.00              | \$0.00        | \$2,018,168.00        |
| 96207 501 Dislocated Worker Rd 1<br>07/01/2016 to 06/30/2018 Prog/Element<br>61/90 Ref 101 Fed Catlg 17.278         | \$0.00                | \$202,899.00        | \$0.00        | \$202,899.00          |
| <b>Total WIA/WIOA Formula</b>   | <b>\$2,018,168.00</b> | <b>\$438,011.00</b> | <b>\$0.00</b> | <b>\$2,456,179.00</b> |
| <b>Grand Total:</b>   | <b>\$2,018,168.00</b> | <b>\$539,119.00</b> | <b>\$0.00</b> | <b>\$2,557,287.00</b> |

NARRATIVE

SUBGRANT NO:K7102038  
MODIFICATION NO: 1

SUBRECIPIENT:City of Long Beach dba Pacific Gateway  
FAIN NO: AA-28305-16-55-A-6  
FEDERAL AWARD DATE: 7/22/2016  
FUNDING SOURCE: Adult Formula RD 1 - 201

TERM OF THESE FUNDS: 07/01/2016 - 06/30/2018

Use of funds added by this modification is limited to this period and additionally limited by the recapture provisions applicable to this funding source. The state may at its discretion recapture funds obligated under this exhibit, if expenditure plans are not being met.

PROGRAM NARRATIVE

Workforce Innovation and Opportunity Act (WIOA) Adult Formula funds are being incorporated into the Program Year (PY) 2016-17 Subgrant Agreement to support the WIOA Adult Program. The funds in grant code 201 consist of 1st round funding and are available for expenditure from July 1, 2016 through June 30, 2018.

This exhibit adds to and does not replace the terms and conditions of any other exhibit included in this agreement which terms and conditions remain in full force and effect.

WIOA (2015)

NARRATIVE

SUBGRANT NO:K7102038  
MODIFICATION NO: 1

SUBRECIPIENT:City of Long Beach dba Pacific Gateway  
FAIN NO: AA-28305-16-55-A-6  
FEDERAL AWARD DATE: 7/22/2016  
FUNDING SOURCE: Dislocated Worker Rd 1 - 501

TERM OF THESE FUNDS: 07/01/2016 - 06/30/2018

Use of funds added by this modification is limited to this period and additionally limited by the recapture provisions applicable to this funding source. The state may at its discretion recapture funds obligated under this exhibit, if expenditure plans are not being met.

PROGRAM NARRATIVE

Workforce Innovation and Opportunity Act (WIOA) Dislocated Worker Formula funds are being incorporated into the Program Year (PY) 2016-17 Subgrant Agreement to support the WIOA Dislocated Worker Program. The funds in grant code 501 consist of 1st round funding and are available for expenditures from July 1, 2016 through June 30, 2018.

This exhibit adds to and does not replace the terms and conditions of any other exhibit included in this agreement which terms and conditions remain in full force and effect.

WIOA (2015)



NARRATIVE

SUBGRANT NO:K7102038  
MODIFICATION NO: 1

SUBRECIPIENT:City of Long Beach dba Pacific Gateway  
FAIN NO: AA-28305-16-55-A-6  
FEDERAL AWARD DATE: 7/22/2016  
FUNDING SOURCE: Rapid Response by Formula - 540

TERM OF THESE FUNDS: 07/01/2016 - 06/30/2017

Use of funds added by this modification is limited to this period and additionally limited by the recapture provisions applicable to this funding source. The state may at its discretion recapture funds obligated under this exhibit, if expenditure plans are not being met.

PROGRAM NARRATIVE

These Workforce Innovation and Opportunity Act (WIOA) 25 percent Rapid Response (RR) funds are being incorporated into your Program Year (PY) 2016-17 Subgrant Agreement to support the WIOA Dislocated Worker Program. The funds in grant code 540 consist of 1st round funding and are available for expenditures from July 1, 2016 to June 30, 2017. These "formula based" Rapid Response funds (see WSIN15-51) must be used for the cost of required and allowable Rapid Response activities in response to layoffs, business closures, and natural disasters.

This exhibit adds to and does not replace the terms and conditions of any other exhibit included in this agreement which terms and conditions remain in full force and effect.

WIOA (2015)

NARRATIVE

SUBGRANT NO:K7102038  
MODIFICATION NO: 1

SUBRECIPIENT:City of Long Beach dba Pacific Gateway  
FAIN NO: AA-28305-16-55-A-6  
FEDERAL AWARD DATE: 7/22/2016  
FUNDING SOURCE: Rapid Response Layoff Aversion - 292

TERM OF THESE FUNDS: 07/01/2016 - 06/30/2017

Use of funds added by this modification is limited to this period and additionally limited by the recapture provisions applicable to this funding source. The state may at its discretion recapture funds obligated under this exhibit, if expenditure plans are not being met.

PROGRAM NARRATIVE

Layoff Aversion funds are being incorporated into the Program Year (PY) 2016-17 Subgrant Agreement to support the Layoff Aversion Program. These funds will support local areas through a high performing Rapid Response strategy, which will emphasize coordinated efforts to avert layoffs in the effort to save jobs. The term of these funds are from July 1, 2016 to June 30, 2017.

