

AGREEMENT NO.  
BETWEEN THE CITY OF LOS ANGELES  
AND  
WESTON SOLUTIONS, INC.

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 WESTON SOLUTIONS, INC., a Pennsylvania corporation, whose address is 2433 Impala Drive, Carlsbad, CA 92011 ("Consultant").

WHEREAS, City requires professional, scientific, expert or technical services of a temporary and occasional character, including as-needed services in obtaining biological mitigation credits (credits) for use in offsetting impacts to sensitive habitats that may result from Harbor Department development projects; and

WHEREAS, Consultant 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 Consultant.

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

2.2 Consultant's performance of Tasks and, as applicable, Subtasks shall occur as follows:

a. The Director of the Environmental Management Division of City's Harbor Department ("Director") shall issue a written document in the form attached hereto as Exhibit "B" that has been signed by Executive Director of the City's Harbor Department ("Executive Director") and that specifies, without limitation: the Task or Subtask to be performed; the specific services required in connection with such Task or Subtask; the deliverables required in the

performance of such Task or Subtask; the schedule for the performance of such Task or Subtask; authorized personnel who may perform the Task or Subtask; authorized compensation for such Task or Subtask; and MBE/WBE/SBE/VSBE/DVBE/OBE utilization ("Directive").

b. Consultant, to reflect its agreement with all the terms of such Directive, shall sign, date and return such Directive to Director.

c. Following Director's receipt of the Directive signed by Consultant, Director shall issue a written document in the form attached hereto as Exhibit "C" that has been signed by Director and that authorizes Consultant to commence performance of the services contemplated by such Directive ("Notice to Proceed").

2.3 Consultant acknowledges and agrees that it lacks authority to perform and that Director lacks authority to request the performance of any services outside the Scope of Work. Consultant further acknowledges and agrees that any services it performs outside the Scope of Work or a Directive, or in the absence of both a Directive and a Notice to Proceed, 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 Consultant or third-parties with whom Consultant has contracted on the effective date of this Agreement, whom Director may subsequently approve in writing ("Subconsultants"), or as listed on Project Directives. Obligations of this Agreement, whether undertaken by Consultant or Subconsultants, are and shall be the responsibility of Consultant. Consultant acknowledges and agrees that this Agreement creates no rights in Subconsultants with respect to City and that obligations that may be owed to Subconsultants, including, but not limited to, the obligation to pay Subconsultants for services performed, are those of Consultant alone. Upon Director's written request, Consultant shall supply City's Harbor Department with all agreements between it and its Subconsultants.

2.5 Consultant, 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 Consultant, Consultant 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 quality or acceptability of Consultant's performance of the Scope of Work, the manner of performance, the interpretation of direction given to Consultant, the acceptable completion of a Directive, and the amount of compensation due. Upon written notice from Director, Consultant shall assign replacement personnel and/or shall remedy any deficient services or work product to Director's reasonable satisfaction and at Consultant's sole cost and expense. Compliance with the requirements of this Section

2.6 is a condition to payment by City of compensation to Consultant pursuant to this Agreement.

2.7 Consultant's representative responsible for administering this Agreement, Matthew Wartian ("Project Manager"), shall not be changed without Director's written approval. Director may, for any reason in his or her sole reasonable discretion, require Consultant to substitute a new Project Manager. If City requests such a substitution, the substitute Project Manager shall expend whatever time and costs necessary to become familiar with the Project and any portions of the Scope of Work already performed at Consultant's sole cost and expense.

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

2.9 For portions of the Scope of Work to be performed on a time and material basis, Consultant shall assign personnel, whether employees or Subconsultants, with the lowest applicable hourly rate who are fully competent to provide the services required. If Consultant finds it necessary to have any portion of the Scope of Work, which this Section 2.9 would require to be performed by personnel at a lower rate, to be performed by personnel at a higher rate, Consultant shall, nevertheless, invoice City at the lower rate.

2.10 Consultant shall promptly consider and implement, to the reasonable satisfaction of Director, any written comments of Director.

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

2.12 Consultant shall perform the Scope of Work as expeditiously as possible and at the time or times required by the Director. Time is of the essence in the performance of the Scope of Work. Consultant's failure to conform to the schedule set forth in a project directive shall entitle City to have services completed by others, shall obligate Consultant to pay City's cost to undertake completion of such services, and shall authorize City to withhold such amounts from any payments otherwise due to Consultant. Consultant's failure to timely perform in accordance with the schedule set forth in a project directive shall result in economic losses to the City, including, but not limited to, the timely bidding and awarding of contracts, completion of the project in connection with which Consultant's services are rendered and the use of such project by City's Harbor Department, its tenants and the public.

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

3.1 City's Harbor Department shall provide Consultant with available and/or necessary horizontal and vertical survey data in the form of field notes or electronic format as maintained by City's Harbor Department, access to public records, prints of existing aerial photos, existing planimetric maps, environmental documents, existing

oceanographic studies and existing soil reports in the vicinity, previous specifications and other information which, in the sole reasonable discretion of Director, shall assist in completing the Scope of Work.

3.2 Consultant 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 Consultant at the sole reasonable discretion of Director, specifying conditions Consultant must satisfy in connection with such access. Consultant 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 Consultant shall be consistent with any such occupancy or use.

3.3 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 Executive Director. Consultant 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 the sixth Council meeting day after approval of this Agreement by Board or Council's approval of the Agreement.

4.2 The term of this Agreement shall not exceed three (3) years, commencing on the Agreement's effective date. This Agreement shall be in full force and effect until:

a. Director determines that Consultant has completed the Scope of Work and provides Consultant written notice thereof; or

b. Board, in its sole discretion, terminates this Agreement, which termination shall become effective five (5) calendar days following Executive Director's transmittal of written notice advising Consultant of such action by Board. Upon receipt of such written notice, Consultant shall cease the performance of the Scope of Work. Consultant shall be entitled to compensation only for services actually performed prior to such termination. Director, in his or her sole reasonable discretion, shall determine the amount of services actually performed and shall allocate a portion of the total compensation due Consultant accordingly. If Board so terminates this Agreement, Consultant shall deliver all drawings, specifications, plans, reports, studies, calculations, estimates, documents and other work product produced pursuant to this Agreement to City in an organized, usable form with all items properly labeled to the degree of detail specified by the Director. No compensation shall be due Consultant until it complies with the requirements of this paragraph; or

c. Three (3) years have elapsed from the effective date of the 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. Consultant is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by Board.

