Real Estate

Operation of Banning’s Landing Community Center

REQUEST FOR PROPOSALS

August 14, 2023

RAMP ID # 209647
Prospective Operators:

SUBJECT: REQUEST FOR PROPOSALS FOR THE OPERATION OF BANNING’S LANDING COMMUNITY CENTER

The City of Los Angeles Harbor Department (Harbor Department) invites the submittal of proposals from organized and qualified entities to operate facilities known as Banning’s Landing Community Center (BLCC) located at Berth 186 at 100 East Water Street, Wilmington, CA, 90744. The Successful Proposer (Operator) shall be granted an Operating Agreement after all the necessary approvals have been obtained. These services shall commence after a contract is approved by the Board of Harbor Commissioners.

Instructions and forms to be used in preparing the proposal are found in the information included in the Request for Proposals (RFP).

The schedule for this RFP will be as follows:

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<thead>
<tr>
<th>Request for Proposals Published</th>
<th>Monday, August 14, 2023</th>
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<tr>
<td>Reservation Deadline Tour</td>
<td>Monday, August 21, 2023 by 3pm</td>
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<tr>
<td>Site Tour at 100 East Water Street, Wilmington, CA 90744</td>
<td>Tuesday, August 29, 2023 at 3pm</td>
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<tr>
<td>Proposers’ Questions Due</td>
<td>Monday, September 4, 2023 by 3pm</td>
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<tr>
<td>Responses Posted</td>
<td>Monday, September 11, 2023</td>
</tr>
<tr>
<td>Proposal Due</td>
<td>Tuesday, September 26, 2023 by 3pm</td>
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If your organization cannot agree to the requirements exactly as set forth in this RFP, please do not submit a proposal.

For questions regarding this RFP, please contact Susana Eldridge by email at Seldridge@portla.org. Questions must be submitted by Monday, September 4, 2023 by 3pm. Responses will be posted on the Harbor Department’s website and the Regional Alliance Marketplace for Procurement (RAMP), at www.rampla.org, Monday, September 11, 2023. It is the responsibility of all proposers to review the Port’s website for any RFP revisions or answers to questions prior to submitting a proposal in order to ensure their proposal is complete and responsive.

In addition to providing information requested in this RFP, it should be noted that there are administrative documents that must be submitted with the proposal. Please refer to the Business Enterprise Programs and Contract Administrative Requirements section of this RFP. **In order for your proposal to be deemed responsive, these documents MUST be included with your proposal.**

All Operators and suboperators must be registered on RAMP at the time proposals are due. If selected for award, for-profit companies and corporations must comply with RAMP’s demographic reporting requirements, per the Mayor’s Executive Directive 35.

Sincerely,

Susana Eldridge for
TRICIA J. CAREY
Director, Contracts and Purchasing Division
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Photo of Banning’s Landing Community Center
Photo of Youth Leadership Conference 343
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Exhibit C - Equal Benefits Ordinance
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1. INTRODUCTION

1.1 Brief Overview of the Operating Agreement

The City of Los Angeles Harbor Department’s Waterfront & Commercial Real Estate Division is soliciting proposals from organized and qualified entities (Proposers) to operate the Banning’s Landing Community Center (BLCC) located at Berth 186 at 100 East Water Street, Wilmington, CA. 90744. (Attachment “A”) The selected Proposer (Operator) shall conduct its operation in a first-class manner to maintain a high-quality facility that reflects the diversity of the local community and the State of California.

The Waterfront & Commercial Real Estate Division intends to select one entity to operate the facility. It is anticipated that the facility will be made available for a five-year operating agreement, with option to extend an additional five years.

1.2 The Port of Los Angeles

The Port of Los Angeles is America’s Port®, the nation’s premier gateway for international commerce and the busiest seaport in the Western Hemisphere. Located in San Pedro Bay, 25 miles south of downtown Los Angeles, the Port encompasses 7,500 acres of land and water along 43 miles of waterfront.

The Port features both passenger and cargo terminals, including cruise, container, automobile, breakbulk, dry and liquid bulk, and warehouse facilities that manage billions of dollars’ worth of cargo each year. One of the world’s busiest seaports and leading gateway for international trade in North America, the Port of Los Angeles has ranked as the number one container port in the United States each year since 2000. In 2022, the Port handled a total of 9.9 million TEUs, its second busiest calendar year on record.

The Port of Los Angeles is a department of the City of Los Angeles (also known as the Los Angeles Harbor Department) and is governed by the Los Angeles Board of Harbor Commissioners, a panel appointed by the Mayor of Los Angeles. Although the Port is a City department, it is not supported by City taxes. Operating as a landlord port with more than 200 leaseholders, the Port instead generates its revenues from leasing and shipping service fees. The Port’s jurisdiction is limited to the Harbor District, which includes property in San Pedro, Wilmington, and Terminal Island.

In addition to the large shipping industry at the Port, there is a variety of maritime support uses such as commercial fishing fleet, a large recreational boating fleet, boat repair yards, and marine fuel facilities. The Port has a total of 16 marinas containing 3,795 recreational boat slips. The Port supports a variety of commercial, recreation, community, and educational facilities, such as the public swimming beach, the Cabrillo Marine Aquarium, the Los Angeles Maritime Museum, 22nd Street Park, the Wilmington Waterfront Park, and a variety of nonprofit organizations.

The Port of Los Angeles has a strong commitment to developing innovative strategic and sustainable operations that benefit the economy and the quality of life for the region and the nation it serves. As the leading seaport in North America in terms of shipping container volume and cargo value, the Port generates nearly 1 million regional jobs.
1.3 Banning’s Landing Community Center

In the mid-1980s, Wilmington residents requested that the Harbor Department provide a center on the waterfront for the community. In 1988, the Board of Harbor Commissioners (Board) formed the Wilmington Community Advisory Committee (Advisory Committee) which consisted of community representatives including residents, businesses, civic leaders, and union representatives. In 1995, based on the Advisory Committee’s recommendation, the Board approved the construction of the $2.5 million BLCC at the foot of Avalon Boulevard in Wilmington to serve as a cultural and port-related community center for the Wilmington community.

The BLCC is owned by the City of Los Angeles Harbor Department (Harbor Department). The BLCC is located at 100 East Water Street, Wilmington, California 90744, at the north end of the East Basin Channel. It is an 11,000 square foot, waterfront, two story facility, currently programmed as a multi-use recreation center with some reoccurring weekend rentals, cost-free weekly use by non-profits and fundraiser events. The facility has been in operation for 15 years.

