

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

BETWEEN THE CITY OF LOS ANGELES  
AND  
STAX ENGINEERING, LLC

THIS AGREEMENT ("Agreement") is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City") acting by and through its Board of Harbor Commissioners ("Board"), and STAX ENGINEERING, LLC, a Delaware limited liability company, whose address is 215 W. Figueroa Street, Santa Barbara, CA 93101 ("Contractor").

WHEREAS, City requires professional, scientific, expert or technical services of a temporary and occasional character, including as-needed services to comply with all California Air Resources Board (CARB) regulations including the At Berth Regulation to control emissions from ocean-going vessels while at berth; and

WHEREAS, Contractor is an organization that provides services, including, but not limited to those services required by the City and, by virtue of training and experience, is well-qualified to provide such services to the City; and

WHEREAS, by reason of the nature and length of the services required by City, it is not economical or feasible for City to have such services performed by its own employees;

NOW, THEREFORE, in consideration of the covenants, terms and conditions hereinafter contained to be kept and performed by the respective parties hereto, it is mutually agreed as follows:

1. Incorporation of Recitals.

1.1 The recitals to this Agreement above are incorporated herein and made a part hereof.

2. Services To Be Performed By Contractor.

2.1 All of the services Contractor shall perform for City are set forth in Exhibit "A" hereto and hereinafter shall be referred to as "Scope of Work."

2.2 Contractor's performance of Tasks and, as applicable, Subtasks shall occur in accordance with the Scope of Work and the terms of this Agreement.

2.3 Contractor acknowledges and agrees that it lacks authority to perform and that the Director of the Environmental Management Division of City's Harbor Department ("Director") lacks authority to request the performance of any services outside the Scope of Work. Contractor further acknowledges and agrees that any services it performs outside the Scope of Work and the terms of this Agreement are performed as a volunteer and shall not be compensable under this Agreement.

2.4 The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of Director, whether performance is undertaken by Contractor or third parties with whom Contractor has contracted on the effective date of this Agreement, whom Director may subsequently approve in writing ("Subcontractors"). Obligations of this Agreement, whether undertaken by Contractor or Subcontractors, are and shall be the responsibility of Contractor. Contractor acknowledges and agrees that this Agreement creates no rights in Subcontractors with respect to City and that obligations that may be owed to Subcontractors, including, but not limited to, the obligation to pay Subcontractors for services performed, are those of Contractor alone. Upon Director's written request, Contractor shall supply City's Harbor Department with all agreements between it and its Subcontractors.

2.5 Contractor, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between City and Contractor, Contractor is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, the City, or any other governmental entity. City shall pay applicable state or local fees necessary to obtain approval, plan checks, permits and variances for the Project.

2.6 Director shall resolve in his or her sole reasonable discretion any issues or questions which may arise during the term of this Agreement as to the amount of compensation due.

2.7 Any replacement to Contractor's representative currently responsible for administering this Agreement, Michael Walker ("Project Manager"), must be approved by Director or its Designee, which approval will not be unreasonably withheld or delayed. Director may, for any reason in his or her sole reasonable discretion, require Contractor to substitute a new Project Manager ("Contractor's Project Manager").

2.8 If the law requires Contractor, in performing the Scope of Work, to follow a different standard of care than the ordinary standard of care applied to a reasonable person, Contractor shall perform such services with the degree of diligence, skill, judgment, and care applicable to Contractor's profession ("professional standard"). Contractors not required to follow a professional standard shall exercise the degree of care required of ordinary persons.

2.9 Contractor shall promptly consider written comments of Director and, if deemed within Contractor's ability to implement to the reasonable satisfaction of Director, Contractor will implement the written comments of Director that pertain to matters within the Scope of Work, the implementation of such comments will not be unreasonably withheld or delayed.

2.10 Contractor shall review information provided by City's Harbor Department. Any such information reasonably believed by Contractor to be inaccurate, incomplete or inapplicable shall be brought promptly to the attention of Director in writing.

2.11 Contractor shall perform the Scope of Work as expeditiously as possible. The performance of the work shall be in accordance with CARB at-berth regulations.