Although Consultant 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, Consultant 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. Consultant 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 Consultant and Consultant shall accept a sum not to exceed Five Hundred Thousand Dollars (\$500,000). The total sum payable under this Agreement shall be determined by Project Directives and Consultant 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 Consultant ("Expenses") are listed in Exhibit "D." No markups or premiums shall be applied to services performed by Subconsultants unless Exhibit "D" expressly so allows.

5.3 Compensation payable under this Agreement shall be on a (1) Fixed Fee, (2) Time and Materials, (3) Equal Payment or (4) any combination of the three, as may be more particularly specified in a Project Directive.

a. Fixed Fee. Lump sum compensation for satisfactory performance as may be specified in a particular Project Directive.

b. Time and Materials Fee. Consultant shall be paid based on the actual time expended in the performance of Tasks using the applicable rates set forth in

Exhibit "D." Consultant will also be reimbursed for materials and other out-of-pocket expenses at cost. The rates identified in Exhibit "D" state the maximum rates Consultant shall charge under this Agreement. No premium rates, including, but not limited to, overtime or hazardous duty premiums, shall be charged unless authorized in Exhibit "D."

c. Equal Payment Fee. Consultant shall be paid equal amounts over time throughout a particular Project Directive, up to the stated fixed amount.

5.4 Each month during the term of this Agreement, as a prerequisite to payment for services, Consultant shall submit a written invoice to City's Harbor Department for services performed during the prior month, accompanied by such records and receipts as may be required by Section 5.6. Each such invoice shall bear a City Business Tax Registration Number and a Taxpayer Identification Number. Each invoice shall identify all services performed by Subconsultants. If payments are to be based on the performance of established milestones, Consultant shall bill as each milestone is completed, but not more often than once a month.

Consultant shall submit one (1) original and three (3) copies of each such invoice for payment in the format that contains the information specified in Exhibit "E." 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 Consultant shall submit supporting documents with each invoice, which may include, but not be limited to, provider invoices, receipts, payrolls, and time sheets. Consultant is not required to submit support for direct costs items of \$25 or less.

5.6 If Consultant utilizes Subconsultants to perform aspects of the Scope of Work, Consultant shall submit to City, with each monthly invoice, a Monthly Subconsultant Monitoring Report in the form attached hereto as Exhibit "F." Consultant shall provide an explanation for any item that does not meet or exceed the participation levels required by a particular Directive, with specific plans and recommendations for improved subconsultant utilization. Invoices will not be paid without a completed Monthly Subconsultant Monitoring Report form.

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

For payment and processing, all invoices shall be mailed to the following address:

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

6. Recordkeeping and Audit Rights.

6.1 Consultant 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. Consultant's books and records 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 Consultant 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 Consultant and Subconsultants 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 Consultant, Subconsultants or any individual or entity acting for or on behalf of Consultant or a Subconsultant, and (c) without regard to whether such writings have previously been provided to City. Consultant shall be responsible for obtaining access to and providing writings of Subconsultants. Consultant shall provide City at Consultant'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 Consultant's office or facilities which are engaged in the performance of the Scope of Work. Consultant shall, at no cost to City, furnish reasonable facilities and assistance for such review and audit. Consultant'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. Consultant Is An Independent Contractor.

Consultant, in the performance of the Scope of Work, is an independent contractor and not an agent or employee of City. Consultant 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 Exhibit "G."



## 9. Indemnification and Insurance.

### 9.1 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, Consultant 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 consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Consultant'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 Consultant 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.

### 9.2 Acceptable Evidence and Approval of Insurance

Electronic submission is the required method of submitting Consultant's insurance documents. Consultant's insurance broker or agent shall register with the City's online insurance compliance system **Track4LA™** at <http://track4la.lacity.org/> and submit the appropriate proof of insurance on Consultant's behalf.

### 9.3 General Liability Insurance

Consultant shall procure and maintain in effect throughout the term of this Agreement, without requiring additional compensation from the City, commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Consultant. The retention or self-insurance provided shall provide that any other insurance maintained by the Harbor Department shall be excess of Consultant's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Additionally, each policy shall include an additional insured endorsement (CG 2010 or equivalent) naming the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds, a 10-days notice of cancellation for nonpayment of premium, and a 30-days notice of cancellation for any other reasons.



#### 9.4 Automobile Liability Insurance

Consultant shall procure and maintain at its expense and keep in force at all times during the term of this Agreement, automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Consultant's normal limits of liability but not less than Five Hundred Thousand Dollars (\$500,000) 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 and a severability of interest clause. Additionally, each policy shall include an additional insured endorsement (CG 2010 or equivalent) naming the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds, a 10-days notice of cancellation for nonpayment of premium, and a 30-days notice of cancellation for any other reasons.

#### 9.5 Workers' Compensation and Employer's Liability

Consultant shall certify that it is aware of 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 Consultant 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. Consultant 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 Consultant, and for all employees of any subcontractor or other vendor retained by Consultant.

#### 9.6. Professional Liability Insurance

Consultant 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.

Consultant 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 acceptance of the completed project by Board.

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

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

#### 9.7 Carrier Requirements

All insurance which Consultant 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.

#### 9.8 Notice of Cancellation

Each insurance policy described above shall provide that it will not be canceled or reduced in coverage until after the Board of Harbor Commissioners, Attention: Risk Manager and the City Attorney of City have each been given thirty (30) days' prior written notice by registered mail addressed to 425 S. Palos Verdes Street, San Pedro, California 90731.

#### 9.9 Modification of Coverage

Executive Director, at his or her discretion, based upon recommendation of independent insurance consultants 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 Consultant.

#### 9.10 Renewal of Policies

At least thirty (30) days prior to the expiration of each policy, Consultant shall direct their insurance broker or agent to submit to the City's online insurance compliance system **Track4LA**™ at <http://track4la.lacity.org/> a renewal endorsement or renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified above. If Consultant 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 will be deducted from the next payment due Consultant.

