

CITY OF LOS ANGELES HARBOR DEPARTMENT
Port of Los Angeles

CONTRACTOR ACCESS PERMIT

PERMIT NO. 948

The Executive Director of the Harbor Department ("Executive Director") of the City of Los Angeles ("City") hereby grants permission to J.C. BALDWIN CONSTRUCTION COMPANY ("Contractor") to occupy and use certain lands and/or waters and/or facilities within the Harbor District owned or under the control of City, acting through its Board of Harbor Commissioners ("Board"), subject to the following terms and conditions:

1. Premises. Contractor is permitted under this Contractor Access Permit ("Permit") to use the areas described as: the San Pedro Downtown Harbor, including bulkheads, walkways, promenade, floating docks and lawn, as delineated and more particularly described on Exhibit A ("Premises").

2. Permitted Use. The Premises shall be used for the following purposes: to execute repairs to the north and west bulkhead walls of the Downtown Harbor pursuant to Settlement Agreement No. 19-3713 between the City and Tetra Design, Inc., Reyes Construction, Inc., Hayward Baker, Inc., Diaz Consultants, Inc., Moffatt & Nichol, and AECOM ("Permitted Use"); provided, however, that the rights hereby granted to use the Premises for said purposes shall not be exclusive, and whenever the Premises, or any part thereof, are not required in whole or in part for the use of Contractor for the stated purposes, the Executive Director shall have the right to and may make other assignments to any other person or entity to use such Premises, or any part thereof. No offensive or refuse matter, or any substance constituting any unnecessary, unreasonable, or unlawful fire hazard, or material detrimental to the public health, shall ever be permitted by Contractor to be or remain on the Premises, and Contractor shall prevent any such material or matter from being or accumulating upon the Premises. Contractor further agrees not to keep on the Premises, or permit to be kept, used, or sold thereon, anything prohibited by any policy of fire insurance covering the Premises or any structure erected thereon.

3. Effective and Termination Dates. This Permit shall commence and become effective on February 19, 2020 ("Effective Date") and shall terminate on September 30, 2020 ("Termination Date"). Termination Date shall also mean the date of termination of this Permit by revocation as set forth in Section 4, for a conflict of interest as set forth in Section 18, for Contractor's misrepresentation as set forth in Section 19, by operation of law, or for any other reason.

4. Assignment Revocable. This Permit shall be revocable at any time prior to the Termination Date by Executive Director, at his or her sole option, upon the giving of at least seven (7) days' written notice to Contractor stating the date and time upon which this Permit shall terminate. Contractor understands and agrees that Contractor has the interest only of a licensee and has no other interest in the Premises. Contractor understands and agrees that the City reserves the unqualified and unconditional right at any time without any more notice to Contractor than set forth in this Section 4 to withdraw the Premises from Contractor's use provided the City refunds to Contractor any compensation previously collected for the number of days Contractor has actually been prevented from using the Premises. Contractor understands and agrees that, notwithstanding any expenditures it may have made in preparation for its use of the Premises, such withdrawal from use by City does not entitle Contractor or any other person to any damages. Neither City, nor any Board member, officer, or employee thereof, shall be liable in any manner to Contractor because of such revocation.

5. Compensation. For using the Premises pursuant to this Permit:

(a) At least thirty (30) days prior to the Effective Date, Contractor shall pay to the City's Harbor Department Zero Dollars (\$0.00) as compensation for the use of the Premises plus Zero Dollars (\$0.00) as

a refundable restoration and breakage deposit. Any deposit required under this Section 5(a) shall be in addition to any deposit required for the issuance of a Harbor Engineer Permit pursuant to Section 7 of this Permit.

(b) Compensation set forth in Section 5(a) is strictly for use of the Premises. Use of the Premises for purposes not expressly permitted under the provisions of this Permit, whether approved in writing by Executive Director or not, may also result in additional charges, including charges required under the Port of Los Angeles Tariff No. 4, as it may be amended or superseded ("Tariff"). Contractor agrees to pay such additional charges.