This exhibit adds to and does not replace the terms and conditions of any other exhibit included in this agreement which terms and conditions remain in full force and effect.

WIOA (2015)

# Exhibit B



## EDUCATIONAL AGREEMENT Institution of Higher Education Provider

**Name:** City of Long Beach, Administering Entity for Pacific Gateway Workforce Investment Network

**Address:** 3447 Atlantic Avenue  
Long Beach, CA 90807

**Contact Person:** Melu Habacon, Contracts & Procurement Coordinator  
**Phone Number:** (562) 570-3744  
**Fax Number:** (562) 570-3886  
**E-mail:** Melu.Habacon@Pacific-Gateway.org

**Agreement with...**

**Training Provider Name:** Career Development Solutions LLC

**DBA:**  
**Training Site(s) Address:** 1900 S. State College Blvd Suite 100 Anaheim CA 92806  
100 Corporate Point suite 270 Culver City CA 90230

**Remittance Address:** 1900 S. State College Blvd suite 100 Anaheim, CA 92806

|   |                |                                 |
|---|----------------|---------------------------------|
| <b>Training Provider Program Contact Person</b> | <b>Name:</b>   | Cindy Sutherland                |
|   | <b>Title:</b>  | VP of Career Development        |
|   | <b>Phone:</b>  | 714-221-3121                    |
|   | <b>Fax:</b>    | 714-221-3221                    |
|   | <b>E-mail:</b> | csutherland@NHLearninggroup.com |

|  |                |                                 |
|--|----------------|---------------------------------|
| <b>Training Provider Fiscal Contact Person</b> | <b>Name:</b>   | Dana Van Leeuwen                |
|  | <b>Title:</b>  | Student Services Admin.         |
|  | <b>Phone:</b>  | 714-221-3147                    |
|  | <b>Fax:</b>    | 714-221-3247                    |
|  | <b>E-mail:</b> | DVANLEEUWEN@NHLearninggroup.com |

This Agreement sets forth the roles and responsibilities of the parties named above in providing training to Customers served by the City of Long Beach Pacific Gateway Workforce Investment Network (Pacific Gateway).

**A. PARTIES:**

The City of Long Beach Pacific Gateway Workforce Investment Network (Pacific Gateway), as a designated local workforce investment area, agrees to pay the cost of tuition, books, supplies and/or other eligible agreed upon services required to provide training to eligible Trainees enrolled with the vendor identified on page 1, hereinafter, known as the Provider or Training Provider

**B. TIME FRAME OF PERFORMANCE:**

The time period of this Agreement shall begin upon execution and continue until modified or terminated.

**C. APPROVED PROGRAMS:**

Training programs approved under this agreement, along with tuition and fees, estimated length of training, and program requirements, are listed in the State of California Eligible Training Provider List (ETPL). If the cost of training specified in ETPL is less than the amount listed in the Training Provider catalog, the ETPL will prevail. Any changes in program costs approved under this agreement or program information, or requests for additional programs, require prior approval by Pacific Gateway or other sponsoring Local Workforce Investment Areas.

**D. CUSTOMER REFERRAL AND RECRUITMENT:**

The Training Provider understands that only trainees referred by Pacific Gateway may be enrolled into approved training under this Agreement. Pacific Gateway will forward an *Individual Training Account (ITA) Scholarship*, (see Exhibit A for sample), to Provider for each and all authorized Trainees. Each approved Pacific Gateway customer will submit ITA to be signed by Training Provider.

**E. COST:**

1. The total amount reimbursed to the Training Provider, shall not exceed the amount as documented in the ETPL.
2. In no event shall Pacific Gateway reimburse the Provider in excess of 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 actually provided in accordance to California Education Code Section 94318.5 (a) and the Maxine Waters School Reform and Student Protection Act Section 94870.
3. Reimbursement to the Training Provider will be based on the provision of stated training services (as specified in the *ITA Scholarship-Exhibit A*), and the provision of 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 – Exhibit A*. 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. Pell Grants) if applicable/available prior to use of Workforce Innovation and Opportunity Act (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 Operations Division, shall include a notice of award or denial for financial aid issued by the Training Provider as a PELL/Other grant entity and completion of the *Verification or Training and Leverage Funds Form* (see Exhibit-D). 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 Exhibit D.
6. The Training Provider agrees to maintain records (including books, papers 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 the purpose of 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.

#### **F. 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 University's reporting requirements or as requested by Pacific Gateway) for the duration of training and at completion.

Pacific Gateway standardized Progress Report, or Training Provider's Progress Reports with a minimum of information identified below should be made available by the Training Provider:

Minimum 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 appropriate Trainee evaluation information is not provided, payment to the Provider may be delayed or withdrawn.

3. The Training Provider shall act in an independent capacity and not as 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.
4. Training Provider shall defend, indemnify and hold harmless Pacific Gateway, its officers, employees, and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of Training Provider, its officers, employees, or agents.