2. PROJECT DESCRIPTION

2.1 Proposed Operations

The Harbor Department seeks an operator to manage the BLCC facility. It is the intent of the Harbor Department to secure an operator without offering any form of subsidy other than net free rent. Desirable operations expected to be addressed in the proposal (by operator or third party under operator supervision and responsibility) include, but are not limited to:

- Services and programming to for-profit, non-profit organizations, groups, associations, agencies, and the Harbor Department. Services and programming may include, but not be limited to: classes for youth, meeting space for groups, public and private events (which shall include existing scheduled and planned events and meetings), Sony Arts Program, classes for music, dance and karate lessons, and classes, courses and programs relating to maritime and port-related themes;
- Additional uses to enhance public access and increase community programming, neighborhood engagement, workforce training and sourcing and appreciation of maritime and related activities;
- A strategic plan to increase access to programs including, but not limited to, reduced or waived fees for classes for those persons or groups who might have difficulty participating, youth or program scholarships, and free use of space for community meetings by community organizations or non-profit groups, as well as, Harbor Department events (which shall include existing scheduled and planned events and meetings);
- Programs and services that meet the needs of an ethnically and economically diverse community;
- Subject to Harbor Department discretion, joint operation with the Harbor Department of the adjacent Wilmington Waterfront Promenade Premises for non-profit, for profit, food and beverage vendors, and community and or regional events.
- Efforts to provide suitable advertising, internet, web page, social media and other means to promote the use of the premises including Wilmington Community Outreach Programs;
• Conducting activities upon the premises in a first-class manner; furnishing and maintaining a standard of service at least equal to that of similar facilities in the City of Los Angeles and adjacent communities;

• A business plan or model of how the operation will sustain itself; and

• Plans for providing maintenance, security personnel, utilities (including telephone, internet, and security alarm), programming, and staffing. Costs related to maintenance and repair of the roof, exterior walls, mechanical equipment (plumbing and HVAC) and structural components of the BLCC shall be the obligation of the Harbor Department.

The Harbor Department reserves the right to have access to and inspect the schedule of rates and prices for services performed or provided at the premises. All books, accounts, and other records showing the affairs of the Operator with respect to its operation of the facility shall be subject to review and audit by the Harbor Department. Harbor Department approval is required for any proposed improvements to the BLCC building or grounds.

3. PROPOSAL REQUIREMENTS

3.1 Site Tour

Proposers are encouraged to attend a site tour at the BLCC located on Berth 186 at 100 East Water Street, Wilmington, CA. 90744. The site tour will be held on Tuesday, August 29, 2023 at 3pm. Proposers must confirm attendance by emailing Susana Eldridge at Seldridge@portla.org, no later than Monday, August 21, 2023 by 3pm.

3.2 Proposal Submission

One (1) digital copy of your proposal must be submitted on or before 3:00 p.m. Pacific Standard Time on Tuesday, September 26, 2023 to:

Susana Eldridge@Seldridge@portla.org
Subject: Operation of Banning’s Landing Community Center

Proposers solely are responsible for the timeliness of their submittals. As such, proposers are cautioned to budget adequate time to ensure that their proposals are delivered before the deadline set forth above.

By submitting a proposal, proposers certify that such proposal constitutes their full and complete written response to the RFP and evidences their acknowledgement that additional written material outside of such proposal shall not be considered by the City in connection with this RFP, unless the City provides a written request that they submit additional written materials. Absent such written request, proposers are instructed to not submit to the City written or other materials outside of the proposal, either in a subsequent interview or otherwise.

3.3 Evaluation Process and Selection Criteria

All proposals meeting the requirements of this RFP shall be reviewed and rated by an evaluation committee according to provisions of the Port’s Leasing Policy and Waterfront and
Selected proposers may be contacted to arrange in-person interviews with the evaluation committee. The evaluation committee will make the final recommendation for selecting the Operator. All recommendations are subject to the approval of the Director of Waterfront and Commercial Real Estate, the Executive Director of the Harbor Department, and the Board of Harbor Commissioners.

Proposers are advised that all documentation submitted in response to this RFP will be considered property of the Harbor Department and may become available to the public as a public record and be released without further notification. Any information that the proposer considers confidential should not be submitted with the proposal.

The right to reject any and all proposals shall, in every case, be reserved, as shall the right to waive any informality in the proposal when to do so would be to the advantage of the City.

3.4 Proposal Content

The following items shall be included in your proposal:

Proposals shall include page numbers on EVERY page of the response, and all pages shall be on standard 8-1/2” x 11” letter size paper, in no less than 12 point font.

1. **Cover Transmittal Letter**

Provide a narrative which introduces the organization highlighting the special strengths of the organization to perform the work requested in this RFP, and a brief summary of the proposed operation. The letter should be signed by an authorized principal of the proposing entity.

2. **Proposal Checklist for RFP Submittal Requirements**

A completed copy of the checklist must be included with the response.

3. **Table of Contents**

Table of contents should include the relevant headings and their respective page number.

4. **Organization’s Qualifications, Experience and References**

Provide a narrative describing the organization’s qualifications to operate the BLCC and provide programming and services to the community. Provide a statement of the organization’s financial status, past experience and at least three client references, with contact names and information. Include information regarding your organization’s experience with operating and providing programming at a similar facility. Qualifications and experience for proposed suboperators should also be included.

Identify any members of your proposed team, including proposer’s firm and any suboperator firms, who are former Commissioners, officers or employees of the Harbor Department. Provide their name, proposed team position, and their past position and years of employment/appointment with the
Department. If your proposed team does not have any such members, please include a statement in your proposal so stating.

Proposers are advised that it is a proposer’s obligation to determine whether any conflicts of interest exist for their team members and the extent to which those conflicts need to be resolved or disclosed prior to engaging in business with the Department.

5. **Organization, Personnel and Staffing**

Provide a brief description of all key personnel and staff (including vendors, partners or suboperators) to be involved and their relationship to the services to be provided.

- Include names, titles, licenses, certificates, fields of expertise, and relevant experience for all proposed personnel and staff.
- Identify the Facility Manager.
- Complete resumes should be provided as part of an appendix to the proposal.
- Provide financial statements for the past three years, if available.
- Job description for any proposed staff positions.
- Employee criminal background checking policy.
- Provide an organization chart, as part of appendix, which depicts the organization, including reporting relationships to the organization’s head executive, facility manager, supervisors, and team staff.

6. **Proposed Use and Facility Management**

A) Provide details on how your organization plans to operate the facility, including, but not limited to:

- Maintaining overall quality control.
- Transition process from existing operator.
- Repairing, upgrading, and maintaining premises and equipment.
- Incident reporting procedures.
- Written progress reports.
- Issue/risk management techniques.
- Itemized list and schedule of proposed improvements for first three years of agreement to include:
  - A maintenance schedule and budget
  - A business plan and model for operating and maintaining the premises

It should be noted that the selected Proposer will be obligated to repair and maintain all improvements at its sole expense except for Harbor Department maintenance and repair obligations delineated in Section 2.1.

