

CITY OF LOS ANGELES HARBOR DEPARTMENT
Port of Los Angeles

REVOCABLE PERMIT
No. 24-01

The Executive Director of the Harbor Department ("Executive Director") of the City of Los Angeles ("City") hereby grants permission to Mortimer & Wallace, LLC, a California limited liability company, and Los Angeles Harbor Grain Terminal, LLC, a California limited liability company (jointly and severally "Tenant") to occupy and use certain lands and/or waters and/or facilities within the Harbor District owned or under the control of City, acting through its Board of Harbor Commissioners ("Board"), subject to the following terms and conditions:

1. Premises. Tenant is permitted under this Revocable Permit ("Permit") to use the lands and/or waters and/or facilities described as Parcel No. 1 consisting of One Hundred Nineteen Thousand Four Hundred Seven (119,407) square feet of paved land area including a pole shed, a modular office, and three (3) storage silos; Parcel No. 2 consisting of Seven Thousand Seven Hundred Thirty-One (7,731) square feet of paved land; Parcel No. 3 consisting of Two Thousand Nine Hundred Ninety (2,990) square feet of paved land; and Parcel No. 4 consisting of Twenty Six Thousand Six Hundred (26,600) square feet of paved land all located at 2422 E. Sepulveda Blvd., Los Angeles, California 90810 as delineated and more particularly described on Harbor Engineering Drawing No. 45690 attached hereto as Exhibit A ("Premises"), and incorporated herein by this reference. By mutual agreement of Executive Director and Tenant, land and water not exceeding ten percent (10%) of the Premises granted, or 20,000 square feet, whichever is greater, may be permanently added to or deleted from the Premises granted herein without further approval of Board subject to the following conditions: (1) so long as such change in the Premises is not temporary within the meaning of the Port of Los Angeles Tariff No. 4, as it may be amended or superseded ("Tariff"), Item No. 1035 (or its successor), the compensation set forth in Section 4 of this Permit shall be increased or decreased pro rata to reflect any such addition or deletion; (2) if the change involves the addition or deletion of any improvement, the adjustment to the compensation shall also take into account this change in the same manner in which the compensation was originally calculated; (3) if permanent changes in the area of the Premises are made on more than one occasion, the cumulative net change in area may not exceed ten percent (10%) or 20,000 square feet, whichever is greater, of the originally designated Premises, and (4) the change in area of the Premises shall not result in the annual compensation exceeding One Hundred Fifty Thousand Dollars (\$150,000). Executive Director is authorized to execute amendment(s) to this Permit to effect the foregoing adjustments to area of the Premises and compensation without further action of Board.

2. Permitted Use. The Premises shall be used for the following purposes:

(a) Parcel No. 1 shall be used for the processing, handling, and storage of bulk agricultural products and for other legal purposes incidental thereto.

(b) Parcel No. 2 shall be used for the processing and handling of petroleum coke.

(c) Parcel No. 3 shall be used for the parking of Tenant employee automobiles and trucks.

(d) Parcel No. 4 shall be used for the operation of a drayage yard including unstacked storage of chassis, stacked storage of containers of no more than two (2) high, and temporary storage of unloaded tractor trailers. Containers must be stacked perpendicular to the fence line on the west and the railroad tracks to the east. Containers may not be stacked lengthwise (North/South) under any circumstances for safety reasons. No maintenance of tractor trailers or chassis is permitted within the Premises.

The uses specified above constitute the "Permitted Use" for the Premises. The Premise may not be used for any other use without the prior written consent of Executive Director which approval may be withheld by

City in its sole and absolute discretion. Tenant shall not use the Premises in any manner, even if the use is a Permitted Use, that will cause cancellation of any insurance policy covering the Premises or adjacent premises; provided, however, Tenant may, in City's sole discretion, remain if it pays the increase in City's insurance costs caused by its operations. No offensive or refuse matter, or any substance constituting any unnecessary, unreasonable, or unlawful fire hazard, or material detrimental to the public health, shall ever be permitted by Tenant to be or remain on the Premises, and Tenant shall prevent any such material or matter from being or accumulating upon the Premises. Tenant further agrees not to keep on the Premises or permit to be kept, used, or sold thereon, anything prohibited by any policy of fire insurance covering the Premises or any structure erected thereon.

3. Effective and Termination Dates. This Permit shall be effective on the date it is executed by Executive Director ("Effective Date") and shall thereafter be revocable at any time by Tenant or by Executive Director upon the giving of at least ninety (90) days' written notice to the other party stating the date upon which this Permit shall terminate ("Termination Date"); provided, however, if this Permit is not terminated prior to the fifth (5th) anniversary of the Effective Date, then before such time Board shall review this Permit regarding its continuation and/or modification. Termination Date shall also mean the date that the Permit terminates in connection with Tenant's Default under Section 13, Tenant's misrepresentation under Section 23, a court decision under Section 24, or a conflict of interest under Section 25 of this Permit, or any termination by operation of law or any other reason. The right of Executive Director to revoke this Permit is and shall remain unconditional. Neither City, nor any board, officer, or employee thereof, shall be liable in any manner to Tenant because of such revocation. Tenant shall commence using the Premises for the Permitted Use within thirty (30) days from the Effective Date.

4. Compensation.

(a) Monthly Rent. On or before the first day of each month, in advance, Tenant shall pay to City the sum of Forty-One Thousand One Dollar and Forty-Six Cents (\$41,001.46) as rental ("Rent") for the use of the Premises for the period beginning on the Effective Date through June 30, 2025. On or before the first day of each month, in advance, for the period July 1, 2025 through June 30, 2026, Tenant shall pay to City the sum of Fifty-Nine Thousand Eight Hundred Sixty-Two Dollars and Thirteen Cents (\$59,862.13) as Rent for the use of the Premises. Use of the Premises for purposes not expressly permitted herein, whether approved in writing by Executive Director or not, may result in additional charges, including charges required under the Tariff. Tenant agrees to pay such additional charges. Executive Director may change the amount of Rent required herein upon giving at least thirty (30) days' written notice to Tenant. Rent paid by Tenant shall be applied to the oldest outstanding balance. Rent is in addition to any applicable charges under the Tariff.

(b) Rent Adjustments. Provided this Permit is not sooner terminated, effective July 1, 2026 (which date and subsequent anniversaries shall be referred to individually as the "Adjustment Date") of the tenancy, and annually thereafter, the Rent will be adjusted as of July 1 automatically without further notice to reflect the greater of three percent (3%) or the percentage increase (but not any decrease), if any, in the Consumer Price Index, all Urban Consumers of the Los Angeles-Long Beach-Anaheim, California area, 1982-84=100, as published by the U.S. Department of Labor, Bureau of Labor Statistics ("CPI"), or successor index selected by Executive Director in his or her sole reasonable discretion. Such adjusted amount of Rent shall be equal to the product obtained by multiplying the Rent amount in effect on the Adjustment Date by a fraction, the numerator of which is the May CPI index on the Adjustment Date and the denominator of which for the first adjustment is the May CPI Index for the calendar year in which the Effective Date occurs, and for all subsequent adjustments through the tenancy is the May CPI index of the prior Adjustment Date.

The formula illustrating the adjustment computation is as follows:

$$\text{Adjusted Rent} = \text{Rent as of Adjustment Date} \times \frac{\text{May CPI Index of Adjustment Date}}{\text{May CPI Index of Effective Date or Prior Adjustment Date}}$$

In addition to or in lieu of the above, City may, at any time, change the amount of Rent without reference to CPI adjustment by giving Tenant thirty (30) days' notice of such change as provided in Section 4(a) of this Permit.

(c) Late Charge. Rent payments which have not been paid within ten (10) days of the due date shall be subject to a service charge consisting of simple interest of one-thirtieth (1/30) of two percent (2%) of the invoice amount remaining unpaid each day, for costs and expenses incurred by reason of Tenant's late payment. City shall have the right, without further notice to Tenant, to change the amount charged for the late charge to the amount set forth in Tariff Item No. 270 if the amount in Tariff Item No. 270 changes. Acceptance of any late charge (or any other payments) shall not constitute a waiver of Tenant's default under Section 13 of this Permit.

