

State of California – Natural Resources Agency  
DEPARTMENT OF PARKS AND RECREATION  
DIVISION OF BOATING AND WATERWAYS

Transmittal 1

**GRANT AGREEMENT**

**GRANTEE:** City of Los Angeles Harbor Department

**GRANT PERFORMANCE PERIOD** is from: Effective date and continues to February 1, 2021.

**GRANT AGREEMENT PERFORMANCE PERIOD** is from: Effective date and continues 20 years from Date of Acceptance of Project.

**PROJECT TITLE: San Pedro Public Market Courtesy Dock (#1124) GRANT NUMBER: C8962433**

The Grantee agrees to the terms and conditions of this grant, hereinafter referred to as Agreement, and the State of California, acting through its Director of Parks and Recreation, pursuant to the State of California agrees to fund the total State grant of \$1,349,623.00 identified in Exhibit B which is a part of the GRANT AGREEMENT consisting of: Grant Conditions, Page 1, Exhibit A "Boating Infrastructure Grant (BIG) Construction and Operation Grant Agreement", Pages 1 - 29, Exhibit B "Boating Infrastructure Grant Program Tier II Application from the City of Los Angeles Harbor Department ", Pages 1 - 23, Exhibit C, "GTC 04/2017 General Terms and Conditions". Pages 1 – 4.

This Grant is funded by the U.S. Fish and Wildlife & Sport Fish Restoration Program, administered by California Department of Parks and Recreation, Division of Boating and Waterways.

Total Federal FY18/19 award, F17AP00247 Boating Infrastructure Grant Program-Tier II, to California is: \$1,349,623.00.

**Grantee:** City of Los Angeles  
Harbor Department  
**Address:** 425 S. Palos Verdes St.  
San Pedro, CA 90731-3309

**Agency:** Department of Parks and Recreation  
Division of Boating and Waterways  
**Address:** One Capitol Mall, Suite 500  
Sacramento, CA 95814

BY: \_\_\_\_\_  
(Authorized Signature)

BY: \_\_\_\_\_  
(Authorized Signature)

EUGENE D. SEROKA, EXECUTIVE DIRECTOR  
(Printed Name and Title of Authorized Representative)

KEREN DILL, STAFF SERVICES MANAGER II  
(Printed Name and Title of Authorized Representative)

Date \_\_\_\_\_

Date \_\_\_\_\_

**CERTIFICATE OF FUNDING  
(FOR STATE USE ONLY)**

GRANT <b>C8962433</b>	AMENDMENT NO	FISCAL SUPPLIER NO <b>0000012416</b>	PROGRAM <b>2855015</b>	
AMOUNT ENCUMBERED BY THIS DOCUMENT <b>\$1,349,623.00</b>	FUND TITLE <b>FEDERAL TRUST FUND (F17AP00247)</b>		AGENCY BILLING CODE NO <b>053709</b>	
PRIOR AMOUNT ENCUMBERED BY THIS DOCUMENT <b>\$0.00</b>	GL / APPROP REF / FUND <b>3790-101-0890</b>	CHAPTER <b>14</b>	STATUTE (ENY) <b>2017</b>	FISCAL YEAR <b>2018/19</b>
TOTAL AMOUNT ENCUMBERED TO DATE <b>\$1,349,623.00</b>	RPTG STRUCTURE <b>37900709</b>	ACCOUNT / ALT ACCOUNT <b>5432000 0000000000</b>	ACTIVITY <b>68328</b>	PROJECT <b>379065622200</b>
T.B.A. NO	<i>I hereby certify upon my own personal knowledge that the budgeted funds are available for this encumbrance.</i>			
B.R.NO	ACCOUNTING OFFICER'S SIGNATURE		DATE	

**Grant Conditions:**

1. The Division of Boating and Waterways (DBW) and US Fish and Wildlife Service (USFWS) must provide prior written approval for any changes to the project scope or project objective listed in Exhibit B of this agreement.
2. The new dock will be available to transient recreational vessels at least 26-feet in length as defined by the Federal Regulations for the Boating Infrastructure Grant (BIG) Program (50CFR 86.3). Pending approval from USFWS, the Port will enforce a maximum of 10% of the total dock tie-up space to vessels less than 26-feet in length. The port will ensure this ratio is maintained at all times by appropriate signage and onsite monitoring.
3. Per the Port's proposal and this grant agreement, the minimum required match is 57%. This minimum must be maintained at 57% of the BIG total eligible project costs even if the project costs exceed or fall below the proposed total project costs. Eligible project costs are those directly related to servicing recreational vessels of 26-feet or more in length. Therefore 90% of the total construction costs are eligible project costs.
4. An approved grant Resolution from the Port of Los Angeles must be received by DBW prior to any grant funding being dispersed by DBW.

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**BOATING INFRASTRUCTURE GRANT (BIG)  
CONSTRUCTION AND OPERATION GRANT AGREEMENT**

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**BOATING INFRASTRUCTURE GRANT (BIG)  
CONSTRUCTION AND OPERATION GRANT AGREEMENT**

**ARTICLE 1. - DEFINITIONS**

- A. ALLOWABLE PROJECT COSTS means those permitting, planning, signage, labor, design, material and construction costs which are necessarily incurred by the Grantee for the purpose of completing the Project and are covered by the Grant as eligible Grant activities; such Project costs shall not include any expenses incurred prior to the Effective Date of this Agreement nor any expenses incurred for ineligible activities unless otherwise noted in the Project Scope and Cost Estimate (Exhibit B). Such Project costs shall not include indirect or overhead charges claimed by the Grantee.
- B. DATE OF ACCEPTANCE means the date specified on the Project Completion Certification and which denotes the beginning of the twenty (20) year portion of the grant term in accordance with Article 3 of this exhibit.
- C. DEPARTMENT means the Department of Parks and Recreation, Division of Boating and Waterways (DBW).
- D. EFFECTIVE DATE means either the mutually agreed upon Project start date or the approval date by the Department of General Services (DGS), whichever is later. In cases where DGS approval is not required, this Agreement is of no force or effect until the date of the last signature. No work shall commence until the Effective Date.
- E. GRANT means the funds provided pursuant to U.S. Fish and Wildlife Service, Boating Infrastructure Grant Program, 50 CFR Part 86 Final Rules.
- F. GRANTEE means the person or entity identified as the Grantee on the face page of the Agreement.
- G. PROJECT means the Boating Infrastructure Grant proposal submitted by the Grantee to the Department and attached and made part of the Agreement as Exhibit B.
- H. PROJECT AREA means the area delineated in Exhibit B within which the Project will be undertaken.
- I. PROJECT COMPLETION CERTIFICATION means a fully executed Notice of Completion, or equivalent, which states the Grantee has accepted the Project as complete on a specific date (Date of Acceptance).

**BOATING INFRASTRUCTURE GRANT (BIG)  
CONSTRUCTION AND OPERATION GRANT AGREEMENT**

**ARTICLE 2. - GRANTEE'S WARRANTIES**

Grantee warrants that the obligation created by this Agreement will not create an indebtedness or liability contrary to the provisions of Section 18 of Article XVI of the Constitution of the State of California.

**ARTICLE 3. - TERM OF AGREEMENT**

- A. The term of this Agreement, subject to the provisions for prior termination, shall begin on the Effective Date of the Agreement and shall continue for twenty (20) years from the date that the Project is accepted by the Department.
- B. This Agreement may be extended, amended, or canceled upon written agreement of both the Department and the Grantee.

**ARTICLE 4. - GRANT**

- A. The Department hereby grants up to One Million, Three Hundred Forty Nine Thousand Six Hundred and Twenty Three Dollars and No Cents, (\$1,349,623.00) to the Grantee for the construction/renovation of boating facilities for recreational boats 26 feet or more in length at San Pedro Public Market Courtesy Dock in compliance with the regulations of the Boating Infrastructure Grant Program (50 CFR Part 86).
- B. The Grant provides for reimbursement for approved expenditures with Federal Funds [FED CATALOGUE 15.622].
- C. This Grant is contingent upon approval of the Project by the State and the U.S. Fish and Wildlife Service. The Grantee shall satisfy all applicable state and federal laws, regulations, and authorities; including but not limited to the following federal authorities 50 CFR Part 86, 2 CFR 200.
- D. The Project work shall be in accordance with the approved Proposal for National Boating and Infrastructure Grant Program, designated as Exhibit B, which is made part of this Agreement.
- E. This Grant is subject to the terms and conditions in Exhibits A, B, and C of this Agreement.

**BOATING INFRASTRUCTURE GRANT (BIG)  
CONSTRUCTION AND OPERATION GRANT AGREEMENT**

**ARTICLE 5. - COMPLIANCE WITH LAW, REGULATION AND POLICY**

Grantee shall comply with all applicable laws and regulations of the State of California, U.S. Fish and Wildlife Code of Federal Regulations (2 CFR 200, 50 CFR 86), Equal Opportunity (41 CFR 60-1.4(b)), Copeland "Anti-Kickback" Act (40 U.S.C. 3145), Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements" (37 CFR Part 401), Clean Air Act (42 U.S.C. 7401-7671q.), and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), Debarment and Suspension (Executive Orders 12549 and 12689), Byrd Anti-Lobbying amendment (31 U.S.C. 1352). Updated regulations are available at the U.S. Fish and Wildlife website <http://www.fws.gov/grants/resources.html>.

**ARTICLE 6. - PROJECT COMPLETION DATE**

The Grantee shall complete the construction/renovation of the boating infrastructure facility as described in the Budget Narrative (Project Scope) (Exhibit B) and hereinafter referred to as "Project" no later than February 1, 2021.

