

Management Audits

Performance Audit and Consulting Services

REQUEST FOR QUALIFICATIONS



September 7, 2022

Transmittal 6

September 7, 2022

Prospective Consultants:

SUBJECT: REQUEST FOR QUALIFICATIONS FOR PERFORMANCE AUDIT AND CONSULTING SERVICES

The City of Los Angeles Harbor Department (Harbor Department) invites the submittal of Statements of Qualifications (SOQ) from qualified consultants to provide performance audit and consulting services. These services shall commence after a contract is approved by the Board of Harbor Commissioners.

Instructions and forms to be used in preparing the SOQ are found in the information included in the Request for Qualifications(RFQ).

The schedule for this RFQ will be as follows:

Request for Qualifications Published	Wednesday, September 7, 2022
Questions Due	Wednesday, September 14, 2022 by 3pm
Response Posted	Monday, September 19, 2022
Statement of Qualifications Due	Wednesday, September 28, 2022 by 3pm

If your firm cannot agree to the requirements exactly as set forth in this RFQ, please do not submit a SOQ.

For questions regarding this RFQ, please contact Susana Eldridge by email at Seldridge@portla.org. Questions must be submitted by Wednesday, September 14, 2022 by 3pm. Responses will be posted on the Harbor Department's website at <https://www.portoflosangeles.org/business/contracting-opportunities/requests-for-proposals> and www.RAMPLA.org on Monday, September 19, 2022. It is the responsibility of all proposers to review the Port's website for any RFQ revisions or answers to questions prior to submitting a SOQ in order to ensure their SOQ is complete and responsive.

In addition to providing information requested in this RFQ, it should be noted that there are administrative documents that must be submitted with the SOQ. Please refer to the Business Enterprise Programs and Contract Administrative Requirements section of this RFQ. **In order for your SOQ to be deemed responsive, these documents MUST be included with your SOQ.**

All consultants and subconsultants must be registered on the City's Contracts Management and Opportunities Database, Regional Alliance Marketplace for Procurement (RAMP), at <http://www.RAMPLA.org>, at the time SOQs are due.

Sincerely,

TRICIA J. CAREY
Director, Contracts and Purchasing Division

TABLE OF CONTENTS

1.	INTRODUCTION.....	5
1.1	Brief Overview of the Project	5
1.2	The Port of Los Angeles	5
2.	PROJECT DESCRIPTION	5
2.1	Project Goals and Objectives	5
2.2	Project Scope of Work	7
3.	STATEMENT OF QUALIFICATION REQUIREMENTS	7
3.1	Statement of Qualification Submission	7
3.2	Evaluation Process and Selection Criteria	8
3.3	Statement of Qualifications Content	8
3.4	Checklist for RFQ Submittal Requirements.....	12
4.	STANDARD CONTRACT PROVISIONS	13
4.1	Affirmative Action	13
4.2	Small/Very Small Business Enterprise Program and Local Business Preference Programs	13
4.3	Business Tax Registration Certificate.....	13
4.4	Indemnity and Insurance Requirements.....	14
4.5	Conflict of Interest.....	18
4.6	Compliance with Applicable Laws	18
4.7	Governing Law / Venue	18
4.8	Termination Provision	18
4.9	Proprietary Information	19
4.10	Trademarks, Copyrights, and Patents	19
4.11	Confidentiality	20
4.12	Notices	20
4.13	Termination Due to Non-Appropriation of Funds.....	20
4.14	Taxpayer Identification Number.....	21
4.15	Service Contractor Worker Retention Policy and Living Wage Policy Requirements.....	21
4.16	Wage and Earnings Assignment Orders/Notices of Assignments	21
4.17	Equal Benefits Policy	21
4.18	State Tidelands Grants.....	22
4.19	Contract Solicitations Charter Section 470 (c) (12)	22

ATTACHMENTS / EXHIBITS

- Exhibit A - Affirmative Action Program Provisions
- Exhibit B – Small/Very Small Business Enterprise Program
- Exhibit C – Proprietary Small Business Enterprise Application
- Exhibit D - Business Tax Registration Certificate (BTRC) Number
- Exhibit E - Equal Benefits Ordinance
- Exhibit F – RFQ Selection Evaluation Form
- Exhibit G – City Ethics Commission (CEC) Forms 50 and 55

1. INTRODUCTION

1.1 Brief Overview of the Project

The Management Audits Division (MAD) is soliciting Statements of Qualifications (SOQ) from qualified consultants to provide as-needed performance audit, compliance reviews, and/or consulting services. The Harbor Department intends to establish a pool of as-needed consultants to provide these services. The duration of the contract awarded as a result of this RFQ is expected to be three-years from the date of execution of the agreement.