(d) Security Deposit. Prior to the issuance of this Permit, Tenant shall deposit with City a sum equal to One Hundred Twenty-Three Thousand Four Dollars and Thirty-Eight Cents (\$123,004.38) as security for Tenant's performance under this Permit ("Security Deposit") including but not limited to covering Tenant's delinquent Rent and its other obligations under this Permit including but not limited to repairing damages to the Premises. Notwithstanding the foregoing, City shall not be required to apply the Security Deposit to any of Tenant's obligations under this Permit during the term of the Permit. Tenant shall increase the Security Deposit by July 1, 2025 to One Hundred Seventy-Nine Thousand Five Hundred Eighty-Six Dollars and Thirty-Nine Cents (\$179,586.39). Tenant shall thereafter increase the Security Deposit annually by each Adjustment Date as necessary to assure that Tenant at all times has on deposit a sum equal to three (3) months of the current Rent. If all or any part of the Security Deposit is used to pay any Rent due and unpaid or to meet any other Tenant obligation, Tenant shall then immediately reimburse City for the amount applied so that at all times during the life of this Permit the full amount the Security Deposit set forth above shall be on deposit with City. Failure to maintain the full amount of the Security Deposit shall constitute a material breach of this Permit. In the sole discretion of Executive Director, Tenant may post other forms of security but only in a form acceptable to the Los Angeles City Attorney. If for any reason City has not initially required a Security Deposit from Tenant, City may at any time and for any reason require a Security Deposit in an amount Executive Director determines necessary to secure performance of the Permit. Tenant agrees to post such deposit with City within ten (10) days of written request from City and agrees that its failure to do so constitutes a material breach of this Permit. No interest is payable by City on the Security Deposit. Any deposit required under this Section 4 shall be in addition to any deposit required for the issuance of a Harbor Engineer Permit pursuant to Section 9 of this Permit.

(e) No Right of Set-Off. Notwithstanding any other provision of this Permit, Tenant's obligation to pay all Rent shall be absolute and unconditional and shall not be affected by any circumstance including, without limitation, any set-off, counterclaim, recoupment, defense, or other right or claim which Tenant may have against City.

(f) Place of Payment. Tenant shall render its payments to City of Los Angeles Harbor Department, P.O. Box 102647, Pasadena, CA 91189-2647, or any other place that City from time to time may designate in writing. Payment shall be made in U.S. Dollars, either in the form of a check (drawn on a bank located in the State of California) or via electronically transmitted funds. Rent is to be paid only by Tenant. Notwithstanding the foregoing, acceptance of Rent paid by any entity or person other than Tenant shall not create any rights under this Permit for the entity or person making the Rent payment.

(g) Rent. All amounts payable by Tenant to City under this Permit during the term of this Permit shall be deemed to be Rent.

5. Utility Charges. Unless otherwise provided for herein, Tenant shall pay all charges for services furnished to the Premises or used in connection with its occupancy, including, but not limited to, heat, gas, power, telephone, water, light, and janitorial services, and pay all deposits, connection fees, charges, and meter rentals required by the supplier of any such service, including City.

6. Rights-of-Way. This Permit shall at all times be subject to rights-of-way over, on, under, and through the Premises for (1) sewers; storm drains; pipelines (public or private); telecommunications equipment; conduits; telephone, cable, fiber optic, and/or power lines; and all similar items; (2) streets, highways, railroads, and all other means of transportation; and (3) equipment access, occupancy, and all other rights reasonably necessary to comply with homeland security or related requirements of federal, state, and local agencies; regardless of whether such rights-of-way exist or are authorized by Board or City in the future. City further reserves rights-of-way over, on, under, and through the Premises as Board or City requires to drill and explore new, or to maintain existing, oil, gas, or mineral wells. This Permit and the Premises shall at all times be subject to all prior exceptions, reservations, grants, easements, leases, or licenses of any kind whatsoever as the same appear of record in the Office of the Recorder of Los Angeles County, California, or in the official records of City or any of its various departments, and shall also be at all times subject to additional reservations Board or City may reasonably require after the Effective Date for which Tenant shall receive no compensation unless otherwise expressly provided.

7. Premises Satisfactory to Tenant / Required Modifications. Tenant has inspected the Premises and agrees that they are suitable for the Permitted Use. No officer or employee of City has made any representation or warranty with respect to the Premises, except as described in writing and attached hereto as an addendum, if any, and in entering into this Permit, Tenant agrees it relies only on the provisions of the Permit. Any modification, improvement, or addition to the Premises and any equipment installation or removal required by the Fire Department, Department of Building and Safety, South Coast Air Quality Management District, Regional Water Quality Control Board, U.S. Coast Guard, Environmental Protection Agency, or any other agency in connection with Tenant's operations, shall be constructed, installed, or removed at Tenant's sole expense. Tenant shall obtain a Harbor Engineer Permit from the office of the Chief Harbor Engineer, Engineering Division, of City's Harbor Department ("Chief Harbor Engineer") and shall comply with the requirements of Section 9 of this Permit before making any modification, improvement, or addition to the Premises.

8. Maintenance and Repair.

(a) Maintenance Performed by Tenant. Tenant, at its sole cost and expense, shall keep and maintain the Premises, and all buildings, works, and improvements of any kind thereon, in good and substantial repair and condition and shall be responsible for and perform all necessary inspection, maintenance, and repair thereof, including preventive maintenance, using materials and workmanship of similar quality to the original improvements. Tenant shall obtain any permits, including but not limited to those issued by City, necessary for such maintenance and repair. Tenant shall maintain the surface pavement and repair any breakage as observed, and shall comply with "Facility Operations on Paved Areas" as set forth on Exhibit B.

(b) Failure to Maintain. If Tenant fails to make any repairs or to perform required maintenance within thirty (30) days after receipt of notice from City to do so, City may, but shall not be obligated to, make such repairs or perform such maintenance at Tenant's expense. Notwithstanding, in an emergency as determined by City (including but not limited to an immediate threat of physical harm to persons and/or material damage to the Premises and/or structural or foundational damage to any improvements thereon), City shall have the right, but not the obligation, to undertake immediate repairs to the Premises and any structures thereon without notice. Tenant shall reimburse City for City's costs (as defined in Section 8(c) of this Permit) within thirty (30) days after receipt of City's invoice for work performed. If Tenant shall commence such repairs and diligently pursue the same to completion or shall begin to perform the required maintenance within the thirty (30) day period, City shall refrain from commencing or pursuing further any repairs or performing any required maintenance until the work has been completed by Tenant. Tenant shall thereafter pay on demand City's costs incurred pursuant to this Section 8(b) prior to Tenant's commencement of repair or maintenance. The making of any repairs or the performance of maintenance by City, which is the responsibility of Tenant, shall in no event be construed as a waiver of the duty or obligation of Tenant to make future repairs or perform required maintenance as herein provided.

(c) City's Costs. "City's costs" for purposes of this Section 8 shall include, in City's sole reasonable discretion, the cost of maintenance or repair or replacement of property neglected, damaged or destroyed, including direct and allocated costs for labor, materials, services, equipment usage, and other indirect or overhead expenses arising from or related to maintenance, repair, or replacement work performed by or on behalf of City.

(d) Litter and Debris. Tenant, at its sole cost and expense, shall provide sufficient dumpsters or other like containers for trash collection and disposal and keep the Premises free and clear of rubbish, debris, and litter at all times. Tenant shall perform annually, at a minimum, before the commencement of the rainy season, inspections and cleaning of any storm water catch basins (including filters), maintenance holes, and drains, maintaining the submerged land underlying any water berthing area at the Premises free and clear of debris from the wharf and from vessels, and cargo loading and unloading operations of vessels berthed at said berths in connection with Tenant's undertaking of the Permitted Use. Tenant, at its sole cost and expense, further shall keep and maintain the Premises in a safe, clean, and sanitary condition in accordance with all applicable federal, state, municipal, and other laws, ordinances, rules, and regulations.