**ARTICLE 7. - LAND CONTROL**

- A. The Grantee shall retain ownership or control of all land within the Project area and shall not sell, exchange, transfer, mortgage, hypothecate, lease, assign or sublease in any manner all or any portion of the real property within the Project area, or required in connection therewith, without advance written approval of the Department.
- B. The Grantee warrants that there shall be no encumbrance, lien, easement, license, title, cloud, or other interest, which may interfere with the Project or use thereof by the public. Certification by the Department that the Grantee has satisfied the conditions precedent to disbursement of the Grant shall not affect this warranty.
- C. The Grantee shall ensure that the facilities will continue to serve their intended purposes throughout their useful life. Facilities constructed or improved with Federal Aid funds must continue to serve the purpose for which acquired or constructed by the Grantee.

**BOATING INFRASTRUCTURE GRANT (BIG)  
CONSTRUCTION AND OPERATION GRANT AGREEMENT**

- D. Failure to comply with the requirements of Sections A, B, or C above shall be a breach of Grant Agreement for which the Department and U.S. Fish and Wildlife Service may require repayment of the Grant.

**ARTICLE 8. - DESIGN AND CONSTRUCTION OF PROJECT**

- A. All architectural and engineering contracts for plans and specifications shall require that the plans and specifications:
1. Be prepared by persons licensed by the State of California to undertake the type of design work required by the Project (engineer's/architect's certificate number to appear on construction contract design documents),
  2. Be prepared in conformance with the most recent version of the Department of Boating and Waterways' *Layout & Design Guidelines for Marina Berthing Facilities*, when applicable,
  3. Be submitted to the Department and Grantee in 11" X 17" hardcopy and on CD or DVD in full sized and 11" X 17" PDF format. Specifications shall also be submitted in hardcopy and in PDF format,
  4. Become the property of the Grantee,
  5. Provide for all Project facilities set forth in Exhibit B and
- B. The Grantee shall obtain from the Department advance written approval for the following:
1. All bid documents prior to advertisement including plans and specifications,
  2. All contracts prior to award,
  3. All change orders of \$5,000 or more, for any work performed under this Agreement,
  4. All changes to Project schedule discussed in Subpart D of this Article, of thirty (30) days or more, and
  5. Acceptance of the Project by the Grantee.
- C. All construction contracts for the Project shall:
1. Be awarded in accordance with all applicable laws and regulations, shall comply with Federal requirements 2 CRF identified in section §§200.318 General procurement standards through 200.326 Contract provisions,

**BOATING INFRASTRUCTURE GRANT (BIG)  
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2. Contain the following clause: "The Department of Parks and Recreation, Division of Boating and Waterways and its agents may, at any and all reasonable times during the term of this Agreement, enter the Project area for purposes of inspecting the Project area."
  3. Contain a clause stating that the Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee who is employed in the work covered by such contracts or against any applicant for such employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including, but not limited to HIV and AIDS), mental disability, medical condition (cancer), age, marital status, and denial of family care leave, and that such provisions shall include, but not be limited to: employment, upgrading, promotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship,
  4. Contain a clause that the construction contractor shall comply with all air pollution and environmental control rules, regulations, ordinances and statutes, which apply to the Project, and any work performed pursuant to the contract,
  5. Contain a clause that requires the contractors to ensure the structural integrity and safety of the Project,
  6. Require that the Project be constructed according to the plans and specifications prepared for the Project, and that quality control shall be performed and compliance with specifications shall be verified, by qualified professionals selected by the Grantee or Grantee's representative, and
  7. Shall contain the requirements of Article 12 Liability and Fire Insurance and Article 16 Liability of this Agreement.
- D. The Grantee shall, within sixty (60) days of approval of this Agreement, provide the Department with a Project schedule showing the proposed dates of the following Project phases or milestones:
1. Beginning and ending dates of Project design consultant selection by Grantee,
  2. Submission of the consultant services agreement to the Department for approval,
  3. Beginning and ending of Project design,

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4. Submission of plans and specifications to the Department for approval at 30%, 60%, 90%, and 100% completion,
  5. Beginning and ending dates of Grantee advertising of Project for bids,
  6. Project bid opening date,
  7. Submission of the construction Agreement to the Department for approval,
  8. Beginning and ending dates of Project construction,
  9. Acceptance of Project by the Grantee, and
  10. Submission of a Project Completion Certification to the Department.
- E. Prior to the commencement of the construction of the Project, the Grantee shall cause the contractor and a corporate surety acceptable to the Department to furnish in favor of the Grantee and the Department, as their interests may appear, bonds or other security interests as allowed pursuant to PCC 10263 & 22300 in the minimum amounts indicated below and copies shall be furnished to the Department:
1. Faithful performance – one hundred percent (100%) of the total contract bid price.
  2. Labor and materials – one hundred percent (100%) of the total contract bid price.
- F. The Grantee's personnel and construction of the Project shall be under the supervision of qualified inspectors.
- G. Inspection reports and related inspection data shall at all reasonable times be accessible to the Department personnel, and on request copies of such reports and data shall be provided to the Department by the Grantee.
- H. The Grantee shall provide at least quarterly written reporting to the Department as to the progress and status of the Project using the form provided by the Department unless Grantee has a form otherwise approved by the Department in writing.

**ARTICLE 9. - OPERATION AND MAINTENANCE OF PROJECT**

- A. The Grantee shall operate the Project and all other improvements placed in the Project area as a recreational transient boating facility. The Project area shall be open to all recreational vessels, including vessels powered by 2-stroke and 4-stroke gasoline engines, at all times except as approved by the Department. Notwithstanding Harbors and Navigation Code Section 660, any non-emergency restrictions related to time-of-day use, speed zones, special-use areas, or pollution control measures in the Project area,

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which results in closure or partial closure of the waterway to any recreational vessel shall be subject to prior approval by the Department. Failure to obtain prior approval of the Department for such restrictions shall constitute a breach of this Grant Agreement and subject the Grantee to the penalties set forth in Article 18 of this exhibit.

- B. The Grantee shall maintain and repair any and all buildings, structures or other improvements, which are or may, hereafter, be constructed in the Project area, and the Department, shall not be liable for any costs of such maintenance, management, control or operation.
- C. The Grantee shall allow reasonable access to the Project by all recreational vessels for the useful life of the facilities constructed with the Grant funds. The Grantee shall insure that the facilities are accessible to the public. "Accessible to the public" means located where the public can reasonably reach the facility; where boats typical to that facility can easily use it; where only reasonable fees, as defined in Section H of this Article, are charged; and that are open for reasonable periods as determined and approved by the Department. The Grantee shall allow public access to the shore and basic features such as fuel and restrooms in facilities that have them. The Grantee shall provide precise details of the public access to the Department for approval. Any work to construct or renovate tie-up facilities under the Grant must comply with the Americans with Disabilities Act.
- D. All facilities located within the Project area shall be maintained and operated with due regard to public safety and in accordance with all applicable laws, ordinances, and regulations. All contracts relating to the operation of the Project shall include a clause requiring adherence to all applicable state and federal nondiscrimination laws.
- E. The Grantee shall operate and maintain the Project and all improvements funded by this Grant Agreement in a manner that ensures a safe and useable condition of the Project at all times during the time of this Grant Agreement. The Department may make periodic inspections to determine if the facility is being operated and maintained accordingly. Failure to operate and maintain the facility in accordance with this section is a breach of this Grant Agreement and shall preclude the Grantee from receiving any future Grants and may subject the Grantee to other remedies available to the Department as described elsewhere in this Grant Agreement. The Department and its

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agents may, at any and all reasonable times during the term of this Grant Agreement, enter the Project for purposes of inspecting the Project.

- F. The Grantee that has entered into, or will enter into a concession agreement for operation of the Project shall require that the operation and maintenance of the facility by the concessionaire be continued with in accordance with all conditions of Article 8 of this exhibit, Sections A-H.
- G. All Department signs shall be kept permanently in place.
- H. The Grantee (or any lessee or concessionaire operating under the authority of the Grantee) may charge the users of the facilities provided with the Grant funds a reasonable fee, based on the prevailing rate in the area. The fees charged by the Grantee shall not pose an unreasonable competitive amount on the publicly or privately owned facilities in the area. The Grantee shall obtain written approval from the Department for all fee structures and any proposed future changes to the fee structures. The fees charged for use of the facilities shall be the same for all users.

**ARTICLE 10. - DISBURSEMENT OF GRANT**

Conditions Precedent - The Department shall have no obligation to disburse money under this Grant unless and until the Grantee demonstrates to the satisfaction of the Department that the Grantee has satisfied all State and Federal grant requirements per Article 4 (C) of this exhibit and the Department has received written verification from the U.S. Fish and Wildlife Service that the Project has been approved.

Conditions Precedent – The Department shall have no obligation to disburse money under this Grant unless and until the Grantee demonstrates to the satisfaction of the Department that the Grantee has title to, or adequate interests in, the real property comprising the Project area, including but not limited to the following:

1. Land access to the Project area by a maintained way,
2. A right of passage over a waterway, open to the public, between the Project and navigable waters, and
3. Easements or other rights of way outside the Project area to provide utilities and services to the Project.

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The Department shall provide a Grant to the Grantee up to the maximum amount stated on the face page of the Agreement, however: No funds shall be disbursed for work performed prior to the Effective Date of this Agreement. The Department shall have no obligation to disburse any of the Grant to cover construction costs unless and until the Grantee demonstrates that it has acquired all permits necessary to construct and operate the Project. Grant disbursements to cover Project Costs shall be made in arrears as follows:

- A. Grantee shall request a Grant disbursement in arrears at least quarterly, but not more frequently than monthly, for any and all reimbursable expenses incurred during that period, using the form provided by the Department unless Grantee has a form otherwise approved by the Department in writing. Paid invoices or other evidence of Grantee's payment of Project Costs must accompany Grant disbursement requests. When Grantees' staff completes work, Grantee shall submit signed time sheets showing the time worked on the Project, the date, and the work completed towards the Project during that time. Direct pay amounts, including benefits, for each installer must be provided.
- B. Grant disbursement requests shall be submitted in triplicate hardcopy to the Department in a form satisfactory to the Department. In the event no reimbursable expenses were incurred during a quarter, the Grantee shall report to the Department of any progress made on the Project, or explanation of no progress made on the Project, at least monthly.
- C. Grantee shall request final Grant disbursement no later than thirty (30) days following the Date of Acceptance of the Project by the Grantee.
- D. The Department may withhold any Grant disbursement if the Grantee fails to comply with any of the provisions of this Agreement.
- E. The Department shall retain Grant funds equal to ten percent (10%) of approved Project Costs until the Department has approved the acceptance of the Project.
- F. This Grant is valid and enforceable only if sufficient funds are made available to the State by the United States government for the fiscal years covered by the term of construction as limited by the completion date stated in Article 5 of this exhibit. In addition, this Grant is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress, which may affect the provisions, terms or funding of this Grant in any manner. It is mutually agreed the Department has the option to void or cancel the Grant if funds are not available with

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thirty (30) days advance written notice or to amend the Grant to reflect any reduction in funds.