#### 9.11 Right to Self-Insure

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

1. Consultant has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Consultant must have a formal resolution of its board of directors authorizing self-insurance.
2. Consultant 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. Consultant agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.
4. Consultant agrees that any insurance carried by Department is excess of Consultant's self-insurance and will not contribute to it.
5. Consultant provides the name and address of its claims administrator.
6. Consultant submits a Financial Statement or Balance Sheet prior to Executive Director's consideration of approval of self-insurance and annually thereafter evidence of financial capacity to cover the self-insurance.
7. Consultant 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. Consultant has complied with all laws pertaining to self-insurance.

#### 9.11 Accident Reports

Consultant 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 Consultant'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 Consultant, its officers or managing agents.

#### 10. Personal Services Agreement.

10.1 During the term of this Agreement, Consultant agrees that it will not enter into other contracts or perform any work without the written permission of the Executive Director where the work may conflict with the interests of City's Harbor Department.

10.2 Consultant 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 Consultant may permit Subconsultant(s) to perform portions of the Scope of Work in accordance with Section 2.3. All Subconsultants whom Consultant utilizes, however, shall be deemed to be its agents. Subconsultants' performance of the Scope of Work shall not be deemed to release Consultant from its obligations under this Agreement or to impose any obligation on the City to such Subconsultant(s) or give the

Subconsultant(s) any rights against the City.

11. Confidentiality.

Consultant 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 Consultant relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Consultant 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, Consultant is required to safeguard such information from access by unauthorized personnel.

12. Affirmative Action.

Consultant 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 "H."

13. Small/Very Small Business Development 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. Consultant 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 "I."

NOTE: Prior to being awarded a contract with the City, Consultant and all Subconsultants must be registered on the City's Contracts Management and Opportunities Database, Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>.

14. Conflict of Interest.

Consultant 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. Consultant's signature of this Agreement constitutes its affirmation that any former employees of City or City's Harbor Department that are employed by Consultant 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.

15. Compliance with Applicable Laws.

Consultant'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 Consultant otherwise in writing, in which case the requirements of said notification shall apply.

16. Trademarks, Copyrights and Patents.

Consultant 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 Consultant has knowledge of, relating to any idea, design, method, material, equipment or other matter connected to this Agreement. Consultant 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 Consultant in the performance of this Agreement.

17. 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. Consultant 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. Consultant 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 Consultant or one of its employees, or its Subconsultant or the Subconsultant's employees, in which case such right shall be obtained without additional compensation. Whether or not Consultant'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 Consultant, its Subconsultants 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.

18. Royalty-Free License.

If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Consultant, its officers, agents, employees, or Subconsultants, the City shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by City. Upon City's request, Consultant, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to the City. It is expressly understood and agreed that, as between City and Consultant, the referenced license shall arise for City's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. City may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by City.

19. City's Disclosure Obligations.

Consultant 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 Consultant 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 consultants and suppliers of materials and supplies provide a TIN to the party that pays them. Consultant declares that its authorized TIN is 23-1501990. No payments will be made under this Agreement without a valid TIN.

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

Board adopted Resolution No. 5771 on January 13, 1999, agreeing to adopt the



provisions of Los Angeles City Ordinance No. 171004 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. Consultant 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.

Consultant and Subconsultants shall comply with all applicable state and federal employment reporting requirements for employees.

Consultant and Subconsultants 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. Consultant and Subconsultants 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. Consultant shall comply with the policy wherever applicable. Violation of this policy shall entitle the City to terminate any agreement with Consultant and pursue any and all other legal remedies that may be available. See Exhibit "J."

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

The Consultant, Subconsultants, 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, Consultant is required to provide and update certain information to the City as specified by law. Any Consultant subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subconsultant 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 subconsultant on Harbor Department Agreement No. \_\_\_\_\_. Pursuant to City Charter Section 470(c)(12), subconsultant 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. Subconsultant is required to provide to Consultant names and addresses of the



subconsultant's principals and contact information and shall update that information if it changes during the 12 month time period. Subconsultant's information must be provided to Consultant within 5 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.

Consultant, Subconsultants, 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. Consultant 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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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

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

By: \_\_\_\_\_  
Executive Director

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

WESTON SOLUTIONS, INC.

Date: 4/17/2012

By: Lisa Marie Kary  
Name: Lisa Marie Kary  
Title: Vice President

Attest: Matthew J. Wartian  
Name: Matthew J. Wartian  
Title: Client Service Manager

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_, 2012  
CARMEN A. TRUTANICH, City Attorney  
Thomas A. Russell, General Counsel

By \_\_\_\_\_  
SIMON M. KANN, Deputy

Account #	54260	W.O. #	25116
Ctr/Div #	1205	Job Fac. #	635-00
Proj/Prog #	000		

Budget FY: Amount:

12/13	\$14,000
13/14	\$166,000
14/15	\$166,000
15/16	\$154,000
TOTAL	\$500,000

For Acct/Budget Div. Use Only:

Verified by: \_\_\_\_\_  
Verified Funds Available: \_\_\_\_\_  
Date Approved: \_\_\_\_\_

## **Exhibit A – Scope of Work**

Consultant to provide the following services:

1. Identify options for obtaining credits within necessary project timelines.
2. Negotiate/determine details of the credits.
  - a. Work with the appropriate agencies to determine the ratio of deep water Outer Harbor habitat credits obtained relative to the acres of mitigation project habitat created.
  - b. Estimate or determine the cost per credit.
  - c. Negotiate with agencies regarding timing of receipt of credits relative to construction of mitigation project.
3. Establish the mitigation crediting system consistent with the umbrella Bank Enabling Instrument currently being established by the Harbor Department.
4. Prepare required regulatory and transactional documentation to support procurement and use of mitigation credits.

**Exhibit "B"**  
Form of Directive

(Date)  
(Consultant)  
(Consultant address)  
(City, State, Zip)

Attention: (Project Manager)

Subject: Directive No. 1

Project Name

Pursuant to Section 2.2(a) of Agreement No. \_\_\_\_\_, after receipt of a written Notice to Proceed signed by the Director of the Environmental Management Division, Consultant shall proceed with the following:

<u>Task</u>	<u>Services</u>	<u>Authorized Amount</u>
3	Conceptual Study and Report 3.A Roadway	\$100,000 (lump sum)
3	Conceptual Study and Report 3.B Rail	\$200,000 (lump sum)
3	Conceptual Study and Report 3.C Bridge	\$ 50,000 (lump sum)
3	Conceptual Study and Report 3.D Streetscape	\$150,000 (lump sum)

Consultant shall provide all required task, services, and deliverables in accordance with Exhibit "A" to Agreement No. \_\_\_\_\_.