(e) Fire Protection Systems. All fire protection sprinkler systems, standpipe systems, fire hoses, fire alarm systems, portable fire extinguishers, and other fire-protective or extinguishing systems, with the exception of hydrant systems, or appliances which have been or may be installed on the Premises shall be maintained and repaired by Tenant, at its cost, in an operative condition at all times.

(f) City inspections. Upon City's request, Tenant shall provide personnel to accompany City's representatives on periodic inspections of the Premises to determine Tenant's compliance with this Permit. Notwithstanding the foregoing, nothing obligates City to make such determinations and City shall not incur any liability for not making such inspections and determinations.

9. Alterations on Premises. Tenant shall not construct on or alter ("Alteration") the Premises, including a change in the grade, without first obtaining City's written approval and a Harbor Engineer Permit. Tenant shall submit to City a complete Application for Port Permit that attaches a complete set of drawings, plans, and specifications reflecting the proposed Alteration. Where applicable, the drawings, plans and specifications must be prepared and stamped by a licensed engineer registered in the State of California. All projects in the Harbor District are subject to review by City's Harbor Department pursuant to the California Environmental Quality Act (CEQA) and the certified Port Master Plan. City's Chief Harbor Engineer shall have the right to reject or order reasonable changes in said drawings, plans, and specifications. Tenant, at its own expense, shall obtain all permits necessary for such Alteration, including a Harbor Engineer Permit, prior to the commencement of such Alteration. All Alterations by Tenant pursuant to this Permit shall be at Tenant's sole expense. Tenant shall keep the Premises free and clear of liens for labor and materials and shall hold City harmless from any responsibility in respect thereto. Tenant shall give written notice to the Chief Harbor Engineer, in advance, of the date it will commence any Alteration. Immediately upon the completion of the Alteration, Tenant shall notify the Chief Harbor Engineer of the date of such completion and shall, within thirty (30) days after such completion, file with the Chief Harbor Engineer, in a form acceptable to the Chief Harbor Engineer, a set of "as built" plans for such Alteration if required under the terms of the Harbor Engineer Permit issued for the Alteration.

10. Signs and Lighting. Tenant shall not erect or display, or permit to be erected or displayed, on the Premises any signs or advertising matter of any kind without first obtaining the written consent of Executive Director. If Tenant obtains consent, Tenant shall also comply with the requirements of Section 9 of this Permit prior to erecting or displaying any signs or advertising matter on the Premises. Tenant shall further post, erect, and maintain on the Premises such signs as Executive Director may direct. All signs erected or displayed on the Premises shall comply with the regulations set forth in Section 14.4.1 *et seq.* of the Los Angeles Municipal Code. Tenant acknowledges that the Premises may lack adequate lighting for a Permitted Use and that Tenant is responsible for installing temporary or permanent lighting as it may deem necessary to perform any labor, or to protect any property stored or located on the Premises, or to otherwise use the Premises for any Permitted Use. Tenant shall comply with the requirements of Section 9

of this Permit prior to installing any lighting. Any lighting installed shall meet Illuminating Engineering Society / American National Standards Institute (IES/ANSI) standards.

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

12. Premises Subject to Tariff. Tenant accepts the Premises and shall undertake the Permitted Use set forth in Section 2 of this Permit subject to each and every term and condition provided herein, and to each and every rate, term, and condition of the Tariff, as applicable to Premises and/or the Permitted Use. Tenant represents and warrants that it has received, read, and understands the rates, terms, and conditions of the Tariff. Except as otherwise set forth in this Permit, Tenant is contractually bound by all Tariff rates, terms, and conditions as if the same were set forth in full herein. City in its sole and absolute discretion shall determine if a conflict exists between a provision of this Permit and a Tariff provision. In the event of such conflict, this Permit shall at all times prevail.

13. Tenant Default.

(a) Events of Default. The occurrence of any of the following shall constitute a material breach and default by Tenant under this Permit: (1) Tenant's failure to pay when due any Rent required to be paid under this Permit if the failure continues for three (3) days after written notice from City; (2) Tenant's failure to perform any other obligation under this Permit if Tenant fails to cure the failure within three (3) days after delivery of written notice of the failure from City to Tenant; (3) Tenant's abandonment of the Premises including but not limited to (i) Tenant's absence from or failure to use the Premises or any substantial portion thereof for three (3) consecutive days (excluding Saturdays, Sundays, and California legal holidays) while in default of any provision of this Permit; or (ii) if Tenant is not in default, Tenant's absence from or failure to use the Premises or any substantial portion thereof for a period of thirty (30) consecutive days unless Tenant, prior to the expiration of any such period of thirty (30) consecutive days, notifies Executive Director in writing that such nonuse is temporary and obtains the written consent of Executive Director to such nonuse; (4) To the extent permitted by law (i) a general assignment by Tenant or any guarantor of the Permit for the benefit of the creditors without written consent of City; (ii) the filing by or against Tenant, or any guarantor, of any proceeding under an insolvency or bankruptcy law, unless (in the case of an involuntary proceeding) the proceeding is dismissed within sixty (60) days; (iii) the appointment of a trustee or receiver to take possession of all or substantially all the assets of Tenant or any guarantor, unless possession is unconditionally restored to Tenant or that guarantor within thirty (30) days and the trusteeship or receivership is dissolved; and/or (iv) any execution or other judicially authorized seizure of all or substantially all the assets of Tenant located on the Premises, or of Tenant's interest in this Permit, unless that seizure is discharged within thirty (30) days.

(b) City's Remedies. City may pursue any and all remedies at law or in equity including seeking all monetary damages and termination of this Permit. City's remedies are cumulative and not inclusive. Nothing herein shall imply that City's right to revoke or terminate this Permit as provided in Section 3 of this Permit is limited in any way. All personal property that remains on the Premises after Tenant vacates the Premises shall become the property of City, at City's option.

14. Compliance with Applicable Laws and Environmental Obligations.

(a) At all times in its use and occupancy of the Premises and its conduct of operations thereon, Tenant, at Tenant's sole cost and expense, shall comply with all applicable federal, state, county, City, or government agency laws, statutes, ordinances, standards, codes (including all building codes), rules, regulations, requirements, or orders in effect now or hereafter in effect ("Applicable Laws") pertaining to the

use or condition of the Premises and/or Tenant's operations and conduct of its business. Applicable Laws shall include, but not be limited to, all environmental laws and regulations in effect now or hereafter in effect including:

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

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

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

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

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

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

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

(viii) Any other applicable federal, state, or local law, regulation, ordinance or requirement (including consent decrees and administrative orders imposing liability or standard of conduct) now or hereinafter in effect which concerns Environmentally Regulated Material (as defined in Section 14(c)), the Premises, and/or Tenant's use and/or occupancy thereof.

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

(c) Tenant shall not cause or permit any Environmentally Regulated Material, as defined in this Section 14(c), to be generated, brought onto, handled, used, stored, transported from, received, or disposed of (hereinafter sometimes collectively referred to as "handle" or "handled") in or about the Premises except for limited quantities of standard office and janitorial supplies containing chemicals categorized as Environmentally Regulated Material and except as permitted, required, or necessary under Section 2 of this Permit, if any. Tenant shall handle all such Environmentally Regulated Material in strict compliance with Applicable Laws in effect during Tenant's occupancy. The term "Environmentally Regulated Material" shall mean:

(i) Any "hazardous substance" as that term is defined in the CERCLA;

(ii) "Hazardous waste" as that term is defined in the RCRA;

(iii) Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standard of

conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereinafter in effect);

(iv) Radioactive material, including any source, special nuclear, or byproduct material as defined in the Atomic Energy Act of 1954 (42 USCS §§ 2011 *et seq.*) in its present or successor form;

(v) Asbestos in any form or condition;

(vi) Polychlorinated biphenyls ("PCBs") and any substance or compound containing PCBs; and

(vii) Petroleum products.