B) Describe how your organization intends to manage activities at the facility, including schedules for events and activities, and procedures for cost control. The management proposal must include information related to:

- Description and schedule of the proposed operations and activities
- Marketing to public groups
- Marketing to government agencies
- Current or Proposed Brochure/Promotional Copy for Marketing
- Fundraising
- Government Agency Support
7. **Financial Control**

Provide information on the financial feasibility of the proposed use and operations. Provide details on how your organization plans to financially complete any proposed development, improvements, maintenance or repairs including, but not limited to:

- Itemized budget for proposed development, maintenance, repairs or improvements
- Three Year Pro Forma income statement
  - Detailed information on estimated income
  - Detailed information on estimated expenses
  - Information on estimated reserves
- Identifying source of all investment capital
- Suboperator descriptions and estimates
- Include information on revenue that may be generated from proposed activities including fund raising and governmental use

8. **Proposed Schedule of Fees**

Submit complete and detailed schedule of proposed facility use fees and charges. Proposers must include a proposed compensation plan that details how the estimated revenue will offset operating expenses and whether there will be surplus funds to compensate the Harbor Department for entitlement and operation of the subject property.

9. **Appendix**

A) **Organizational Chart**

Include an organizational chart identifying the reporting structure of the proposing organization.

B) **Resumes for proposed key staff and personnel**

Include resumes for key staff and personnel of the organization.

C) **Financial Information**

Proposers shall provide the Harbor Department with documents indicating Proposer’s financial capability to perform proposed operations in response to the RFP. Proposers shall make available for review a complete set of its three most recent annual audited financial statements (or statements prepared by a certified public accountant) as well as the most recent interim financial statement as part of their proposal or allow the Harbor Department to review these documents at the Harbor Department Administration Building (HAB) or at a mutually agreeable location within 20 miles of the HAB. Said review shall be provided to the selection committee as part of the evaluation process and may be subject to the California Public Records Act. The Harbor Department, at its discretion, may require additional financial information beyond those requested herein.
10. Business Enterprise Programs and Contract Administrative Requirements

In order for your proposal to be deemed responsive, the following documents MUST be included with your proposal:

A) INSURANCE VERIFICATION LETTER

Provide a letter from your insurance carrier or broker indicating that the insurance requirements for this project as described in this RFP are presently part of the proposer’s coverage, or that the insurance company is able to provide such coverage should the proposer be selected. The insurance carrier/broker must be aware of the indemnification requirements also set forth in this RFP. Proposers are not required to purchase the required insurance in order to respond; however, all required insurance will need to be submitted at the time of contract award. ACORD® Certificate of Liability Insurance sheets will not be accepted in lieu of an insurance verification letter. Proposals submitted without an insurance verification letter, as described above, will be deemed non-responsive.

B) ACCEPTANCE OF STANDARD CONTRACT PROVISIONS AND EXECUTIVE DIRECTIVE 35

Proposers are advised that pursuant to Executive Directive (ED) 35, if your firm is a for-profit company or corporation and is selected for award, you shall, within 30 days of the effective date of the contract and on an annual basis thereafter (i.e., within 30 days of the anniversary of the effective date of the contract), report the following information to the City via the Regional Alliance Marketplace for Procurement (RAMP) or via another method specified by the City:

- Annual revenue
- Number of employees
- Location
- Industry
- Race/ethnicity and gender of majority owner

On an annual basis, the Operator shall further request that any suboperator input or update its business profile, with the above information, on RAMP or via another method prescribed by City.

Proposers must submit a signed letter confirming their intention to comply with the RAMP demographic reporting requirements of ED 35, and their firm’s acceptance of all of the Standard Contract Provisions exactly as set forth in Section 4. Do not submit your demographic information in the letter; only the selected Operator needs to enter that information into RAMP, after contract award.

3.5 Checklist for RFP Submittal Requirements

A checklist is provided to assist in verification that all elements of the RFP have been addressed. However, firms are encouraged to review the entirety of the RFP, including the Standard Contract Provisions section, to ensure full compliance and not rely solely on this checklist.

☐ Cover transmittal letter, signed by an authorized principal of the proposing organization
☐ Checklist for RFP
☐ Table of Contents
☐ Proposal with the following sections, in order:
  - Organization’s Qualifications, Experience and References
  - Project Organization, Personnel and Staffing
- Proposed Use and Facility Management
- Financial Control
- Proposed Schedule of Fees

☐ Appendix of Contract Administrative Requirements & Supporting Documents
  - Resumes for all proposed staff personnel provided in an appendix
  - Organization Chart
  - Financial Information

☐ Letter from insurance carrier or broker indicating ability to meet insurance requirements for this project, including general liability, auto liability and workers’ compensation. **Do not submit an ACORD® Certificate of Liability Insurance sheet. It will not be accepted in lieu of an insurance verification letter.**

4. STANDARD CONTRACT PROVISIONS

The following sections are standard contract provisions for the Harbor Department. In submitting a proposal, proposer agrees to accept these terms without change. **If your firm cannot agree to the following requirements, exactly as set forth below, please do not submit a proposal.**

4.1 Affirmative Action

Operator, during the performance of the Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of the employee’s or applicant’s race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code shall be incorporated and made a part of the agreement. All subcontracts awarded shall contain a like nondiscrimination provision. See Exhibit A.

4.2 Small/Very Small Business Enterprise Program

It is the policy of the Department to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), Minority-Owned, Women-Owned, Disabled Veteran-Owned and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Operator shall assist the City in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement.

NOTE: Prior to being awarded a contract with the Harbor Department, all Operators and suboperators must be registered on the City’s Contracts Management and Opportunities Database, Regional Alliance Marketplace for Procurement (RAMP), at [http://www.RAMPLA.org](http://www.RAMPLA.org).

4.3 Business Tax Registration Certificate

The City of Los Angeles, Office of Finance requires the implementation and enforcement of Los Angeles Municipal Code Section 21.09 et seq. This section provides that every person, other than a municipal employee, who engages in any business within the City of Los Angeles, is required to obtain the necessary Business Tax Registration Certificate and pay business taxes. The City Controller has determined that this Code Section applies to consulting firms that are doing work for the Los Angeles Harbor Department. See Exhibit B.