**ARTICLE 11. - COST SHARING OR MATCHING (2 CFR 200.306)**

- A. All shared costs, matching funds, and contributions, including cash and third party in-kind contributions, shall meet all of the following criteria:
1. Shall be clearly and specifically detailed in writing, and verified by Grantee,
  2. Shall not be included as contributions for any other Federal award,
  3. Shall be necessary and reasonable for accomplishment of Project or program objectives,
  4. Shall be allowable under Section E of this Article,
  5. Shall not be paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for that program may be applied to matching or cost sharing requirements of other Federal programs,
  6. Shall be provided for in the approved budget when required by the Federal awarding agency, and
  7. Shall conform to other provisions of this part, as applicable.
- B. Unrecovered indirect costs, including indirect costs on cost sharing or matching, may be included as part of cost sharing or matching only with the prior approval of the Federal awarding agency. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under the non-Federal entity's approved negotiated indirect cost rate.
- C. Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved Project or program. Rates for third-party volunteer services must be consistent with those paid for similar work by the non-Federal entity. In those instances in which the required skills are not found in the non-Federal entity, rates must be consistent with those paid for similar work in the labor market in which the non-Federal entity competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation.

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- D. When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable and otherwise allowable, and indirect costs at either the third party organization's approved federally negotiated indirect cost rate or, a rate in accordance with §200.414. Indirect (F & A) costs, paragraph (d), provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.
- E. Donated property from third parties may include such items as equipment, office supplies, laboratory supplies, or workshop and classroom supplies. Value assessed to donated property included in the cost sharing or matching share must not exceed the fair market value of the property at the time of the donation.
- F. The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.
- G. The value of loaned equipment must not exceed its fair rental value.
  - 1. For third-party in-kind contributions, the fair market value of goods and services must be documented and to the extent feasible supported by the same methods used internally by the non-Federal entity.
  - 2. For Institutes of Higher Education, see also OMB memorandum M-01-06, dated January 5, 2001, Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing and Tuition Remission Costs.

**ARTICLE 12. - PROJECT REPRESENTATIVES**

The Grantee and the Department shall each designate in writing specific staff representatives for the purposes of communication between parties. Grantee's representative shall be confirmed by delegation of authority, signed by the person designated by Resolution to sign the Agreement or any amendments, and to make decisions concerning the Agreement.

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**ARTICLE 13. - LIABILITY AND FIRE INSURANCE**

- A. The Grantee shall, at a minimum, maintain in full force and effect during the term of this Agreement the following insurance:
- |                             |  |
|-----------------------------|--|
| Bodily Injury or Death:     | \$1,000,000 each person  |
|                             | \$1,000,000 each occurrence  |
| Property and Product Damage | \$1,000,000 each occurrence  |
|                             | \$1,000,000 aggregate  |
| Fire Insurance              | 90% of the full insurable value of all insurable components of the Project |
- B. All policy or policies shall contain the following endorsement:  
The State of California, its officers, agents, employees and servants are hereby declared to be additional insured under the terms of this policy, as to activities of both the Grantee and the Department in respect to the Project, and this policy shall not be cancelled without thirty (30) days prior written notice to the Department.
- C. The Grantee agrees that all contracts between it and the contractor (or contractors) responsible for construction of the Project shall contain a clause which requires the contractor(s) to obtain insurance in the minimum amounts and kinds specified above in Subpart A.
- D. The insurance requirements specified above in Subpart A, may be satisfied to the extent that the Grantee can provide comparable protection for the Grantee and the Department by virtue of the Grantee's participation in any "risk management" plan, self insurance program, insurance pooling arrangement, or any combination of these, provided that the protection plan has been approved by the Department.
- E. The Grantee agrees that all contracts between it and the designer (or designers) responsible for design and preparation of plans and specifications of the Project shall contain a clause requiring said designer(s) to obtain Architect's Professional Liability (errors and omissions) Insurance in the amount of \$1,000,000.
- F. Copies of any policy or policies, including any new or renewal policy, shall be in a form satisfactory to the Department. Copies of such policy or policies shall be submitted to the Department at least twenty (20) days prior to the Effective Date or dates thereof.

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- G. Loss under any fire insurance policy shall be payable to the Department for deposit in an appropriate trust fund with the State of California. The proceeds may be paid to the Grantee upon the Grantee's application for the reconstruction of the destroyed facilities.
- H. The Department shall not be responsible for the payment of any premiums or assessments on Grantee's insurance policies.
- I. Grantee shall provide proof of insurance to the Department annually and upon written request by the Department.

**ARTICLE 14. - INSTALLATION OF OTHER FACILITIES**

- A. The Grantee may at its own expense place or cause to be placed within the Project area any structure or structures, or make any alterations or improvements in addition to those set forth herein, and described in Exhibit B, provided that such facilities:
  - 1. Are constructed, maintained and operated for the use, enjoyment, protection and service of the public,
  - 2. Are in compliance with Article 8 of this exhibit,
  - 3. Do not directly or indirectly reduce the service capacities for the boating public called for in Exhibit B, including the sanitary and parking facilities, and
  - 4. Have the prior written approval of the Department. Approvals shall not be unreasonably withheld.
- B. The Department shall not be obligated to make or cause to be made any alterations, improvements or repairs to any facilities within the Project area in addition to the original construction of the Project as provided for herein.

**ARTICLE 15. - ASSIGNMENT, SALE OR TRANSFER**

- A. No assignment, sale or transfer of this Agreement or any part hereof, rights hereunder, or interest herein by Grantee shall be valid unless and until it is approved in writing by the Department and made subject to such reasonable terms and conditions as the Department may impose.
- B. Grantee shall require, as a condition of assignment, sale or transfer of the property on which the Project is constructed, that the assignee, purchaser or transferee of the property assume, in writing, in such manner as shall be satisfactory to the Department, the obligations of this Agreement. Failure to comply with this provision shall constitute a

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default and shall be grounds for Department to terminate this Agreement and seek all available legal remedies.

**ARTICLE 16. - ADOPTION OF RULES AND REGULATIONS FOR CONCESSION AGREEMENTS**

The Grantee agrees that such concession agreements as may be entered into, and such rules and regulations as may be promulgated by it for the use and enjoyment of the Project area and all facilities therein, shall conform to and be consistent with the rules, regulations, and policies promulgated by the Department and generally applicable to the Department small craft launching facilities Grant program; further, such concessions agreements shall have the written approval of the Department prior to award of a concession agreement by the Grantee. Also, such concessions agreements should be entered into only when the Grantee can demonstrate that private sector operation is the best available alternative. Concession agreements of a short-term duration (five years or less) are preferred, with renewal based upon performance reviews by both the local governmental agency and the Department. If a long-term concession agreement is entered into, the Grantee shall include in the concession agreement a capital investment requirement for the concessionaire.

**ARTICLE 17. - LIABILITY**

- A. The Grantee waives all claims and recourse against the Department including the right to contribution for any loss or damage arising from, growing out of or in any way connected with or incident to this Agreement.
- B. The Grantee agrees to indemnify, defend and hold harmless, the Department, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, entity or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, entity or corporation who may be injured or damaged by Grantee in the performance of this Agreement or by any aspect of the Project during the term of this Agreement.
- C. The Grantee shall indemnify, hold harmless, and defend the Department, its officers, agents and employees against any and all claims, demands, damages, costs, expenses

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and liability connected with or arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the Project.

- D. If the Department is named as a co-defendant, the Grantee shall notify the Department and represent it unless the Department elects to represent itself. If the Department undertakes its own defense, it shall bear its own litigation costs, expenses, and attorney's fees.

**ARTICLE 18. - IMPLEMENTATION OF PROJECT**

All contracts for the Project shall be awarded in accordance with all applicable laws and regulations.

**ARTICLE 19. - BREACH OF GRANT AGREEMENT**

The Department through written notice may require the Grantee to remedy (to Department's satisfaction) any breach of this Agreement within ninety (90) days of the date of such notice. The Department may extend the time permitting remedy of the breach if the Grantee begins such remedy within the said period; however, if the Grantee fails to proceed with or complete any remedial action within the time allowed, then the Department may take one or more of the following steps:

- A. The Department may take any and all reasonable and necessary actions to correct the breach. The Grantee shall be liable for all actual costs, including administrative costs, incurred in the course of correcting the breach.
- B. The Department may require the Grantee to repay the Department for all Project costs funded by the Grant. Grantee shall make such repayment within one-hundred and eighty (180) days of the date that written notice for repayment was sent to Grantee. Repayment shall be determined by the Department and the U.S. Fish and Wildlife Service on a prorated unexpired term basis (the remainder of the twenty (20) year term) as determined in Article 3 of this exhibit.
- C. In the event the Grantee has failed to obtain prior approval of the Department for any time-of-day, speed zones, special-use area, or pollution control measure which restricts the Project area, or results in its closure or partial closure, to any form of recreational vessel, the Department may determine the percentage of boaters affected and may require the Grantee to repay the Grant money on a prorated unexpired term basis for

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that percentage of all Project costs covered by the Grant. The Grantee shall make such repayment within ninety (90) days of which written notice for repayment is made. Repayment shall be made according to a schedule determined by the Department after consultation with Grantee.