(d) Tenant shall remediate or cause the remediation of any spill, discharge, or release of any Environmentally Regulated Material that occurs in, on, under, or about the Premises ("Contamination"), whether caused by Tenant or any third-party consultant, contractor, or invitee of Tenant during Tenant's occupancy of the Premises, including Contamination of improvements, adjacent harbor waters, soil, sediment, groundwater, or air, or of adjacent premises (including soil, sediment, groundwater, or air) and including Contamination that is considered a nuisance under Applicable Laws. Remediation shall be to the satisfaction of City, and the requirements of the applicable governmental agencies including the Regional Water Quality Control Board, by removing or effecting the removal of all Contamination including but not limited to contaminated soil, water, groundwater, sediment, or other material it may place or cause to be placed on site such that no encumbrances, such as deed or land use restrictions, be imposed on the Premises as a result of such Contamination. In fulfilling the obligations under this Section 14, Tenant shall also comply with any other conditions reasonably imposed by City. If Tenant knows or has reasonable cause to believe that Contamination has occurred in, on, under, or about the Premises, Tenant shall immediately give written notice to City.

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

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

(g) In discharging Tenant's obligations under this Permit, Tenant shall perform any tests using a laboratory certified by Environmental Laboratory Accreditation Program (ELAP), under the State Water Resources Control Board, or other similar laboratory upon City's written approval. By signing this Permit, Tenant hereby irrevocably directs any such laboratory to provide City, upon written request from City, copies

of all of its reports, tests results, and data gathered. As used in this Section 14, "Tenant" includes agents, employees, contractors, subcontractors, and/or invitees of Tenant.

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

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

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

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

(i) Except as may be otherwise provided in this Permit, Tenant's obligations in this Section 14 shall survive the Termination Date of this Permit.

15. Restoration and Surrender of Premises.

(a) Tenant's Restoration Obligations. Subject to Section 15(d) of this Permit, on or before the Termination Date of this Permit, unless otherwise excused in writing by Executive Director, Tenant shall quit and return possession of the Premises to City leaving no Tenant improvements, unless City notifies Tenant otherwise in writing, (but leaving City's improvements, if any) and leaving the Premises in at least as good and usable a condition, acceptable to Executive Director, as the same were in at the time of the first occupation thereof by Tenant, or any transferor to and/or assignor of Tenant (collectively, "Assignor") under this Permit and all other previous permits. The term Assignor shall include any and all entities that occupied the Premises prior to Tenant and actually or purportedly transferred and/or assigned its right of occupancy to Tenant either contractually or under operation of law, including any "Transfer" as defined in Section 19 of this Permit, whether or not there was a written assignment and/or approval of the assignment by City. Tenant shall not damage paving installed by City or any unpaved areas regardless of the nature of Tenant's operations on the Premises. If the condition of the Premises is upgraded during the term of this Permit, Tenant shall restore the Premises to the upgraded condition. If City terminates this Permit pursuant to Section 13 of this Permit, Tenant shall still be obligated to restore the Premises as provided in this Section 15 or to pay the cost of restoration if City chooses to perform the work, at City's option, and Tenant shall be required to pay compensation to City as provided in Section 16 of this Permit. In connection with the foregoing, Tenant, at its sole cost and expense, shall restore the Premises (including the soil, groundwater, and sediment) such that the Premises will be returned to City: (a) free of Contamination and in at least as good of a condition as the condition prior to the installation of all above-ground and below-ground works, structures, improvements, and pipelines of any kind, (collectively referred to as "Structures") in, on, or below the Premises under this Permit and all previous permits (as between City and Tenant, Tenant shall bear sole responsibility for Contamination and any costs related thereto); (b) free of any encumbrances including but not limited to deed or land use restrictions as a result of any Contamination and/or any liens (UCC, federal or state tax, or otherwise) on the Premises or on fixtures or equipment, or personal property left on the Premises; (c) free of Structures placed on the Premises by Tenant (If the Premises, at the time of the

Effective Date, have been improved by a prior tenant or by both City and a prior tenant, then such Structures which are left on the Premises at Tenant's request or for Tenant's benefit shall also be the responsibility of Tenant except as may be otherwise specified by this Permit); and (d) in a clean, level, graded, and compacted condition with no excavations or holes resulting from Structures removed.

(b) Restoration Indemnity. In addition to, and not as a substitute for any remedies provided by this Permit or at law or equity, Tenant shall defend, indemnify, and hold harmless City from any and all claims and/or causes of action, damages, liabilities, judgments, expenses, penalties, loss of rents, and attorneys' and consultants' fees arising out of or involving: (a) Liens on the Premises, Structures, and/or on fixtures and/or equipment or property left on the Premises following the Termination Date; (b) Orders or enforcement actions pending against or in connection with the Premises, the Permitted Use, and/or this Permit; (c) The cleanup of any Contamination including, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement. The obligations under this Section 15 shall survive the Termination Date of this Permit.

(c) Relocation Assistance. Nothing contained in this Permit shall create any right in Tenant or any sublessees of Tenant for relocation assistance or payment from City upon termination of this Permit (whether by revocation (Section 3) or default (Section 13) or any other reason. Tenant acknowledges and agrees that it shall not be entitled to any relocation assistance or payment pursuant to the provisions of any state or federal law, including Title 1, Division 7, Chapter 16 of the California Government Code (§§ 7260 *et seq.*) with respect to any relocation of its business or activities upon the termination of this Permit whether by City, by Tenant, pursuant to Section 13 of this Permit, or by operation of law.

(d) Demolition of Improvements / Acceptance of Improvements. If Tenant's improvements are not removed on or before the Termination Date, City shall have the right to remove and/or demolish the same at Tenant's cost. In that event, Tenant agrees to pay to City, upon demand, City's costs of any such removal or demolition. Notwithstanding the foregoing, City reserves the right, at its option, to accept any works, buildings, or other improvements upon the Premises, including a change in the grade thereof, as constructed or altered, in lieu of restoration of the Premises to their condition prior to such construction or alteration.

(e) Site Restoration Plan. Independent of any regulatory agency requirements, upon written request of Executive Director, Tenant shall submit to City a Site Characterization Work Plan for review and approval. Tenant's Site Characterization Work Plan shall include characterization of adjacent Harbor waters, soil, groundwater, and sediment of the Premises. Following City's approval of Tenant's Site Characterization Work Plan, Tenant shall conduct, at its sole cost and expense, a Site Characterization of the Premises pursuant to the Site Characterization Work Plan approved by City. The Site Characterization of the Premises shall be completed within a period of time specified by Executive Director in his or her sole reasonable discretion and shall be submitted to City for its review. If in City's sole discretion, the results of such Site Characterization indicate that Contamination has been identified or reasonably suspected in, on, under, or about the Premises, Tenant shall provide City, at Tenant's sole cost and expense, a remediation action plan or soil management plan or other work plan ("Remedial Action Plan") as required by City in a form acceptable to City. Tenant shall demonstrate to City's satisfaction that Contamination does not exist or that if Contamination exists, Tenant shall handle, store, treat, remove and properly dispose of the Contamination as described in Section 14 of this Permit pursuant to the Remedial Action Plan and to the satisfaction of City, and the requirements of the applicable governmental agencies including the Regional Water Quality Control Board.

16. Rent During Restoration. Tenant understands and agrees it is responsible for complete restoration of the Premises before the Termination Date, as provided in this Permit and under Applicable Laws, including but not limited to the clean-up of any Contamination in, on or about the Premises. If, for any reason, such restoration is not completed before the Termination Date, then Tenant is obligated to pay City compensation during such restoration period, in an amount equal to the then fair market rental value of the Premises and City's Harbor Department's then established rate of return as determined by City; however, said compensation amount shall not be less than the Rent paid by Tenant at the time of the

Termination Date. Tenant also agrees to provide City a surety bond, in an amount determined by Executive Director, in his or her sole reasonable discretion, to assure removal of Contamination from the Premises at any time City demands such bond.