4.4 Indemnity and Insurance Requirements

**REQUIRED AT PROPOSAL STAGE:** A letter from each proposer’s carrier or broker must be provided with their proposal. The letter should indicate that the requirements below are presently part of the proposer’s coverage, or that the carrier/broker is able to provide such coverage should the proposer be selected. The carrier/broker must be aware of the indemnification requirements below. Proposers are not required to purchase the required insurance in order to respond, however all required insurance will need to be submitted at the time of contract award. **ACORD® certificates will not be accepted.**
1. Indemnification

Except for the sole negligence or willful misconduct of the City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Contractor undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney’s fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and Operators), damages or liability of any nature whatsoever, for death or injury to any person, including Contractor’s employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by Contractor or its subcontractors of any tier. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the City.

2. Acceptable Evidence and Approval of Insurance

Electronic submission is the required method of submitting Operator’s insurance documents. Operator’s insurance broker or agent shall register with the City’s online insurance compliance system KwikComply at https://kwikcomply.org/ and submit the appropriate proof of insurance on Operator’s behalf.

Carrier Requirements

All insurance which Operator is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best’s Insurance Guide. Carriers without a Best’s rating shall meet comparable standards in another rating service acceptable to City.

Primary Coverage

The coverages submitted must be primary with respect to any insurance or self insurance of the City of Los Angeles Harbor Department. The City of Los Angeles Harbor Department’s program shall be excess of this insurance and non-contributing.

Notice Of Cancellation

For each insurance policy described below, the Operator shall give the Board of Harbor Commissioners a 10-days prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-days prior notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to the City of Los Angeles Harbor Department, Attention Risk Manager and the City Attorney’s Office, 425 S. Palos Verdes Street, San Pedro, California 90731.

Modification of Coverage

Executive Director, at his or her discretion, based upon recommendation of independent insurance Operators to City, may increase or decrease amounts an types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days’ written notice to Operator.
Renewal of Policies

At least thirty (30) days prior to the expiration of any policy, Operator shall direct their insurance broker or agent to submit to the City’s online insurance compliance system **KwikComply** at [http://kwikcomply.org](http://kwikcomply.org) a renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified below. If Operator neglects or fails to secure or maintain the insurance required below, Executive Director may, at his or her own option but without any obligation, obtain such insurance to protect the City’s interests. The cost of such insurance will be deducted from the next payment due Operator.

Policy Copies

Upon request by City, Operator shall furnish a copy of the binder of insurance and/or full certified policy for any insurance policy required herein. This requirement shall survive the termination or expiration of this Agreement.

Limits of Coverage

If Operator maintains higher limits than the minimums required by this Agreement, City requires and shall be entitled to coverage for the higher limits maintained by Operator. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Right to Self-Insure

Upon written approval by Executive Director, Operator may self-insure if the following conditions are met:

a. Operator has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Operator must have a formal resolution of its board of directors authorizing self-insurance.

b. Operator agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement.

c. Operator agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.

d. Operator agrees that any insurance carried by Department is excess of Operator’s self-insurance and will not contribute to it.

e. Operator provides the name and address of its claims administrator.

f. Operator submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to the Executive Director’s consideration of approval of self-insurance and annually thereafter.

g. Operator agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance.
h. Operator has complied with all laws pertaining to self-insurance.

Insurance

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by [Indemnification Section Above], Operator shall procure and maintain at its sole cost and expense and keep in force during the term of this Agreement the following insurance:

3. General Liability Insurance

Operator shall procure and maintain in effect throughout the term of this Agreement, without requiring additional compensation from the City, commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best’s Insurance Guide (or an alternate guide acceptable to City if Best’s is not available) within Operator’s normal limits of liability but not less than One Million Dollars ($1,000,000) combined single limit for injury or claim. Where Operator provides or dispenses alcoholic beverages, Host Liquor Liability coverage shall be provided as above. Where Operator provides pyrotechnics, Pyrotechnics Liability shall be provided as above. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Operator. The retention or self-insurance provided shall provide that any other insurance maintained by Department shall be excess of Operator’s insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Additionally, each policy shall include an additional insured endorsement (CG 2010 or equivalent) naming the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

Where Operator’s operations involve work within 50 feet of railroad track, Operator’s Commercial General Liability coverage shall also have the railroad exclusion deleted.

4. Automobile Liability Insurance

Operator shall procure and maintain at its expense and keep in force at all times during the term of this Agreement, automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best’s Insurance Guide (or an alternate guide acceptable to City if Best’s is not available) within Operator’s normal limits of liability but not less than One Million Dollars ($1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Additionally, each policy shall include an additional insured endorsement (CG 2010 or equivalent) naming the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

5. Workers’ Compensation and Employer’s Liability

Operator shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers’ Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that the Operator shall comply with such provisions before commencing the performance of the tasks under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers’ Compensation Act, if required under applicable law, shall be included. Operator shall submit Workers’ Compensation policies whether
underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against the City in any circumstance in which it is alleged that actions or omissions of the City contributed to the accident. Such worker’s compensation and occupational disease requirements shall include coverage for all employees of Operator, and for all employees of any subcontractor or other vendor retained by Operator.

4.5 Conflict of Interest

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, City may immediately terminate this Agreement by giving written notice thereof.

During the term of this Agreement, Operator shall inform the Department when Operator, or any of its Suboperators, employs or hires in any capacity, and for any length of time, a person who has worked for the Department as a Commissioner, officer or employee. Said notice shall include the individual’s name and current position and their prior position and years of employment with the Department. Notice shall be provided by Operator to the Department within thirty (30) days of the employment or hiring of the individual.

4.6 Compliance with Applicable Laws

Operator shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of the Executive Director.

4.7 Governing Law / Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

4.8 Termination Provision

The Board of Harbor Commissioners, in its sole discretion, shall be able to terminate and cancel all or any part of the Agreement it enters into with the selected Operator for any reason upon giving the Operator ten (10) days’ notice in writing of its election to cancel and terminate the Agreement. It is agreed that any Agreement entered into shall not limit the right of the City to hire additional Operators to perform the services described in the Agreement either during or after the term of the Agreement.
4.9 Proprietary Information

1. Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by City as soon as they are developed, whether in draft or final form. City has the right to use or permit the use of property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Operator hereby warrants and represents that City at all times owns rights provided for in this section free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Operator need not obtain for City the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Operator or one of its employees, or its Suboperator or the Suboperator's employees, in which case such right shall be obtained without additional compensation. Whether or not Operator's initial proposal or proposals made during this Agreement are accepted by City, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Operator, its Suboperators or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to the City, its boards, officers, agents or employees, is not given in confidence. Accordingly, City or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

2. If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Operator, its officers, agents, employees, or Suboperators, the City shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by City. Upon City's request, Operator, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to the City. It is expressly understood and agreed that, as between City and Operator, the referenced license shall arise for City's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. City may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by City.