1.2 The Port of Los Angeles

The Port of Los Angeles is America's Port®, the nation's premier gateway for international commerce and the busiest seaport in the Western Hemisphere. Located in San Pedro Bay, 25 miles south of downtown Los Angeles, the Port encompasses 7,500 acres of land and water along 43 miles of waterfront.

The Port features both passenger and cargo terminals, including cruise, container, automobile, breakbulk, dry and liquid bulk, and warehouse facilities that manage billions of dollars' worth of cargo each year. One of the world's busiest seaports and leading gateway for international trade in North America, the Port of Los Angeles has ranked as the number one container port in the United States each year since 2000. In 2021, the Port handled a total of 10.7 million TEUs, its busiest calendar year on record.

The Port of Los Angeles is a department of the City of Los Angeles (also known as the Los Angeles Harbor Department) and is governed by the Los Angeles Board of Harbor Commissioners, a panel appointed by the Mayor of Los Angeles. Although the Port is a City department, it is not supported by City taxes. Operating as a landlord port with more than 200 leaseholders, the Port instead generates its revenues from leasing and shipping service fees. The Port's jurisdiction is limited to the Harbor District, which includes property in San Pedro, Wilmington, and Terminal Island.

2. PROJECT DESCRIPTION

2.1 Project Goals and Objectives

The Harbor Department is soliciting SOQs from qualified and experienced individuals and firms to provide performance audit, compliance reviews, and/or consulting services on an "as-needed" basis. The Harbor Department will establish a list of qualified consultants, from which individual tasks will be assigned on an as-needed basis, after a competitive process has been completed among the qualified firms on the list.

The MAD is responsible for conducting financial, compliance, and performance audits of Harbor Department operations. Harbor Department Divisions are required to maintain current financial and operating information that is complete, accurate, and available upon request by MAD for review and analysis. The complexity of performance and compliance audits, and the overall increase in demand for audit consulting services and projects, demonstrates the ongoing need for assistance by outside audit and/or consulting firms. In addition, comprehensive performance audits, compliance reviews, and management consulting may require the use of specialists with technical skills not found at the Harbor Department.

The audits performed by MAD are conducted in accordance with appropriate professional and governmental audit and review standards; therefore, knowledge of these standards is desirable. Comprehensive reports issued by MAD are provided to elected officials, department managers and their staff, and the public. The ability to produce an accurate and useful report, and to explain and defend the findings and recommendations, is paramount. In addition, auditors must be able to compare and contrast different methodologies, processes, and procedures, while conducting due diligence and data collection to confirm facts and assertions.

The following is a list of possible topics where outside expertise may be required to provide assistance, subject matter knowledge, and experience for audits:

- Information Technology strategic planning, resource development, and cost management;
- Divisional staffing requirements;
- Real estate tenant compliance with lease terms and conditions, financial reviews, and/or drafting of permit requirements;
- Investment pool management and strategy;
- Review of interdepartmental City of Los Angeles billings for services rendered;
- Local governance and the Harbor Department's relationship with external stakeholders, such as Neighborhood Councils, Harbor Department Committees, other City and governmental agencies, etc.;
- Construction contracts and procurement practices;
- Engineering projects – work scoping, cost reporting, and invoicing;
- Evaluation of internal controls and quality assurance processes; and
- Performing independent financial analyses, including pro-forma financial statements/balance sheets, cost-benefit analyses, regression analyses, etc.

The above topics are provided to give an indication of the kind of audit consulting services that may be required by the Harbor Department. This is not a comprehensive list and no commitment is being made that an audit involving any particular area listed above will be authorized.

Individual contract amounts will be for an amount not-to-exceed \$180,000. Firms whose SOQs are selected will be placed on the Harbor Department's eligible auditor list. This list will be effective for a three-year period. As needs are determined by the Harbor Department, work will be broken up into individual task order(s) by the Departmental Audit Manager. The task order shall include a complete description of the work to be provided, its costs, identification of personnel performing the tasks, identification of the deliverables,

and time required to be completed. The task order will be presented to each eligible firm on the list or “pool” and a selection will be made by the Harbor Department after a competitive process has been completed. No guarantee of work is given or implied to any of the firms selected to be “as-needed” contractors as a result of this RFQ process.

