

**Long Beach Community College District
INDEPENDENT CONTRACTOR AGREEMENT
32183**

DEPARTMENT: Office of Economic & Resource Development

PROGRAM NAME: SKYLINE GREEN INNOVATION CHALLENGE GRANT

This Agreement is entered into on the date January 19, 2011, between Long Beach Community College District, ("**DISTRICT**") and City of Long Beach, a municipal corporation and administering entity for the Pacific Gateway Workforce Investment Network ("**CONTRACTOR**"), with offices located at 3447 Atlantic Avenue, Long Beach, CA 90807.

WHEREAS, the **DISTRICT** has received funding from San Mateo County Community College District for the Skyline College Green Innovation Challenge Grant to encourage business-led partnerships to develop and implement new workforce training strategies to address the need for skilled workers for hybrid/electric transportation technologies.

WHEREAS, the **DISTRICT** hereby engages the services of **CONTRACTOR**; WHEREAS, **CONTRACTOR** represents that it is duly qualified and able to render the services described in Attachment A;

NOW THEREFORE, the parties hereto agree AS FOLLOWS:

THE PERIOD OF THIS AGREEMENT SHALL BE FROM THE DATE OF January 19, 2011 THROUGH June 30, 2012.

1. Duties, Term, and Compensation. The **CONTRACTOR'S** duties, term of engagement, compensation and provisions for payment thereof shall be as set forth in **Attachment A**.
2. Expenses. **CONTRACTOR** agrees to perform services inclusive of all expenses. In the event expenses are to be incurred by the **CONTRACTOR** in performing services during the term of this Agreement, the **CONTRACTOR** must obtain prior written approval from the **DISTRICT**. The **DISTRICT** will not reimburse the **CONTRACTOR** for any out-of-pocket expenses that are incurred in connection with the performance of the duties hereunder, without prior written approval from the **DISTRICT**. Notwithstanding the foregoing, expenses for the time spent by Consultant in traveling to and from **DISTRICT** facilities shall not be reimbursable.
3. Written Reports. The **DISTRICT** may request training/instructional plans, progress reports and/or other reports to be provided by **CONTRACTOR**. A final report shall be due at the conclusion of the project and shall be submitted to the **DISTRICT** in a confidential written report at such time. Reports shall be in such form as specified by the **DISTRICT**, provided that setting forth such information and data is reasonably requested by the **DISTRICT**.
4. Intellectual Property and Copyrights. Any and all inventions, discoveries, developments and innovations conceived by the **CONTRACTOR** during this engagement relative to the duties under this Agreement shall be the exclusive property of the **DISTRICT**; and the **CONTRACTOR** hereby assigns all right, title and interest in the same to the **DISTRICT**. Any and all inventions, discoveries, developments and innovations conceived by the **CONTRACTOR** prior to the term of

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this Agreement and utilized by the **CONTRACTOR** in rendering duties to the **DISTRICT** are hereby licensed to the **DISTRICT** for use in its operations and for an infinite duration. Title to all course materials, copyrightable material, data, conceived or resulting from the performance of