17. Indemnity.

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

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

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

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

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

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

(b) Tenant also agrees to indemnify City and pay for all damages or loss suffered by City and City's Harbor Department including, but not limited to, damage to or loss of property, to the extent not insured by City, and loss of City revenue from any source, caused by or arising out of the conditions, operations, uses, occupations, acts, omissions, or negligence referred to in this Section 17. The term "persons" as used in this Section 17 shall include, but not be limited to, officers and employees of Tenant.

(c) Tenant shall also indemnify, defend, and hold City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution of the value of the Premises, damages for loss or restriction on use of rentable or useable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultants' fees, and experts' fees) which arise during or after the term of this Permit as a result of Contamination for which Tenant is otherwise responsible for under the terms of this Permit. This indemnification of City by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean up, remedial, removal, or restoration work required by any federal, state, or local governmental agency because of Contamination present in the soil or groundwater on or under the Premises.

(d) The indemnity obligations under this Section 17 shall survive the Termination Date of this Permit and shall apply regardless of the active or passive negligence of City and regardless of whether liability without fault or strict liability is imposed or sought to be imposed on City.

18. Insurance. In addition to, and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 17 of this Permit, Tenant shall procure and maintain at its expense and keep in force at all times during the term of this Permit the following insurance:

(a) Commercial general liability or marine general liability insurance, including contractual liability and property damage insurance, written by an insurance company authorized to do business in the State of California, or approved by the California Department of Insurance as a surplus lines insurer eligible to do business in California, rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if a Best's Rating is not available) with Tenant's normal limits of liability but not less than One Million Dollars (\$1,000,000) for injury or death to one or more persons out of each accident or occurrence and One Million Dollars (\$1,000,000) for bodily injury and property damage for each occurrence / Two Million Dollars (\$2,000,000) general aggregate. Where Tenant provides or dispenses alcoholic beverages, host liquor liability coverage shall be provided with the same limits of liability as above. Tenant's general liability coverage shall also have the railroad exclusion deleted.

(b) In addition to and concurrently with the aforesaid insurance coverage, Tenant shall procure and maintain, either by an endorsement thereto or by a separate policy, fire legal liability insurance with a minimum limit of Two Hundred Fifty Thousand Dollars (\$250,000) covering legal liability of Tenant for damage or destruction to the works, buildings, and improvements owned by City provided that said minimum limits of liability shall be subject to adjustments by Executive Director to conform with the deductible amount of the fire insurance policy maintained by Board, with waiver of subrogation in favor of Tenant so long as permitted by Board's fire insurance policy, upon thirty (30) days' prior written notice thereof to Tenant at any time during the term of this Permit.

(c) Tenant shall procure and maintain automobile insurance with limits of liability not less than One Million Dollars (\$1,000,000) covering injuries or death resulting from each accident or claim arising out of any one claim or accident. This insurance shall cover all owned, non-owned, and/or hired automobiles.

(d) Tenant shall procure and maintain fire and extended coverage insurance covering One Hundred percent (100%) of the replacement value of the works, buildings, and improvements erected or owned by Tenant on the Premises, with such provision in the policies issued to cover the same, or in riders attached thereto, as will provide for all losses to be payable to Board to be held in trust for reconstruction. In the event of loss or damage by fire to any of such works, buildings, or improvements, Tenant shall undertake replacement or reconditioning of such items within ninety (90) days following any such loss. As Tenant undertakes such replacement or reconditioning, such proceeds shall be released by Board to Tenant as payments are required for said purpose. Upon the completion of such replacement or reconditioning to the satisfaction of Executive Director, any balance thereof remaining shall be paid to said Tenant forthwith.

(e) Tenant shall procure and maintain environmental impairment liability insurance which shall include coverage for bodily injury, property damage, including third-party claims for on-site and off-site bodily injury and property damage, clean-up, and defense of suits, with a limit of at least One Million Dollars (\$1,000,000) per occurrence, which is to remain in effect at least five (5) years after the Termination Date.

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

(g) Limits for coverage required under Section 18 of this Permit shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her sole judgment, such retention or self-insurance is justified by the net worth of Tenant. The self-insured retention or self-insurance shall provide that any other insurance maintained by City's Harbor Department shall be excess of Tenant's insurance and shall not contribute to it. In all cases, regardless of any deductible, retention, or self-insurance, Tenant shall have all the obligations of an

"insurer" under the California Insurance Code and said insurance shall be deemed to include a defense of suits provision and a severability of interest clause.

(h) Policies submitted pursuant to Section 18 of this Permit shall, in addition, provide the following coverage either in the original policy or by endorsement substantially as follows:

(i) "Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that the City of Los Angeles, acting by and through its Harbor Department, the Board of Harbor Commissioners, and their officers, agents, and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts, and activities of all the insureds, including any sole negligence of the additional insureds, under Revocable Permit No. 24-01, and under any amendments, modifications, extensions, or renewals of said Permit regardless of whether such contractual obligations, operations, uses, occupations, acts, and activities occur on the Premises or elsewhere."

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

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

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

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

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

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

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

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

(j) All insurance procured by Tenant shall comply with the following:

(i) For each insurance policy, the Tenant shall give to the Board of Harbor Commissioners a 10-days prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-days prior notice of cancellation or reduction in coverage for any other reason by written notice

via registered mail and addressed to the City of Los Angeles Harbor Department, Attention: Risk Manager and the City Attorney's Office, 425 S. Palos Verdes Street, San Pedro, California 90731.

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

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

(iv) Executive Director, at his or her discretion, based upon recommendation of the Risk Manager of City's Harbor Department, may request that Tenant increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving written notice to Tenant.

(v) Immediately upon procuring any and all policies of insurance required herein, Tenant must request from Tenant's insurance carrier(s) full certified copies of such policies of insurance. Tenant shall thereafter provide such full certified copies of such policies to City within thirty (30) days of Tenant's receipt of such policies from Tenant's insurance carrier(s). Tenant's obligation to provide such copies shall survive the Termination Date regardless of whether Tenant receives such policies prior to or after the Termination Date. Tenant shall further provide written notice to City of any change of terms of any policies of insurance required herein within thirty (30) days of any such change.

(vi) Tenant shall report in writing to Executive Director within fifteen (15) days after it, its officers, or its managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000) to property, occurring upon the Premises, or elsewhere within the Harbor District, if Tenant's officers, agents, or employees are involved in such an accident or occurrence. Such report shall contain to the extent available: (1) the name and address of the persons involved; (2) a general statement as to the nature and extent of injury or damage; (3) the date and hour of occurrence; (4) the names and addresses of known witnesses; and (5) such other relevant information as may be known to Tenant, its officers, or its managing agents.

19. No Assignments/Subleases/Transfers. No transfer of this Permit, or any interest therein or any right or privilege thereunder, regardless of whether accomplished by a separate agreement, sale of stock or assets, merger or consolidation or reorganization by or of Tenant (or any entity that directly or indirectly controls or owns fifty percent (50%) or more of Tenant), or accomplished in any other manner, whether voluntary or by operation of law, including but not limited to assignment, sublease, transfer, gift, hypothecation, or grant of total or partial control, or any encumbrance of this Permit (hereafter collectively referred to as "Transfer"), shall be valid or effective for any purpose. "Transfer" also shall include the involvement of Tenant or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout, or otherwise) whether or not a formal assignment or hypothecation of this Permit or Tenant's assets, which involvement results in a reduction of the net worth of Tenant (defined as the net worth of Tenant, excluding guarantors, established by generally accepted accounting principles) by an amount greater than twenty-five percent (25%) of such net worth as it was represented at the time of the execution of this Permit or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater. For purposes of this Section 19, the term "by operation of law" includes but is not limited to: (1) the placement of all or substantially all of Tenant's assets in the hands of a receiver or trustee; or (2) a transfer by Tenant for the benefit of creditors; or (3) transfers resulting from the death or incapacity of any individual who is a Tenant or of a general partner of a Tenant.