### 3. Services To Be Performed By City.

3.1 Contractor shall provide Director with reasonable advance written notice if it requires access to premises of City's Harbor Department. Subsequent access rights, if any, shall be granted to Contractor at the sole reasonable discretion of Director, specifying conditions Contractor must satisfy in connection with such access. Contractor acknowledges that such premises may be occupied or used by tenants or contractors of City and that access rights granted by City's Harbor Department to Contractor shall be consistent with any such occupancy or use.

3.2 City shall not be obligated to provide information and/or services except as specified in this Agreement.

4. Effective Date and Term.

4.1 After approval by City in accordance with Section 245 of City's Charter, the effective date of this Agreement shall be the date of its execution by City's Harbor Department Executive Director ("Executive Director"). Contractor acknowledges that Section 245 of City's Charter furnishes to the City Council of City ("Council") the right to review this Agreement and that this Agreement shall not become effective until after the expiration of the fifth Council meeting day after approval of this Agreement by Board, or the date of Council's approval of the Agreement.

4.2 This Agreement shall be in full force and effect commencing from the date of execution by the Executive Director and shall be for an initial period of one (1) year, subject to the following:

a. The Executive Director has the option to renew the term of the Agreement for two (2) consecutive renewal periods of one (1) year each, for a total Agreement term not to exceed three (3) years from the effective date. Exercise of the option to renew shall be by written notice from the Executive Director to Contractor prior to the end of the current term of the Agreement;

b. The Board of Harbor Commissioners, in its sole discretion, terminates and cancels all or part of this Agreement for any reason upon giving to Contractor thirty (30) days' notice in writing of its election to cancel and terminate this Agreement.

4.3 Notwithstanding the foregoing, this Agreement is subject to the provisions of City's Charter which, among other things, precludes City from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated therefor. Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, Board is under no legal obligation to do so. City, its boards, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefor. Contractor is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by Board.

Although Contractor is not obligated to perform any services required by the

Scope of Work in any fiscal year in which no appropriation for the Agreement has been made, Contractor shall resume performance of the Scope of Work on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefor is approved by Board within that sixty (60) day period. Contractor is responsible for maintaining all insurance and bonds during this sixty (60) day period. The time for performance shall be extended during this period until the appropriation is made; however, such extension of time is not compensable.

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

5. Compensation.

5.1 For the full and satisfactory performance of the Scope of Work, City shall pay Contractor and Contractor shall accept a sum not to exceed Three Million Dollars (\$3,000,000). The total sum payable under this Agreement shall be determined by Contractor's performance in accordance with the Scope of Work and quoted rates, and Contractor acknowledges that final compensation may not reach the maximum sum allowed for herein.

5.2 Compensation payable under this Agreement for payment for labor, travel, per diem, materials, supplies, transportation, and all other direct and indirect costs and expenses incurred by Contractor ("Expenses") are listed in Exhibit "B." No markups or premiums shall be applied to services performed by Subcontractors unless Exhibit "B" expressly so allows.

5.3 Compensation payable under this Agreement shall be in accordance with the Contractor's documented performance in accordance with the Scope of Work, terms of this Agreement and quoted rates only.

5.4 After each vessel servicing visit made in accordance with the Scope of Work during the term of this Agreement, as a prerequisite to payment for services, Contractor shall submit an invoice to City's Harbor Department for services performed during the vessel servicing visit, accompanied by such records and receipts as may be required by Section 5.5. Each such visit invoice shall bear a City Business Tax Registration Number and a Taxpayer Identification Number. Each invoice shall identify all services performed by Subcontractors

Contractor shall submit these invoices to City after each vessel visit following the effective date of this Agreement and that includes the following certification:

"I certify under penalty of perjury that the above bill is just and correct according to the terms of Agreement No. \_\_\_\_\_ and that payment has not been received. I further certify that I have complied with the provisions of the City's Living Wage Ordinance.

