

LOS ANGELES FOREIGN-TRADE ZONE  
DEVELOPER AGREEMENT

by and between

THE CITY OF LOS ANGELES

and

11850 RIVERSIDE LLC

TABLE OF CONTENTS

	PAGE NO.
I. ADMINISTRATIVE FEES .....	1
II. MARKETING OF ZONE SITE .....	2
III. TERM AND RENEWAL .....	2
IV. INDEMNIFICATION AND INSURANCE .....	2
V. DEVELOPER'S RIGHT TO SELL OR LEASE PROPERTY .....	6
VI. ACTIVATION OF ZONE SITE .....	7
VII. INDEPENDENT CONTRACTOR STATUS .....	7
VIII. COMMUNICATIONS WITH FTZ BOARD .....	7
IX. NOTICES .....	7
X. FAILURE TO ACTIVATE ZONE SITE OR A PORTION THEREOF .....	8
XI. TERMINATION OF AGREEMENT .....	8
XII. NONDISCRIMINATION AND EQUAL OPPORTUNITY .....	9
XIII. SMALL BUSINESS DEVELOPMENT PROGRAM .....	9
XIV. WAGE AND EARNING ASSIGNMENT ORDERS/NOTICES OF ASSIGNMENTS .....	10
XV. EQUAL BENEFITS POLICY .....	10
XVI. STATE TIDELANDS GRANTS .....	10
XVII. WILMINGTON TRUCK ROUTE .....	10
XVIII. CONFLICT OF INTEREST .....	11
XIX. MISCELLANEOUS .....	11

AGREEMENT NO. \_\_\_\_\_

FOREIGN-TRADE ZONE AGREEMENT BETWEEN  
THE CITY OF LOS ANGELES  
AND  
11850 RIVERSIDE LLC

AGREEMENT made by and between the CITY OF LOS ANGELES, a municipal corporation ("City") acting by and through its Board of Harbor Commissioners ("Grantee") and 11850 RIVERSIDE LLC, a Delaware limited liability company, 100 Bayview Circle, Suite 6000, Newport Beach, CA 92660 ("Developer").

RECITALS:

WHEREAS, the Grantee has received a Grant from the Foreign-Trade Zones Board ("FTZ Board") (Board Order No.693 dated July 14, 1994) to establish the Los Angeles Foreign-Trade Zone ("FTZ No. 202"); and

WHEREAS, Developer desired to continue to make use of foreign-trade zone status at the site described in the map marked Exhibit A which is attached hereto and made a part hereof "Zone Site No. 20 map"; and

WHEREAS, the Developer is the owner of Zone Site No. 20, or otherwise has the right to control Zone Site No. 20 as required by the FTZ Board and as evidenced by the Letter(s) of Agreement from each such owner of property within the boundaries of Zone Site No. 20 map, marked Exhibit A, attached and made a part thereof; and

WHEREAS, the Developer has been the Trade Zones Developer at Site No. since July 1998 and successfully developed Site No. 20;

NOW, THEREFORE, the parties hereto, in consideration of the mutual agreements herein contained and promises herein expressed, and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate, do hereby agree as follows:

I. ADMINISTRATIVE FEES

Developer hereby agrees to pay to Grantee the fees set forth in the Foreign-Trade Zone No. 202 Tariff, as amended, within the timeframes set forth therein. Furthermore, Developer understands that said fees are subject to change and Developer agrees to abide by any fee modifications that may occur.

## II. MARKETING OF ZONE SITE

Developer hereby agrees to market the foreign-trade zone status ("FTZ Marketing") of the property in a business-like manner.

So long and only so long as this Agreement shall remain in force and effect, Developer may advertise the Zone Site as being within "Los Angeles Foreign-Trade Zone No. 202"; however, no designs, advertising, signs or forms of publicity utilized as part of the FTZ Marketing (including form, color, number, location and size) shall be used upon or with respect to the Zone Site or other place of related business unless the same shall have been first approved in writing by Grantee as meeting its standards. Grantee, or its authorized agents, may at any time after five business days' written notice to Developer, enter the Zone Site and remove any unapproved signs or advertising media utilized for FTZ Marketing, and may keep or destroy such signs or other media without paying therefor, and without being deemed guilty of trespass or other tort.