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

21. Transfer of Stock. If Tenant is a corporation and more than ten percent (10%) of the outstanding shares of capital stock of Tenant is traded during any calendar year after filing its application for this Permit, Tenant shall notify Executive Director in writing within ten (10) days after the transfer date; provided, however, that this provision shall have no application in the event the stock of Tenant is listed on either the New York Stock Exchange, NASDAQ, or the NYSE Arca Options. If more than twenty-five percent (25%) of Tenant's stock is transferred, whether by one or by means of successive transfers, regardless of whether Tenant is a publicly or privately held entity, such transfer shall be deemed an assignment within the meaning of Section 19. Any such transfer shall void this Permit. Such a transfer is agreed to be a breach of this Permit which shall entitle the Executive Director to immediately terminate this Permit by giving written notice thereof.

22. Possessory Interest. THIS PERMIT MAY CREATE A POSSESSORY INTEREST BY TENANT WHICH MAY BE SUBJECT TO PROPERTY TAXATION. TENANT SHALL PAY ALL SUCH TAXES SO ASSESSED, AND ALL OTHER ASSESSMENTS OF WHATEVER CHARACTER LEVIED UPON ANY INTEREST CREATED BY THIS PERMIT. TENANT SHALL ALSO PAY ALL LICENSE AND PERMIT FEES REQUIRED FOR THE CONDUCT OF ITS OPERATIONS.

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

24. Termination by Court. If any court having jurisdiction in the matter renders a final decision which prevents the performance by City of any of its obligations under this Permit, then either party hereto may terminate this Permit by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations) shall thereupon terminate.

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

26. Notice. In all cases where written notice, including the service of legal pleadings, is to be given under this Permit, service shall be deemed sufficient if said notice is deposited in the United States mail, in a sealed envelope, addressed as set forth below, with postage thereon fully prepaid. When so given, such notice shall be effective from the date of mailing. Unless changed by notice in writing from the respective parties, notice to the parties shall be as follows:

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

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

To Tenant: Mortimer & Wallace, LLC
2422 E. Sepulveda Blvd
Long Beach, California 90810
Attention: Dwight Robinson, Chief Executive Officer

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

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

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

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

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

31. Nondiscrimination and Affirmative Action Provisions. Tenant agrees not to discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded under or pursuant to this Permit shall contain this provision. The applicable provisions of Section 10.8 *et seq.* of the Los Angeles Administrative Code are set forth in the attached Exhibit B and are incorporated herein by this reference.

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

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

34. Wage and Earnings Assignment Orders/Notices of Assignments. Tenant is obligated to fully comply with all applicable state and federal employment reporting requirements for Tenant and/or its employees. Tenant shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Tenant will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Section 5230 *et seq.* of the California Family Code. Tenant will maintain such compliance throughout the term of this Permit.

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

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

37. Wilmington Truck Route. It is recognized by both parties that Tenant may not directly control any trucks serving the Premises. However, Tenant will make its best effort to notify truck drivers, truck brokers, and trucking companies that trucks serving the Premises must confine their route to the designated Wilmington Truck Route of Alameda Street and Harry Bridges Boulevard; Figueroa Street from Harry Bridges Boulevard to "C" Street; and Anaheim Street east of Alameda Street as depicted on the attached as Exhibit D. The Wilmington Truck Route may be modified from time to time at the sole discretion of Executive Director with written notice to Tenant.

38. State Tidelands Act. This Permit, the Premises, and Tenant's use and occupancy thereof shall at all times be subject to the limitations, conditions, restrictions, and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929 (1929 Cal. Stats., Ch. 651), as amended, and Article VI of the Charter of City of Los Angeles relating to such lands. Tenant shall not undertake any use of the Premises, even a Permitted Use, which is or will be inconsistent with such limitations, conditions, restrictions, and reservations.

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

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

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

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

43. Prior Permit Superseded. Where this Permit supersedes a previous permit or other entitlement granted by City to Tenant, from and after the Effective Date, said superseded permit or other entitlement shall have no further force or effect except to the extent either party has accrued any continuing rights or obligations that remain to be exercised or performed after the termination or expiration of the superseded permit or other entitlement as provided in the superseded permit or other entitlement.

(signature page follows)

DATED: _____

CITY OF LOS ANGELES HARBOR DEPARTMENT

By: _____
EUGENE D. SEROKA
Executive Director

Attest: _____
AMBER M. KLESGES
Board Secretary

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

DATED: 3/6/2024

MORTIMER & WALLACE, LLC

By: Dwight Robinson
President/CEO/CFO
Type/Print Name and Title

By: _____
Type/Print Name and Title

DATED: 3/6/2024

LOS ANGELES HARBOR GRAIN TERMINAL, LLC

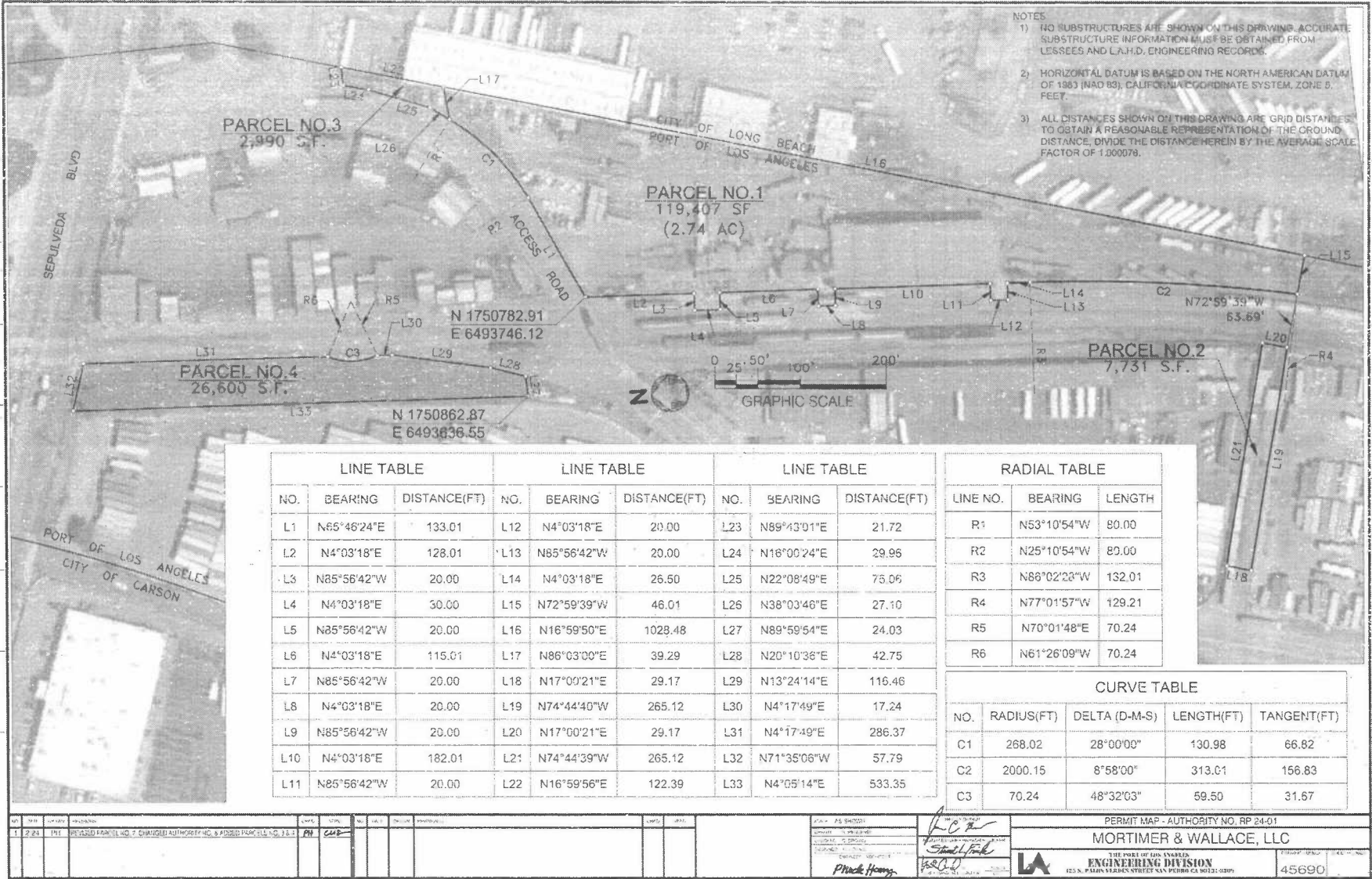
By: Dwight Robinson
President/CEO/CFO
Type/Print Name and Title