\_\_\_\_\_  
(signed)

5.5 Contractor shall submit supporting documents with each invoice, which may include, but not be limited to, invoice date, service date, service location, receipts,

tug boat services charges , vessel treatment rate charge, vessel operator or agent contact person name, vessel operator or agent email address, vessel operator or agent phone number, vessel name, vessel IMO number, vessel type, berth, start/stop date and times of emissions control services, start/stop date and times for actual emissions control, and indicate whether the service was for a scheduled call or an unscheduled call.

5.6 If Contractor utilizes Subcontractors to perform aspects of the Scope of Work, Contractor shall submit to City, with each invoice, a Subcontractor Monitoring Report in the form attached hereto as Exhibit "C." Invoices will not be paid without a completed Subcontractor Monitoring Report form.

5.7 All sums due and payable to Contractor shall be paid as soon as, in the ordinary course of City business, the same may be reviewed and approved.

5.8 For payment and processing, City shall provide written instructions upon execution of this Agreement.

6. Recordkeeping and Audit Rights.

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

6.2 During the term of this Agreement, City may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Contractor and Subcontractors arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Contractor, Subcontractors or any individual or entity acting for or on behalf of Contractor or a Subcontractor, and (c) without regard to whether such writings have previously been provided to City. Contractor shall be responsible for obtaining access to and providing writings of Subcontractors. Contractor shall provide City at Contractor's sole cost and expense a copy of all such writings within fourteen (14) calendar days of a written request by City. City's right shall also include inspection at reasonable times of the Contractor's office or facilities which are engaged in the performance of the Scope of Work. Contractor shall, at no cost to City, furnish reasonable facilities and assistance for such review and audit. Contractor's failure to comply with this Section 6.2 shall constitute a material breach of this Agreement and shall entitle City to withhold any payment due under this Agreement until such breach is cured.

7. Contractor Is An Independent Contractor.

Contractor, in the performance of the Scope of Work, is an independent contractor and not an agent or employee of City. Contractor shall not represent itself as an agent or employee of the City and shall have no power to bind the City in contract or otherwise.

8. Business Tax Registration Certificate.

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

9. Indemnification.

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

10. Insurance.

10.1 Insurance procured by Contractor on Behalf of Contractor

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, Contractor shall procure and maintain at its sole cost and expense and keep in force at all times during the term of this Agreement the following insurance:

(a) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California

rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Contractor. The retention or self-insurance provided shall provide that any other insurance maintained by the Harbor Department shall be excess of Contractor's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

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

(b) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Contractor's normal limits of liability but not less than One Million Dollars (\$1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision. Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

(c) Workers' Compensation and Employer's Liability

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

(d) Professional Liability Insurance

Contractor is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection

with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Contractor certifies that it now has professional liability insurance in the amount of One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following the completed term of this Agreement.

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

(e) Ocean Marine Liability Insurance

Contractor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connections with Contractor's operations. The cost of the insurance shall be borne by Contractor. The coverage shall be written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's Rating is not available). Coverage shall include, but not be limited to:

- (i) Hull and machinery coverage up to the value of the vessel(s);
- (ii) Protection and Indemnity coverage with combined single limits of Five Million Dollar (\$5,000,000) per occurrence for bodily injury, illness, death, loss of or damage to the property of another, and Jones Act risks or equivalent thereto internationally.

Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

(f) Pollution Liability Insurance or Environmental Impairment Liability

Contractor shall procure and maintain throughout the term of this Agreement, at its cost, Pollution Liability coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's Rating is not available), with Contractor's normal limits of liability but not less than Five Million Dollars (\$5,000,000) combined single limit for injury or death or property damage arising out of each accident or occurrence covering Contractor's services under this Agreement. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Contractor. Contractor's pollution liability shall include coverage for losses caused by pollution conditions that arise from the operation of Contractor described under the scope of services of this Agreement and include: (a) on-site and off-site coverage for bodily injury, sickness, disease, mental



anguish or shock sustained by a person, including death; (b) on-site and off-site property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed; (c) on-site and off-site defense including costs, charges and expenses incurred in the investigation adjustment or defense of claims for such compensatory damages.

Non-owned disposal site coverage shall also be provided if Contractor is handling, storing or generating hazardous materials or any material/substance otherwise regulated under governmental laws/regulations.