In conjunction with marketing the Zone Site, the Developer shall provide to potential operators and users information about the PierPASS Program. Developer shall, to the extent reasonable and feasible, encourage operators and users of the Zone Site to utilize the PierPASS Program.

## III. TERM AND RENEWAL

Unless terminated as herein provided, this Agreement shall remain in effect for five (5) years, provided that Developer has performed to the satisfaction of Grantee as required herein, commencing on the first day of the month subsequent to City approval of this Agreement and shall, after such five year period, provided that the Developer has obtained an Operator which has activated FTZ operations within the site, be renewed for three periods of five years each upon terms and conditions to be negotiated prior to the end of the then current five-year term. Any such renewal must be approved in advance or subsequently ratified by the Board of Harbor Commissioners. If the parties cannot agree on the terms and conditions prior to the end of the then current five-year period, the Agreement shall terminate at the end of such term. If the Developer does not have an activated FTZ operator during the first five years, this Agreement will terminate at the end of such term. This Agreement shall automatically terminate in the event that the Developer's site is removed from the FTZ by the FTZ Board.

## IV. INDEMNIFICATION AND INSURANCE

### A. 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, Developer 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 Developers), damages or liability of any nature whatsoever, for death or injury to any person, including Developer'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 Developer 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.

B. Acceptable Evidence and Approval of Insurance

Electronic submission is the required method of submitting Developer's insurance documents. Developer'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 Developer's behalf.

C. General Liability Insurance

Developer 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 Developer's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. 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 Developer. The retention or self-insurance provided shall provide that any other insurance maintained by the Harbor Department shall be excess of Developer'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, a 10-days notice of cancellation for nonpayment of premium, and a 30-days notice of cancellation for any other reasons.

D. Automobile Liability Insurance

Developer 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

Developer'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. 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, a 10-days notice of cancellation for nonpayment of premium, and a 30-days notice of cancellation for any other reasons.

E. Workers' Compensation and Employer's Liability

Where applicable, Developer shall comply with 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 Developer 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. Developer 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 Developer, and for all employees of any subcontractor or other vendor retained by Developer.

Each policy shall include a 10-days notice of cancellation for nonpayment of premium, and a 30-days notice of cancellation for any other reasons.

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

G. Carrier Requirements

All insurance which Developer 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.

H. Notice of Cancellation

For each insurance policy described above, Developer 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.

I. Modification of Coverage

Executive Director, at his or her discretion, based upon recommendation of independent insurance Developers 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 Developer.

J. Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Developer 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 Developer 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 Developer.

K. Right to Self-Insure

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

1. Developer has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Developer must have a formal resolution of its board of directors authorizing self-insurance.
2. Developer 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. Developer agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.
4. Developer agrees that any insurance carried by Department is excess of Developer's self-insurance and will not contribute to it.
5. Developer provides the name and address of its claims administrator.
6. Developer 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. Developer 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. Developer has complied with all laws pertaining to self-insurance.

L. Accident Reports

Developer 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 Developer'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 Developer, its officers or managing agents.