By: _____
Type/Print Name and Title

APPROVED AS TO FORM AND LEGALITY

March 7, 2024
HYDEE FELDSTEIN SOTO, City Attorney
STEVEN Y. OTERA, General Counsel

By: Janet Karkanen
JANET KARKANEN, Deputy



- NOTES**
- 1) NO SUBSTRUCTURES ARE SHOWN ON THIS DRAWING. ACCURATE SUBSTRUCTURE INFORMATION MUST BE OBTAINED FROM LESSEES AND L.A.H.D. ENGINEERING RECORDS.
 - 2) HORIZONTAL DATUM IS BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD 83), CALIFORNIA COORDINATE SYSTEM, ZONE 8, FEET.
 - 3) ALL DISTANCES SHOWN ON THIS DRAWING ARE GRID DISTANCES. TO OBTAIN A REASONABLE REPRESENTATION OF THE GROUND DISTANCE, DIVIDE THE DISTANCE HEREIN BY THE AVERAGE SCALE FACTOR OF 1.000076.

LINE TABLE			LINE TABLE			LINE TABLE			RADIAL TABLE		
NO.	BEARING	DISTANCE(FT)	NO.	BEARING	DISTANCE(FT)	NO.	BEARING	DISTANCE(FT)	LINE NO.	BEARING	LENGTH
L1	N65°46'24"E	133.01	L12	N4°03'18"E	20.00	L23	N89°43'01"E	21.72	R1	N53°10'54"W	80.00
L2	N4°03'18"E	128.01	L13	N85°56'42"W	20.00	L24	N16°00'24"E	29.96	R2	N25°10'54"W	80.00
L3	N85°56'42"W	20.00	L14	N4°03'18"E	26.50	L25	N22°08'49"E	75.06	R3	N88°02'23"W	132.01
L4	N4°03'18"E	30.00	L15	N72°59'39"W	46.01	L26	N38°03'46"E	27.10	R4	N77°01'57"W	129.21
L5	N85°56'42"W	20.00	L16	N16°59'50"E	1028.48	L27	N89°59'54"E	24.03	R5	N70°01'48"E	70.24
L6	N4°03'18"E	115.01	L17	N86°03'00"E	39.29	L28	N20°10'36"E	42.75	R6	N61°26'09"W	70.24
L7	N85°56'42"W	20.00	L18	N17°09'21"E	29.17	L29	N13°24'14"E	116.46			
L8	N4°03'18"E	20.00	L19	N74°44'40"W	265.12	L30	N4°17'49"E	17.24			
L9	N85°56'42"W	20.00	L20	N17°00'21"E	29.17	L31	N4°17'49"E	286.37			
L10	N4°03'18"E	182.01	L21	N74°44'39"W	265.12	L32	N71°35'06"W	57.79			
L11	N85°56'42"W	20.00	L22	N16°59'56"E	122.39	L33	N4°05'14"E	533.35			

CURVE TABLE				
NO.	RADIUS(FT)	DELTA (D-M-S)	LENGTH(FT)	TANGENT(FT)
C1	268.02	28°00'00"	130.98	66.82
C2	2000.15	8°58'00"	313.01	156.83
C3	70.24	48°32'03"	59.50	31.67

EXHIBIT A

NO.	DATE	DESCRIPTION	BY	CHECKED	DATE	SCALE	PROJECT	DATE	PROJECT	DATE	PROJECT	DATE	PROJECT
1	2/21/11	PRELIMINARY PLAN NO. 7 CHANGE AUTHORITY NO. 4 & ADDED PARCELL NO. 3 & 4	PH	CWE									

PERMIT MAP - AUTHORITY NO. RP 24-01 MORTIMER & WALLACE, LLC THE PORT OF LOS ANGELES ENGINEERING DIVISION 125 N. PALM STREET, SUITE 1000, LOS ANGELES, CA 90012-3099	45690
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Exhibit B

FACILITY OPERATIONS ON PAVED AREAS*

(*Note that facilities covered by an Individual or Industrial NPDES permit, or designated as a Critical Source in the Municipal NPDES permit, will also have to comply with all permit requirements)

ENVIRONMENTAL PERMIT CONDITIONS:

1. Facility shall be cleaned and maintained regularly. All areas shall be swept at least once per week or as needed to control trash, debris, and other waste.
2. Whenever feasible, dry cleaning methods shall be used instead of washing down. If an area must be washed, spot clean to minimize the amount of water used. All wash water shall be contained; only stormwater shall be allowed to enter the storm drain system. For large areas, contain the wash water by vacuum truck or discharge to the sewer system via a permitted connection. Prior to washing, the Permittee shall:
 - Seal off storm drains using temporary berms or covers.
 - Sweep the area that is to be cleaned and dispose of trash and debris as solid waste.
3. Sweepings and/ or sediment shall not be allowed to enter the storm drains or leave the property.
4. Facility shall be inspected weekly to ensure that no drips, leaks and spills are occurring on site. Drip pans and spill equipment shall be available onsite for emergencies. Drip pans shall be deployed at the first sign of a leak or drip, and repairs shall be made immediately. Following any release, areas shall be cleaned up immediately using dry cleaning methods.
5. Do not feed birds, feral cats, sea lions, or other scavengers.
6. All hazardous, universal, and non-hazardous wastes and materials in drums shall be stored in designated areas on spill pallets, in leak-proof, covered, and labeled containers.
7. Small quantity liquid products (such as paints, lubricants, aerosol cans) shall be stored indoors and/or in inflammable lockers.
8. Parts, equipment, or materials with metal particulate, rust, grease, and/ or oil shall be stored indoors, or if outdoors then elevated off the ground and covered.
9. Dumpsters, recycle bins and trash containers shall have lids that are kept closed. Leaking dumpsters and bins shall be replaced immediately.
10. No equipment or vehicle washing, repair or maintenance is allowed on site.
11. No fueling operations are allowed on site.
12. The tenant shall maintain the surface pavement and repair any breakage as observed.

Exhibit C

Sec. 10.8.4. Affirmative Action Program Provisions.

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

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

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

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

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

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

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

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

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The

failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

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

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

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

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

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

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

1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-

discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

(ii) Notifying minority, women and other community organizations of employment opportunities.

(iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.

(iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.

(v) Promoting after school and vacation employment opportunities for minority, women and other youth.

(vi) Validating all job specifications, selection requirements, tests, etc.

(vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.

(viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

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

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.

(d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.

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

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

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

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

- (i) What steps were taken, how and on what date.
- (ii) To whom those efforts were directed.
- (iii) The responses received, from whom and when.
- (iv) What other steps were taken or will be taken to comply and when.
- (v) Why the Contractor has been or will be unable to comply.

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

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

- 1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
- 2. Classroom preparation for the job when not apprenticeable;
- 3. Pre-apprenticeship education and preparation;
- 4. Upgrading training and opportunities;
- 5. Encouraging the use of Contractors, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any contract subject to this ordinance shall require the Contractor, Subcontractor or supplier to provide not less than the prevailing wage,

working conditions and practices generally observed in private industries in the Contractor's, Subcontractor's or supplier's geographical area for such work;

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

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

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

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

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

Exhibit D

Sec. 10.8.2.1. Equal Benefits Ordinance.

(a) Legislative Findings. The City awards many contracts to private firms to provide services to the public and to City government. Many City contractors and subcontractors perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City holds a proprietary interest in the work performed by many employees employed by City contractors and subcontractors. In a very real sense, the success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by these businesses.

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

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

(b) Definitions. For purposes of the Equal Benefits Ordinance only, the following shall apply.

(1) Awarding Authority means any Board or Commission of the City, or any employee or officer of the City, that is authorized to award or enter into any Contract, as defined in this ordinance, on behalf of the City, and shall include departments having control of their own funds and which adopt policies consonant with the provisions of the Equal Benefits Ordinance.