**ARTICLE 20. - DISPUTE RESOLUTION**

Any dispute arising under the terms of this Agreement, which is not disposed of within a reasonable period of time by the Grantee and Department representatives normally responsible for the administration of this Agreement, shall be brought to the attention of the Deputy Director of the Division of Boating and Waterways or the Deputy Director's designee. At the request of either party, the Department shall provide a forum for the discussion of the disputed matter(s). If agreement cannot be reached, either party may assert its other rights and remedies within this Agreement in a court of competent jurisdiction.

**ARTICLE 21. - SIGN REFERRING TO STATE AND FEDERAL FINANCING**

The Grantee shall cause a permanent sign to be installed within the Project area, which shall include a statement that the Project was financed by the Department under the Federal Aid in the Wildlife and Sport Fish Restoration Program. The sign may contain additional statements, which recognize the participation of other government agencies in the Project and shall include the Sport Fish Restoration Logo. The sign shall be installed before the Project is made available to the public. The location and make-up of the sign, including the dimensions, materials, language and lettering shall be approved by the Department.

**ARTICLE 22. - DIRECTIONAL SIGNS**

The Grantee shall at the direction of the Department cause permanent directional signs to be installed so as to provide adequate directions to the public for reaching the Project area. The locations and the make-up of the signs, including the dimensions, materials and lettering, shall be as approved by the Department.

**ARTICLE 23. - STATUS REPORTS**

A. Brief, monthly status reports shall be submitted by the Grantee describing work carried out during the previous month, and discussing progress toward the objective of the

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Project. Discussion of any problems, delays or other difficulties encountered in the Project progress shall also be included in the status reports.

- B. Status reports shall be submitted by email or letter as closely as possible to the first working day of each calendar month.

**ARTICLE 24. - MEETINGS**

Upon the request of DBW, the Grantee shall participate in joint meetings with representatives of DBW to review the Project status. These meetings shall be held at the Grantee's premises or in Sacramento at DBW headquarters at the discretion of the DBW Project Representative.

**ARTICLE 25. - WAIVER OF RIGHTS**

Any waiver by either party hereto of its rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed to be a continuing waiver with respect to that default, or to any other default or matter.

**ARTICLE 26. - REMEDIES NOT EXCLUSIVE**

The use by either the Department or the Grantee of any remedy specified in the Agreement for the enforcement of the Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

**ARTICLE 27. - OPINIONS AND DETERMINATIONS**

Where the terms of this Agreement provide for action to be based upon the opinion, judgment, approval, review, or determination of either the Department or Grantee, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

**ARTICLE 28. - SUCCESSORS AND ASSIGNS OBLIGATED**

This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties to this Agreement.

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**ARTICLE 29. - AUDIT**

In addition to the audit requirements specified in other sections of this Agreement, Grantee understands and agrees that, as a recipient of Federal Funds, it must comply with all applicable audit requirements imposed by federal law, regulations or policy, including but not limited to the Single Audit Act and the reporting requirements set forth in OMB Circular A-135.

**ARTICLE 30. - ANTITRUST CLAIMS**

The Grantee by signing this Agreement hereby certifies that if these services or goods are obtained by means of competitive bid, the Grantee shall comply with the requirements of the Government Code Sections set out below.

- A. The Government Code Chapter on Antitrust claims contains the following definitions:
1. "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code, and
  2. "Public purchasing body" means the State or the subdivision or agency making a public purchase. (Government Code Section 4550)
- B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. (Government Code Section 4552)
- C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (Government Code Section 4553)

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- D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. (Government Code Section 4554)

**ARTICLE 31. - PRIOR TERMINATION**

The Agreement shall terminate on the date specified in Article 6 of this exhibit if by such date (1) the Grantee has not met all conditions precedent to disbursement under this Agreement by such date, or (2) if the Department has disbursed no part of the Grant funds.

**ARTICLE 32. - TERMINATION**

A. TERMINATION FOR CONVENIENCE

1. The Department may terminate this Agreement at any time for the convenience of the State upon thirty (30) days prior written notice, delivered by certified mail or in person to Grantee. Upon notice of such termination, Grantee shall, within thirty (30) days, return by check payable to the Department all unexpended Grant funds not previously approved for expenditure by the Department.
2. Grantee may terminate this Agreement at any time upon thirty (30) days prior written notice, delivered by certified mail or in person to the Department, provided, however, that upon any such termination of the Agreement, Grantee shall, within thirty (30) days of such termination, reimburse by check payable to the Department all funds contributed by the Department to the Project on a prorated basis as determined by the Department.

B. TERMINATION FOR DEFAULT

The Department may at any time upon ninety (90) days prior written notice of default, and, when applicable, after having afforded Grantee an opportunity to cure any breach pursuant to Article 19 of this exhibit, terminate this Agreement if the Grantee has failed to abide by any applicable provision of this Agreement. In such case, Grantee shall, within ninety (90) days of its receipt of a notice of termination, reimburse by check all funds contributed by the Department to the Project.

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**ARTICLE 33. - WAIVERS**

No delay on the part of any party in exercising any right, power or privilege under this Agreement shall operate as a waiver of that right, power, or privilege, nor shall any written waiver on the part of any party of any right, power or privilege under this Agreement, nor any single or partial exercise of any right, power or privilege under this Agreement, preclude any other or further exercise thereof or the exercise of any other right, power or privilege under this Agreement. A written waiver of any breach of any kind shall not be construed as a waiver of any subsequent breach of the same kind.

**ARTICLE 34. - WAIVER OF THE STATUTE OF LIMITATIONS**

Grantee waives the benefit of any statute of limitations affecting its liability under this Agreement or the enforcement of this Agreement to the extent permitted by law.

**ARTICLE 35. – WAIVER OF RIGHTS**

Any waiver by either party hereto of its rights with respect to a default of any other matter arising in connection with the Agreement shall not be deemed to be a continuing waiver with respect to that default, or to any other default or matter.

**ARTICLE 36. - NOTICES**

Notices required between the parties shall be deemed to have been given when mailed to the respective addresses listed in this Agreement, first-class postage fully prepaid thereon, unless otherwise required by law.

**ARTICLE 37. - SUPERSEDING GENERAL TERMS AND CONDITIONS**

- A. The reference to the Contractor in Exhibit C is the Grantee in this Agreement.
- B. Notwithstanding Section 13 in Exhibit C, payment to Grantee for expenses shall be limited as provided for in Article 10 of this exhibit.
- C. Section 5 in Exhibit C is replaced by Article 17 of this exhibit.

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**ARTICLE 38. - GRANTEE IDENTIFICATION NUMBER**

Each Grantee who enters into an Agreement with the State of California must provide their Federal Employee Identification Number (FEIN), or Social Security Number (SSN), whichever is applicable.

**ARTICLE 39. - REPORTABLE PAYMENT IDENTIFICATION AND CLASSIFICATION**

Grantee shall comply with State and Federal Reportable Payment Identification and Classification Requirements by fully completing the "Vendor Data Record" Std. 204. By signing this Agreement, Grantee understands and agrees that if Grantee does not fully complete the "Vendor Data Record" the State shall reduce the total Grant amount by twenty-one percent (21%) for federal backup withholding, and seven percent (7%) for state income tax withholding.

**ARTICLE 40. - NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

By signing this Agreement, the Grantee affirms under penalty of perjury, that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against the Grantee or any of its contractors within the immediately preceding two year period because of Grantee's failure to comply with an order of a federal court which ordered the Grantee to comply with an order of the National Labor Relations Board. (California Public Contract Code §10296)

**ARTICLE 41. - INCORPORATION OF NONDISCRIMINATION CLAUSE**

The Grantee shall include the nondiscrimination clause and its compliance provisions into all contracts and subcontracts to perform work under this Agreement.

**ARTICLE 42. - NONDISCRIMINATION CLAUSE**

A. During the performance of this Agreement, the Grantee and all of its contractors and subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religion, national origin, physical handicap, disability (including but not limited to HIV and AIDS), cancer related medical condition, age, or marital status. Grantee and all of its contractors and subcontractors shall ensure that the

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evaluation and treatment of their employees and applicants for employees and applicants for employment are free from such discrimination and harassment.

- B. Grantee and all of its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code §12900, et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code §12990 (a-f) set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated herein by reference, and made a part hereof as if set forth in full. Grantee and all of its contractors and subcontractors shall give written notice of their obligation under this clause to labor organizations with which they have a collective bargaining or other Agreement.

**ARTICLE 43. - OUTSIDE SERVICES (NON-EXCLUSIVITY)**

DBW shall, at its sole discretion, have the right to obtain services relating to the subject and objectives of this Agreement outside the terms of this Agreement.

**ARTICLE 44. - COMPLIANCE WITH FEDERAL REQUIREMENTS**

Grantee shall comply with all applicable Federal laws, regulations, and policies, including those summarized in Part 523, Chapter 1 of the U.S. Fish and Wildlife Service Handbook. These requirements include provisions for nondiscrimination, environmental standards, historic and cultural preservation, and other administrative guidelines, and are incorporated herein by this reference as if fully set forth.

**ARTICLE 45. - STATEMENT OF COMPLIANCE**

By signing this Agreement, the Grantee certifies under penalty of perjury under the laws of the State of California, unless specifically exempted, that it has complied with California Government Code §12990 and the California Code of Regulations, Title 2, Division 4, Chapter 5, in matters relating to the development, implementation, and maintenance of a nondiscrimination program.