2.2 Project Scope of Work

The Consultant and/or any assigned staff must have the qualifications and experience necessary to provide needed performance audits, compliance reviews, and consulting services on an “as-needed” basis to the Harbor Department. Specifically, successful respondents must be able to develop information-gathering strategies and tools, analyze and interpret the results of data-gathering, ensure data gathered can support all conclusions, and produce well-written reports for any service performed for the Harbor Department. All services performed by the Consultant shall be under the general direction of the Departmental Audit Manager.

The services performed by the Consultant may include performance audits, compliance reviews, management assessments and reviews, and/or organizational studies. Projects may be independently conducted by the Consultant or performed along with MAD staff. The Consultant may be asked to provide subject matter experts for ongoing audits or other activities conducted by Harbor Department staff. The timing of the projects and the level of difficulty will dictate the number and qualifications of staff required.

In general, respondent firms should have:

- Expertise and experience in doing performance audits, compliance reviews, management assessments and reviews, and/or organizational and staffing studies;
- Experience working with public agencies;
- Knowledge of state and federal laws, as appropriate for Harbor Department-defined activities;
- Knowledge of and experience in preparation of feasibility studies, including analyzing strategic alternatives and implementing desired programs; and
- Ability to demonstrate a high quality work product, while working in a timely manner to meet established deadlines.

3. STATEMENT OF QUALIFICATION REQUIREMENTS

3.1 Statement of Qualification Submission

One (1) digital copy of your SOQ, as one complete file in .pdf format, must be submitted on or before 3:00 p.m. PST on Wednesday, September 28, 2022 to: Susana Eldridge at Seldridge@portla.org

The SOQ shall be in searchable PDF (Portable Document Format). Files shall not be password protected or saved with restrictions that prevent copying, saving, highlighting, or reprinting of the contents. The electronic copy will not be returned.

Proposers solely are responsible for the timeliness of their submittals. As such, proposers are cautioned to budget adequate time to ensure that their SOQs are delivered before the deadline set forth above.

By submitting a SOQ, proposers certify that such SOQ constitutes their full and complete written response to the RFQ and evidences their acknowledgement that additional written material outside of such SOQ shall not be considered by the City in connection with this RFQ, unless the City provides a written request that they submit additional written materials. Absent such written request, proposers are instructed to not submit to the City written or other materials outside of the SOQ, either in a subsequent interview or otherwise.

3.2 Evaluation Process and Selection Criteria

All SOQs meeting the requirements of this RFQ shall be reviewed and rated by an evaluation committee according to the following criteria: 1) firm qualifications, experience, and references; 2) project organization, personnel, and staffing; 3) project approach, work plan, and management; 4) rates, fees, and budget control; and 5) clarity and comprehensiveness of the SOQ. See Exhibit F.

Selected proposers may be contacted to arrange in-person interviews with the evaluation committee. The evaluation committee will make the final recommendation for selecting the consultant. All recommendations are subject to the approval of the Director of Management Audits Division, the Executive Director of the Harbor Department, and the Board of Harbor Commissioners.

Proposers are advised that all documentation submitted in response to this RFQ will be considered property of the Harbor Department and may become available to the public as a public record and be released without further notification. Any information that the proposer considers confidential should not be submitted with the SOQ.

The right to reject any and all SOQS shall, in every case, be reserved, as shall the right to waive any informality in the SOQ when to do so would be to the advantage of the City.

3.3 Statement of Qualifications Content

The following items shall be included in your SOQ:

1. Cover Transmittal Letter

Provide a narrative which introduces the firm and team highlighting the special strengths of the firm to perform the work requested in this RFQ. The letter should be signed by an authorized principal of the proposing consulting firm.

2. Firm Qualifications, Experience and References

Provide a narrative describing the firm's qualifications to perform project work,

including past (relevant) experience in performance auditing, compliance reviews, and consulting services. Include a detailed description of your experience working with public entities. Provide at least three client references, with contact names and information. Qualifications and experience for proposed subconsultants should also be included.