Consultant shall complete the work within \_\_\_ calendar days from City's transmittal of its written Notice to Proceed.

Consultant shall undertake the following MBE/WBE/SBE/VSBE/DVBE/OBE utilization in connection with its performance of this Directive No. \_\_\_.

Consultant acknowledges that the terms and conditions of Agreement No. \_\_\_ govern this Directive and that its signature below reflects its agreement with the terms and conditions of this Directive No. \_\_\_.

If you have any questions, please contact \_\_\_\_\_ at (310) 732-\_\_\_\_\_.

ACCEPTED:

(Consultant Name)  
Consultant  
Date:

GERALDINE KNATZ, Ph.D.  
Executive Director  
Date:

**Exhibit "C"**  
Form of Notice to Proceed

(Date)  
(Consultant)  
(Consultant address)  
(City, State, Zip)

Attention: (Project Manager)

Subject: Notice to Proceed - Directive No. \_\_  
Project Name

This is to notify and direct you to commence performance of the subject Directive.  
Enclosed is your set of the executed Directive documents.

If you have any questions, please contact \_\_\_\_\_ at (310) 732-\_\_\_\_\_.

Very truly yours,

Director, Environmental Management Division

Enclosure: Directive No, \_\_



EXHIBIT D  
COMPENSATION



**E. Rate Schedule & Estimated Fees**

**E. 1 Proposed Team Members' Hourly Rates**

**Weston Solutions, Inc.**

Rate Effective: January 2012–January 2015

LABOR CATEGORY		KEY PERSONNEL (listed on organizational chart)	HOURLY RATE
Project Principal		Matthew Wartian, David Moore, Ph.D., Leonard Cardoza, Dwight Gemar, Mark Jaworski, Barry Dubinski, Ph.D.	\$200.00
Senior Project Manager		Garret Williams, Leah Dreger	\$185.00
Project Manager			\$165.00
Task Manager			\$145.00
Senior Engineer		David Pohl, Ph.D., P.E.	\$185.00
Engineer			\$145.00
Junior Engineer			\$100.00
Senior Biologist / Senior Scientist		William Isham	\$130.00
Biologist 3 / Scientist 3			\$110.00
Scientist 2			\$95.00
Scientist 1			\$85.00
Senior Geologist			\$140.00
Geologist			\$135.00
Senior Technician			\$75.00
Field Technician			\$70.00
GIS Specialist		Sheri Dister	\$145.00
GIS Analyst			\$100.00
Contracts			\$75.00
W/P & Graphics			\$75.00
<b>G&amp;A AND FEES</b>			
General & Administrative	5%	ODCS's Subcontractors, and Travel (Actual Cost)	
Subcontract Oversight Fee	5%	All Subcontractors (Actual Cost)	
<b>OTHER DIRECT CHARGES</b>			
Charge	Price/Unit	Charge	Price/Unit
CADD / GIS	\$20/day	Reproduction – B&W Regular	\$0.15/page
Communications	Actual, \$0.22/fax page	Reproduction – B&W Oversize	\$0.20/page
Computer Usage	n/a	Reproduction – Color Regular	\$1.00/page
Equip. & Supplies	See Table 2	Reproduction – Color Oversize	\$1.50/page
Mileage	Federal Rate / Mile	Reproduction – Large Format Data Printer	\$15.00/page
Hotel / Per Diem	Federal Rate		

Merkel & Associates, Inc.



## MERKEL & ASSOCIATES, INC.

5434 Ruffin Road ♦ San Diego, CA 92123 ♦ Tel: (858) 560-5465 ♦ Fax: (858) 560-7779

### Schedule of Fees

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Billing Rates: as of July 1, 2009

#### Consulting

	<u>\$/Hour</u>
Principal Consultant	\$229
Project Manager	\$129
Senior Biologist	\$112
Senior Designer	\$102
Permitted/Certified Biologist	\$99
Certified Wetland Delineator	\$99
Associate Biologist	\$92
Project Administrator	\$91
GIS Specialist	\$86
Marine Technician	\$76
Biological Technician	\$76
Revegetation Crew Leader	\$69
Graphic Technician	\$63
Clerical Support	\$59
Revegetation Technician	\$46
Expert Witness	\$343

Mileage

Federal Rate



**McCollum Associates**

Rate Effective: January 2012–January 2015

LABOR CATEGORY	KEY PERSONNEL (listed on organizational chart)	HOURLY RATE
Project Principal	Michael McCollum	\$210.00

**ESA PWA**



**Exhibit B**  
**Environmental Science Associates & Subsidiaries**  
**2011 Schedule of Fees**

**I. Personnel Category Rates**

Charges will be made at the Category hourly rates set forth below for time spent on project management, consultation or meetings related to the project, field work, report preparation and review, travel time, etc. Time spent on projects in litigation, in depositions and providing expert testimony will be charged at the Category rate times 1.5.

Executive Director	\$295 00
Senior Director II – Engineer	\$245 00
Senior Director II	\$235 00
Senior Director I – Engineer	\$215 00
Senior Director I	\$215 00
Director – Engineer	\$200 00
Director II	\$200 00
Director I	\$185 00
Senior Managing Associate / Technical Assoc. – Engineer	\$175 00
Senior Managing Associate / Technical Associate II	\$175 00
Senior Managing Associate / Technical Associate I	\$170 00
Managing Associate / Technical Associate – Engineer	\$160 00
Managing Associate / Technical Associate II	\$160 00
Managing Associate / Technical Associate I	\$150 00
Senior Associate II – Engineer	\$145 00
Senior Associate II	\$135 00
Hydrologist II	\$125 00
Hydrologist I	\$115 00
Senior Associate I	\$125 00
Associate III	\$110 00
Hydrographer	\$105 00
Senior Administrative / Graphics	\$105 00
Associate II	\$100 00
Associate I	\$90 00
Environmental Tech II	\$80 00
Environmental Tech I	\$70 00
Administrative / Graphics	\$85 00
Clerical	\$70 00

- (a) From time to time, ESA retains outside professional and technical labor on a temporary basis to meet peak workload demands. Such contract labor may be charged at regular Employee Category rates.
- (b) ESA reserves the right to revise the Personnel Category Rates annually to reflect changes in its operating costs.