The insurance provided shall contain a severability of interest clause and shall provide that any other insurance maintained by the Harbor Department shall be excess of Contractor's insurance and shall not contribute with it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and severability of interest clause, have no exclusions for Contractual Liability, have no restrictions for Sole Liability of Contractor, and shall not contain any other exclusions contrary to this Agreement.

Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary and Non-Contributory additional insureds.

#### 10.2 Insurance Procured by Contractor on Behalf of City

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 9, and where Contractor is required to name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Contractor shall cause City to be named as an additional insured on all policies it procures in connection with this Section 10. Contractor shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

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

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

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

"In the event of one of the named insured's incurring liability to any other of the

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

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

### 10.3 Required Features of Coverages

Insurance procured by Contractor in connection with this Section 10 shall include the following features:

#### (a) Acceptable Evidence and Approval of Insurance

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

Upon request by City, Contractor shall furnish a copy of the binder of insurance and/or a full certified policy for any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

#### (b) Carrier Requirements

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

#### (c) Notice of Cancellation

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

#### (d) Modification of Coverage

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

#### (e) Renewal of Policies

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

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

(f) Limits of Coverage

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

10.4 Right to Self-Insure

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

1. Contractor has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Contractor must have a formal resolution of its board of directors authorizing self-insurance.
2. Contractor agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement.
3. Contractor agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.
4. Contractor agrees that any insurance carried by Department is excess of Contractor's self-insurance and will not contribute to it.
5. Contractor provides the name and address of its claims administrator.
6. Contractor submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to Executive Director's consideration of approval of self-insurance and annually thereafter.
7. Contractor agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance.
8. Contractor has complied with all laws pertaining to self-insurance.

## 10.5 Accident Reports

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

## 11. Services Agreement.

Contractor acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Contractor may permit Subcontractor(s) to perform portions of the Scope of Work in accordance with Section 2.3. All Subcontractors whom Contractor utilizes, however, shall be deemed to be its agents. Subcontractors' performance of the Scope of Work shall not be deemed to release Contractor from its obligations under this Agreement or to impose any obligation on the City to such Subcontractor(s) or give the Subcontractor(s) any rights against the City.

## 12. Confidentiality.

Contractor shall not disclose any proprietary or confidential information of City to any third party or parties during or after the term of this Agreement without the prior written consent of City. The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the Scope of Work and any recommendations made by Contractor relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Contractor or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Contractor is required to safeguard such information from access by unauthorized personnel.

## 13. Affirmative Action.

Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code are incorporated herein by this reference and made a part of this Agreement. All subcontracts awarded shall contain a like nondiscrimination provision. See Exhibit "D."

## 14. Small/Very Small Business Enterprise Program and Local Business Preference Program.

It is the policy of City's Harbor Department to provide Small Business Enterprises

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

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

Prior to being awarded a contract with the City, Contractor and all Subcontractors must be registered on the City's Contracts Management and Opportunities Database, Regional Alliance Marketplace for Procurement (RAMP), at <http://www.RAMPLA.org>. Contractor shall comply with all RAMP reporting requirements set forth in Executive Directive No. 35 (August 25, 2022), *Equitable Access to Contracting Opportunities*, during the term of this Agreement.

15. Conflict of Interest.

Contractor has reviewed and understands the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code ("LAMC") Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and 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 Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, City may immediately terminate this Agreement by giving written notice thereof. Contractor's signature of this Agreement constitutes its affirmation that any former employees of City or City's Harbor Department that are employed by Contractor and that assist in performing the Scope of Work shall be free of any conflicts of interest with respect to City and City's Harbor Department.

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

16. Compliance with Applicable Laws.

Contractor's activities under this Agreement, including its performance of the Scope of Work, shall comply with all federal, state, municipal, local and departmental laws, ordinances, rules, regulations, and orders. If in any instance a City standard is more stringent than a state, federal or other requirement, the City standard shall be followed unless the Director notifies the Contractor otherwise in writing, in which case the requirements of said notification shall apply.