5. work hereunder, shall reside with the **DISTRICT**, with the exception of materials provided by the **CONTRACTOR** under this agreement. The **CONTRACTOR** agrees to grant to the **DISTRICT** a non-exclusive, royalty-free copyright to utilize any such course materials and copyrightable material or data in the workshops/seminars covered under this agreement.
6. Confidentiality. The **CONTRACTOR** acknowledges that during the performance of services under the agreement, **CONTRACTOR** will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records and specifications owned or licensed by, and /or used by the **DISTRICT** and/or its customers, in connection with the operation of its business including, without limitation, the **DISTRICT** and customer's business and product processes, methods, customer lists, accounts and procedures. The **CONTRACTOR** agrees will not to disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this agreement with the **DISTRICT** in servicing its customers. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork/creative, notebooks, and similar items relating to the business of the **DISTRICT** and its customers, whether prepared by the **CONTRACTOR** or otherwise coming into **CONTRACTOR'S** possession, shall remain the exclusive property of the **DISTRICT** and/or its customers. The **CONTRACTOR** shall not retain any copies of the foregoing without the **DISTRICT** and/or its customers' prior written permission. Upon the expiration or earlier termination of this Agreement, or whenever requested by the **DISTRICT** and/or its customers, the **CONTRACTOR** shall immediately deliver to the **DISTRICT** and/or its customers all such files, records, documents, specifications, information, and other items in **CONTRACTOR'S** possession or control. The **CONTRACTOR** further agrees not to disclose **CONTRACTOR'S** retention as an independent contractor or the terms of this Agreement to any person without the prior written consent of the **DISTRICT** and/or its customers and shall at all times preserve the confidential nature of **CONTRACTOR'S** relationship to the **DISTRICT** and its customers and of the services hereunder.
7. Excluded Parties List System. The **CONTRACTOR** warrants that the **CONTRACTOR** and/or **CONTRACTOR'S** subcontractor(s) is not listed on the Excluded Parties List System.
8. Conflicts of Interest. The **CONTRACTOR** warrants that the **CONTRACTOR** is free to enter into this Agreement and that this engagement does not violate the terms of any agreement between the **CONTRACTOR** and any third party. Further, the **CONTRACTOR**, in rendering duties shall not utilize any invention, discovery, development, improvement, innovation, or trade secret in which **CONTRACTOR** does not have a proprietary interest. During the term of this agreement, the **CONTRACTOR** shall devote as much productive time, energy and abilities to the performance of duties hereunder as is necessary to perform the services in a timely and productive manner. The **CONTRACTOR** is expressly free to perform services for other parties while performing services for the **DISTRICT**.

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9. **Termination.** The **DISTRICT** may terminate this Agreement at any time by **thirty (30) calendar days'** written notice to **CONTRACTOR**. In addition, if **CONTRACTOR** is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of the **DISTRICT**, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the **DISTRICT** may terminate the agreement with **CONTRACTOR** at any time immediately and without prior written notice to the **CONTRACTOR**.

In the event of termination of this Agreement, (a) **CONTRACTOR** agrees to continue its services without interruption to workshops/seminars through the period of time referenced on the termination notice, and (b) **CONTRACTOR** will assist the **DISTRICT** with orderly and professional transition of any duties to another party or designated **DISTRICT** staff member.

In the event that this Agreement or the **DISTRICT's** agreement with customer (if applicable) is terminated, **CONTRACTOR** agrees to assist in the orderly and expeditious transition of incomplete deliverables to another party or **DISTRICT** staff member upon request by **DISTRICT** or customer within **thirty (30) business days** following written notice to **CONTRACTOR**.

10. **Independent Contractor.** This Agreement shall not render the **CONTRACTOR** an employee, partner, agent of, or joint venturer with the **DISTRICT** for any purpose. The **CONTRACTOR** is and will remain an independent contractor of the **DISTRICT**. The **DISTRICT** shall not be responsible for withholding taxes with respect to the **CONTRACTOR'S** compensation hereunder. The **CONTRACTOR** shall have no claim against the **DISTRICT** hereunder or otherwise for vacation pay, sick leave, retirement benefits, Social Security, Workers' Compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
11. **Insurance.** **CONTRACTOR** shall maintain in full force and effect a policy or policies of insurance in accordance with the following **DISTRICT** requirements:
- A. Commercial General Liability insurance for bodily injury and property damage, including accidental death in the combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
 - B. Automobile Liability Insurance for bodily injury and property damage in an amount of not less than \$1,000,000 per occurrence with no annual aggregate limit.
 - C. Worker's Compensation and Employer's Liability insurance in the amount required by law.
 - D. The Long Beach Community College **DISTRICT** and its Board of Trustees shall be named as additional insureds under all insurance policies, except Worker's Compensation. Additional insured Endorsements are required and should accompany certificates of insurance. Certificate of Insurance shall provide thirty (30) day prior written notice of cancellation.
 - E. If worker's compensation insurance is not provided by **CONTRACTOR**, **CONTRACTOR** warrants and represents to the **DISTRICT** that the **CONTRACTOR** has no employees; based on this warranty and representation of the **CONTRACTOR**, notwithstanding any provision of the Agreement to the contrary, the **DISTRICT** waives the requirement that