V. DEVELOPER'S RIGHT TO SELL OR LEASE PROPERTY

Developer has the right to sell or lease any of the property included within the Zone Site. However, a party who purchases any of the property included within the Zone Site ("transferee") must enter into a Grantee/Developer Agreement with Grantee, similar in scope to this Agreement. Failure to give notice to Grantee as required hereunder or failure of Transferee to enter into such an agreement within forty-five (45) days of the closing of the sale of the property, will provide Grantee with the right to take whatever actions may be necessary or appropriate to exclude said property from FTZ No. 202, including making any necessary request or application for such purpose to the FTZ Board without any notice to or concurrence by Developer or Transferee required. Prior to the sale of any interest in the property at the Zone Site, Developer shall give notice to the Transferee of the requirement to enter into a Grantee/Developer Agreement similar in scope to this Agreement. Grantee agrees to recognize any successor to Developer as long as it is a subsidiary or parent of Developer or an institutional lender (or an affiliate of any such lender) that acquires title to all or any portion of the Zone Site pursuant to a foreclosure or deed in lieu of foreclosure. Grantee shall not unreasonably withhold approval of any other successor to Developer; however, such prospective successor must have financial capability equal to or greater than Developer and otherwise be acceptable in every respect to Grantee. If the successor in interest is other than one unconditionally accepted above, Grantee shall have the right to cancel this Agreement with respect to the property transferred to such successor in interest within thirty (30) days after receipt of the notice from Developer, whereupon all rights of Developer shall cease and Developer shall have no claims against City or Grantee whatsoever.

The parties to this Agreement expressly agree that in the event Developer transfers any interest in the property at the Zone Site to a separate entity not a party to this

Agreement (including by lease, assignment of lease or sublease), Developer shall give to Grantee written notice within ten (10) days of said transfer. Developer's notice to Grantee shall contain the names and addresses of every person acquiring any interest in the property at the Zone Site.

#### VI. ACTIVATION OF ZONE SITE

Prior to Developer or any tenant or subtenant of Developer requesting U.S. Customs to activate its property or a portion thereof at the Zone Site, Developer or such tenant or subtenant must enter into an FTZ Operating Agreement with Grantee. The fees to be charged by Grantee to an Operator under such an Operating Agreement will be in accordance with the Foreign Trade Zone No. 202 Tariff in effect at the time that agreement is executed. The FTZ Operating Agreement shall require the Operator to operate at Zone Site in accordance with all applicable Customs, FTZ Board and other governmental regulations.

#### VII. INDEPENDENT CONTRACTOR STATUS

Developer is an independent contractor in the performance of all activities and functions pursuant to this Agreement. Developer and Grantee are not and shall not be considered as joint venturers, partners or agents of each other and neither shall have the power to bind or obligate the other. Developer's officers, employees, agents and subcontractors shall not be considered as officers, employees or agents of the Grantee. Grantee and Developer hereby agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another.

#### VIII. COMMUNICATIONS WITH FTZ BOARD

Developer shall be responsible for providing information as requested by the FTZ Board and Grantee in connection with the FTZ No. 202 Annual Report, to cover the calendar year from 1/1 to 12/31, by February 1 of each year. Report data shall include but not be limited to the following: plans to activate the FTZ status, marketing and promotional activity, and site improvements and future development strategy.

All written communications with the FTZ Board concerning operations within FTZ No. 202 are to be made through Grantee. Under no circumstances is Developer to communicate directly in writing with the FTZ Board with regard to the Zone Site.

#### IX. NOTICES

All correspondence directed to Developer will be sent to:

11850 RIVERSIDE LLC  
100 Bayview Circle, Suite 6000  
Newport Beach, CA 92660  
ATTN: Douglas McGilvrey, Vice President

All correspondence directed to Grantee will be sent to:

City of Los Angeles Harbor Department  
Foreign Trade Zone Manager  
425 S. Palos Verdes Street  
San Pedro, California 90731

X. FAILURE TO ACTIVATE ZONE SITE OR A PORTION THEREOF

With regard to any portion of the Zone Site that has not been activated, pursuant to 19 C.F.R. 146.6, within two (2) years of the execution of this Agreement, Grantee has the right and Developer will consent, to the removal of such non-activated portion of the Zone Site from FTZ No. 202 for purposes of transferring FTZ eligibility through the filing of a minor boundary modification request with the FTZ Board. However, any portion of the Zone Site that was the subject of such a minor boundary modification request, will, if Grantee receives a written request from Developer within two (2) years of the approval of said minor boundary modification request, have FTZ eligibility reinstated through the filing of another minor boundary modification request with the FTZ Board.