ESA/PNA 2011 Schedule of Fees

## II. ESA Expenses

### A. Travel Expenses

#### 1. Transportation

- a. Company vehicle – IRS mileage reimbursement rate
- b. Common carrier or car rental – actual expenses

#### 2. Lodging, meals and related travel expenses – direct expenses

### B. Communications Fee

In-house costs for phone, e-mail, fax, regular postage, walk-up copier, and records retention – project labor charges multiplied by 3%

### C. Printing/Reproduction Rates

Item	Rate/page
8 1/2 x 11 b/w	\$0.05
11 x 17 b/w	\$0.10
8 1/2 x 11 color	\$1.00
11 x 17 color	\$1.50
Covers	\$0.50
Binding	\$1.00
HP Plotter	\$25.00
CD	\$10.00
Digital Photography	\$20.00 (up to 60 images)



## Equipment Pricing

**Weston Solutions, Inc.**

Rate Effective: January 2012–January 2015

Vessels/Vehicles	Lease Rates
RADON	\$500/day
Inflatable Boat + Motor	\$85/day
SeaBird (SBE-25)	\$250/day
Pre- and Post Calibration	\$200/deployment
Vehicle	Federal Rate/Mile
<b>Bay Water Quality Equipment</b>	
SeaTech Transmissometer	\$50/day
SeaBird Field Computer	\$25/day
Rosette Water Sampler w/Bottles	\$250/day
Water Bottles (Van Dorn or Niskin)	\$12/day/bottle
<b>Vibracore Equipment</b>	
P5 Vibracore	\$600 - \$1,600/day
P3 Vibracore	\$600 - 1,600/day
Piston Core	\$150/day
<b>Surficial Sediment Sampling &amp; Associated Equipment</b>	
Double Van Veen	\$250/day
Van Veen	\$150/day
Box Corer	\$200/day
*Teflon Coating Available (Van Veen or Box Corer)	400
Benthic Box	\$20/day
Benthic Infauna Wash Table and Sieve	\$25/day
Eckman Grab	\$50/day
Ponar Grab	\$50/day
<b>Trawl Equipment</b>	
Gill Net	\$20/day/net
Otter Trawl Net	\$35/day/net
Seine Net	\$20/day/net
Beam Trawl Net	\$30/day/net
Auriga Net & Flow Meter	\$50/day
Bongo Net & Flow Meter	\$50/day
All Other Nets	\$25/day
Trawl Box	\$35/day
<b>Other Field Equipment</b>	
Portable Generator (small)	\$25/day
Portable Generator (large)	\$80/day



**Weston Solutions, Inc.**

Rate Effective: January 2012–January 2015

Vessels/Vehicles	Lease Rates
GPS-NAV w/Differential Correction (+2m accuracy)	\$75/day
Binoculars	\$5/day
Field Phone	\$20/day
Digital Camera	\$25/day
Waterproof Digital Camera	\$35/day
Dive Tanks	\$8/day/tank
Dive Scooters	\$50/day/scooter
Field Equipment Tool Box	\$10/day
Rain Gauge	\$5/day; \$12/wk; \$44/month; \$500/yr
Knack Box	\$2/day; \$5/wk; \$20/month; \$200/yr
<b>Power Tools</b>	
Rigid Cordless Hammer Drill	\$15/day
Dewalt Cordless Hammer Drill	\$15/day
Makita Cordless Hammer Drill	\$5/day
Corded Hammer Drill	\$20/day
Saws All	\$20/day
Circular Saw	\$20/day
Cement Mixer	\$200/day

Samplers/Flow Meters	Lease Rates
Sigma 900MAX Auto Sampler	\$35/day; \$105/wk; \$350/month; \$2,625/yr
Sigma 920/950 Flow Meter w/ Sensor	\$75/day; \$225/wk; \$750/month; \$5,625/yr
Knack Box	\$2/day; \$5/wk; \$20/month; \$200/yr
Oakton pH/EC/Temp Meter	\$35/day
Horriba pH/EC/Temp/Sal/DO/Turbo Meter	\$75/day
YSI 6600 Series Sonde	\$100/day
Hach Turbidity Meter	\$35/day
Sondtec 3D Flow Tracker	\$75/day
Marsh McBirney Flo-Mate	\$50/day
Teledyne RDI Stream Pro ADCP	\$250/day
Entry RAE O2, CO, H2S, LEL, PID meter	\$75/day
Portable Peristaltic Sampler	\$25/day
Whirlpack Bridge Sampler	\$5/day
<b>Confined Space Equipment</b>	
Tripod and Wrench w/ Harness	\$75/day
Ventilator	\$35/day
Conveyance Trolley	\$20/day







Samplers/Flow Meters	Lease Rates
<b>Water Sample Equipment</b>	
Extendable Grab Pole	\$5/day
Bacteria Grab Pole	\$5/day
Sampling Bucket	\$5/day
<b>Survey Equipment</b>	
Dewalt Tripod, Scope and Stadia Rod	\$50/day
<b>Traffic Control Equipment</b>	
Traffic Cones	\$5/day
Traffic Barriers	\$5/day
Traffic Flashing Lights	\$5/day
<b>Fall Protection</b>	
Y Lanyard w/ Harness	\$15/day
Climbing Rated Rope	\$10/day
<b>Field Computers</b>	
Field Computer - Dell Laptop	\$75/day
Field Computer - Panasonic Tough Book	\$100/day
Field Computer - Modem	\$10/day; \$30/wk; \$110/month; \$1,250/yr
Power Invertor	\$10/day
<b>Expendable Supplies</b>	
Teflon and Stainless Steel Strainer	\$75/each
Stainless Steel Bubbler End	\$10/each
Expendable Hardware	\$.35 cents/each
Stainless Steel Pipe Mounting Band	\$3/each
<b>Analytical Field Kits</b>	
Nitrate	\$1.30/each
Phosphate	\$1.00/each
Reactive Phosphorus	\$1.00/each
Ammonia	\$1.20/each
<b>Batteries (AAA; AA; C; D; 9 Volt)</b>	
Triple A	\$.75 cents/each
Double A	\$.60 cents/each
C	\$1.50/each
D	\$1.25/each
9 volt	\$2.75/each
6 Volt Lantern	\$12/each
12 Volt Lantern	\$90/each

Merkel & Associates, Inc.