17. Trademarks, Copyrights and Patents.

Contractor shall promptly and fully inform Director in writing of any patents, trademarks or copyrights related to services provided under this Agreement or patent trademark or copyright disputes, existing or potential, which Contractor has knowledge of, relating to any idea, design, method, material, equipment or other matter connected to this Agreement. Contractor agrees to save, keep, hold harmless, protect and indemnify City and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by City of any materials supplied by Contractor in the performance of this Agreement.

18. Proprietary Information.

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

19. City's Disclosure Obligations.

Contractor acknowledges that City is subject to laws, rules and/or regulations generally requiring it to disclose records upon request, which laws, rules and/or regulations include, but are not limited to, the California Public Records Act (California Government Code Sections 6250 et seq.) ("Disclosure Laws").

20. Notices.

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

21. Taxpayer Identification Number ("TIN").

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

22. Service Contractor Worker Retention Policy and Living Wage Requirements.

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

23. Wage and Earnings Assignment Orders/Notices of Assignments.

Contractor and Subcontractors shall comply with all applicable state and federal employment reporting requirements for employees.

Contractor and Subcontractors shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Contractor and Subcontractors shall 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.

24. Equal Benefits Policy.

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

25. Compliance With Los Angeles City Charter Section 470(c)(12).

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

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

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

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

26. State Tidelands Grants.

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



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

27. Construction of Agreement.

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

28. Titles and Captions.

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

29. Modification in Writing.

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

30. Waiver.

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

31. Governing Law.

This Agreement is made and entered into in the State of California and shall in all respects be construed, interpreted, enforced and governed under and by the laws of the State of California, without reference to choice of law rules.

32. Severability.

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

comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

33. Jurisdiction.

The parties hereto consent to the jurisdiction of the State of California for the enforcement of this Agreement.

34. Integrated Agreement.

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

35. Exhibits; Sections.

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

36. Counterparts.

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

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(Signature page follows)

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

THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

By signing below, I attest that I have no personal, financial, beneficial, or familial interest in this contract.

Date: \_\_\_\_\_

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

Attest: \_\_\_\_\_  
Secretary

STAX ENGINEERING, LLC

Date: \_\_\_\_\_

DocuSigned by:  
Michael Walker  
EC5D140C586D415  
By: \_\_\_\_\_  
Michael Walker, CEO  
(Print/type name and title)

DocuSigned by:  
Bob Sharp  
A50A52C5CE89418  
By: \_\_\_\_\_  
Bob Sharp CTO  
(Print/type name and title)

APPROVED AS TO FORM AND LEGALITY  
January 9, 2024 25  
HYDEE FELDSTEIN SOTO, City Attorney  
STEVEN Y. OTERA, General Counsel

By [Signature]  
JOHN T. DRISCOLL, Deputy

**FUNDS AVAILABLE STAMP**

**STAX ENGINEERING, LLC  
ON-CALL OCEAN-GOING VESSEL AT BERTH EMISSIONS  
CONTROL SERVICES AGREEMENT**

**CONSTRUCTION & MAINTENANCE**

Account#	54290	W.O. #	78335
Ctr/Div#	0510	Job Fac.#	637-00
Proj/Prog#	000		
Budget FY:		Amount:	
2024/2025		\$500,000.00	
2025/2026		\$500,000.00	
2026/2027		\$500,000.00	
TOTAL		\$1,500,000.00	
<u>For Acct/Budget Div. Use Only</u>			
Verified by:	Erin O'Malley <small>Digitally signed by Erin O'Malley Date: 2024.09.11 16:37:12 -0700</small>		
Verified Funds Available:	<i>Frank Liu</i> <small>Digitally signed by Frank Liu Date: 2024.09.12 09:07:45 -0700</small>		
Date Approved:	9/12/24		

**WHARFINGERS**

Account#	54290	W.O. #	78335
Ctr/Div#	0418	Job Fac.#	637-00
Proj/Prog#	000		
Budget FY:		Amount:	
2024/2025		\$500,000.00	
2025/2026		\$500,000.00	
2026/2027		\$500,000.00	
TOTAL		\$1,500,000.00	
<u>For Acct/Budget Div. Use Only</u>			
Verified by:	Erin O'Malley <small>Digitally signed by Erin O'Malley Date: 2024.09.11 16:37:21 -0700</small>		
Verified Funds Available:	<i>Frank Liu</i> <small>Digitally signed by Frank Liu Date: 2024.09.12 09:07:37 -0700</small>		
Date Approved:	9/12/24		