If no portion of the Zone Site has been activated, pursuant to 19 C.F.R. 146.6, for any period of four (4) consecutive years, Grantee has the right, and Developer will consent, to take whatever actions may be necessary or appropriate to exclude the entire Zone Site from FTZ No. 202, including making any necessary request or application for such purpose to the FTZ Board.

XI. TERMINATION OF AGREEMENT

The breach of any provision of this Agreement or the failure to perform any obligations, duty or to accept liability established herein by act of commission or omission for whatsoever cause by a party hereto shall be a default. The nondefaulting party shall give written notice of intent to terminate this Agreement by registered or certified mail to the defaulting party stating the specific default or breach committed. The nondefaulting party shall have the option to terminate the Agreement after expiration of the time periods as follows:

If the default can be cured by payment or posting of money, bond or other security for money due, the payment of a final assessment or other obligation, the defaulting party shall have seven (7) days after receipt of the notice to terminate in order to pay over such money or, if the payment be contested, to post such amount with the other party pending final determination of liability, in cash or security in such form as approved by the nondefaulting party.

If the default cannot be cured by payment or posting of money or security as provided above, the defaulting party shall have twenty-one (21) days after receipt of written notice to terminate in which to cure the default.

If the default is one, which by its nature cannot be reasonably cured within twenty-one (21) days, then the defaulting party shall have a reasonable time in which to cure the default. Such time period shall not be greater than times required by statutes, laws, ordinances, rules and regulations, or order of the Foreign-Trade Zones Board or Grantee and shall be based upon a written schedule of performance and supporting documentation indicating the shortest period in which such default can be cured by defaulting party.

In the event either party for any reason wishes to terminate its participation in foreign-trade zone activities and terminate its rights and obligations under this Agreement, at least one hundred eighty (180) days prior written notice must be delivered to the other party. If the Grantee wishes to terminate, the Developer shall have the right, directly or through another entity, to assume the rights and obligations of the Grantee subject only to the approval of the Foreign-Trade Zones Board. If the Developer wishes to terminate, Developer is obligated to ensure that the Zone Site has been deactivated prior to the date of termination and must ensure that all foreign status merchandise has either been subject to the payment of customs duties and fees or been transferred, in bond, to another foreign trade zone facility.

## XII. NONDISCRIMINATION AND EQUAL OPPORTUNITY

Developer agrees not to 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, sexual orientation, marital status, age, medical condition or physical handicap. All assignments, subleases and transfers of interest in this Agreement under or pursuant to this Agreement shall contain this provision.

The provisions of Section 10.8.4 of the Los Angeles Administrative Code as set forth in the attached Exhibit B are incorporated herein and made a part hereof.

## XIII. SMALL BUSINESS DEVELOPMENT PROGRAM

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

XIV. WAGE AND EARNING ASSIGNMENT ORDERS/NOTICES OF ASSIGNMENTS

The Developer is obligated to fully comply with all applicable state and federal employment reporting requirements for the Developer's employees.

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

XV. 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 et seq. of the Los Angeles Administrative Code) as a policy of the Harbor Department. Developer shall comply with the policy whenever applicable. Violation of the policy shall entitle the City to terminate any agreement with Developer and pursue any or all other legal remedies that may be available.

XVI. 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. Developer agrees that any interpretation of this Agreement and the terms contained herein must be consistent with such limitations, conditions, restrictions and reservations.

XVII. WILMINGTON TRUCK ROUTE

It is recognized by both parties that the Developer does not directly control the trucks serving the Port. However, the Developer shall use its best efforts to notify truck drivers, truck brokers and trucking companies that trucks serving FTZ warehouses and originating in the Port of Los Angeles that they must confine their route to the designated Wilmington Truck Route of Alameda Street and "B" Street; Figueroa Street from "B" Street to "C" Street; and Anaheim Street east of Alameda Street. A copy of the Wilmington Truck Route is attached as Exhibit C, which may be modified from time to time at the sole discretion of the Executive Director with written notice to Developer."