## MERKEL & ASSOCIATES, INC.

5434 Ruffin Road ♦ San Diego, CA 92123 ♦ Tel: (858) 560-5465 ♦ Fax: (858) 560-7779

### Schedule of Fees

#### Equipment Rates: as of July 1, 2009

Vehicle Mileage	\$0.555/mile
Tow Vehicle	\$50/day
Differential GPS Unit	\$110/day
Digital Camera	\$15/day
Underwater Video Camera	\$100/day
Drop/Towed Camera	\$300/day
Small Vessel	\$350/day
Medium Vessel	\$450/day
Large Vessel	\$500/day
SCUBA Gear	\$62/day
Remotely Operated Vehicle (ROV)	\$750/day
Interferometric Sidescan	\$750/day
Sidescan Sonar	\$500/day
Sub-bottom Profiler	\$200/day
Survey-grade Fathometer	\$300/day
Diver Communications	\$100/day
Diver Propulsion Unit	\$75/day
Reproduction (Small Report)	\$10/each
Reproduction (Medium Report)	\$20/each
Reproduction (Large Report)	\$30/each



ESA PWA

ESA PWA 2011 Schedule of Fees

**D. Equipment Rates**

Item	Rate/Day	Rate/Week	Rate/Month
<b>General Equipments:</b>			
Vehicles	\$ 40 <sup>a</sup>	\$ 180	
Laptop Computers	50	200	\$ 500
LCD Projector	200	800	
Noise Meter	50		
Electrofisher	300	1,200	
Sample Pump	25		
Surveying Kit	20		
Total Station Set	100	400	
Field Traps	40		
Digital Planimeter	40		
Cameras/Video/Cel Phone	20		200
Miscellaneous Small Equipment	5		
Computer Time (i.e. GIS)	120 <sup>b</sup>		
Trimble GPS	75	350	900
GIS Imagery	2 <sup>c</sup>		
GIS Web Maps			200 <sup>d</sup>
Tablet GPS	100	400	1,000
Laser Level	60		
Garmin GPS or equivalent	25		250
Stilling Well / Coring Pipe (3 inch aluminum)	\$3/ft		

**D. Equipment Rates (continued)**

Item	Rate/Day	Rate/Week	Rate/Month
<b>Hydrologic Data Collection, Water Current, Level and Wave Measurement Equipments:</b>			
Culvert Flow Meter	\$ 25	\$ 100	\$ 400
Logging Rain Gage	10	40	125
Marsh-McBirney Hand-Held Current Meter	50	200	
Logging Water Level Logging-Stainless Steel Pressure Transducer	10	40	125
Logging Water Level -Titanium Pressure Transducer	20	80	300
Logging Barometric Pressure Logger	10	40	125
Well Probe	20	80	
Bottom-Mounted Tripod / Mooring	50	200	900
<b>Water Quality Equipments:</b>			
Logging Turbidimeter/Water Level Recorder	\$ 25	\$ 100	\$ 400
In-Situ Troll 9500 logging water quality multiprobe		200	500
Logging Temperature Probe	3	10	40
Hach Hand-Held Turbidimeter Recording Conductivity Meter w/Datalogger	50	200	
Refractometer	20	80	
YSI Hand-Held Salinity Meter	30	120	
Hand-Held Conductivity/Dissolved Oxygen Probe	40	160	
<b>Sedimentation / Geotechnical Equipments:</b>			
Peat Corer	\$ 75	\$ 300	
60lb Helly-Smith Bedload Sampler with Bridge Crane	175	700	
Suspended Sediment Sampler with Bridge Crane	75	300	
Vibra-core	100	400	
Shear Strength Vane	50	200	
Auger (brass core @ \$ 5/each	20	80	
<b>Boats:</b>			
14 foot Aluminum Boas with 15 HP Outboard Motor	\$ 100	\$ 400	
Single or Double Person Canoe	30	120	
17' Boston Whaler w/ 80 HP Outboard	600	2,000	
<small>           a Actual project charges will be either the IRS mileage reimbursement rate or the daily rate, whichever is higher            b GIS computer time will be charged at \$15.00 per hour.            c A GIS image is based on 800 x 1,000 pixels. Custom size will be charged accordingly            d GIS Web Maps will be charge in \$200 per unit of disk space         </small>			

**III. Subcontracts**

Subcontract services will be invoiced at cost.

**IV. Other**

There shall be added to all charges set forth above amounts equal to any applicable sales or use taxes legally levied in lieu thereof, now or hereinafter imposed under the authority of a federal, state, or local taxing jurisdiction.

## E. 2 Budget Control Measures of WESTON Team

To effectively manage costs, WESTON's Project Manager will utilize our CostTrack system, which accurately tracks costs on a weekly basis, including costs from our team subcontractors. CostTrack includes a direct electronic link to our corporate, federally approved accounting system (CostPoint); entry and reconciliation of costs as incurred in the field; calculation of Earned Value and Earned Value Management System (EVMS) style reporting; recognition or purchase order (PO) committed amounts; and calculation of cost Estimate to Complete (ETC), all within the same application. Direct link to our accounting system allows the Project Manager to download and review all labor costs, approved invoices, and status of subcontracts and POs weekly. Managers can easily determine project expenditures relative to schedule progress to determine quickly if the project is on track.

WESTON has developed a suite of in-house, Web-based management information systems to make management of our government-audited financial process more efficient and accessible and timely. The interoperability and data exchange of our "-Track" systems provide a powerful toolbox to manage this contract, as shown in Table E-3.