(c) Notwithstanding any other provision of this Permit, Contractor's obligation to pay all compensation to City shall be absolute and unconditional and shall not be affected by any circumstance including, without limitation, any set-off, counterclaim, recoupment, defense, or other right or claim which Contractor may have against City.

6. Premises Satisfactory to Contractor / Required Modifications. Contractor has inspected the Premises and agrees that they are suitable for the Permitted Use. No officer or employee of City has made any representation or warranty with respect to the Premises, except as described in writing and attached hereto as an addendum, if any, and in entering into this Permit, Contractor agrees it relies only on the provisions of the Permit. Any modification, improvement, or addition to the Premises and any equipment installation or removal required by the Fire Department, Department of Building and Safety, South Coast Air Quality Management District, Regional Water Quality Control Board, U.S. Coast Guard, Environmental Protection Agency, or any other agency in connection with Contractor's operations, shall be constructed, installed, or removed at Contractor's sole expense. Contractor shall obtain a Harbor Engineer Permit from the office of the Chief Harbor Engineer, Engineering Division, of City's Harbor Department ("Chief Harbor Engineer") and shall comply with the requirements of Section 7 of this Permit before making any modification, improvement, or addition to the Premises.

7. Alterations on Premises. Contractor shall not construct on or alter ("Alteration") the Premises, including a change in the grade, without first obtaining City's written approval and a Harbor Engineer Permit. Contractor shall submit to City a complete Application for Port Permit that attaches a complete set of drawings, plans, and specifications reflecting the proposed Alteration. Where applicable, the drawings, plans, and specifications must be prepared and stamped by a licensed engineer registered in the State of California. All projects in the Harbor District are subject to review by City's Harbor Department pursuant to the California Environmental Quality Act (CEQA) and the certified Port Master Plan. City's Chief Harbor Engineer shall have the right to reject or order reasonable changes in said drawings, plans, and specifications. Contractor shall obtain all permits necessary for such Alteration, including a Harbor Engineer Permit, prior to the commencement of such Alteration. Contractor shall keep the Premises free and clear of liens for labor and materials and shall hold City harmless from any responsibility in respect thereto. Contractor shall give written notice to the Chief Harbor Engineer, in advance, of the date it will commence any Alteration. Immediately upon the completion of the Alteration, Contractor shall notify the Chief Harbor Engineer of the date of such completion.

8. Signs and Lighting. Contractor shall not erect or display, or permit to be erected or displayed, on the Premises any signs or advertising matter of any kind without first obtaining the written consent of Executive Director. If Contractor obtains consent, Contractor shall also comply with the requirements of Section 7 of this Permit prior to erecting or displaying any signs or advertising matter on the Premises. Contractor shall further post, erect, and maintain on the Premises such signs as Executive Director may direct. All signs erected or displayed on the Premises shall comply with the regulations set forth in Section 14.4.1 *et seq.* of the Los Angeles Municipal Code. Contractor acknowledges that the Premises may lack adequate lighting for a Permitted Use and that Contractor is responsible for installing temporary or permanent lighting as it may deem necessary to perform any labor, or to protect any property

stored or located on the Premises, or to otherwise use the Premises for any Permitted Use. Contractor shall comply with the requirements of Section 7 of this Permit prior to installing any lighting. Any lighting installed shall meet Illuminating Engineering Society / American National Standards Institute (IES/ANSI) standards.

9. Immediate Access to Repair / Maintain Premises. Contractor is aware that City's Department of Water & Power, other utility, or other maintenance or service from or on behalf of City, may need to service or repair certain facilities on the Premises. If such repair is necessary, Contractor agrees to relocate, at its expense, all of its equipment and other personal property to provide such personnel adequate access. Contractor agrees to complete such relocation within twenty-four (24) hours of receiving notice from City except in case of emergency. Contractor agrees neither the department servicing the Premises nor City shall be responsible for any loss Contractor may suffer as a result of such maintenance or repair.