STAX Engineering, LLC

On-Call Ocean-Going Vessel Emissions Control Services

Scope of Work

STAX Engineering, LLC (STAX) agrees to perform on-call ocean-going vessel emissions control services for the City of Los Angeles Harbor Department (Harbor Department) in order to fulfill the Harbor Department's obligations in meeting California Air Resources Board (CARB) At Berth Regulation<sup>1</sup> requirements. STAX will treat emissions from a variety of ocean-going vessels using a CARB approved Emission Control Strategy (CAECS).

General Responsibilities:

- Will notify the Harbor Department of any changes in CARB certification status of STAX emission control strategy including but not limited to amendments made to existing certifications, new certifications for additional vessel types, amendments to approved test plans, and revocation of CARB certification status within 15 days of the changes.
- Perform all tasks in accordance with all applicable local, state, and federal regulations and requirements including but not limited to all appropriate elements of Harbor Department policies, tariffs, and programs (e.g., Construction and Maintenance Division's Environmental Management System (EMS), storm water control measures, Water Resources Action Plan, Clean Air Action Plan, etc.).

Scheduled Call

At times, a vessel that calls to the Port of Los Angeles (POLA) may not have an independently arranged CAECS available for use. In this instance, STAX may be contacted by the vessel operator, or their agent, to treat the vessel emissions per Section 93130.12 of the At Berth Regulation under this contract. The vessel operator, or their agent, will contact STAX and specify they would like to use the Harbor Department's contract of on-call emissions control services.

STAX Responsibilities:

1. Schedule emissions treatment for the specified call(s), including any schedule changes to the call(s) and any cancellations.
2. Separately notify POLA Wharfingers Division of the scheduled call including information on vessel name, vessel IMO number, berth, and estimated call dates no less than 10 days prior to the scheduled call date.
3. Instruct vessel operator or their agent that they must notify POLA Wharfingers Division of the scheduled call no less than 10 days prior to the scheduled call date and of any cancellations prior to use of STAX services.
4. Use only an applicable vessel category CAECS to treat emissions on the vessel(s).
5. Ensure treatment complies with CARB At Berth requirements for emission control start and stop times.
6. Invoice the Harbor Department for the services rendered per the Agreement.

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<sup>1</sup> <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2019/ogvatberth2019/fro.pdf>

7. Provide all data information necessary for CARB reporting<sup>2</sup> to the vessel operator, or their agent, terminal operator, and Harbor Department within 7 days of vessel's departure date.
8. Submit the CAECS Third Party Operator Visit Report<sup>2</sup> to CARB within the 30 day reporting period after the vessel's departure date.
9. Provide a copy of every CAECS Third Party Operator Visit Report submitted to CARB within 30 days of submission.

#### Unscheduled Call

STAX will respond to treating at berth emissions for an unscheduled vessel call on an on-call basis, available 24 hours per day, 7 days per week (including holidays). These instances could include, but are not limited to, unexpected loss of grid power to shore power infrastructure, inability to connect to shore power, or equipment failure. In these instances, STAX will be notified of the need for services via phone call or text, and/or email.

#### STAX Responsibilities:

1. Coordinate with Harbor Department contact on vessel information such as name and location.
2. Arrive on-scene within 2 hours of notification of the unscheduled call.
3. Use only an applicable vessel category CAECS to treat emissions on the vessel(s).
4. Invoice the Harbor Department for the services rendered per the Agreement.
5. Provide all data information necessary for CARB reporting<sup>3</sup> to the vessel operator, or their agent, terminal operator, and Harbor Department within 7 days of vessel's departure date.
6. Submit the CAECS Third Party Operator Visit Report<sup>3</sup> to CARB within the 30 day reporting period after the vessel's departure date.
7. Provide a copy of every CAECS Third Party Operator Visit Report submitted to CARB within 30 days of submission.