Table E-3. WESTON's Management Information Systems and "-Tracks"

WESTON Web-Based Applications and Information Systems			
	A collection of reports and tools for viewing financial and performance information.		Database of employee training and certifications and to schedule training sessions.
	Human Resources tool for making changes to employee salary, position, or supervisor.		Sales management tool to assess strategic and key client relationships and to manage client development plans.
	Web-based tool for submitting and approving expenses.		A web-based tool for requisitioning equipment from equipment stores.
	Internal application containing all employee contact information and office listings.		Online employment requisition system designed to improve the flow of employment requisition information.
	A procurement tool to manage subcontractors.		Facilitates recording all incidents and near incidents and provides investigation templates to document contributing factors and root causes of incidents.
	Web based system for recording daily time charges.		Project management tool that integrates project financial data and data management with our other project related tools.
	Our Financial and Project Accounting System.		Share a workspace with external parties (Clients, Subcontractors) outside of the WESTON firewall.

Company Letterhead

Agreement No.:  
ADP No.:  
BTRC No.:  
TIN:

Invoice Number:  
Date:  
POLA PM:

Task number, Project Title  
Billing Period: Month/Day/Year to Month/Day/Year

Authorized PD Budget	Current Invoice	Invoiced To-Date	PD Balance
\$0.00	\$0.00	\$0.00	\$0.00

PERSONNEL:	Rate/Hour	Current Hours	Cumulative Hours	Current Total
Name & Title	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
"	\$0.00	0	0	\$0.00
<b>Total Labor Cost:</b>				<b>\$0.00</b>

SUBCONSULTANT:	Activity	Current Total
Name of Subconsultant	Work Performed	\$0.00
"		\$0.00
"		\$0.00
"		\$0.00
<b>Total Subconsultant Cost:</b>		<b>\$0.00</b>

REIMBURSABLE EXPENSES:	Current Total	
Mileage, Parking, Car Rentals, Reproduction/Copies, etc.	\$0.00	
"	\$0.00	
"	\$0.00	
"	\$0.00	
"	\$0.00	
<b>Total Other Direct Cost:</b>		<b>\$0.00</b>

REMIT PAYMENT TO: Company Name Address City, ST Zip
--

**TOTAL AMOUNT NOW DUE: \$0.00**

Progress Report: Describe the work undertaken during this billing period. Identify accomplishments and challenges encountered. Provide other info as appropriate.

I certify under penalty of perjury that the above bill is just and correct according to the terms of Agmt # \_\_\_\_\_ and that payment has not been received. I further certify that I have complied with the provisions of the City's Living Wage Ordinance.

\_\_\_\_\_  
Consultant Representative Name

Date: \_\_\_\_\_  
APPROVED AS TO SCOPE AND  
AMOUNT OF WORK PERFORMED  
\_\_\_\_\_  
POLA PROJECT MANAGER

## MONTHLY SUBCONSULTANT MONITORING REPORT

Instructions: Please indicate the SBE/MBE/WBE/OBE/DBE participation levels achieved for the month of \_\_\_\_\_ covered by the referenced contract number.

Contract No. \_\_\_\_\_ Division \_\_\_\_\_ Contractor Administrator \_\_\_\_\_

Contractor \_\_\_\_\_ \*Group \_\_\_\_\_ Contract Title/Project \_\_\_\_\_

Contract Amount \_\_\_\_\_ Start Date \_\_\_\_\_ End Date \_\_\_\_\_

Total Amount Invoiced to Date \_\_\_\_\_

SBE Mandated Participation Percentage \_\_\_\_\_ SBE \_\_\_\_\_ VSBE \_\_\_\_\_

Proposed Subcontractor Percentage \_\_\_\_\_ MBE \_\_\_\_\_ WBE \_\_\_\_\_ OBE \_\_\_\_\_ DVBE \_\_\_\_\_

	Name of Subcontractor	Type of Work Performed	Group SBE/VSBE/MBE/WBE/OBE/DVBE	PROPOSED			ACTUALS		
				Original Proposed Amount	Original Proposed Percentage	Amount Paid to Date	Amount Paid to Date Percentage	Contract Amount Percentage	
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

**Directions:**  
 Original Proposed Percentage: Original Proposed Percentage of Total Contract Amount  
 Amount Paid to Date Percentage: Percentage of Total Amount Invoiced to Date  
 Contract Amount Percentage: Percentage Paid to Date of Total Contract Amount

\* Group = (SBE/VSBE/MBE/WBE/OBE/DVBE)



## EXHIBIT G

### BUSINESS TAX REGISTRATION CERTIFICATE (BTRC) NUMBER

The City of Los Angeles Office of Finance requires all firms that engage in any business activity within the City of Los Angeles to pay City business taxes. Each firm or individual (other than a municipal employee) is required to obtain the necessary Business Tax Registration Certification (BTRC) and pay business tax. (Los Angeles Municipal Code Section 21.09 et seq.)

All firms and individuals that do business with the City of Los Angeles will be required to provide a BTRC number or an exemption number as proof of compliance with Los Angeles City business tax requirements in order to receive payment for goods or services. Beginning October 14, 1987, payments for goods or services will be withheld unless proof of tax compliance is provided to the City.

The Tax and Permit Division of Los Angeles Office of Finance has the sole authority to determine whether a firm is covered by business tax requirements. Those firms not required to pay will be given an exemption number.

If you do NOT have a BTRC number contact the Tax and Permit Division at the office listed below, or log on to [www.lacity.org/finance](http://www.lacity.org/finance) to download the business tax registration application.

#### MAIN OFFICE

LA City Hall

201 N. Main Street, Rm. 101 (213) 473-5901

## EXHIBIT H - AFFIRMATIVE ACTION PROGRAM PROVISIONS

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

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 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 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, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
  1. This provision 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 will, 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, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, 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, religion, ancestry, national origin, 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 Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

## EXHIBIT H - AFFIRMATIVE ACTION PROGRAM PROVISIONS

- 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 contract. Such 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 Board of Public Works, Office of Contract Compliance. No such 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, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such 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 (\$10.00) for each person for each calendar day on which such 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 Office of Contract Compliance 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. The Contractor shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it

## EXHIBIT H - AFFIRMATIVE ACTION PROGRAM PROVISIONS

registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award 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 Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve

months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.