10. SECTION 10 IS DELETED.

11. Compliance with Applicable Laws and Environmental Obligations.

(a) At all times in its use and occupancy of the Premises and its conduct of operations thereon, Contractor, at Contractor's sole cost and expense, shall comply with all applicable federal, state, county, City, or government agency laws, statutes, ordinances, standards, codes (including all building codes), rules, regulations, requirements, or orders in effect now or hereafter in effect ("Applicable Laws") pertaining to the use or condition of the Premises and/or Contractor's operations and conduct of its business. Applicable Laws shall include, but not be limited to, all environmental laws and regulations in effect now or hereafter in effect including:

(i) The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") (42 USCS §§ 9601 *et seq.*) in its present or successor form and its implementing regulations;

(ii) The Resource Conservation and Recovery Act and Hazardous and Solid Waste Amendments of 1984 ("RCRA") (42 USCS §§ 6901 *et seq.*) in its present or successor form and its implementing regulations;

(iii) The federal Clean Water Act (33 USCS §§ 1251 *et seq.*) in its present or successor form and its implementing regulations;

(iv) The California Porter-Cologne Water Quality Control Act (California Water Code §§ 13020 *et seq.*) in its present or successor form and its implementing regulations;

(v) The federal Clean Air Act (42 USCS §§ 7401 *et seq.*) in its present or successor form and its implementing regulations;

(vi) The California Clean Air Act of 1988 (Chapter 1568, Statutes of 1988) in its present or successor form and its implementing regulations;

(vii) The California Lewis-Presley Air Quality Management Act of 1976 (California Health and Safety Code §§ 40400 *et seq.*) in its present or successor form and its implementing regulations; and

(viii) Any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standard of conduct)

now or hereinafter in effect which concerns Environmentally Regulated Material (as defined in Section 11(c)), the Premises, and/or Contractor's use and/or occupancy thereof.

(b) It is the parties' intent that Contractor will make, at Contractor's sole cost and expense, any and all alterations, improvements, and changes, whether structural or nonstructural, that are required by Applicable Laws. In addition, Contractor shall comply immediately with all applicable environmental policies, rules, and directives of City's Harbor Department, known as the Port Environmental Policies. This Permit shall be construed in accordance with California law.

(c) Contractor shall not cause or permit any Environmentally Regulated Material, as defined in this Section 11(c), to be generated, brought onto, handled, used, stored, transported from, received, or disposed of (hereinafter sometimes collectively referred to as "handle" or "handled") in or about the Premises except for limited quantities of standard office and janitorial supplies containing chemicals categorized as Environmentally Regulated Material and except as permitted, required, or necessary under Section 2 of this Permit, if any. Contractor shall handle all such Environmentally Regulated Material in strict compliance with Applicable Laws in effect during Contractor's occupancy. The term "Environmentally Regulated Material" shall mean:

- (i) Any "hazardous substance" as that term is defined in the CERCLA;
- (ii) "Hazardous waste" as that term is defined in the RCRA;
- (iii) Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standard of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereinafter in effect);
- (iv) Radioactive material, including any source, special nuclear, or byproduct material as defined in the Atomic Energy Act of 1954 (42 USCS §§ 2011 *et seq.*) in its present or successor form;
- (v) Asbestos in any form or condition;
- (vi) Polychlorinated biphenyls ("PCBs") and any substance or compound containing PCBs; and
- (vii) Petroleum products other than the fuel and lubricants required to operate Contractor's equipment.

(d) Contractor shall remediate or cause the remediation of any spill, discharge, or release of any Environmental Regulated Material that occurs in, on, under, or about the Premises ("Contamination"), whether caused by Contractor or any third-party during Contractor's occupancy, including Contamination of improvements, adjacent harbor waters, soil, sediment, groundwater, or air, or of adjacent premises (including soil, sediment, groundwater, or air) and including Contamination that is considered a nuisance under Applicable Laws. Remediation shall be to the satisfaction of City, and the requirements of the applicable governmental agencies including the Regional Water Quality Control Board, by removing or effecting the removal of all Contamination including but not limited to contaminated soil, water, groundwater, sediment, or other material it may place or cause to be placed on site such that no encumbrances, such as deed or land use restrictions, be imposed on the Premises as a result of such Contamination. In fulfilling the obligations under this Section 11, Contractor shall also comply with any other conditions reasonably imposed by City. If Contractor knows or has reasonable cause to believe that Contamination has occurred in, on, under, or about the Premises, Contractor shall immediately give written notice to City.