(2) Benefits means any plan, program or policy provided or offered by a Contractor to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, and travel benefits.

(3) Cash Equivalent means the amount of money paid to an employee with a Domestic Partner (or spouse, if applicable) in lieu of providing Benefits to the employee's Domestic Partner (or spouse, if applicable). The Cash Equivalent is equal to the direct expense to the employer of providing Benefits to an employee for his or her Domestic Partner (or spouse, if applicable) or the direct expense to the employer of providing Benefits for the dependents and family members of an employee with a Domestic Partner (or spouse, if applicable).

(4) City means the City of Los Angeles.

(5) Contract means an agreement the value of which exceeds \$25,000. It includes agreements for work or services to or for the City; for public works or improvements to be performed; agreements for the purchase of goods, equipment, materials, or supplies; or grants to be provided, at the expense of the City or to be paid out of monies under the control of the City. The term also includes a Lease or License, as defined in the Equal Benefits Ordinance.

(6) Contractor means any person or persons, firm, partnership, corporation, joint venture, or any combination of these, or any governmental entity acting in its proprietary capacity, that enters into a Contract with any Awarding Authority of the City. The term does not include Subcontractors.

(7) Designated Administrative Agency (DAA) means the Department of Public Works, Bureau of Contract Administration.

(8) Domestic Partner means any two adults, of the same or different sex, who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing this registration or with an internal registry maintained by the employer of at least one of the domestic partners.

(9) Equal Benefits Ordinance means Los Angeles Administrative Code Section 10.8.2.1, et seq., as amended from time to time.

(10) Equal Benefits means the equality of benefits between employees with spouses and employees with Domestic Partners, between spouses of employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(11) Lease or License means any agreement allowing others to use property owned or controlled by the City, any agreement allowing others the use of City property in order to provide services to or for the City, such as for concession agreements, and any agreement allowing the City to use property owned or controlled by others.

(12) Subcontractor means any person or persons, firm, partnership, corporation, joint venture, or any combination of these, and any governmental entity, that assists the Contractor in performing or fulfilling the terms of the Contract. Subcontractors are not

subject to the requirements of the Equal Benefits Ordinance unless they otherwise have a Contract directly with the City.

(c) Equal Benefits Requirements.

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

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

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

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

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

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

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

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

(2) Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent Benefits.

(3) Provide Benefits neither to employees' spouses nor to employees' Domestic Partners.

(e) Applicability.

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

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

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

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

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

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

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

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

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

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

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

(5) If the DAA determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the Equal Benefits Ordinance, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as

evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

(g) Administration.

(1) The DAA is responsible for the enforcement of the Equal Benefits Ordinance for all City Contracts. Each Awarding Authority shall cooperate to the fullest extent with the DAA in its enforcement activities.

(2) In enforcing the requirements of the Equal Benefits Ordinance, the DAA may monitor, inspect, and investigate to ensure that the Contractor is acting in compliance with the Equal Benefits Ordinance. Contractor's failure to cooperate with the DAA may result in a determination by the DAA that the Contractor is not in compliance with the Equal Benefits Ordinance, which may subject the Contractor to enforcement measures set forth in Section 10.8.2.1(h).

(3) The DAA shall promulgate rules and regulations and forms for the implementation of the Equal Benefits Ordinance. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

(h) Enforcement.

(1) If the Contractor fails to comply with the Equal Benefits Ordinance:

a. The failure to comply may be deemed to be a material breach of the Contract by the Awarding Authority; or

b. The Awarding Authority may cancel, terminate or suspend, in whole or in part, the contract; or

c. Monies due or to become due under the Contract may be retained by the City until compliance is achieved;

d. The City may also pursue any and all other remedies at law or in equity for any breach.

e. The City may use failure to comply with the Equal Benefits Ordinance as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

(i) Non-applicability, Exceptions and Waivers.

(1) Upon request of the Awarding Authority, the DAA may waive compliance with the Equal Benefits Ordinance under the following circumstances:

a. The Contract is for the use of City property, and there is only one prospective Contractor willing to enter into the Contract; or

b. The Contract is for needed goods, services, construction of a public work or improvement, or interest in or right to use real property that is available only from a single prospective Contractor, and that prospective Contractor is otherwise qualified and acceptable to the City; or

c. The Contract is necessary to respond to an emergency that endangers the public health or safety, and no entity which complies with the requirements of the Equal Benefits Ordinance capable of responding to the emergency is immediately available; or

d. The City Attorney certifies in writing that the Contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of the Equal Benefits Ordinance; or

e. The Contract is (i) with a public entity; (ii) for goods, services, construction of a public work or improvement, or interest in or right to use real property; and (iii) that is either not available from another source, or is necessary to serve a substantial public interest. A Contract for interest in or the right to use real property shall not be considered as not being available from another source unless there is no other site of comparable quality or accessibility available from another source; or

f. The requirements of the Equal Benefits Ordinance will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of the agency with respect to the grant, subvention or agreement, provided that the Awarding Authority has made a good faith attempt to change the terms or conditions of the grant, subvention or agreement to authorize application of the Equal Benefits Ordinance; or

g. The Contract is for goods, a service or a project that is essential to the City or City residents and there are no qualified responsive bidders or prospective Contractors who could be certified as being in compliance with the requirements of the Equal Benefits Ordinance; or

h. The Contract involves bulk purchasing arrangements through City, federal, state or regional entities that actually reduce the City's purchasing costs and would be in the best interests of the City.

(2) The Equal Benefits Ordinance does not apply to contracts which involve:

a. The investment of trust monies, bond proceeds or agreements relating to the management of these funds, indentures, security enhancement agreements (including, but not limited to, liquidity agreements, letters of credit, bond insurance) for City tax-exempt and taxable financings, deposits of City's surplus funds in financial institutions, the investment of City monies in competitively bid investment agreements, the investment of City monies in securities permitted under the California State Government Code and/or the

City's investment policy, investment agreements, repurchase agreements, City monies invested in U.S. government securities or pre-existing investment agreements;

b. Contracts involving City monies in which the Treasurer or the City Administrative Officer finds that either:

(i) No person, entity or financial institution doing business in the City, which is in compliance with the Equal Benefits Ordinance, is capable of performing the desired transaction(s); or

(ii) The City will incur a financial loss or forego a financial benefit which in the opinion of the Treasurer or City Administrative Officer would violate his or her fiduciary duties.

(3) The Equal Benefits Ordinance does not apply to contracts for gifts to the City.

(4) Nothing in this Subsection shall limit the right of the City to waive the provisions of the Equal Benefits Ordinance.

(5) The provisions of this Subsection shall apply to the Equal Benefits Ordinance only. The Equal Benefits Ordinance is not subject to the exemptions provided in Section 10.9 of this Code.

(j) Consistency with Federal or State Law. The provisions of the Equal Benefits Ordinance do not apply where the application of these provisions would violate or be inconsistent with the laws, rules or regulations federal or state law, or where the application would violate or be inconsistent with the terms or conditions of a grant or contract with the United States of America, the State of California, or the instruction of an authorized representative of any of these agencies with respect to any grant or contract.

(k) Severability. If any provision of the Equal Benefits Ordinance is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

(l) Timing of Application.

(1) The requirements of the Equal Benefits Ordinance shall not apply to Contracts executed or amended prior to January 1, 2000, or to bid packages advertised and made available to the public, or any bids received by the City, prior to January 1, 2000, unless and until those Contracts are amended after January 1, 2000 and would otherwise be subject to the Equal Benefits Ordinance.

(2) The requirements of the Equal Benefits Ordinance shall apply to competitively bid Contracts that are amended after April 1, 2003, and to competitively bid Contracts that result from bid packages advertised and made available to the public after May 1, 2003.

(3) Unless otherwise exempt, the Equal Benefits Ordinance applies to any agreement executed or amended after January 1, 2000, that meets the definition of a Contract as defined within Subsection 10.8.2.1(b).

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