4.10 Trademarks, Copyrights, and Patents

Operator agrees to save, keep, hold harmless, protect and indemnify the City and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by City of any materials supplied by Operator in the performance of this Agreement.

4.11 Confidentiality

The data, documents, reports or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Operator relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Operator or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Operator is required to safeguard such information from access by unauthorized personnel.
4.12 Notices

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage paid. When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective parties, notice to the Department shall be addressed to ______________, Los Angeles Harbor Department, P.O. Box 151, San Pedro, California, 90733-0151, and notice to Operator shall be addressed to it at the address set forth above. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

4.13 Termination Due to Non-Appropriation of Funds

This Agreement is subject to the provisions of the Los Angeles City Charter which, among other things, precludes the City from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated thereof.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

The City, its boards, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefore. The Operator is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Operator is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Operator agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60 day period. The Operator is responsible for maintaining all insurance and bonds during this 60 day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

4.14 Taxpayer Identification Number

The Internal Revenue Service (IRS) requires that all Operators and suppliers of materials and supplies provide a TIN to the party that pays them. Operator declares that it has an authorized TIN which shall be provided to the Department prior to payment under the Agreement. No payments will be made under the Agreement without a valid TIN.
4.15 Service Contractor Worker Retention Policy and Living Wage Policy Requirements

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 5771 on January 3, 1999, agreeing to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention (SCWR), Section 10.36 et seq. of the Los Angeles Administrative Code, as the policy of the Harbor Department. Further, Charter Section 378 requires compliance with the City’s Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. Operator shall comply with the policy wherever applicable. Violation of this provision, where applicable, shall entitle the City to terminate the Agreement and otherwise pursue legal remedies that may be available.

4.16 Wage and Earnings Assignment Orders/Notices of Assignments

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution Nos. 19-8419 and 19-8420 on January 24, 2019, adopting the provisions of Los Angeles City Ordinance No. 185356, relating to Service Contractor Worker Retention (SCWR), Section 10.36 et seq. of the Los Angeles Administrative Code, as the policy of the Department. Further, Charter Section 378 requires compliance with the City’s Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. Operator shall comply with the policy wherever applicable. Violation of this provision, where applicable, shall entitle the City to terminate this Agreement and otherwise pursue legal remedies that may be available.

4.17 Equal Benefits Policy

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of Los Angeles City Ordinance 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 et seq. of the Los Angeles Administrative Code, as a policy of the Harbor Department. Operator shall comply with the policy wherever applicable. Violation of the policy shall entitle the City to terminate any Agreement with Operator and pursue any and all other legal remedies that may be available. See Exhibit C.

4.18 State Tidelands Grants

The Agreement will be entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, the Agreement will at all times be subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled “An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City,” approved June 3, 1929, (Stats. 1929, Ch. 651), as amended, and provisions of Article VI of the Charter of the City of Los Angeles relating to such lands. Operator agrees that any interpretation of the Agreement and the terms contained therein must be consistent with such limitations, conditions, restrictions and reservations.

4.19 Contract Solicitations Charter Section 470 (c) (12)

Where applicable, persons who submit a response to this solicitation (proposers) are subject to Charter section 470 (c) (12) and related ordinances. As a result, proposers may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit the response until either the contract is approved or, for successful proposers, 12 months after the contract is signed. The proposer’s principals and
subcontractors performing $100,000 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

Where applicable, proposers must submit CEC form 50 and 55 to the awarding authority at the same time the response is submitted (See Exhibit G). The forms require proposers to identify their principals, their subcontractors performing $100,000 or more in work on the contract, and the principals of those subcontractors. Proposers must also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Responses submitted without completed CEC Form 50 and 55 may be deemed nonresponsive. Proposers who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.
EXHIBIT A - AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is $25,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Contract:

A. During the performance of a City Contract, the Contractor certifies and represents that the Contractor and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The Contractor shall post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Contracts and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent
jurisdiction, that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City Contract, there may be deducted from the amount payable to the Contractor by the City of Los Angeles under the contract, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Contract.

H. Notwithstanding any other provisions of a City Contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

J. Nothing contained in City Contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to a Contract that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Contract. The Awarding Authority may also require Contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.

L. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

(a) Recruit and make efforts to obtain employees through:
   (i) Advertising employment opportunities in minority and other community news media or other publications.
   (ii) Notifying minority, women and other community organizations of employment opportunities.
   (iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.
   (iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.
   (v) Promoting after school and vacation employment opportunities for minority, women and other youth.
   (vi) Validating all job specifications, selection requirements, tests, etc.
   (vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.
   (viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

(b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
(d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.

(e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.

(f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.

(g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Contracts. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Contracts.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:

(i) What steps were taken, how and on what date.

(ii) To whom those efforts were directed.

(iii) The responses received, from whom and when.

(iv) What other steps were taken or will be taken to comply and when.

(v) Why the Contractor has been or will be unable to comply.

2. Every contract of $25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;

2. Classroom preparation for the job when not apprenticeable;

3. Pre-apprenticeship education and preparation;

4. Upgrading training and opportunities;

5. Encouraging the use of Contractors, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any contract subject to this ordinance shall require the Contractor, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Contractor's, Subcontractor's or supplier's geographical area for such work;

6. The entry of qualified women, minority and all other journeymen into the industry; and

7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

M. Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees
who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

N. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.

O. All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor’s Contract with the City
Exhibit B - Business Tax Registration Certificate (BTRC) Number

The City of Los Angeles, Office of Finance requires all firms that engage in any business activity within the City of Los Angeles to pay City business taxes. Each firm or individual (other than a municipal employee) is required to obtain the necessary Business Tax Registration Certification (BTRC) and pay business tax. (Los Angeles Municipal code Section 21.09 et seq.)

All firms and individuals that do business with the City of Los Angeles will be required to provide a BTRC number or an exemption number as proof of compliance with Los Angeles City business tax requirements in order to receive payment for goods or services. Beginning October 14, 1987, payments for goods or services will be withheld unless proof of tax compliance is provided to the City.

The Tax and Permit Division of Los Angeles Office of Finance, has the sole authority to determine whether a firm is covered by business tax requirements. Those firms not required to pay will be given an exemption number.

If you do NOT have a BTRC number contact the Tax and Permit Division at the office listed below, or log on to http://finance.lacity.org/, to download the business tax registration application.