(e) Contractor bears sole responsibility for full compliance with any and all Applicable Laws regarding the use, storage, handling, distribution, processing, and/or disposal of Environmentally Regulated Material including Contamination, regardless of whether the obligation for such compliance or responsibility is placed on the owner of the Premises, on the owner of any improvements on the Premises, on the user of the Premises, or on the user of any improvements on the Premises. For purposes of CERCLA, and any and all other Applicable Laws, Contractor shall be considered the owner and operator. Contractor agrees that any claims, damages, fines, or other penalties asserted against or levied on City and/or Contractor as a result of noncompliance with any Applicable Laws shall be the sole responsibility of Contractor and that Contractor shall indemnify and hold City harmless from any and all such claims, damages, fines, penalties, and/or judgments, as well as any costs expended to defend against such claims, damages, fines, and penalties and/or judgments, including attorneys' and experts' fees. City, at its sole option, may pay such claims, damages, fines, penalties, and/or judgments resulting from Contractor's noncompliance with any of the aforementioned authorities, and Contractor shall indemnify and reimburse City for any such payments.

(f) In discharging Contractor's obligations under this Permit, if Contractor disposes of any Contamination, within thirty (30) days of Contractor's receipt of original documents, Contractor shall provide City copies of all records, including a copy of each uniform hazardous waste manifest indicating the quantity and type of material being disposed of, the method of transportation of the material to the disposal site, and the location of the disposal site. Neither City, Port of Los Angeles, nor Los Angeles Harbor Department shall appear on any manifest document as a generator of such material.

(g) In discharging Contractor's obligations under this Permit, Contractor shall perform any tests using a State of California Department of Health Services certified testing laboratory or other similar laboratory upon City's written approval. By signing this Permit, Contractor hereby irrevocably directs any such laboratory to provide City, upon written request from City, copies of all of its reports, tests results, and data gathered. As used in this Section 11, "Contractor" includes agents, employees, contractors, subcontractors, and/or invitees of Contractor.

(h) Contractor shall implement City's Harbor Department's policies, known as Best Management Practices, in order to reduce the potential for pollutants to enter Harbor waters, as follows:

(i) Facility Operations: Clean and maintain facility regularly. Use dry cleaning methods whenever possible; avoid washing areas down. Do not allow sweepings or sediment to enter the storm drain or the Harbor. Collect wash water for disposal or direct to a clarifier. Do not encourage scavengers. Do not feed birds, feral cats, sea lions, or other scavengers. Recycle whenever possible.

(ii) Maintenance Operations: Use drip pans to prevent any drips or leaks from contacting the ground during maintenance and fueling operations. Clean spills or drips immediately using dry methods. Use spill cleanup kits to confine or contain spills. Do not hose down equipment or allow process water to enter the storm drain or the Harbor. Place tarps beneath maintenance and repair operations to prevent materials such as paint chips and metals from contacting the ground.

(iii) Material and Waste Handling and Storage: Train employees responsible for waste management on handling and disposal procedures. Store all hazardous and universal waste in accordance with all federal, state, and local regulations. Store all materials and waste inside and in secondary containment. If stored outside, store only in designated, covered, and contained areas. Store waste in covered, leak proof, labeled containers. Keep lids closed on all outdoor containers including dumpsters. Store all oily products (e.g. engines), batteries, tires, and metal off the ground and under cover when stored outdoors.

12. Restoration and Surrender of Premises. Upon the termination of this Permit, Contractor shall quit and surrender occupancy and use of the Premises to City and shall, without cost to City, remove any and all its property.