Pacific Gateway shall defend, indemnify and hold harmless Training Provider, its officers, employees, and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of Pacific Gateway, 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 Section 94875 (a)(b).

6. The Training Provider shall perform all services herein and documented in the ETPL. Any attempt by the 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).

#### **G. PROVIDER ASSURANCES:**

1. The Training Provider shall maintain the confidentiality of any information regarding Trainee, or their immediate family, which may be obtained through documents obtained from public agencies, counselors, or any other source. Without permission of 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 Trainee is provided with Provider's grievance procedures.
3. If Trainee provides notification to Provider she/he chooses to drop out of the training program, the Provider shall conduct an exit interview with the Trainee, if possible, to document reason for termination. The Training Provider shall notify Pacific Gateway by emailing Career Specialist within one (1) day of learning of the Trainee's decision.
4. The Training Provider may terminate/suspend Trainee on the same basis Training Provider would terminate/suspend any other participant receiving educational services. The Training Provider shall first advise Pacific Gateway in by emailing the Trainee's Career Specialist, 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 California Education Code Section 94317.5 (a) and 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). Compliance with the ADA shall be the sole responsibility of Training Provider and 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, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity.
  - ii. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin
  - iii. 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 policy that prohibits retaliation or reprisal against an individual that:
  - i. Has filed a complaint;
  - ii. Opposed a practice prohibited by the nondiscrimination and EO provision 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 the WIA nondiscrimination and EO provisions; and
  - iv. Otherwise exercised any rights and privileges under the WIOA nondiscrimination and EO provisions.
10. The Training shall permit access 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.

#### **H. 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.

2. The Agreement may be terminated by either party upon ten (10) business days written notice to the other.

#### I. INVOICING:

1. Pacific Gateway shall reimburse the Training Provider as per stipulations set forth in this Agreement.
2. 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. Amount Due
4. Payments Made to Date
5. Balance
6. Specify Pay Point, e.g., 1 or 2, see below

3. Original invoices must be mailed for verification and review to: Career Transition Center, 3447 Atlantic Avenue, Long Beach, CA 90807, Attn: Milly Mota, 3<sup>rd</sup> Floor. Please address all inquiry regarding the status of payment to Operations Division, at (562) 570-3687.

4. Payment for training shall be disbursed as follows:

|  |             |
|--|-------------|
| <b>Pay Point #1:</b> At the beginning of training<br>(Following 30 scheduled days of active participation) | <b>50 %</b> |
| <b>Pay Point #2:</b> At the completion of training   | <b>50 %</b> |
|  | <b>100%</b> |

- i. **At the Beginning of Training (50%):** After the participant has completed their 30th training day of active participation, an invoice with progress report and proof of attendance may be sent for 50% of the Tuition Payment.
- ii. **At Completion (50%):** Upon the participant's satisfactory completion of training and demonstration of the following:
  - Attained competencies as outlined in the Training Provider's course curriculum per training schedule, and;
  - 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
- The notice of award or denial for financial aid

- Verification of training and leverage funds (Please see Exhibit-D)
- Attendance sheets and progress reports

iii. **Recovery of Unused Training Funds for Early Withdrawal or Termination of Training Prior to Completion:** The training vendor is required to report early terminations of participant training to the Employment Specialist managing the participant's ITA. All refunds of unearned WIOA training funds must be returned promptly to Pacific Gateway from the Training Provider.

Unless otherwise indicated by the University's refund policy, refunds are based on a proration of services provided, which is calculated by the percentage of time training is not completed. Each hour of training equates to a dollar amount. For Example

*If the total training hours = 100 and the tuition is \$100, then each hour is equal to \$1. If a participant completes 75% of their training (or 75 hours) the school must reimburse Pacific Gateway for the balance of 25 hours = \$25*

#### **J. 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.

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 the purchase order is 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 Sublessee'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** or **CG 20 26 11 85**) 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 me from issuing a purchase order.*

**ATTACHED ARE SAMPLES - PLEASE FORWARD TO YOUR INSURANCE PROVIDER.**

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
- h. Any unusual or high-risk activities, operations or products.

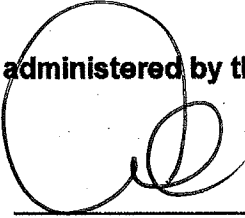
Any waiver or modification of the insurance requirements can only be made by the City's Purchasing Agent or City's Risk Manager or designee at City's discretion.

***This Agreement has been executed, by and on behalf of the parties referenced below:***

Career Development Solutions      [REDACTED]  
**Training Provider Name**                      **Federal Tax Identification Number**

                      10/28/16  
**Training Provider Authorized**                      **Date**  
**Signature**

**Pacific Gateway Workforce Investment Network, administered by the City of Long Beach**

10/31/16                        
**Erick Serrato**                      **Date**  
**Deputy Director**

**EDUCATIONAL AGREEMENT**  
**Institution of Higher Education Provider**  
**Checklist**

1. Submit 2 signed copies of the Educational Agreement
2. Submit 1 signed W-9
3. Submit insurance certificate and additional insured endorsement
4. Copy of refund policy