MAIN OFFICE
LA City Hall 201 N. Main Street, Rm. 101 (844) 663-4411
Exhibit C - Equal Benefits Ordinance

Sec. 10.8.2.1. Equal Benefits Ordinance.

Discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work. Los Angeles law prohibits entities doing business with the City from discriminating in employment practices based on marital status and/or sexual orientation. The City's departments and contracting agents are required to place in all City contracts a provision that the company choosing to do business with the City agrees to comply with the City's nondiscrimination laws.

It is the City's intent, through the contracting practices outlined in this Ordinance; to assure that those companies wanting to do business with the City will equalize the total compensation between similarly situated employees with spouses and with domestic partners. The provisions of this Ordinance are designed to ensure that the City's contractors will maintain a competitive advantage in recruiting and retaining capable employees, thereby improving the quality of the goods and services the City and its people receive, and ensuring protection of the City's property.

(c) Equal Benefits Requirements.

(1) No Awarding Authority of the City shall execute or amend any Contract with any Contractor that discriminates in the provision of Benefits between employees with spouses and employees with Domestic Partners, between spouses of employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(2) A Contractor must permit access to, and upon request, must provide certified copies of all of its records pertaining to its Benefits policies and its employment policies and practices to the DAA, for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance.

(3) A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment: "During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners." The posted statement must also include a City contact telephone number which will be provided each Contractor when the Contract is executed.

(4) A Contractor must not set up or use its contracting entity for the purpose of evading the requirements imposed by the Equal Benefits Ordinance.

(d) Other Options for Compliance. Provided that the Contractor does not discriminate in the provision of Benefits, a Contractor may also comply with the Equal Benefits Ordinance in the following ways:

(1) A Contractor may provide an employee with the Cash Equivalent only if the DAA determines that either:

   a. The Contractor has made a reasonable, yet unsuccessful effort to provide Equal Benefits; or

   b. Under the circumstances, it would be unreasonable to require the Contractor to provide Benefits to the Domestic Partner (or spouse, if applicable).

(2) Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent Benefits.
(3) Provide Benefits neither to employees' spouses nor to employees' Domestic Partners.

(e) Applicability.

(1) Unless otherwise exempt, a Contractor is subject to and shall comply with all applicable provisions of the Equal Benefits Ordinance.

(2) The requirements of the Equal Benefits Ordinance shall apply to a Contractor's operations as follows:

   a. A Contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the Contract.

   b. A Contractor's operations on real property located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the Contractor's presence at or on that property is connected to a Contract with the City.

   c. The Contractor's employees located elsewhere in the United States but outside of the City limits if those employees are performing work on the City Contract.

(3) The requirements of the Equal Benefits Ordinance do not apply to collective bargaining agreements ("CBA") in effect prior to January 1, 2000. The Contractor must agree to propose to its union that the requirements of the Equal Benefits Ordinance be incorporated into its CBA upon amendment, extension, or other modification of a CBA occurring after January 1, 2000.

(f) Mandatory Contract Provisions Pertaining to Equal Benefits. Unless otherwise exempted, every Contract shall contain language that obligates the Contractor to comply with the applicable provisions of the Equal Benefits Ordinance. The language shall include provisions for the following:

(1) During the performance of the Contract, the Contractor certifies and represents that the Contractor will comply with the Equal Benefits Ordinance.

(2) The failure of the Contractor to comply with the Equal Benefits Ordinance will be deemed to be a material breach of the Contract by the Awarding Authority.

(3) If the Contractor fails to comply with the Equal Benefits Ordinance the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

(4) Failure to comply with the Equal Benefits Ordinance may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

(5) If the DAA determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the Equal Benefits Ordinance, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.
EXHIBIT D
RFP SELECTION EVALUATION FORM

PROJECT: OPERATION OF BANNING’S LANDING COMMUNITY CENTER

SCORING GUIDELINES:
Rater’s Score: (Range 0-5) - 0=not included/non responsive; 1= Serious Deficiencies; 2=Marginal Abilities; 3=Adequate, 4=Well Qualified; 5=Exceptionally Qualified.

Weighing Factor: A range of 1 through 6, with 1 being of relative lower importance and 6 being relative highest importance. Each number (1 through 6) may be used more than once; however, in establishing weights, the total of all the weighing factors (A –D) must equal 20.

Weighted Score= Rater’s Score multiplied by (x) Weighing Factor. Totals should be calculated for each criterion. Total score = Sum of all weighted scores.

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<th>Firm Name</th>
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<th>CRITERIA TO BE RATED</th>
<th>RATER’S SCORE</th>
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<tr>
<td>A. Organization Qualifications, Experience, and References. Personnel and Staffing</td>
<td>Length of time proposer has been in proposed business? Entity’s history of successfully operating proposed type of business? Qualification and experience of personnel for proposed use/services?</td>
<td>6</td>
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<td>C. Financial and Budget Assessment</td>
<td>Is proposed operating budget clearly defined? Does respondent appear to demonstrate the ability to finance operations with grants, debt, equity, and/or other funding sources? Is the proposed fee structure competitive?</td>
<td>5</td>
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<td>D. Clarity and Comprehensiveness of the Proposal</td>
<td>Is the proposal clear, comprehensive, and understandable? Has the organization provided a comprehensive response to all RFP requirements?</td>
<td>3</td>
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Maximum points possible=100
A+B+C+D=20
Total Points=
OPERATING AGREEMENT STANDARD PROVISIONS

[__]. RECORDKEEPING, ANNUAL REPORTING, AND AUDIT RIGHTS

A. Operator shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied, which books and records shall be readily accessible to and open for inspection and copying at the premises by City, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Operator for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

B. During the term of this Agreement, City may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Operator and Suboperators arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Operator, Suboperators or any individual or entity acting for or on behalf of Operator or a Suboperator, and (c) without regard to whether such writings have previously been provided to City. Operator shall be responsible for obtaining access to and providing writings of Suboperators. Operator shall provide City at Operator's sole cost and expense a copy of all such writings within fourteen (14) calendar days of a written request by City. City's right shall also include inspection at reasonable times of the Operator's office or facilities which are engaged in the performance of the Scope of Work. Operator shall, at no cost to City, furnish reasonable facilities and assistance for such review and audit. Operator's failure to comply with this Article 7 shall constitute a material breach of this Agreement and shall entitle City to withhold any payment due under this Agreement until such breach is cured.

[__]. OPERATOR IS AN INDEPENDENT CONTRACTOR

Operator, in the performance of the work required by this Agreement, is an independent contractor and not an agent or employee of City. Operator shall not represent itself as an agent or employee of the City and shall have no power to bind the City in contract or otherwise.