13. Indemnity.

(a) Except as may arise from the sole negligence or willful misconduct of City, Contractor shall at all times relieve, indemnify, protect, and save harmless City and any and all of its boards, officers, agents, and employees from any and all claims and demands, actions, proceedings, losses, liens, costs, and judgments of any kind and nature whatsoever, including cost of litigation (including all actual litigation costs incurred by City, including but not limited to costs of experts and consultants), for death of or injury to persons, or damage to property, including property owned by or under the care and custody of City, and for civil fines and penalties that may arise from or be caused directly or indirectly by:

(i) Any dangerous, hazardous, unsafe, or defective condition of, in, or on the Premises, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the Premises by Contractor, its officers, agents, employees, sublessees, Contractors, or invitees;

(ii) Any operation conducted upon, or any use or occupation of, the Premises by Contractor, its officers, agents, employees, sublessees, Contractors, or invitees under or pursuant to the provisions of this Permit or otherwise;

(iii) Any act, error, omission, willful misconduct, or negligence of Contractor, its officers, agents, employees, sublessees, Contractors, or invitees, arising from the use, operation, or occupancy of the Premises, regardless of whether any act, omission, or negligence of City, its officers, agents, or employees contributed thereto;

(iv) Any failure of Contractor, its officers, agents, or employees to comply with any of the terms or conditions of this Permit or any Applicable Laws; or

(v) The conditions, operations, uses, occupations, acts, omissions, or negligence referred to in subdivisions (i), (ii), (iii) and (iv) above, existing or conducted upon or arising from the use or occupation by Contractor or its invitees on any other premises within the Harbor District, as defined in the Charter of City.

(b) Contractor shall also indemnify, defend, and hold City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution of the value of the Premises, damages for loss or restriction on use of rentable or useable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultants' fees, and experts' fees) which arise during the term of this Permit as a result of Contamination for which Contractor is otherwise responsible for under the terms of this Permit.

14. Insurance. In addition to, and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 13 of this Permit, Contractor shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Permit the following insurance:

(a) Commercial general liability or marine general liability insurance, including contractual liability and property damage insurance, written by an insurance company authorized to do business in the State of California, or approved by the California Department of Insurance as a surplus lines insurer eligible to do business in California, rated VII, A- or better in Best's Insurance Guide (or an alternate guide

acceptable to City if a Best's Rating is not available) with Contractor's normal limits of liability but not less than One Million Dollars (\$1,000,000) for injury or death to one or more persons out of each accident or occurrence and One Million Dollars (\$1,000,000) for bodily injury and property damage for each occurrence / Two Million Dollars (\$2,000,000) general aggregate. Where Contractor provides or dispenses alcoholic beverages, host liquor liability coverage shall be provided with the same limits of liability as above. Where Contractor provides pyrotechnics, pyrotechnics liability shall be provided with the same limits of liability as above.

(b) Where Contractor utilizes any vehicles, Contractor shall procure and maintain at its expense and keep in force at all times during the term of this Permit automobile insurance with limits of liability not less than One Million Dollars (\$1,000,000) covering injuries or death resulting from each accident or claim arising out of any one claim or accident. This insurance shall cover all owned, non-owned, and/or hired automobiles.

(c) Limits for coverage required under Section 14 of this Permit 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 sole judgment, such retention or self insurance is justified by the net worth of Contractor. The self-insured retention or self insurance shall provide that any other insurance maintained by City's Harbor Department shall be excess of Contractor's insurance and shall not contribute to it. In all cases, regardless of any deductible, retention, or self insurance, Contractor shall have all the obligations of an "insurer" under the California Insurance Code and said insurance shall be deemed to include a defense of suits provision and a severability of interest clause.

(d) If Contractor maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

(e) Policies submitted pursuant to Section 14 of this Permit shall, in addition, provide the following coverage either in the original policy or by endorsement substantially as follows:

(i) "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 the City of Los Angeles, the Board of Harbor Commissioners, the Harbor Department, and their officers, agents, and employees, while acting within the scope of their authority, are included as additional insureds with respect to all operations, occupations, acts, and activities of the insured pursuant to the Contractor Access Permit, and any amendments, modifications, extensions, or renewals thereto, regardless of whether liability is attributable to the named insured, or a combination of the insured and additional insureds, as is consistent with the provisions of California Insurance Code Section 11580.04. Such insurance is to be primary and not contributing with any other insurance maintained by said additional insureds. The policies listed below shall apply severally as to each insured except that the inclusion of more than one insured shall not operate to increase the limit of the Contractor's liability; and the inclusion thereunder of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included."