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the **CONTRACTOR** obtain and maintain Worker's Compensation insurance coverage, so long as **CONTRACTOR** does not employ any employees. If, however, at any time during the Term of this Agreement, the **CONTRACTOR** retains any employee, a material obligation of the **CONTRACTOR** under this Agreement is to notify the **DISTRICT** in writing within five (5) days of the employment of such individual(s) and to concurrently provide the **DISTRICT** with a Certificate of Insurance evidencing that the **CONTRACTOR** has obtained Workers Compensation Insurance with statutory coverage amounts in accordance with applicable law.

12. Indemnification. The **CONTRACTOR** shall indemnify, defend and hold harmless the **DISTRICT**, its Board of Trustees, officers, agents, and employees, from and against any and all claims, liability, loss, damage, expense, costs, demands, suits, actions and causes of actions (including without limitation costs and fees of litigation) of every nature rising out of or in connection with the **CONTRACTOR'S** performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, or its failure to comply with any current or prospective law, except for such loss or damage which was caused by the sole negligence or willful misconduct of the **DISTRICT**.
13. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, notwithstanding choice of law principles.
14. Compliance with Laws. In the performance of this Agreement, each party agrees to comply with all applicable laws, rules, and regulations.
15. Arbitration. Any controversies arising out of the terms of this Agreement or its interpretation shall be settled in Los Angeles County, California in accordance with the rules of the American Arbitration Association, and the judgment upon award may be entered in any court having jurisdiction thereof.
16. Headings. Section headings are included for convenience only and are not to be used to construe or interpret this Agreement.
17. Waiver. The failure of either party to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed to be a waiver of such provisions or of its right thereafter to enforce each and every provision.
18. Assignment. The **CONTRACTOR** shall not assign any of [his or her] rights under this Agreement, or delegate the performance of any of **CONTRACTOR'S** duties hereunder, without the prior written consent of the **DISTRICT**.
19. Notices. Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five (5) days after deposit thereof in the United States mail addressed to the party to whom such notice,

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demand or other communication is to be given as follows:

To the CONTRACTOR:

Name:	City Manager, City Hall		
Address:	333 West Ocean Blvd		
	Long Beach CA 9080		
Telephone:		FAX:	

With a copy to:

Name:	Bryan S. Rogers, Executive Director Pacific Gateway Workforce Investment Network		
Address:	3447 Atlantic Avenue		
	Long Beach CA 90807		
Telephone:	562-570-9675	FAX:	562-570-3704

To the DISTRICT:

Name:	Margie Padron, Contracts Manager		
Address:	Long Beach Community College District, G-4		
	4901 E. Carson Street, Long Beach, CA 90808		
Telephone:	(562) 938-4947	Fax:	(562) 938-4640

With a copy to:

Name:	Michelle Whitfield		
Address:	Long Beach Community College District, Workforce Development.		
	1305 E. Pacific Coast Highway, Long Beach CA 90806		
Telephone:	(562) 938-3151	Fax:	(562) 938-3117

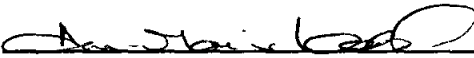
Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

20. Modification or Amendment. No amendment, change or modification of this Agreement shall be valid unless it is in writing signed by the parties hereto.
21. Complete Understanding; Modification. This Agreement, together with all attachments, exhibits and addenda attached hereto, constitute the full and complete understanding and agreement of the parties relating to the subject matter hereof and supersede all prior or contemporaneous understandings and agreements relating to such subject matter. Any waiver, modification or amendment of any provision of this Agreement shall be effective only if in writing and signed by the parties hereto.
22. Unenforceability of Provisions. If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

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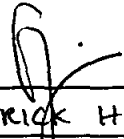
IN WITNESS WHERE OF, said parties have executed this agreement as of the date and year first above written.