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**ARTICLE 46. - BYRD ANTI-LOBBYING AMENDMENT (31.U.S.C. 1352)**

Contractors that apply or bid for an award exceeding \$100,000.00 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**ARTICLE 47. - REVISION OF BUDGET AND PROGRAM PLANS (2 CFR 200.308)**

- A. The approved budget for the Federal award summarizes the financial aspects of the Project or program as approved during the Federal Award process. It may include either the Federal and non-Federal share (see §200.43 Federal share) or only the Federal share, depending upon Federal awarding agency requirements. It must be related to performance for program evaluation purposes whenever appropriate.
- B. Recipients are required to report deviations from budget or Project Scope or objective, and request prior approvals from Federal awarding agencies for budget and program plan revisions, in accordance with this section.
- C. Grantees must request prior written approval from DBW for any of the following deviations of the proposed workplan; as described in attached Exhibit B.
  - 1. Change in the scope or the objective of the Project (even if there is no associated budget revision requiring prior written approval).
  - 2. Change in a key person specified in the application.
  - 3. The disengagement from the Project for more than three months, or a 25 percent (25%) reduction in time devoted to the Project.
  - 4. The transfer of funds budgeted for tasks defined in the workplan budget.
  - 5. Changes in the approved cost-sharing or matching provided by the Grantee.
  - 6. Need arises for additional funds to complete the Project.

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**ARTICLE 48. - MANDATORY DISCLOSURES**

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in §200.338 remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321).

**ARTICLE 49. - ENHANCEMENT OF RECIPIENT AND SUBRECIPIENT EMPLOYEE  
WHISTLEBLOWER PROTECTION**

- A. This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712.
- B. Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.
- C. The recipient shall insert this clause, including this paragraph ( c ), in all subawards and in contracts over the simplified acquisition threshold related to this award.

**ARTICLE 50. - EQUAL OPPORTUNITY CLAUSE**

**Federally assisted construction Grants.** The applicant(Grantee) hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a Grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such Grant, contract, loan, insurance, or guarantee, the following equal opportunity clauses:

- 1. The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender

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identity, or national origin. The Grantee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Granting officer setting forth the provisions of this nondiscrimination clause.

2. The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee; state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency Granting officer, advising the labor union or workers' representative of the Grantee's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Granting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Grantee's non-compliance with the nondiscrimination clauses of this Grant or with any of such rules, regulations, or orders, this Grant may be

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canceled, terminated or suspended in whole or in part and the Grantee may be declared ineligible for further Government Grants in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Grantee will include the provisions of paragraphs (1) through (7) in every contract, subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, subcontractor or vendor. The Grantee will take such action with respect to any contract, subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the Grantee becomes involved in, or is threatened with, litigation with a contractor, subcontractor or vendor as a result of such direction, the Grantee may request the United States to enter into such litigation to protect the interests of the United States.
  - A. The applicant (Grantee) further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* that if the applicant (Grantee) so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Grant.
  - B. The applicant (grantee) agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency (Department) in the discharge of the agency's primary responsibility for securing compliance.
  - C. The applicant (Grantee) further agrees that it will refrain from entering into any contract

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or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction grants or contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Grantees and contractors by the administering agency or the Secretary of Labor pursuant to Part II, Section D of the Executive order. In addition, the applicant (Grantee) agrees that if it fails or refuses to comply with these undertakings, the administering agency (Department) may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this Grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant (Grantee) under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant (Grantee); and refer the case to the Department of Justice for appropriate legal proceedings.

**Subcontracts.** Each of Grantee's nonexempt prime contractors or subcontractors shall include the equal opportunity clause in each of its nonexempt subcontracts.

- A. *Incorporation by reference.* The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.
- B. *Other Incorporation.* The equal opportunity clause shall be considered to be a part of every one of Grantee's contracts and subcontracts and all such contracts and subcontracts shall be deemed to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

**Adaptation of language.** Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

**B. Project Summary**

The San Pedro Public Market Courtesy Docks Project will be located along the San Pedro *LA Waterfront* in Southern California between Berths 79 and 84. This waterside enhancement is a Port of Los Angeles Capital Improvements Project and includes architectural and engineering design and construction of one 600 ft. long dock 16 ft. wide parallel to landside with one gangway for public access. The floating docks will accommodate a number of guest vessels up to 150ft in length.

This project is adjacent to a 30 acre waterside retail and restaurant redevelopment formerly known as Ports O'Call. The objective of this new floating dock project is to improve the waterfront access and circulation, provide the public with a variety of waterfront uses, including berthing of small and large visiting vessels, while complimenting the visitor serving opportunities in the adjacent development and the surrounding San Pedro community. Currently the Port's marina infrastructure is in very poor and deteriorating condition.

The public floating dock will include one 600 ft. long dock 16 ft. wide with 30" freeboard and will be laterally supported by 24" octagonal pre-stressed reinforced concrete guide piles. The docks will be made of pre-cast concrete, comprised of EPS foam filled concrete shell with 4" thick reinforced concrete deck. One gangway will attach to the floating dock by steel plates mounted to the concrete dock platform. The one ADA gangway will be constructed of an aluminum alloy framing with a non-skid deck and rails.

The anticipated outcome of this marina enhancement is to promote visitation to the San Pedro Public Market, the LA Waterfront and San Pedro area, and to facilitate existing water uses such as sports fishing and harbor tours.

### **C. Project Statement**

The San Pedro Public Market Courtesy Docks Project is part of the Port of Los Angeles Waterfront development project, a long term plan to develop Port property from Wilmington to the Federal Breakwater in San Pedro. The plan has been designed to bring communities closer to the water and triple the amount of existing open space. The marina has become a public amenity to the community and contributes to an integrated waterfront for the Port of Los Angeles. This project is adjacent to a 30 acre waterside retail and restaurant redevelopment formerly known as Ports O'Call.

The new 600 ft floating docks system will provide 1200 linear feet of visitor-serving dock space and will be able to accommodate a variety of vessel sizes of 12ft to 150ft parallel to the waterfront promenade.

#### ***Needs & Purpose***

The City of Los Angeles and the local communities are in need of public courtesy docks for day time recreational visitors, especially during events in the San Pedro community. The recently constructed Downtown Harbor provides 10 short-term courtesy boat slips, which is only 0.3% of the 3800 recreational boat slips in the 16 marinas, within the Port of Los Angeles; the remaining 3790 slips are for registered long-term liveaboard and non-liveaboard berthing. Presently, the Downtown Harbor can accommodate 10 - 40' long recreational vessels or 4 - 100' long Tail ships. During the Tall Ships festival and other events, the larger attraction-vessels occupy the only public spaces available, therefore leaving very limited, if any, mooring spaces for event-goers and other recreational visitors.

The 1960's Ports O'Call marina has exceeded its useful life and has become a safety hazard. Due to years of disregard, exposed electrical wiring, overhead utility lines and rotting timber have become obvious concerns. Outdated slip sizes constructed for narrow beam boats has also left a number of the marina's berths vacant and populated with abandoned boats.

#### ***Objectives***

The new 30-acre redevelopment, the San Pedro Public Market Project (SPPM), will be reconfiguring the existing waterside amenities, including the boardwalks and southern docks for commercial sport fishing, whale watching, harbor cruises, water taxis, and related water-side tenants and up to 25,000 square feet of restaurant, retail, or maritime-related office space.

The objective of this dock-system project is to improve the waterfront access and provide the public with a variety of visitor-oriented waterfront uses, including berthing for larger visiting vessels, while complimenting the visitor serving opportunities in the

adjacent redevelopment and nearby downtown San Pedro. Currently the marina infrastructure between Berths 79 and 84, adjacent to the underway is in very poor condition.

This project will:

- Provide facilities that cater to larger recreational vessels; and other uses
- Provide a vibrant public marina land and water community;
- Provide a village of recreational marine and boating activities that draws together the boater, tourist, local, and regional residents and the Port-oriented business community;
- Improve the area's visual characteristics through elimination of deteriorated facilities and the upgrading of existing marina facilities;

### ***Benefits***

The Port of Los Angeles (POLA) proposes a state of the art floating docks and gangways system, with a strong focus toward "green" design and sustainability. The following benefits were identified in the San Pedro Waterfront Environmental Impact Report (EIR), and remain consistent with the current Port vision:

- Creation of a new destination waterfront amenity;
- Provide restaurants, tour / charter / rental opportunities, accommodate visitors and boaters;
- To be effectively competitive with other waterfront facilities located in other nearby jurisdictions to retain businesses and expenditures that may otherwise be lost; and
- Provide facilities that are consistent with and contribute to an integrated waterfront for the Port of Los Angeles.

### ***Project Approach***

The Project will be comprised of one 600ft long by 16ft wide floating dock and connecting gangway for mooring visiting vessels. The docks will be supported by approximately 24 - 24" octagonal pre-stressed reinforced concrete guide piles. The docks will be made of pre-cast concrete, comprised of EPS foam filled concrete shell with 4" thick reinforced concrete deck. The one gangway will attach to the floating dock by steel plates mounted to the concrete dock platform. The one ADA gangway will be constructed of an aluminum alloy framing with a non-skid deck and rails. The docks will have necessary power supply, water supply and fire protection.

Approach will include:

- Demolishing and removing existing marina docks and concrete and concrete piles;
- Refurbishing and upgrading existing water supply and power supply; and making new connections

- Installing new reinforced concrete guide piles
- Constructing new floating docks
- Building gangways and installing gates
- Installing Fire Protection
- No dredging activities will be conducted as part of this Project

**Outcome**

The anticipated outcome of this marina enhancement is to promote visitation to the San Pedro Public Market, the LA Waterfront and San Pedro area, and to facilitate existing and new water uses such as recreational visits from non-locals, sports fishing and harbor tours. The goal is to become a needed waterfront amenity destination for Californians.