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

(iii) "In the event of one of the named insureds 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 insurance company's limit of liability."

(iv) "Notice of occurrences or claims under the policy shall be made to the City's Risk Manager with copies to the Los Angeles City Attorney's Office."

(f) Contractor shall secure the payment of compensation to any employees injured while performing work or labor necessary for and incidental to performance under this Permit in accordance with Section 3700 of the California Labor Code. Contractor shall file with City one of the following:

(i) A certificate of consent to self insure issued by the Director of Industrial Relations, State of California;

(ii) A certificate of Workers' Compensation insurance issued by an admitted carrier;
or

(iii) An exact copy or duplicate thereof of the policy certified by the Director of Industrial Relations or the insurer.

Such documents shall be filed prior to Contractor's occupancy of the Premises. Where Contractor has employees who are covered by the United States Longshore and Harbor Workers' Compensation Act ("USLHWC Act"), Contractor shall furnish proof of such coverage to City. It is suggested that Contractor consult with its insurance professional of its choosing to determine whether its proposed operation methods will render its employees subject to coverage under the USLHWC Act. All Workers' Compensation insurance submitted to City shall include an endorsement providing that any carrier paying benefits agrees to waive any right of subrogation it may have against City.

(g) All insurance procured by Contractor shall comply with the following:

(i) For each insurance policy, the Contractor shall give to 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, Attn: Risk Manager and City Attorney's Office, 425 S. Palos Verdes Street, San Pedro, California 90731.

(ii) Electronic submission is the required method of submitting Contractor's insurance documents. KwikComply is City's online insurance compliance system which is designed to be used by insurance brokers and agents to submit client insurance certificates directly to City. Contractor's insurance broker or agent shall obtain access to KwikComply at <http://kwikcomply.org> and follow the instructions to register and submit the appropriate proof of insurance on Contractor's behalf.

(iii) Prior to the expiration of each policy, Contractor shall show through submitting to KwikComply that the policy has been renewed or extended or, if new insurance has been obtained, submit the appropriate proof of insurance to KwikComply. If Contractor neglects or fails to secure or maintain the required insurance, or if Contractor fails to submit proof of insurance as required above, City's Harbor Department may, at its option and at the expense of Contractor, obtain such insurance for Contractor.

(iv) Upon request by City, Contractor must furnish a copy of the binder of insurance and/or full certified copies of any or all policies of insurance required herein. Contractor's obligation to provide such copies shall survive the Termination Date regardless of whether City's request is made prior to or after the Termination Date.

(v) Contractor shall report in writing to Executive Director within fifteen (15) days after it, its officers, or its managing agents have knowledge of any accident or occurrence involving death of or

injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000) to property, occurring upon the Premises, or elsewhere within the Harbor District, if Contractor'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 relevant information as may be known to Contractor, its officers, or its managing agents.

15. No Assignments/Sublicenses/Transfers. No transfer of this Permit, or any interest therein or any right or privilege thereunder, regardless of whether accomplished by a separate agreement, sale of stock or assets, merger or consolidation or reorganization by or of Contractor (or any entity that directly or indirectly controls or owns fifty percent (50%) or more of Contractor), or accomplished in any other manner, whether voluntary or by operation of law, including but not limited to assignment, sublicense, transfer, gift, hypothecation, or grant of total or partial control, or any encumbrance of this Permit (hereafter collectively referred to as "Transfer"), shall be valid or effective for any purpose. "Transfer" also shall include the involvement of Contractor or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout, or otherwise) whether or not a formal assignment or hypothecation of this Permit or Contractor's assets, which involvement results in a reduction of the net worth of Contractor (defined as the net worth of Contractor, excluding guarantors, established by generally accepted accounting principles) by an amount greater than twenty-five percent (25%) of such net worth as it was represented at the time of the execution of this Permit or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater. For purposes of this Section 15, the term "by operation of law" includes but is not limited to: (1) the placement of all or substantially all of Contractor's assets in the hands of a receiver or trustee; or (2) a transfer by Contractor for the benefit of creditors; or (3) transfers resulting from the death or incapacity of any individual who is an Contractor or of a general partner of an Contractor. Notwithstanding the provisions of this Section 15, Contractor may enter into sublicenses with vendors, performers, or other individuals or entities participating in an event authorized under this Permit provided that Contractor remains primarily responsible for the event and all obligations under this Permit.