Identify any members of your proposed team, including proposer's firm and any subconsultant firms, who are former Commissioners, officers or employees of the Harbor Department. Provide their name, proposed team position, and their past position and years of employment/appointment with the Department. If your proposed team does not have any such members, please include a statement in your SOQ so stating.

Proposers are advised that it is a proposer's obligation to determine whether any conflicts of interest exist for their team members and the extent to which those conflicts need to be resolved or disclosed prior to engaging in business with the Department.

3. Project Organization, Personnel and Staffing

Provide a brief description of all key personnel and technical staff (including vendors, partners or subconsultants) to be involved and their relationship to the services to be provided.

- Include names, titles, licenses, certificates, fields of expertise, and relevant experience for all proposed personnel and staff.
- Identify likely Project Manager(s) for the proposed services.
- Complete resumes should be provided as part of an appendix to the SOQ.

4. Project Approach and Work Plan

Provide a narrative which shows your firm's understanding of audit requirements and documents a logical technical approach you might use to address a project scope of work. Include a general work plan as well as the proposed approach to undertaking the scope of work described earlier in this RFQ.

5. Project Management

Describe how your firm intends to manage all aspects of the work to be performed, including schedules for completion of tasks/subtasks, procedures for scheduling and cost control.

6. Cost

Provide project pricing, including hourly rates for all proposed team members. Also provide pricing for any additional equipment, software, hardware and any other related expenses you might propose for a project. Discuss any budget control measures your firm uses.

7. Business Enterprise Programs and Contract Administrative Requirements

In order for your SOQ to be deemed responsive, the following documents MUST be included with your SOQ:

A) SMALL/VERY SMALL BUSINESS ENTERPRISE AND LOCAL BUSINESS PREFERENCE PROGRAMS (EXHIBIT B)

Provide with your SOQ the Small/Very Small Business Enterprise and Local Business Preference Programs Affidavit and Consultant Description forms (Exhibit B), fully filled out for your firm and any proposed subconsultants. Please refer to Exhibit B for detailed information relative to these programs and instructions on completing the forms.

The **mandatory** Small Business Enterprise (SBE) participation will be 20%, including 10% Very Small Business Enterprise (VSBE) participation. **Proposers who fail to demonstrate that they will meet or exceed the SBE requirements will be deemed non-responsive.** In order to ensure the highest participation of SBEs, VSBEs, Minority Business Enterprises, Women Business Enterprises, and Disabled Veteran Business Enterprises, all proposers shall utilize the RAMP to outreach to potential subconsultants.

Firms must be certified as SBEs or Very Small Business Enterprises (VSBE) through RAMP at the time SOQs are due. **Firms will only receive credit for SBE/VSBE certifications reflected on RAMP profile.** Firms may certify as SBE (Proprietary) and VSBE (Harbor) by completing the SBE (Proprietary) application (Exhibit C). Please refer to the Road Map in Exhibit C for a listing of agency certifications that may be accepted in lieu of completing the application. For VSBE certification, you must complete the application or be certified as a Micro-business through the State of California Department of General Services (DGS). If your firm is certified by one of the listed agencies, you must complete the instructions in the application in regards to obtaining certification on RAMP. Applications should be mailed to the following address referencing the RFQ:

CITY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
Bureau of Contract Administration
Office of Contract Compliance – Centralized Certification Administration
1149 S. Broadway, Ste. 300
Los Angeles, CA 90015

Proposers who qualify as a Local Business Enterprise (LBE) will receive an 8% preference on any services valued in excess of \$150,000.

B) INSURANCE VERIFICATION LETTER

Provide a letter from your insurance carrier or broker indicating that the insurance requirements for this project as described in this RFQ are presently part of the proposer's coverage, or that the insurance company is able to provide such coverage should the proposer be selected. The insurance carrier/broker must be aware of the indemnification

requirements also set forth in this RFQ. Proposers are not required to purchase the required insurance in order to respond; however, all required insurance will need to be submitted at the time of contract award. **ACORD® Certificate of Liability Insurance sheets will not be accepted in lieu of an insurance verification letter. Statement of Qualifications submitted without an insurance verification letter, as described above, will be deemed non-responsive.**

C) CITY ETHICS COMMISSION (CEC) FORMS 50 and 55

Proposers who submit a response to this solicitation (proposers) are subject to Charter section 470 (c) (12) and related ordinances. As a result, proposers may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit the response until either the contract is approved or, for successful proposers, 12 months after the contract is signed. The proposer's principals and subcontractors performing \$100,000 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

Proposers must submit CEC forms 50 and 55 to the awarding authority at the same time the response is submitted (See Exhibit G). The forms require proposers to identify their principals, their subcontractors performing \$100,000 or more in work on the contract, and the principals of those subcontractors. Proposers must also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Responses submitted without completed CEC Forms 50 and 55 may be deemed non-responsive. Proposers who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.