**BUDGET INFORMATION (Form 424C)**

Cost Classification	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a.-b.)
1 Administrative & Legal expenses	\$0		\$0
2 Land, Structures, right-of-ways, appraisals, etc.	\$0		\$0
3 Relocation expenses & payments	\$0		\$0
4 Architectural & Engineering fees	\$0		\$0
5 Other architectural & engineering fees	\$0		\$0
6 Project Inspection Fees	\$0		\$0
7 Site Work	\$0		\$0
8 Demolition & Removal	\$0		\$0
9 Construction	\$3,138,660		\$3,138,660
10 Equipment	\$0		\$0
11 Miscellaneous	\$0		\$0
12 SUBTOTAL (sum of lines 1-11)	\$3,138,660		\$3,138,660
13 Contingencies	\$0		\$0
14 SUBTOTAL	\$3,138,660		\$0
15 Project (Program) Income	\$0		\$0
16 TOTAL PROJECT COSTS (subtract #15 from #14)	\$3,138,660		\$3,138,660
<b>FEDERAL FUNDING</b>			
17 Federal Assistance requested, calculate as follows: (Consult Fedral agency for Federal percentage share) Enter the resulting Federal share.	Enter eligible costs from line 16c Multiply X 43%		

Note:

Construction Cost:	\$3,138,660		
Grant Max:	\$1,349,623	43%	Grant %
POLA Contribution	\$1,789,037	57%	POLA Match %

#### **D. Budget Narrative**

The Port's objective is to improve the waterfront access and circulation, provide the public with a variety of waterfront uses, including berthing for larger visiting vessels, while complimenting the visitor serving opportunities in the adjacent development and the surrounding San Pedro community.

The costs and the construction methodology for this Project have been derived from a similar waterside enhancement that was completed at Berth 85 in 2014, the Downtown Harbor. The estimate for this Project is based on one 600ft. long and 16 ft. wide dock, comprising a total of 9,600 square feet of new dock area, 24 count - 24" octagonal pre-stressed reinforced concrete guide piles. The docks will be made of pre-cast concrete, comprised of EPS foam filled concrete shell with 4" thick reinforced concrete deck. The one gangway will attach to the floating dock by steel plates mounted to the concrete dock platform. The one ADA gangway will be constructed of an aluminum alloy framing with a non-skid deck and rails.

<b>CONSTRUCTION COST ESTIMATE</b>					
	<b>Item</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total</b>
<b>Item 1</b>	<b>New Marine Guide Piles</b>				
	<i>Mobilization &amp; Demobilization</i>	1	EA	\$200,000	\$200,000
	<i>Pile Foundation (10 piles/dock)</i>				
	Prestressed reinforced concrete piles, 24" dia. (84' length)	24	EA	\$17,067	\$409,600
					<b>\$609,600</b>
<b>Item 2</b>	<b>New Concrete Floating Dock System</b>				
	<i>Floating Dock (600ft x 16ft)</i>				
	Pre-cast concrete dock comprised of EPS foam filled concrete shell with 4" thick reinforced concrete deck with cleats	9,600	SF	\$167	\$1,604,500
	<i>Dock Access</i>				
	ADA Gangway, comprised of aluminum alloy framing with non-skid deck, including rails, gate, and gangway landing deck at promenade	1	EA	\$404,000	\$404,000
	<i>Utilities</i>				
	Fire water systems, including piping, connections, and potable water, etc.	9,600	SF	\$21	\$204,360
	Electrical service, distribution, fixtures, power points, communication, etc.	9,600	SF	\$33	\$316,200
					<b>\$2,529,060</b>
	<b>Floating Docks &amp; Gangway System - Total Construction</b>				<b>\$3,138,660</b>

San Pedro Public Market Courtesy Docks will be visiting recreational vessel docks for multi-sized boats, and will be open to the public and available for mooring, at no charge, for 4 hour maximum stays daily from 6 a.m. to 10 p.m.. Overnight berthing will be allowed by Permit only.

The following rules and restrictions for the recreational courtesy dock will be as follow:

- Usage of the recreational courtesy dock on a per vessel basis is limited to four hours in any 24-hour period.
- Recreational vessels only (no commercial vessels, or passenger vessels for hire; no commercial activity will be permitted)
- Vessel size will be limited to 150 feet and 100 gross registered tons
- No vehicles will be permitted
- No vessel repairs and no discharges of any type will be permitted
- Monopolizing space or taking up an unreasonable amount of space will not be permitted and vessels will be prohibited from obstructing access by other vessels
- No transfer of fish or merchandise of offensive or objectionable matter will be permitted

The anticipated outcome of this waterside enhancement is to promote visitation to the San Pedro Public Market, the LA Waterfront and San Pedro area, and to facilitate existing water use.

1. **Match and other partner contributions:**

The Port of Los Angeles (POLA) will be responsible to front fund the Project and is requesting reimbursement from the proposed Boating Infrastructure Grant (BIG) Program for up to \$1,500,000. The Harbor Department's anticipated cost share to the Project is \$3,138,660.

<b>TOTAL PROJECT</b>	<b>\$3,138,660</b>
<b>BIG Award Request</b>	<b>\$1,349,623 (43%)</b>
<b>POLA Contribution</b>	<b>\$1,789,037 (57%)</b>

2. **Contingency Costs:** Not included

3. **Proration:** Not necessary

- a. The basis or method – 100% of the San Pedro Public Market Floating Docks Project, which will be located between Berths 79 & 84, will be courtesy docks and available to the public. Berths south of this project are designated for commercialized activities, such as Sports Fishing and Harbor Tours, and the

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Port's 16 marinas, which are comprised of 3790 slips, are designated for long-term registered berthing.

- b. **Your reasoning & evidence** – As stated in the San Pedro Waterfront Environmental Impact Report (EIR), approved in 2009, the Port's objective is to "increase public access to the waterfront from both the landside and waterside, in providing mooring locations for visitor-serving watercraft and temporary mooring for vessels using landside facilities" and "The marina area in front of Port O'Call (San Pedro Public Market) is to include slips for transient boat access to promote usage by visitors from other areas who arrive by boat."
- c. **Why prorating is not necessary** – 100% of the San Pedro Public Market Floating Docks Project, which will be located between Berths 79 & 84, are designated courtesy docks and will be available to the public.

4. **Program Income:** None

5. **Equipment:** N/A

6. **Useful Life:** Based on historical evidence and the material selection and manufacturer information from the recently constructed Downtown Harbor (2014) and Cabrillo Way Marina (2011), the Port's life expectancy for the Project is 50 years. This takes into consideration the Port's in-house and full-time Maintenance Staff.

7. **Required Indirect Cost Statement:** N/A

**E. Single Audit Reporting Statements:** The City of Los Angeles Harbor Department expended more than \$750,000 in Federal award funds and was required to submit a Single Audit Report for the most recently closed fiscal year ending June 30, 2015. That report is available on the Federal Audit Clearinghouse Single Audit Database website under EIN 95-6000735.

**F. Assurances:** *State to sign this form.*

**G. Certification and Disclosure of Lobbying Activities:**

4 - Signed Disclosure Forms attached: Alcade, Holland, Kadash and Shaw.

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**H. Conflict of Interest Disclosures:**

There are no conflicts of interest known at the time of this application or that may arise during the life of the award in the event an award is made.

**I. Response to Ranking Criteria:** See Attachment I.

**J. Geographic Location/Drawings/Maps/Photographs:**

See attached exhibits.

- 2016-08-31\_SPPM Courtesy Dock Schedule
- 2016-08-31\_Future Courtesy Docks Project Location Map
- 2016-08-31\_Courtesy Docks Plan
- 2016-08-31\_Map of California
- 2016-08-31\_Existing Docks (images)
- 2016-08-31\_Port LA Events & Destinations (images)
- Certification & Disclosure of Lobbying Activities
- Single Audit Report

## **I. Response to Ranking Criteria**

### **(a) Meet a Documented Need, Improve Eligible Boater Access, and Demonstrate Cost Efficiency (20 total possible points.)**

#### **(1) Will the proposed boating infrastructure meet a need for more or improved facilities? (0-10 points)**

The San Pedro Waterfront portion of the LA Waterfront, including the proposed marina, is conveniently located between the Vincent Thomas Bridge and the Federal Breakwater, in San Pedro, California. The original marina was built in the 1960's and has exceeded its useful life and become a safety hazard. Due to years of disregard, exposed electrical wiring, overhead utility lines and rotting timber have become obvious concerns. Outdated slip sizes constructed for narrow beam boats have also left a number of the marina's berths vacant and populated with abandoned boats.

The new floating dock system will provide 1200 linear feet of visitor-serving dock space and will be able to accommodate a maximum of 12 – 100 foot guest vessels parallel to the waterfront promenade.

The recently constructed Downtown Harbor provides only 10 short-term courtesy boat slips and can accommodate 10 - 40' long recreational vessels or 4 - 100' long Tall Ships, representing only 0.3% of the 3,800 recreational boat slips in the 16 marinas, within the Port of Los Angeles; the remaining 3,790 slips are for registered long-term liveaboard and non-liveaboard berthing.

During the Tall Ships Festival and other large events, the attraction-vessels commonly occupy the few public spaces available, therefore leaving very limited, if any, mooring spaces for event-goers and other recreational visitors. The Port needs more public short term docks for visiting vessels to enjoy the local destinations and special events, by boat.

According to [www.superyachts.com](http://www.superyachts.com), Del Rey Landing in Marina Del Rey, is one of the only marinas on the West Coast, and the only one in Los Angeles, capable of accommodating the larger superyachts. There is an obvious need for more larger-vessel transient docks in Los Angeles County, where the population is over 10 million.

#### **(2) Will eligible users receive benefits from the proposed boating infrastructure that justify the cost of the project? (0-7 points)**

The Port is opting to use 24" octagonal pre-stressed concrete piles. This has become the more common pile material in modern wharf construction on the West Coast due to higher loads and seismic criteria. This readily meets the California Department of Boating and Waterways' standards. Other advantages for selecting these materials and methods are lower material costs and good durability. The floating docks will also include a Fire Suppression System that meets the local Los Angeles Fire Department's codes and regulations.