## XVIII. 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.

## XIX. MISCELLANEOUS

- A. Construction. This Agreement shall be governed and construed in accordance with the Foreign-Trade Zones Act, regulations adopted by the Board thereunder and all amendments thereto, and the applicable laws of the State of California.
- B. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same Agreement.
- C. Further Instruments and Actions. Each party shall deliver such further instruments and take such further action as may be reasonably requested by the other in order to carry out the provisions and purposes of this Agreement.
- D. Headings. Headings and captions in this Agreement are solely for the convenience of reference and shall not affect its interpretation.
- E. Integration. This instrument contains the entire agreement of the parties, and no representations, inducements, promises, or agreements, oral or otherwise, not embodied herein shall be of any force or affect.
- F. Severability. If any provision of this Agreement is declared void or defective, that declaration will not affect the validity of any other provision of this Agreement.
- G. Waiver. No failure of either party hereto to exercise any right or power given it hereunder, or to insist upon strict compliance by the other party of any obligation hereunder, and no customs or practice at variance with the terms hereof, shall constitute a waiver of the party's right to demand exact compliance with the terms hereof.

- H. Gender. All terms and words used in this Agreement, regardless of the number or gender in which they are used, shall be deemed and construed to include any other number, singular or plural, any other gender, masculine, feminine, or neuter, as the context or sense of this Agreement or any paragraph or clause herein may require.
- I. Amendment. This Agreement cannot be changed orally but only by an agreement in writing executed by all parties hereto.
- J. Legal Action. If either party brings any action or proceeding to enforce, protect, or establish any right or remedy arising out of or based upon this Agreement, including, but not limited to, the recovery of damages for its breach, the prevailing party in said action or proceeding shall be entitled to recovery of its costs and reasonable attorney's fees, including the reasonable value of the services of the Office of City Attorney or house counsel of Developer. Developer hereby waives any claim against City and Grantee and its officers, agents or employees for damages or loss caused by any suit or proceedings brought by third parties directly or indirectly challenging the validity of this Agreement, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable or delaying the same or any part thereof from being carried out.
- K. City's Business Tax Ordinance - BTRC Number. If the Developer is operating or developing a site within the City of Los Angeles, then the Developer represents that is has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 et seq., of the Los Angeles Municipal Code). If applicable, the Developer will, upon request, provide evidence that said certificate has been obtained. If required, the Developer shall maintain, or obtain as necessary, all such certificates required by it under the ordinance and shall not allow such certificate to be suspended or revoked.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date next to their signatures.

THE CITY OF LOS ANGELES  
HARBOR DEPARTMENT

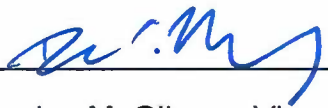
Date \_\_\_\_\_, 20\_\_

By \_\_\_\_\_  
EUGENE D. SEROKA  
Executive Director

Attest \_\_\_\_\_  
AMBER M. KLESGES  
Board Secretary

**11850 RIVERSIDE LLC**

Date July 29 \_\_\_\_\_, 2025

By  \_\_\_\_\_  
Douglas McGilvray, Vice President  
(Type/Print Name and Title)

By \_\_\_\_\_  
\_\_\_\_\_  
(Type/Print Name and Title)