#### Scheduling Conflict

Due to the limited number of emissions control systems, there may be times when there are no emissions control systems available. The emissions control system(s) may be in use by another customer or facility.

#### STAX Responsibilities:

1. Notify the Harbor Department in writing (email or letter correspondence) of the scheduling conflict within 2 hours of Harbor Department, vessel operator or their agent, attempt at scheduling services.
2. Provide details of the other vessel call(s) being serviced such as name of the vessel, IMO number, berth number, and dates of expected use by the other vessel.

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<sup>2</sup> <https://ww2.arb.ca.gov/our-work/programs/ocean-going-vessels-berth-regulation/berth-reporting-templates>

<sup>3</sup> <https://ww2.arb.ca.gov/our-work/programs/ocean-going-vessels-berth-regulation/berth-reporting-templates>

## EXHIBIT B - RATES

STAX will be paid for their services at these rates. No additional expenditures are acceptable.

- Containers: \$1,000.00 per hour
- Auto carriers: \$1,500.00 per hour
- Tankers: \$2,000.00 per hour

Tugboat service: At cost

# EXHIBIT C

## Company Name & Logo Address

Accounts Payable Section  
Harbor Department, City of Los Angeles  
P.O. Box 191  
San Pedro, CA 90733-0191  
Attention: \_\_\_\_\_

Invoice No.:  
Invoice Date:  
Invoice Period:  
Federal ID No.:  
City Business Tax No.:

Project Title:  
Agreement No.:  
Directive No.:

Consultant Contact:  
Telephone:

Task No.	Description	Fee Type	Contract Amount	Authorized Amount	% Comp	Amount Paid to Date	Prior Invoices	Current Invoice	Remaining Balance
1			\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -	\$ -
2			\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -	\$ -
3			\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -	\$ -
4			\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -	\$ -
	<b>GRAND TOTAL</b>		\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -	\$ -

*"I certify under penalty of perjury that the above bill is just and correct according to the terms of Agreement No. \_\_\_\_\_ and that payment has not been received. I further certify that I have complied with the provisions of the City's Living Wage Ordinance."*

\_\_\_\_\_  
Project Manager



## **EXHIBIT D - AFFIRMATIVE ACTION PROGRAM PROVISIONS**

### **Sec. 10.8.4 Affirmative Action Program Provisions.**

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

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

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

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

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

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

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

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

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The failure shall only be established upon a finding to that effect by the Awarding

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

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

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

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

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

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

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

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

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

- (a) Recruit and make efforts to obtain employees through:
  - (i) Advertising employment opportunities in minority and other community news media or other publications.
  - (ii) Notifying minority, women and other community organizations of employment opportunities.
  - (iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.
  - (iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.
  - (v) Promoting after school and vacation employment opportunities for minority, women and other youth.
  - (vi) Validating all job specifications, selection requirements, tests, etc.
  - (vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.
  - (viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.
- (b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.
- (c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
- (d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.
- (e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.
- (f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.

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

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

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

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

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

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

2. Classroom preparation for the job when not apprenticeable;

3. Pre-apprenticeship education and preparation;

4. Upgrading training and opportunities;

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

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

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

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

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

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

## EXHIBIT E

### SMALL/VERY SMALL BUSINESS ENTERPRISE PROGRAM

The Harbor Department is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at the Harbor Department in a manner that reflects the diversity of the City of Los Angeles. The Harbor Department's Small Business Enterprise (SBE) Program was created to provide additional opportunities for small businesses to participate in professional service and construction contracts. An overall Department goal of 25% SBE participation, including 5% Very Small Business Enterprise (VSBE) participation, has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work.

It is the policy of the Harbor Department to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, VSBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBEs). The SBE Program allows the Harbor Department to target small business participation, including MBEs, WBEs, and DVBEs, more effectively. It is the intent of the Harbor Department to make it easier for small businesses to participate in contracts by providing education and assistance on how to do business with the City, and ensuring that payments to small businesses are processed in a timely manner. **In order to ensure the highest participation of SBE/VSBE/MBE/WBE/DVBEs, all proposers shall utilize the City's contracts management and opportunities database, the Regional Alliance Marketplace for Procurement (RAMP), at <http://www.RAMPLA.org>, to outreach to potential subconsultants.**

The Harbor Department defines a SBE as an independently owned and operated business that is not dominant in its field and meets criteria set forth by the Small Business Administration in Title 13, Code of Federal Regulations, Part 121. Go to [www.sba.gov](http://www.sba.gov) for more information. The Harbor Department defines a VSBE based on the State of California's Micro-business definition which is (1) a small business that has average annual gross receipts of \$5,000,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees.