[__]. BUSINESS TAX REGISTRATION CERTIFICATE

The City of Los Angeles Office of Finance requires the implementation and enforcement of Los Angeles Municipal Code Section 21.09 et seq. This Code Section provides that every person, other than a municipal employee, who engages in any
business within the City of Los Angeles, is required to obtain the necessary Business Tax Registration Certificate and pay business taxes. The City Controller has determined that this Code Section applies to consulting firms that are doing work for the Department. See https://finance.lacity.org/how-register-btrc.

[1]. INDEMNIFICATION

Except for the sole negligence or willful misconduct of the City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Operator undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and Operators), damages or liability of any nature whatsoever, for death or injury to any person, including Operator's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Operator or its subcontractors of any tier. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the City.

[1]. INSURANCE

A. In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article 11, Operator shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(1) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best’s Insurance Guide (or an alternate guide acceptable to City if Best’s is not available) within Operator's normal limits of liability but not less than $__________ combined single limit for injury or claim.

Where Operator provides or dispenses alcoholic beverages, Host Liquor Liability coverage shall be provided as above. Where Operator provides pyrotechnics, Pyrotechnics Liability shall be provided as above. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Operator. The retention or self-insurance provided shall...
provide that any other insurance maintained by the Harbor Department shall be excess of Operator's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

Where Operator's operations involve work within 50 feet of railroad track, Operator's Commercial General Liability coverage shall have the railroad exclusion deleted.

(2) **Automobile Liability Insurance**

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best’s Insurance Guide (or an alternate guide acceptable to City if Best’s is not available) within Operator’s normal limits of liability but not less than $__________ covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

(3) **Workers’ Compensation and Employer’s Liability**

Operator shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers’ Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Operator shall comply with such provisions before commencing the performance of the tasks under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers’ Compensation Act, if required under applicable law, shall be included. Operator shall submit Workers’ Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against the City in any circumstance in which it is alleged that actions or omissions of the City contributed to the accident. Such Worker’s Compensation and occupational disease requirements shall include coverage for all employees of Operator, and for all employees of any subcontractor or other vendor retained by Operator.

(4) **Professional Liability Insurance**

Operator is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured,
or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Operator certifies that it now has professional liability insurance in the amount of __________ Dollars ($__________), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following the completed term of this Agreement.

Notice of occurrences of claims under the policy shall be made to the City Attorney’s office with copies to Risk Management.

B. Insurance Procured by Operator on Behalf of City

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article 11, and where Operator is required to name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Operator shall cause City to be named as an additional insured on all policies it procures in connection with this Article 12. Operator shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that City, Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. ___, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The policy to which this endorsement is attached shall provide a 10-days’ notice of cancellation for nonpayment of premium, and a 30-days’ notice of cancellation for any other reasons to the Risk Manager.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by City is excess coverage;

"In the event of one of the named insured’s incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each
named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to the Risk Manager of City's Harbor Department with copies to the City Attorney's Office."

C. Required Features of Coverages

Insurance procured by Operator in connection with this Article 12 shall include the following features:

1. Acceptable Evidence and Approval of Insurance

Electronic submission is the required method of submitting Operator's insurance documents. Operator's insurance broker or agent shall register with the City's online insurance compliance system KwikComply at https://kwikcomply.org/ and submit the appropriate proof of insurance on Operator's behalf.

Upon request by City, Operator shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

2. Carrier Requirements

All insurance which Operator is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to City.

3. Notice of Cancellation

For each insurance policy described above, Consultant shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to the City of Los Angeles Harbor Department, Attn: Risk Manager and the City Attorney's Office, 425 S. Palos Verdes Street, San Pedro, California 90731.

4. Modification of Coverage

Executive Director, at his or her sole reasonable discretion, based upon recommendation of independent insurance Operators to City, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Operator.
(5) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Operator shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to the City's online insurance compliance system KwikComply at https://kwikcomply.org/ a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Operator neglects or fails to secure or maintain the insurance required above, Executive Director may, at his or her own option but without any obligation, obtain such insurance to protect City’s interests. The cost of such insurance shall be deducted from the next payment due Operator.

(6) Limits of Coverage

If Operator maintains higher limits than the minimums required by this Agreement, City requires and shall be entitled to coverage for the higher limits maintained by Operator. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

D. Right to Self-Insure

Upon written approval by the Executive Director, Operator may self-insure if the following conditions are met:

1. Operator has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Operator must have a formal resolution of its board of directors authorizing self-insurance.

2. Operator agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement.

3. Operator agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.

4. Operator agrees that any insurance carried by Department is excess of Operator’s self-insurance and will not contribute to it.

5. Operator provides the name and address of its claims administrator.
6. Operator submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to Executive Director’s consideration of approval of self-insurance and annually thereafter.

7. Operator agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance.

8. Operator has complied with all laws pertaining to self-insurance.

E. Accident Reports

Operator shall report in writing to Executive Director within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars ($500.00) to property, occurring upon the premises, or elsewhere within the Port of Los Angeles if Operator’s officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Operator, its officers or managing agents.

A. During the term hereof, Operator agrees that it will not enter into other contracts or perform any work without the written permission of the Executive Director where the work may conflict with the interests of the Department.

B. Operator acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Operator may permit Suboperator(s) to perform portions of the Scope of Work in accordance with Article 1. All Suboperators whom Operator utilizes, however, shall be deemed to be its agents. Suboperators’ performance of the Scope of Work shall not be deemed to release Operator from its obligations under this Agreement or to impose any obligation on the City to such Suboperator(s) or give the Suboperator(s) any rights against the City.

[__]. AFFIRMATIVE ACTION
The Operator, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee’s or applicant’s race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code shall be incorporated and made a part of this Agreement. All subcontracts awarded shall contain a like nondiscrimination provision. See Exhibit ___.

[__]. SMALL/VERY SMALL BUSINESS ENTERPRISE PROGRAM AND LOCAL BUSINESS PREFERENCE PROGRAM

It is the policy of the Department to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Operator shall assist the City in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement. See Exhibit ___.

It is also the policy of the Department to support an increase in local and regional jobs. The Department’s Local Business Preference Program aims to benefit the Southern California region by increasing jobs and expenditures within the local and regional private sector. Operator shall assist the City in implementing this policy and shall use its best efforts to afford the opportunity for Local Business Enterprises to achieve participation in subcontracts where such participation opportunities present themselves.

NOTE: Prior to being awarded a contract with the City, Operator and all Suboperators must be registered on the City’s Contracts Management and Opportunities Database, Regional Alliance Marketplace for Procurement (RAMP), at http://www.RAMPLA.org.