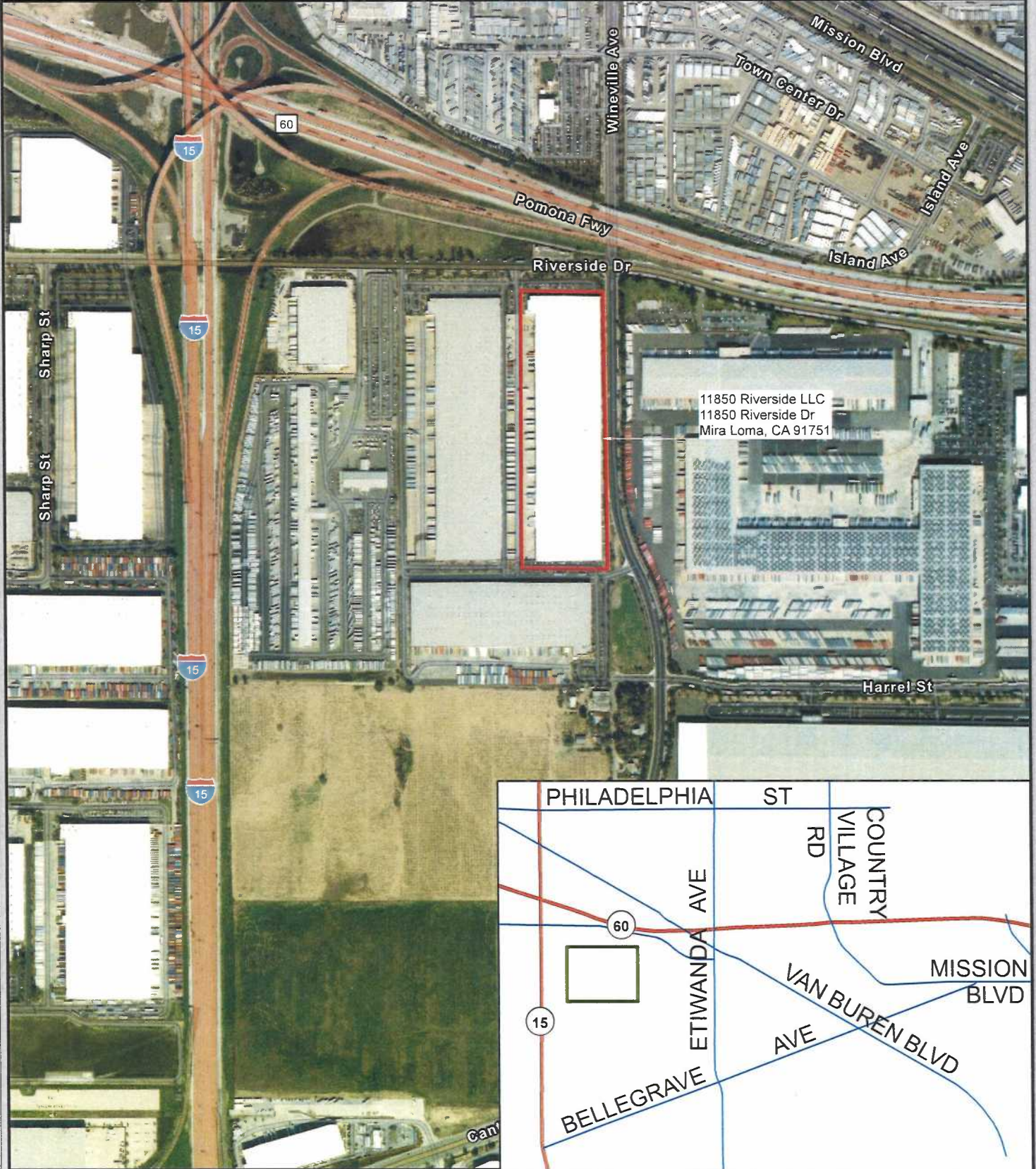
APPROVED AS TO FORM AND LEGALITY

August 18 \_\_\_\_\_, 2025  
HYDEE FELDSTEIN SOTO, City Attorney  
STEVEN Y. OTERA, General Counsel

By  \_\_\_\_\_  
HELEN J. SOK, Deputy City Attorney

HJS:mc

FTZ 202 Site 20  
11850 Riverside LLC



11850 Riverside LLC  
11850 Riverside Dr  
Mira Loma, CA 91751



Exhibit A  
Transmittal 2



## **EXHIBIT B - 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.

1. 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.

TRUCKS ENTERING AND LEAVING THE PORT MUST USE THE ROUTE SHOWN BELOW.  
CAMIONES ENTRANDO Y SALIENDO EL PORTO DEVEN DE USAR LA RUTA INDICADO ABAJO.