1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  2. A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or 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;

## EXHIBIT H - AFFIRMATIVE ACTION PROGRAM PROVISIONS

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.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
- P. 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 or suppliers engaged in the performance of City contracts.
- Q. All contractors subject to the provisions of this section shall include a like 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 I – SMALL BUSINESS ENTERPRISE PROGRAM

The City of Los Angeles 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 Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>, to outreach to potential subcontractors.**

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 \$3,500,000 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%, including 0% VSBE participation.** The North American Industry Classification System (NAICS) Code for the scope of services is 541620. 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 \$14 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.

In the event of Consultant's noncompliance during the performance of the Agreement, Consultant shall be considered in material breach of contract. In addition to any other remedy available to City under this Agreement or by operation of law, the City may withhold invoice payments to Consultant until noncompliance is corrected, and assess the costs of City's audit of books and records of Consultant and its subconsultants. In the event the Consultant falsifies or misrepresents information contained in any form or other willful noncompliance as determined by City, City may disqualify the Consultant from participation in City contracts for a period of up to five (5) years.

Consultant shall complete, sign, notarize (where applicable) and submit as part of the executed agreement the attached Affidavit and Contractor Description Form. The Contractor Description Form, when signed, will signify the Consultant's intent to comply with the SBE requirement. Prior to contract award, the Harbor Department will verify the status of all SBEs. In addition, prior to being awarded a contract with the Harbor Department, all contractors and subcontractors must be registered on LABAVN.



### 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 Contractor Description Form is true and correct and include all material information necessary to identify and explain the operations of

Weston Solutions, Inc.

Name of Firm

as well as the ownership thereof. Further, the undersigned agrees to provide either through the prime consultant or, directly to the Harbor Department, complete and accurate information regarding ownership in the named firm, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents in association with this agreement."

Please indicate the ownership of your company:

SBE     VSBE     MBE     WBE     OBE

- A Small Business Enterprise (SBE) is an independently owned and operated business that is not dominant in the field and meets criteria set forth by the Small Business Administration in Title 13, Code of Regulations, Part 121.
- A Very Small Business Enterprise (VSBE) is 1) a small business that has average gross receipts of \$3,500,000 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 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 people 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).
- An OBE (Other Business Enterprise) is any enterprise that is neither an SBE, VSBE, MBE, nor WBE.

Signature Michael Drennan Title Vice-President  
Printed Michael David Drennan Date Signed Dec. 12, 2011

NOTARY  
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared

\_\_\_\_\_  
Name to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that he/she was properly authorized by \_\_\_\_\_ to execute the affidavit and did so as his or her free act and deed.  
Name of Firm

SEAL

*See CA Jurat Attached dp*

Notary Public \_\_\_\_\_

Commission Expires \_\_\_\_\_



# Jurat

State of California

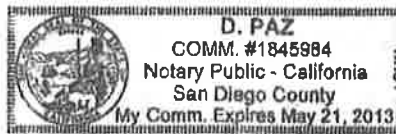
County of San Diego

Subscribed and sworn to (or affirmed) before me on this 12 day of December,  
20 11 by Michael David Drennan

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature D Paz

(Notary seal)



## OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Affidavit & Co. Status  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 1 Document Date 12-12-11

(Additional information)

### INSTRUCTIONS FOR COMPLETING THIS FORM

*The wording of all Jurats completed in California after January 1, 2008 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verblage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one which does contain proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form
  - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document





## CONTRACTOR DESCRIPTION FORM

### PRIME CONTRACTOR

Contract #: Bio. Mitigation Credit Neg. Award Date: January 2013 Contract Term: 3 years  
Contract Title: Biological Mitigation Credit Negotiation  
Business Name: Weston Solutions, Inc. Award Total: \$ Indefinite Quantity  
Owner's Ethnicity: N/A Gender N/A Group: SBE VSBE MBE WBE DVBE X OBE  
Primary NAICS Code: 541620 Average Three Year Gross Revenue: \$466,110,000  
Address: 2433 Impala Dr Carlsbad, CA  
City/State/Zip: Carlsbad / CA / 92010  
Telephone: (760) 795-6900 Fax: (760) 931-1580  
Contact Person/Title: Matthew Wartian / Client Service Manager  
Email Address: matt.wartian@westonsolutions.com

### SUBCONTRACTOR

Business Name: Merkel & Associates, Inc. Award Total: \$ Indefinite Quantity  
Services to be provided: Biological Mitigation Credit Negotiation, Habitat Assessment, Planning, Permitting  
Owner's Ethnicity: Caucasian Gender F Group: X SBE VSBE MBE X WBE DVBE OBE  
Primary NAICS Code: 541620 Average Three Year Gross Revenue: \$ 4.7 Million  
Address: 5434 Ruffin Rd  
City/State/Zip: San Diego / CA / 92123  
Telephone: (858) 560-5465 Fax: (858) 560-7779  
Contact Person/Title: Keith Merkel / Principal Ecologist  
Email Address: kmerkel@merkelinc.com

### SUBCONTRACTOR

Business Name: McCollum Associates Award Total: \$ Indefinite Quantity  
Services to be provided: Biological Mitigation Credit Negotiation  
Owner's Ethnicity: White Gender M Group: SBE X VSBE MBE WBE DVBE OBE  
Primary NAICS Code: 541620 Average Three Year Gross Revenue: \$ 250,000  
Address: 10196 Clover Ranch Dr.  
City/State/Zip: Sacramento / CA / 95829  
Telephone: (916) 688-2040 Fax: (916) 688-7436  
Contact Person/Title: Michael McCollum / Owner  
Email Address: mccollum@mccollum.com





**SUBCONTRACTOR**

Business Name: ESA PWA Award Total: \$ Indefinite Quantity  
Services to be provided: Mitigation Site Conceptual Design, Feasibility Studies, Regulatory Permitting  
Owner's Ethnicity: N/A Gender N/A Group: SBE VSBE MBE WBE DVBE X OBE  
Primary NAICS Code: 541330 Average Three Year Gross Revenue: \$42 Million  
Address: 9191 Towne Centre Dr., Suite 340  
City/State/Zip: San Diego / CA / 92122  
Telephone: (858) 638-0900 Fax: (858) 638-0910  
Contact Person/Title: Nick Garrity / Southern California Manager  
Email Address: NGarrity@esassoc.com

## EXHIBIT J

### 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.