[__]. CONFLICT OF INTEREST

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this
Agreement, City may immediately terminate this Agreement by giving written notice thereof.

During the term of this Agreement, Operator shall inform the Department in writing when Operator, or any of its Suboperators, employs or hires in any capacity, and for any length of time, a person who has worked for the Department as a Commissioner, officer or employee. Said notice shall include the individual’s name and current position and their prior position and years of employment with the Department. Written notice shall be provided by Operator to the Department within thirty (30) days of the employment or hiring of the individual.

[___]. COMPLIANCE WITH APPLICABLE LAWS

Operator shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of Executive Director.

[___]. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

[___]. TRADEMARKS, COPYRIGHTS, AND PATENTS

Operator agrees to save, keep, hold harmless, protect and indemnify the City and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by City of any materials supplied by Operator in the performance of this Agreement.

[___]. PROPRIETARY INFORMATION

A. Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by City as soon as they are developed, whether in draft or final form. City has the right to use or permit the use of property and any ideas or methods represented by
such property for any purpose and at any time without compensation other than that provided in this Agreement. Operator hereby warrants and represents that City at all times owns rights provided for in this section free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Operator need not obtain for City the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Operator or one of its employees, or its Suboperator or the Suboperator’s employees, in which case such right shall be obtained without additional compensation. Whether or not Operator's initial proposal or proposals made during this Agreement are accepted by City, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Operator, its Suboperators or on either’s behalf, whether prior or subsequent to this Agreement becoming effective, to the City, its boards, officers, agents or employees, is not given in confidence. Accordingly, City or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

B. If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Operator, its officers, agents, employees, or Suboperators, the City shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by City. Upon City's request, Operator, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to the City. It is expressly understood and agreed that, as between City and Operator, the referenced license shall arise for City's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. City may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by City.

[__]. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Operator relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Operator or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Operator is required to safeguard such information from access by unauthorized personnel.

[__]. TAXPAYER IDENTIFICATION NUMBER (TIN)

The Internal Revenue Service (IRS) requires that all Operators and suppliers of materials and supplies provide a TIN to the party that pays them. Operator declares that
it has an authorized TIN which shall be provided to the Department prior to payment under this Agreement. No payments will be made under this Agreement without a valid TIN.

[___]. SERVICE CONTRACTOR WORKER RETENTION POLICY AND LIVING WAGE POLICY REQUIREMENTS

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution Nos. 19-8419 and 19-8420 on January 24, 2019, adopting the provisions of Los Angeles City Ordinance No. 185356 relating to Service Contractor Worker Retention (SCWR), Section 10.36 et seq. of the Los Angeles Administrative Code, as the policy of the Department. Further, Charter Section 378 requires compliance with the City’s Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. Operator shall comply with the policy wherever applicable. Violation of this provision, where applicable, shall entitle the City to terminate this Agreement and otherwise pursue legal remedies that may be available.

[___]. WAGE AND EARNINGS ASSIGNMENT ORDERS / NOTICES OF ASSIGNMENTS

The Operator and/or any Suboperator are obligated to fully comply with all applicable state and federal employment reporting requirements for the Operator and/or Suboperator's employees.

The Operator and/or Suboperator shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. The Operator and/or Suboperator will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. The Operator or Suboperator will maintain such compliance throughout the term of this Agreement.

[___]. EQUAL BENEFITS POLICY

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of Los Angeles City Ordinance No. 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 et seq. of the Los Angeles Administrative Code, as a policy of the Department. Operator shall comply with the policy wherever applicable. Violation of this policy shall entitle the City to terminate any Agreement with Operator and pursue any and all other legal remedies that may be available. See Exhibit ____.

[___]. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)

The Operator, Suboperators, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or
candidates for elected City office if the agreement is valued at $100,000 or more and requires approval of a City elected official. Additionally, Operator is required to provide and update certain information to the City as specified by law. Any Operator subject to Charter Section 470(c)(12), shall include the following notice in any contract with a Suboperator expected to receive at least $100,000 for performance under this Agreement:

**Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions**

As provided in Charter Section 470(c)(12) and related ordinances, you are a Suboperator on Harbor Department Agreement No. _________. Pursuant to City Charter Section 470(c)(12), Suboperator and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the Agreement is signed. Suboperator is required to provide to Operator names and addresses of the Suboperator's principals and contact information and shall update that information if it changes during the 12 month time period. Suboperator's information must be provided to Operator within 10 business days. Failure to comply may result in termination of the Agreement or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at [http://ethics.lacity.org/](http://ethics.lacity.org/) or by calling 213-978-1960.

Operator, Suboperators, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

[__].  **STATE TIDELANDS GRANTS**

This Agreement is entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, this Agreement is at all times subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled “An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City,” approved June 3, 1929 (Stats. 1929, Ch. 651), as amended, and provisions of Article VI of the Charter of the City of Los Angeles relating to such lands. Operator agrees that any interpretation of this Agreement and the terms contained herein must be consistent with such limitations, conditions, restrictions and reservations.

[__].  **INTEGRATION**
This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

[ ]. PRIOR AGREEMENT SUPERSEDED

This Agreement shall terminate Agreement No. ____ as of the Effective Date. Said termination does not affect rights either party has accrued or obligations which remain to be performed or rights and/or obligations which provide they continue after termination or expiration of the agreement or which continue by operation of law.

[ ]. SEVERABILITY

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law, public policy, or city charter, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

[ ]. CONSTRUCTION OF AGREEMENT

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.
[____].  TITLES AND CAPTIONS

The parties have inserted the Article titles in this Agreement only as a matter of convenience and for reference, and the Article titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

[____].  MODIFICATION IN WRITING

This Agreement may be modified only by written agreement of all parties. Any such modifications are subject to all applicable approval processes required by, without limitation, City’s Charter and City’s Administrative Code.

[____].  NOTICE

In all cases where written notice including the service of legal pleadings is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage prepaid or delivered. When so given, such notice shall be effective from the date of mailing. Unless changed by notice in writing from the respective parties, notice to the parties shall be as follows:

To the City:  Los Angeles Harbor Department
             P.O. Box 151
             San Pedro, California 90733-0151
             Attention: Executive Director

with a copy to: Office of City Attorney—Harbor Department
              425 S. Palos Verdes Street
              San Pedro, California 90731
              Attention: General Counsel

To the Operator: _________________________________
______________________________
______________________________
______________________________

Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law. All notice periods under this Agreement refer to calendar days unless otherwise specifically stated.

[____].  WAIVER
A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

[____]. EXHIBITS; ARTICLES

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to Articles are to Articles of this Agreement unless stated otherwise.

[____]. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

Rev. 2/22/22