Ruta designado de camión de carga

# Designated Truck Route

at the Port of Los Angeles

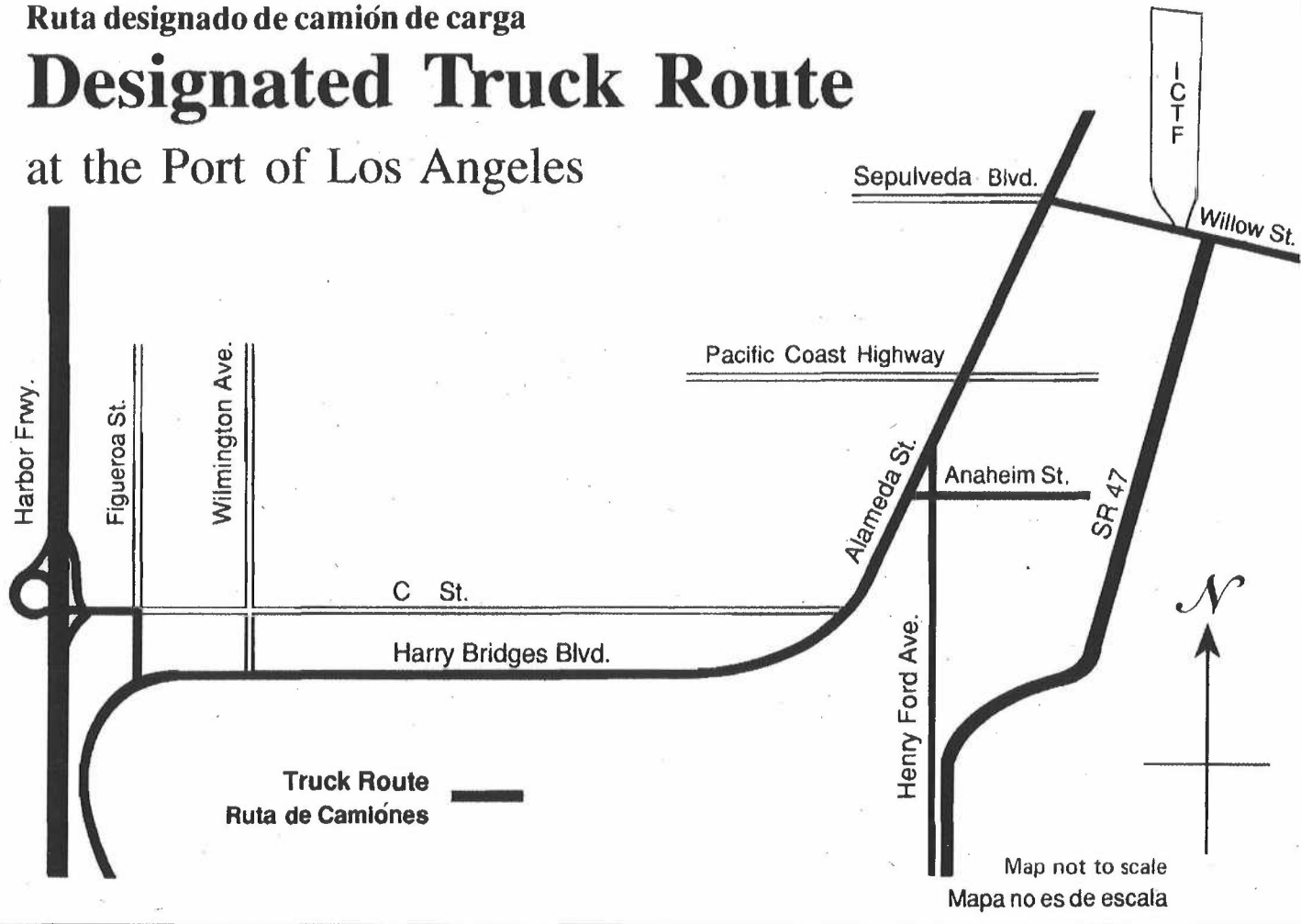


EXHIBIT C