D) ACCEPTANCE OF STANDARD CONTRACT PROVISIONS

Proposers must submit a signed letter confirming their firm's acceptance of all of the Standard Contract Provisions exactly as set forth in Section 4

3.4 Checklist for RFQ Submittal Requirements

A checklist is provided to assist in verification that all elements of the RFQ have been addressed. However, firms are encouraged to review the entirety of the RFQ, including the Standard Contract Provisions section, to ensure full compliance and not rely solely on this checklist.

- Cover transmittal letter, signed by an authorized principal of the proposing consulting firm
- Table of Contents, if included (not required)
- SOQ with the following sections, in order:
 - Firm Qualifications, Experience and References
 - Project Organization, Personnel and Staffing
 - Project Approach and Work Plan
 - Project Management
 - Cost
- Resumes for all proposed staff personnel provided in an appendix
- Small/Very Small Business Enterprise and Local Business Preference Program forms:
 - Affidavit of Company Status (**Prime**)
 - Consultant Description Form (**Prime and any subconsultants**)
- Letter from insurance carrier or broker indicating ability to meet insurance requirements for this project, including general liability, auto liability, workers' compensation and professional liability. **Do not submit an ACORD® Certificate of Liability Insurance sheet. It will not be accepted in lieu of an insurance verification letter.**
- CEC Form 50 (Bidder Certification)
- CEC Form 55 (Prohibited Contributors (Bidders))
- Letter of acceptance of Standard Contract Provisions

4. STANDARD CONTRACT PROVISIONS

The following sections are standard contract provisions for the Harbor Department. In submitting a proposal, proposer agrees to accept these terms without change. **If your firm cannot agree to the following requirements, exactly as set forth below, please do not submit a proposal.**

4.1 Affirmative Action

Consultant, during the performance of the Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of the 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 shall be incorporated and made a part of the agreement. All subcontracts awarded shall contain a like nondiscrimination provision. See Exhibit A.

4.2 Small/Very Small Business Enterprise Program and Local Business Preference Programs

It is the policy of the Department to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), Minority-Owned, Women-Owned, Disabled Veteran-Owned 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 the City 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 opportunity which might be presented under this Agreement. See Exhibit B.

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

NOTE: Prior to being awarded a contract with the Harbor Department, all consultants and subconsultants must be registered on the City's Contracts Management and Opportunities Database, Regional Alliance Marketplace for Procurement (RAMP), at <http://www.RAMPLA.org>.

4.3 Business Tax Registration Certificate

The City of Los Angeles, 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 the City of Los Angeles, 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 the Los Angeles Harbor Department. See Exhibit D.

4.4 Indemnity and Insurance Requirements

REQUIRED AT PROPOSAL STAGE: A letter from each proposer's carrier or broker must be provided with their proposal. The letter should indicate that the requirements below are presently part of the proposer's coverage, or that the carrier/broker is able to provide such coverage should the proposer be selected. The carrier/broker must be aware of the indemnification requirements below. Proposers are not required to purchase the required insurance in order to respond, however all required insurance will need to be submitted at the time of contract award. **ACORD® certificates will not be accepted.**

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

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 **KwikComply** at <https://kwikcomply.org/> and submit the appropriate proof of insurance on Consultant's behalf.

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.

Primary Coverage

The coverages submitted must be primary with respect to any insurance or self insurance of the City of Los Angeles Harbor Department. The City of Los Angeles Harbor Department's program shall be excess of this insurance and non-contributing.

Notice Of Cancellation

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

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' written notice to Consultant.

Renewal of Policies

At least thirty (30) days prior to the expiration of any policy, Consultant shall direct their insurance broker or agent to submit to the City's online insurance compliance system **KwikComply** at <http://kwikcomply.org> a renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified below. If Consultant neglects or fails to secure or maintain the insurance required below, Executive Director may, at his or her own option but without any obligation, obtain such insurance to protect the City's interests. The cost of such insurance will be deducted from the next payment due Consultant.