The SBE Program is a results-oriented program, requiring consultants who receive contracts from the Harbor Department to perform outreach and utilize certified small businesses. **Based on the work to be performed, it has been determined that the percentage of small business participation will be 0%.** The North American Industry Classification System (NAICS) Code for the scope of services is **488390**. This NAICS Code is the industry code that corresponds to at least 51% of the scope of services and will be used to determine the size standard for SBE participation of the Prime Consultant. The maximum SBE size standard for this NAICS Code is \$47 million.

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs. The Consultant shall not substitute an SBE firm without obtaining prior approval of the City. A request for substitution must be based upon demonstrated good cause. If substitution is permitted, Consultant shall endeavor to make an in-kind substitution for the substituted SBE.

Consultant shall complete, sign and submit as part of the executed agreement the attached Affidavit and Consultant Description Form. The Affidavit and Consultant Description Form, when signed, will signify the Consultant's intent to comply with the SBE requirement. All SBE/VSBE firms must be certified by the time proposals are due to receive credit. In addition all consultants and subconsultants must be registered on the RAMP by the time proposals are due.

### AFFIDAVIT OF COMPANY STATUS

“The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on **the attached Consultant Description Form** is true and correct and includes all material information necessary to identify and explain the operations of

STAX Engineering LLC.

Name of Firm

as well as the ownership and location thereof. Further, the undersigned agrees to provide complete and accurate information regarding ownership in the named firm, and all of its domestic and foreign affiliates, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents, and the ownership documents of all of its domestic and foreign affiliates, in association with this agreement.”

(1) **Small/Very Small Business Enterprise Program:** Please indicate the ownership of your company. Please check all that apply. At least one box must be checked:

SBE    VSBE    MBE    WBE    DVBE    OBE

- A Small Business Enterprise (SBE) is an independently owned and operated business that is not dominant in its field and meets criteria set forth by the Small Business Administration in Title 13, Code of Federal Regulations, Part 121.
- A Very Small Business Enterprise (VSBE) is 1) a small business that has average annual gross receipts of \$5,000,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees.
- A Minority Business Enterprise (MBE) is defined as a business in which a minority owns and controls at least 51% of the business. A Woman Business (WBE) is defined as a business in which a woman owns and controls at least 51% of the business. For the purpose of this project, a minority includes:
  - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, The Indian Subcontinent, or the Pacific Islands); and
  - (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- A Disabled Veteran Business Enterprise (DVBE) is defined as a business in which a disabled veteran owns at least 51% of the business, and the daily business operations are managed and controlled by one or more disabled veterans.
- An OBE (Other Business Enterprise) is any enterprise that is neither an SBE, VSBE, MBE, WBE, or DVBE.

(2) **Local Business Preference Program:** Please indicate the Local Business Enterprise status of your company. Only one box must be checked:

LBE     Non-LBE

- A Local Business Enterprise (LBE) is: (a) a business headquartered within Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties; or (b) a business that has at least 50 full-time employees, or 25 full-time employees for specialty marine contracting firms, working in Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties. "Headquartered" shall mean that the business physically conducts and manages all of its operations from a location in the above-named counties.
- A Non-LBE is any business that does not meet the definition of a LBE.

DocuSigned by:  
Signature: Michael Walker  
Printed Name: Michael Walker

Title: CEO  
Date Signed: 6-13-2024



## EXHIBIT F

### Sec. 10.8.2.1. Equal Benefits Ordinance.

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

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

#### (c) Equal Benefits Requirements.

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

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

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

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

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

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

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

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

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

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

(e) Applicability.

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

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

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

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

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

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

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

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

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

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

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

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