16. Contractor Name Change. Contractor shall notify City in writing within ten (10) days of making any changes to its name as set forth in the preamble of this Permit and shall provide City with all documents in connection with the change.

17. Transfer of Stock. If Contractor is a corporation and more than ten percent (10%) of the outstanding shares of capital stock of Contractor is traded during any calendar year after filing its application for this Permit, Contractor shall notify Executive Director in writing within ten (10) days after the transfer date; provided, however, that this provision shall have no application in the event the stock of Contractor is listed on either the New York Stock Exchange, NASDAQ, or the NYSE Arca Options. If more than twenty-five percent (25%) of the Contractor's stock is transferred, whether by one or by means of successive transfers, regardless of whether Contractor is a publicly or privately held entity, such transfer shall be deemed an assignment within the meaning of Section 15. Any such transfer shall void this Permit. Such a transfer is agreed to be a breach of this Permit which shall entitle the Executive Director to immediately terminate this Permit by giving written notice thereof.

18. Conflict of Interest. It is understood and agreed that the parties to this Permit have read and are aware of the provisions of Section 1090 *et seq.* and Section 87100 *et seq.* of the Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of City's Harbor 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 Permit. Notwithstanding any other provision of this Permit, it is further understood and agreed that if such a financial interest does exist at the inception of this Permit, City may immediately terminate this Permit by giving written notice thereof.

19. Termination for Misrepresentations. This Permit is granted pursuant to an application filed by Contractor with City. If the application or any of the attachments thereto contain any misstatement of fact which, in the judgment of Executive Director, affected his or her decision to grant said Permit, Executive Director may terminate this Permit immediately upon written notice to Contractor.

20. Notice. In all cases where written notice, including the service of legal pleadings, is to be given under this Permit, service shall be deemed sufficient if said notice is deposited in the United States mail, in a sealed envelope, addressed as set forth below, with postage thereon fully prepaid. 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 City: Los Angeles Harbor Department
P.O. Box 151
San Pedro, California 90733-0151
Attention: Executive Director
Attention: Director of Waterfront & Commercial Real Estate

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

To Contractor: J.C. Baldwin Construction Co.
2459 Impala Drive
Carlsbad, CA 92010
Attention: Danny Cohen (T: 766-438-9275)

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

21. Construction of Agreement. This Permit shall not be construed against the party preparing it and shall be construed without regard to the identity of the person who drafted this Permit.

22. No Waiver. No waiver by either party at any time of any terms or conditions of this Permit shall be a waiver at any subsequent time of the same or any other term or condition. The acceptance of compensation by City shall not be deemed a waiver of any other breach by Contractor of any term or condition of this Permit other than the failure of Contractor to timely make any particular compensation payment so accepted. No breach of a covenant, term, or condition of this Permit will be deemed to have been waived by City unless the waiver is in writing and executed by City.

23. Joint and Several Obligations of Contractor. If more than one individual or entity comprises Contractor, the obligations imposed on each individual or entity that comprises Contractor under this Permit shall be joint and several.

24. Time of the Essence. Time is of the essence in this Permit.

25. Nondiscrimination and Affirmative Action Provisions. Contractor agrees not to discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded under or pursuant to this Permit shall contain this provision.

26. Minority, Women and Other Business Enterprise (MBE/WBE/OBE) Outreach Program. It is the policy of City to provide minority business enterprises ("MBEs"), women's business enterprises ("WBEs"), and all other business enterprises ("OBEs") an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Contractor shall assist City in implementing this policy and shall use its best efforts to afford the opportunity for 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 MBEs, WBEs, and OBEs, have an equal opportunity to compete for and participate in any such participation opportunity which might be presented under this Permit.