LONG BEACH COMMUNITY COLLEGE DISTRICT

BY  DATE 5/11/11
Ann-Marie Gabel
Vice President, Administrative Services

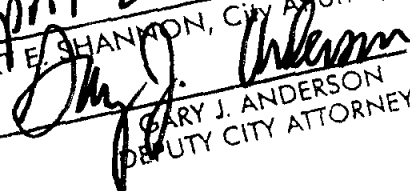
O.K. To Process
M Padron 5/10/11
Sign & Date

CONTRACTOR Assistant City Manager

BY  DATE 4-28-11
Name: PATRICK H. WEST EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.
Title: CITY MANAGER

TIN # On File

Approved by the Board of Trustees: January 18, 2011

APPROVED AS TO FORM
April 25, 20 11
ROBERT E. SHANNON, City Attorney
By 
GARY J. ANDERSON
DEPUTY CITY ATTORNEY

Long Beach Community College District INDEPENDENT CONTRACTOR AGREEMENT

ATTACHMENT A SCOPE OF SERVICES AND COMPENSATION

DISTRICT/ERD INTERNAL REF NO: [514000-12-684000-7088]

CONTRACTOR'S INFORMATION:

CONTRACTOR's Name:	Bryan S. Rogers, Executive Director Pacific Gateway Workforce Investment Network
Address:	3447 Atlantic Avenue Long Beach CA 90807
Business Telephone:	562-570-9675
Fax:	562-570-3704
Email:	
Business TAX ID:	On file

Program Summary:

DISTRICT will serve as a training provider and partner with the **CONTRACTOR** and its One-Stop Centers to work together to identify/register and place a minimum of (100) WIA eligible participants to train in Hybrid/Electric transportation technologies, and place 80% in unsubsidized employment. LBCC will deliver skill-based training to (40) dislocated, underemployed/ veterans with prior automotive experience in Hybrid/Electric, (40) incumbent workers and (20) entry level students will be trained in Green Vehicle Maintenance Technician (GVMT) program utilizing the Career Advancement Academy (CAA) strategy that provides job readiness skills, contextualized basic skills linked to transportation technologies and skills.

Project Goals:

1. Encourage business-led partnerships to develop the most creative method of increasing current and future employment in the statewide specialties within the green economy.
2. Find innovative methods designed to meet the needs of business to not only fill immediate employment needs, but also for the development of a partnership and infrastructure flexible enough to support employment growth for up to 10 years.

CONTRACTOR agrees to perform the following services:

1. Assist in the recruitment of 100 qualified candidates for WIA application/registration to support enrollments.
2. Enrollment of 100 participants into the JTA reporting system. Provide core/intensive services monthly participant rates and complete performance matrix and submit to San Mateo Community College District (SMCCD) - Skyline College by the 15th of each month for the preceding month.

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ATTACHMENT A SCOPE OF SERVICES AND COMPENSATION



3. Participant tracking to include: information on training/employment outcomes and utilization of the JTA system to submit monthly performance outcomes to SMCCD – Skyline College by the 15th of each month.
4. Placement of (40) participants into unsubsidized employment and submit employment verifications for each participant placed into employment.
5. Participate in at least (2) industry led planning meetings and implementing an Electric Vehicle round table discussion.
6. Provide an itemized invoice (referencing the contract number CN 99672.2) to the **DISTRICT** upon completion of services. Payment will be made within forty-five (45) days after receipt of an invoice upon completion of services. **Please mail, email, or fax the invoice to:**

Attn: Michelle Whitfield, Workforce Development
Long Beach Community College District
1305 E. Pacific Coast Highway
Long Beach, CA 90806
Fax to: 562-938-3117

The DISTRICT agrees to provide the following to the CONTRACTOR:

1. Compensation. The **DISTRICT** will compensate the **CONTRACTOR** a total amount not to exceed **Eighty Thousand Dollars (\$80,000):**
PY 1 Allocation: (1/19/2011 – 6/30/2011): \$30,000
PY 2 Allocation: (7/01/2011 – 6/30/2012): \$50,000

The funding for Program Year 2 is contingent upon the District receiving funds from San Mateo Community College District.

DEPARTMENT APPROVALS: (FOR LBCCD - ERD INTERNAL USE ONLY)	
Dean  Gail Schwandner	Vice President:  Lou Anne Bynum
Date: 3-31-2011	Date: 4-13-11