Policy Copies

Upon request by City, Consultant shall furnish a copy of the binder of insurance and/or full certified policy for any insurance policy required herein. This requirement shall survive the termination or expiration of this Agreement.

Limits of Coverage

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

Right to Self-Insure

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

- a. 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.
- b. 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.
- c. Consultant agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.
- d. Consultant agrees that any insurance carried by Department is excess of Consultant's self-insurance and will not contribute to it.
- e. Consultant provides the name and address of its claims administrator.
- f. Consultant submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to the Executive Director's consideration of approval of self-insurance and annually thereafter.
- g. 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.
- h. Consultant has complied with all laws pertaining to self-insurance.

Insurance

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

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. Where Consultant provides or dispenses alcoholic beverages, Host Liquor Liability coverage shall be provided as above. Where Consultant

provides pyrotechnics, Pyrotechnics Liability shall be provided as above. 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 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.

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

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 One Million Dollars (\$1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision. 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.

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 the 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.

6. Professional Liability

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 includes 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 the completed term of the Agreement.

4.5 Conflict of Interest

It is hereby understood and agreed that the parties to this Agreement have read and are aware of 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 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.

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

4.6 Compliance with Applicable Laws

Consultant shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of the Executive Director.

4.7 Governing Law / Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

4.8 Termination Provision

The Board of Harbor Commissioners, in its sole discretion, shall be able to

terminate and cancel all or any part of the Agreement it enters into with the selected Consultant for any reason upon giving the Consultant ten (10) days' notice in writing of its election to cancel and terminate the Agreement. It is agreed that any Agreement entered into shall not limit the right of the City to hire additional Consultants to perform the services described in the Agreement either during or after the term of the Agreement.

4.9 Proprietary Information

1. 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.

2. 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.

4.10 Trademarks, Copyrights, and Patents

Consultant agrees to save, keep, hold harmless, protect and indemnify the 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.

4.11 Confidentiality

The data, documents, reports or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement 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.

4.12 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 paid. When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective parties, notice to the Department shall be addressed to _____, 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.

4.13 Termination Due to Non-Appropriation of Funds

This Agreement is subject to the provisions of the Los Angeles City Charter which, among other things, precludes the City from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated thereof.

The 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, the Board is under no legal obligation to do so.

The 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 therefore. The Consultant is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Consultant is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Consultant agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60 day period. The Consultant is responsible for maintaining all insurance and bonds during this 60 day 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 the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

4.14 Taxpayer Identification Number

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 it has an authorized TIN which shall be provided to the Department prior to payment under the Agreement. No payments will be made under the Agreement without a valid TIN.

4.15 Service Contractor Worker Retention Policy and Living Wage Policy Requirements

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 5771 on January 3, 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 the 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 the City to terminate the Agreement and otherwise pursue legal remedies that may be available.

4.16 Wage and Earnings Assignment Orders/Notices of Assignments

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution Nos. 19-8419 and 19-8420 on January 24, 2019, adopting the provisions of Los Angeles City Ordinance No. 185356, relating to Service Contractor Worker Retention (SCWR), Section 10.36 et seq. of the Los Angeles Administrative Code, as the policy of the 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 the City to terminate this Agreement and otherwise pursue legal remedies that may be available.

4.17 Equal Benefits Policy

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of Los Angeles City Ordinance 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 the Harbor Department. Consultant shall comply with the policy wherever applicable. Violation of the 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 E.

4.18 State Tidelands Grants

The Agreement will be entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, the Agreement will at all times be subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929, (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 the Agreement and the terms contained therein must be consistent with such limitations, conditions, restrictions and reservations.

4.19 Contract Solicitations Charter Section 470 (c) (12)

Persons who submit a response to this solicitation (proposers) are subject to Charter section 470 (c) (12) and related ordinances. As a result, proposers may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit the response until either the contract is approved or, for successful proposers, 12 months after the contract is signed. The proposer's principals and subcontractors performing \$100,000 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

Proposers must submit CEC form 50 and 55 to the awarding authority at the same time the response is submitted (See Exhibit G). The forms require proposers to identify their principals, their subcontractors performing \$100,000 or more in work on the contract, and the principals of those subcontractors. Proposers must also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Responses submitted without completed CEC Form 50 and 55 may be deemed nonresponsive. Proposers who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.