27. Service Contractor Worker Retention Policy and Living Wage Policy Requirements. Board adopted Resolution No. 5771 on January 3, 1999, to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention, set forth at Section 10.36 *et seq.* of the Los Angeles Administrative Code, as the policy of City's Harbor Department. Further, Charter Section 378 requires compliance with City's Living Wage requirements, set forth at Section 10.37 *et seq.* of the Los Angeles Administrative Code. Contractor shall comply with these policies wherever applicable. Violation of this provision, where applicable, shall entitle City to terminate this Permit and otherwise pursue legal remedies that may be available.

28. Wage and Earnings Assignment Orders/Notices of Assignments. Contractor is obligated to fully comply with all applicable state and federal employment reporting requirements for Contractor and/or its employees. Contractor 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. Contractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Section 5230 *et seq.* of the California Family Code. Contractor will maintain such compliance throughout the term of this Permit.

29. Equal Benefits Policy. Board adopted Resolution No. 6328 on January 12, 2005, to adopt the provisions of Los Angeles City Ordinance No. 172,908, as amended, relating to Equal Benefits, set forth at Section 10.8.2.1 *et seq.* of the Los Angeles Administrative Code, as a policy of City's Harbor Department. Contractor shall comply with the policy wherever applicable. Violation of the policy shall entitle City to terminate this Permit and otherwise pursue legal remedies that may be available.

30. Business Tax Registration Certification. Contractor represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by City's Business Tax Ordinance set forth at Sections 21.00 *et seq.* of the Los Angeles Municipal Code. Contractor shall provide City evidence that all such Certificates have been obtained. Contractor shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended.

31. Wilmington Truck Route. It is recognized by both parties that Contractor may not directly control any trucks serving the Premises. However, Contractor will make its best effort to notify truck drivers, truck brokers, and trucking companies that trucks serving the Premises must confine their route to the designated Wilmington Truck Route of Alameda Street and Harry Bridges Boulevard; Figueroa Street from Harry Bridges Boulevard to "C" Street; and Anaheim Street east of Alameda Street.

32. State Tidelands Act. This Permit, the Premises, and Contractor's use and occupancy thereof shall 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 (1929 Cal. Stats., Ch. 651), as amended, and Article VI of the Charter of City of Los

Angeles relating to such lands. Contractor shall not undertake any use of the Premises, even a Permitted Use, which is or will be inconsistent with such limitations, conditions, restrictions, and reservations.

33. Section Headings. Section headings used in this Permit are merely descriptive and not intended to alter the terms and conditions of the sections.

34. Integrated Agreement. It is understood that this Permit supersedes and cancels any and all previous negotiations, arrangements, representations, agreements, negotiations, and understandings, if any, between the parties related to the subject matter of this Permit and there are no oral agreements that affect any of the terms of this Permit.

35. Amendments. No provision of this Permit may be amended except by an agreement in writing signed by City and Contractor. Any such modifications are subject to all applicable approval processes set forth in City's Charter, City's Administrative Code, or other applicable law.

36. Governing Law and Venue. This Permit is made and entered into in the State of California and shall in all respects be construed, interpreted, enforced, and governed under the laws of the State of California without reference to choice of law rules. Any action or proceeding arising out of or related to this Permit shall be filed and litigated in the state or federal courts located in the County of Los Angeles, State of California.

(signature page follows)

DATED: _____

CITY OF LOS ANGELES
HARBOR DEPARTMENT

By: _____
EUGENE D. SEROKA
Executive Director

The undersigned Contractor hereby accepts the foregoing Permit and agrees to abide by, to be bound by, and to observe each and every of the terms, conditions, and covenants thereof, including those set forth in any addendum.

DATED: 1-23-2020

J.C. BALDWIN CONSTRUCTION COMPANY

By: Paul McKee
Name: PAUL MCKEE
Title: PRESIDENT

Attest: [Signature]
Name: Danny Cohen
Title: Project Engineer

APPROVED AS TO FORM AND LEGALITY

JAN 28, 2020
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By: [Signature]
Kenneth F. Mattfeld, Deputy