**(3) Will the proposed boating infrastructure accommodate boater access to significant destinations and services that support transient boater travel? (0-3 points)**

The Port of Los Angeles has made a commitment to the community by providing projects that offer additional open space and encourage public access, waterside and landside. Visiting vessels will have full access to the San Pedro Public Market Courtesy Docks, mooring will be on a first-come, first served basis. The Port's Berthing policies do not turn away vessels, unless a vessel is creating pollutants or hazardous waste. Boats will not be permitted and possibly fined by patrolling Port Police and Port Security Officers. Signs will be prominently placed, as they are throughout the existing long-term marinas and the Downtown Harbor.

The San Pedro Public Market Courtesy Docks will be situated in a supreme location for visitors looking to experience the LA Waterfront, as well as exploring the surrounding areas, as it is minutes away from several famous locations including Hollywood, Beverly Hills, Santa Monica, Los Angeles International Airport [LAX], Long Beach Airport [LGB], and Orange County.

The LA Waterfront located along the seaside communities of San Pedro and Wilmington, at the Port of Los Angeles, has been undergoing a transformation over the last decade. Only 30 minutes from downtown Los Angeles, and home of the World Cruise Terminal, this emerging tourist destination has a variety of popular attractions and activities. It has adopted the slogan: **Shop. Play. Dine. Explore.** There's so much to do, from museums to a giant craft warehouse, to war memorials and maritime history, the LA Waterfront is where the past meets the present at the doorstep of America's largest trade gateway.

The current key attractions include:

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- **22nd Street Park** – This 18-acre park across from 22nd Street Landing at the Port offers walking and biking trails, shade trees, two bocce ball courts, and nearly four acres of grassy open space for recreation.
- **Battleship IOWA** – This historic 1943 ship is now a living history museum, celebrating the American spirit and all who have served.
- **Brouwerji West** – This production brewery and 14-tap system tasting room just opened this spring in Warehouse 9 across from the CRAFTED marketplace. Over 4,000 in attendance at the opening.
- **Cabrillo Marine Aquarium** – Provides families hands-on, interactive ocean discovery and fun for more than 75 years.
- **Cabrillo Way Marina** – a completely transformed 700-slip long-term marina covering 87 acres of land and water, located just south of 22nd and Miner Streets.
- **CRAFTED at the Port of Los Angeles** – One of the nation's largest indoor year-round craft marketplace and mecca for Southern California's handcrafted movement.
- **Downtown Harbor** – a small public dock, modern town square and pedestrian promenade ideal for strolling and taking in the waterside view of America's Port®.
- **Fanfare Fountains at Gateway Plaza** – a welcoming landmark, it is the largest fountain and water feature spectacular in Los Angeles.
- **Historic Downtown San Pedro** – downtown San Pedro features a range of cuisine, from Hungarian to Mexican, Mediterranean to Italian, Japanese to California Fresh and more.
- **Los Angeles Maritime Museum** – Housed in the historic 1941 Municipal Ferry Building, this museum celebrates the history of Los Angeles Harbor.
- **Wilmington Waterfront Park** – a 30-acre park spanning nine blocks and featuring a nautical-themed playground, walking trails and more.

The future 30-acre **San Pedro Public Market** development, along with the 35-acre **AltaSea Marine Research Facility and Science Hub**, [www.altasea.org](http://www.altasea.org), are anticipated to be even larger draws to the LA Waterfront. AltaSea is in the design stage, similar to the San Pedro Public Market development.

Some of the Port's annual activities that will draw boaters to the marina include:

- **LA Fleet Week™**, which is a patriotic celebration of our U.S. armed forces. The four-day festival hosts active military ships along the LA Waterfront and features public ship tours, military equipment demos, live entertainment, educational activities and more. It is hosted by the Port of Los Angeles, and the event partners include U.S. Navy, U.S. Navy League, U.S. Marines, U.S. Coast Guard, U.S. Army, USO, Downtown San Pedro Business Improvement District, San Pedro Chamber of Commerce, and Battleship IOWA. It is a free, public event featuring guided ship tours, military demonstrations and aerial demonstrations. Entertainment includes live music, educational programs, fireworks, and food trucks. 250,000 expected in attendance.
- **Lobster Festival, in its 17<sup>th</sup> year**, the annual festival goes through about 1,700 pounds of butter and 32,000 pounds of lobster, also includes a carnival, art show, Coast Guard base tours and crate race. 48,000 in attendance this year.
- **Cars and Stripes Forever!**, a pre-Independence Day celebration with a free classic car show, live bands, food trucks, beer garden, and a grand fireworks finale. Over 25,000 in attendance this year.
- **Taste of San Pedro**, in its 23<sup>rd</sup> year, this event typically draws over 10,000 people. It features food and beverages from restaurants around the South Bay area and live entertainment.
- **Red Bull Global Rally Cross**, rallycross racing on the LA Waterfront at this back-by-popular-demand event taking place at the Port of Los Angeles Outer Harbor. Over 6,000 in attendance this year.

- **Happy Harbor Halloween**, an annual family friendly and free event which includes arts and crafts, games, face painting, and kid-friendly performances. Over 5,000 attended last year.
- **Conquer the Bridge Race**, annual Labor Day race over the Vincent Thomas Bridge. Over 3,200 attended last year.
- **Waves 'N' Wheels & Free Harbor Boat Tours**, free event, presents the vehicles and vessels that work in Los Angeles Harbor in celebration of World Trade Week. In addition to the vehicle display, the Port offers free, 60-minute narrated boat tours of the Port of Los Angeles in two locations, both with free parking. Tours depart every 30 minutes and availability is offered on a first-come, first-served basis. Close to 2,000 in attendance.
- **Concerts on the LA Waterfront**, free concerts along the waterfront, including live music and fun family activities. Over 1,500 attend.
- **Port of Los Angeles Harbor Cup**, a Cal Maritime Invitational Intercollegiate Regatta hosted by the Port of Los Angeles and the Los Angeles Yacht Club. Over 600 in attendance.
- **Sustainable Seafood Expo**, an expo on how to get the most out of fish while protecting the environment. Over 500 attended.
- **Tall Ships Festival & Rubber Duck 2014**, special event - drew over 250,000 people.

Since the recreational courtesy docks will be open to the public and available for free, short-term docking; daily visiting hours, from 6 a.m. to 10 p.m, will be enforced by Port Police. The Port Police operate a satellite station from neighboring Berth 84. The following rules and restrictions for the courtesy docks were adopted in August 2014 in order to meet the needs of eligible boaters and to maintain an attractive and clean marina, as well as ensuring safety:

- Usage of the recreational courtesy dock on a per vessel basis is limited to four hours in any 24-hour period.
- Recreational vessels only (no commercial vessels, or passenger vessels for hire; no commercial activity permitted)

- No vehicles permitted
- No vessel repairs and no discharges of any type permitted
- Monopolizing space or taking up an unreasonable amount of space will not be permitted and vessels will be prohibited from obstructing access by other vessels
- No transfer of fish or merchandise of offensive or objectionable matter permitted

**(b) Meet Match Requirements and Demonstrate Partnerships (10 total possible points)**

**(1) Will the proposed project include private, local, or State funds greater than the required minimum match? (0-7 points)**

Yes, local funding of 57% of the total Construction Cost. See Proposed Project Budget in the **Budget Narrative**.

**(2) Will the proposed project include contributions by private or public partners that contribute to the project objectives? (0-3 points)**

The Port of Los Angeles is the sub-grantee and will fund all remaining project costs. The Port's contribution is the driving factor and very significant to this project since it supports the majority of the project costs. The Port is a City of Los Angeles agency; therefore it has a very transparent contracting and budget process, which proves its commitment to the project.

The Port demonstrates a favorable track record of fulfilling its commitments as a funding partner. Presently, the Port has hundreds of millions committed in active grants, such as:

<b>Federal &amp; State Active Grants</b>	<b>Grant Award</b>	<b>Port's Contribution</b>	<b>Port's Match</b>
Ports Rail System - Berth 200 Railyard Project	\$88M	\$72M	45%
I-110/C St. Connector	\$21M	\$30M	58%
J.S. Gibson/I-110 Access Ramp	\$24M	\$29M	55%
South Wilmington Grade Separation	\$34M	\$50M	59%
Cargo Transportation Emissions Reduction Program	\$63M	\$222M	78%

**(c) Demonstrate Innovation and Environmental Stewardship (6 total possible points)**

**(1) Will the proposed project include physical components, technology, or techniques that improve eligible user access? (0-3 points)**

The courtesy docks will utilize electric trash skimmers that work 24 hours a day, 7 days a week collecting trash, soaking up oil and trapping floating debris. Over 300 gallons of water are cleaned per minute, reducing the need for maintenance crews and the water stays clean. This cleaning system has been successful at the Downtown Harbor based on the volume of debris removed from the marina water, the increased observable clarity of the water and the satisfaction of the marina guests.

Commonly collected debris includes:

- Styrofoam
- Glass bottles
- Cans and containers
- Plastic bags and wrappers
- Cardboard
- Free-floating Organic Material (FOM)
- Fishing products
- Oil

**(2) Will the proposed project include innovative physical components, technology, or techniques that improve the BIG-funded project? (0-2 points)**

The docks will be constructed of pre-stressed reinforced concrete, EPS foam filled concrete, high grade 3/16" stainless steel, and high density polyethylene piping for utilities embedded within the docks.

The Port utilizes Best Management Practices (BMP's) by keeping public areas clean with regularly scheduled maintenance by Port staff (clean marinas attract responsible visitors), utilization of electric skimmers, executing penalty fines to avoid litter, ensuring reduced waste and prevent pollution, employing nonstructural shore erosion control measures, maintaining vegetated areas surrounding the marina and prohibiting the use of toxic chemicals, barring discharge of oil, gasoline, anti-freeze, pressure washing in the marina, and providing clean functional restrooms and a maintained septic system.

Construction compliance requirements are established in the construction specifications of all Port projects. For this particular project, the following compliance measures will be enforced:

- All harbor crafts used during the construction phase of the proposed Project shall, at a minimum, be repowered to meet the cleanest existing marine engine emission standards or EPA Tier 2.
- Where available, harbor crafts shall meet the proposed USEPA Tier 3 or cleaner marine engine emission standards.
- Vessels: Ships and barges delivering construction materials to construction site shall comply with the expanded Vessels Speed Reduction Program (VSRP) of 12 knots within 40 nautical miles (nm) of Point Fermin to Precautionary Area.
- Trucks hauling materials such as debris or fill shall be fully covered while in operation on Department property.
- Vehicular idling shall be restricted to a maximum of 5 minutes when not in use.
- Tier Specifications: Phase I (January 1, 2009 to December 31, 2011): All on-road heavy duty diesel trucks with a gross vehicle weight rating (GVWR) of 19,500 pounds or greater used on site or to transport materials to and from the site must contain an EPA 2004 engine model year or newer in order to comply with EPA 2004 on-road emission standards. Phase II (Post-January 2011): All on-road heavy-duty diesel trucks with a GVWR of 19,500 pounds or greater used on site or to transport materials to and from the site shall comply with 2010 emission standards, where available. In addition, a copy of each unit's certified EPA rating, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.
- Construction equipment shall incorporate, where feasible, emissions savings technology such as hybrid drives and specific fuel economy standards.

- The following types of measures are required on construction equipment (including on-road trucks):
  - Use diesel oxidation catalysts and catalyzed diesel particulate traps.
  - Maintain equipment according to manufacturers' specifications
  - Install high-pressure fuel injectors on construction equipment vehicles.

**(3) Has the facility where the project is located demonstrated a commitment to environmental compliance, sustainability, and stewardship and has an agency or organization officially recognized the facility for its commitment? (0–1 points)**

The Port of Los Angeles is America's premier port and has a strong commitment to developing innovative strategic and sustainable operations that benefit the economy as well as the quality of life for the region and the nation it serves.

The Port has adopted four noteworthy programs demonstrating Environmental Stewardship:

- The Port is continually promoting a sustainable "grow green" philosophy and ensuring it remains a leader among ports in promoting environmental stewardship as a strategic objective. One of the sustainable practices of the Port is maintaining an operating air quality monitoring network which collects continuous data on ambient air quality and meteorological conditions in the San Pedro Bay region. The Port's monitoring program supports its commitment to improving air quality within the San Pedro Bay region under the Clean Air Action Plan. The stations may also be used to collect other environmental data which can be used for different environmental studies.
- The Port of Los Angeles, together with the Port of Long Beach, implemented a Clean Truck Program in 2008, which significantly reduced air emissions by banning trucks that did not meet the 2007 Federal Clean Truck Emissions Standards. Truck emissions have been reduced over 80% since this program's inception.
- Berth 100 at the Port of Los Angeles was the first container terminal in the world to use Alternative Maritime Power®. Alternative Maritime Power®

(AMP®) is a unique air quality program that focuses on reducing emissions from container vessels docked at the Port of Los Angeles. Instead of running on diesel power while at berth, AMP®-equipped ships "plug in" to shore side electrical power – literally an alternative power source for oceangoing vessels.

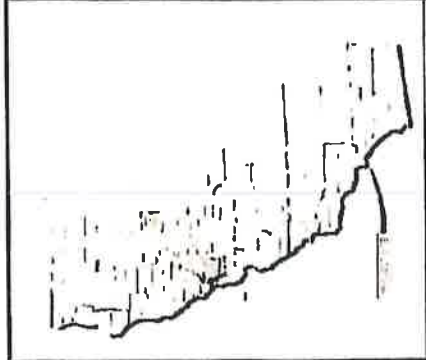
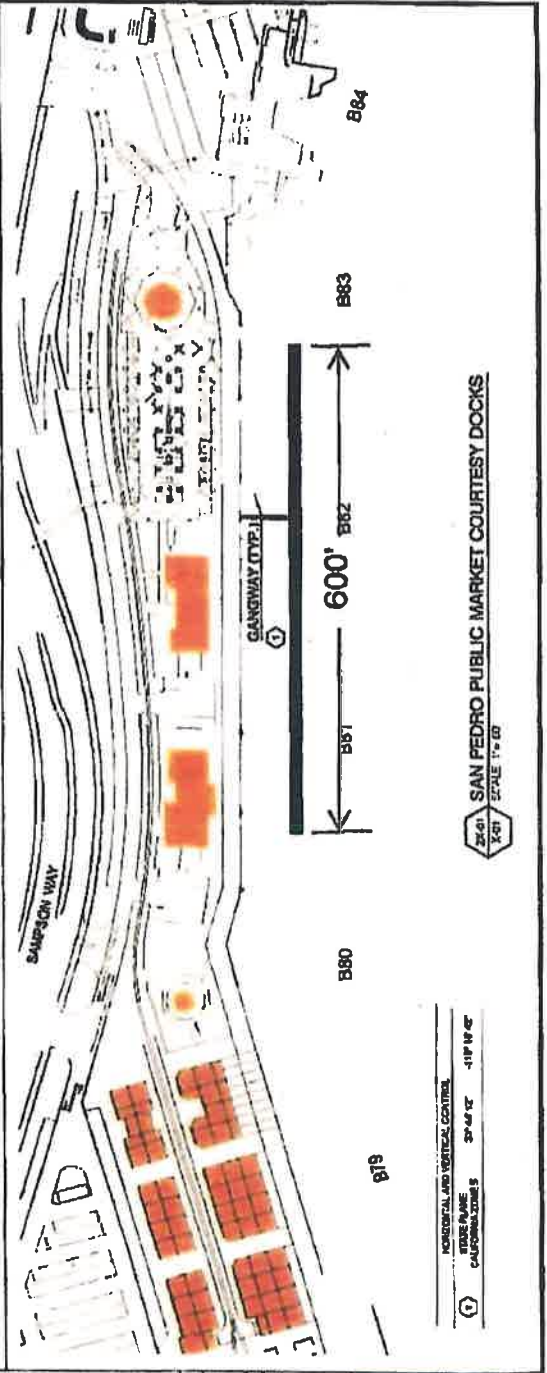
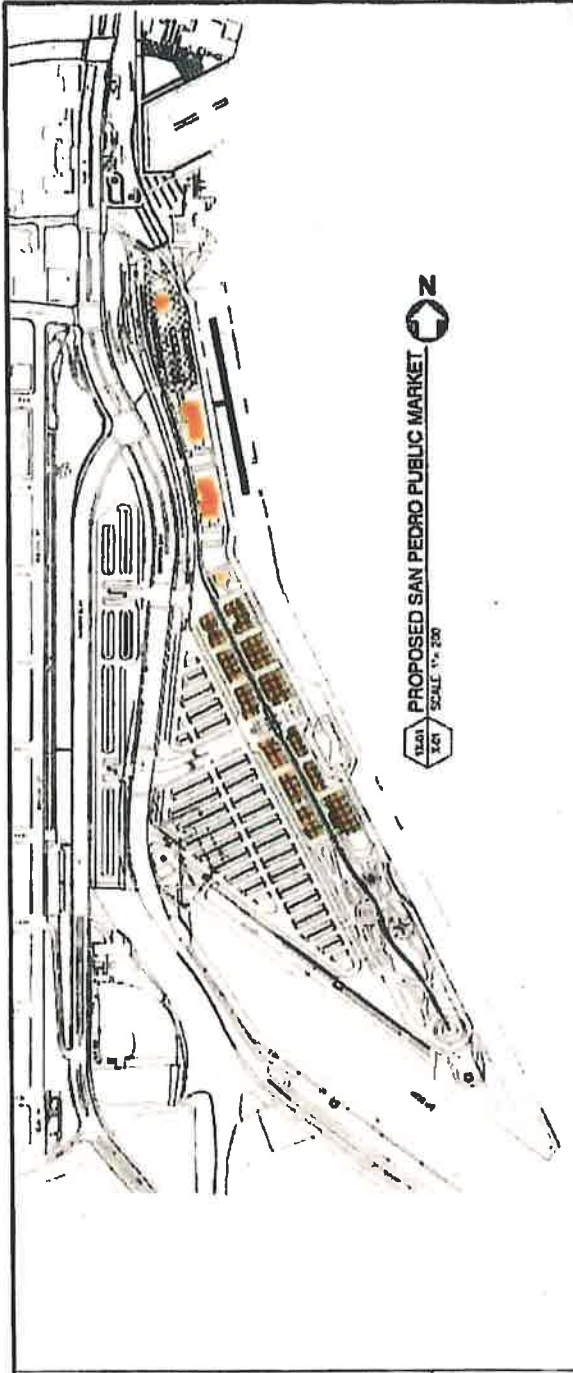
- Green Building Policy, adopted in 2007, proposed a policy that the Port will commit to maintaining a leadership role for the advancement of sustainable practices in buildings, utilizing sustainable design and construction guidelines, based on Leadership in Energy and Environmental Design, LEED, rating system. The policy promotes the incorporation of creative technologies, and dedicates resources to innovation.

The 2015 Inventory of Air Emissions released on August 18, 2016, shows that the Port of Los Angeles has largely continued to preserve clean air gains that have reduced key pollutants, lowered health risk in surrounding communities and improved the quality of life in the greater Los Angeles area.

Presently, the Port of Los Angeles is building the world's first marine terminal able to generate all of its energy needs from renewables. The 40-acre Pasha Green Omni Terminal will be able to run completely off-grid during power outages because it will be powered by an on-site 1.03 megawatt solar micro-grid that features a 2.6 megawatt-hour battery storage system and energy management technology to maximize usage.







GTC 04/2017

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support

enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

CCC 04/2017

**CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

**CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

## **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.