

**AGREEMENT NO.**  
**BETWEEN THE CITY OF LOS ANGELES**  
**AND**  
**POPULOUS, 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 Populous, Inc., a California corporation, whose address is 300 Broadway #39, San Francisco, CA 94133 ("Consultant").

WHEREAS, City requires professional, scientific, expert or technical services of a temporary and occasional character, including the generation of final plans, specifications and estimates in furtherance of City's ability to advertise construction of the project described in Exhibit "A" hereto ("Project"), which final plans, specifications and estimates hereinafter shall be referred to as "Final PSEs;" 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 "B" hereto and hereinafter shall be referred to as "Scope of Work." Among other things, Exhibit "B" breaks down the Scope of Work into individual tasks and, in some cases, further breaks down such tasks into subtasks, which hereinafter shall be referred to generically as "Tasks" and "Subtasks." The aggregate of all Tasks and, as applicable, Subtasks, comprises the Scope of Work.

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

a. The Chief Harbor Engineer of the Engineering Division of City's Harbor Department ("Engineer") shall issue a written document in the form

attached hereto as Exhibit "C" that has been signed by the Deputy Executive Director of Development for the City's Harbor Department 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"). Directives shall specifically identify any services that fall within the meaning of "design professional services" as defined by Section 2782.8 of the California Civil Code to which the indemnity obligation set forth at Section 9.2 of this Agreement shall apply. A Directive's failure to identify such "design professional services" shall bar application of Section 9.2 to that Directive.

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

c. Following Engineer's receipt of the Directive signed by Consultant, Engineer shall issue a written document in the form attached hereto as Exhibit "D" that has been signed by Engineer 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 Engineer 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 Engineer, whether performance is undertaken by Consultant or third-parties with whom Consultant has contracted and whom are listed on Exhibit "L" on the effective date of this Agreement, or whom Engineer may subsequently approve in writing ("Subconsultants"). 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 Engineer's written request, Consultant shall supply City's Harbor Department with all agreements between it and its Subconsultants.

2.5 Consultant's performance of the Scope of Work shall adhere in all respects to the schedule set forth in Exhibit "E" hereto and to the scheduling requirements, if any, set forth in a Directive.

2.6 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.

2.7 Engineer 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 Engineer, Consultant shall assign replacement personnel and/or shall remedy any deficient services or work product to Engineer's reasonable satisfaction and at Consultant's sole cost and expense. Compliance with the requirements of this Section 2.7 is a condition to payment by City of compensation to Consultant pursuant to this Agreement.

2.8 Consultant's representative responsible for administering this Agreement, Todd Kohli ("Project Manager"), shall not be changed without Engineer's written approval. Engineer 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.

2.9 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.

2.10 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 2.10 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.

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

2.12 Consultant shall review information provided by City's Harbor Department, whether in the form of drawings, documents, and/or written or verbal comments, excluding survey data. Any such information reasonably believed by Consultant to be inaccurate, incomplete or inapplicable shall be brought promptly to the attention of Engineer in writing.

2.13 Consultant shall perform the Scope of Work as expeditiously as possible and at the time or times required by the Engineer. Time is of the essence in the performance of the Scope of Work. Consultant's failure to conform to the schedule set

forth in Exhibit "E" 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 Exhibit "E" shall result in economic losses to the City, including, but not limited to, the timely bidding and awarding of contracts, completion of the Project and the use of the 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 Engineer, shall assist in completing the Scope of Work.

3.2 City's Harbor Department shall provide all necessary copies and prints of the Final PSEs for bid advertisement and construction.

3.3 City's Harbor Department shall provide survey, construction inspection, construction contract administration and soil compaction-testing services unless the Scope of Work provides otherwise.

3.4 Consultant shall provide Engineer with reasonable advance written notice if it requires access to the Project area or any other premises of City's Harbor Department. Subsequent access rights, if any, shall be granted to Consultant at the sole reasonable discretion of Engineer, specifying conditions Consultant must satisfy in connection with such access. Consultant acknowledges that the Project area 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.

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

4. Effective Date and Term.

4.1 After approval by City in accordance with Section 245 of City's Charter, the effective date of this Agreement shall be the date of its execution by City's Harbor Department Executive Director ("Executive Director"). 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. Engineer 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. Engineer, 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 Engineer. 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 Two Million Three Hundred and Forty Thousand Dollars (\$2,340,000) to be paid as specified in Exhibit "F." If Exhibit "F" allocates a specific amount to the performance of a Task or Subtask and if, following the completion of such Task or Subtask, unexpended sums remain in relation to such specific amount, Executive Director may, upon written notice to Consultant, allocate such unexpended sums to the performance of a subsequent Task or Subtask.

5.2 Compensation payable under this Agreement includes payment for all labor, travel, per diem, fringe benefits, general and administrative expenses, overhead, profit, materials, supplies, transportation, and all other direct and indirect costs and expenses incurred by Consultant ("Expenses"). As such, Consultant shall not be entitled to separate reimbursement of Expenses under this Agreement. No markups or premiums shall be applied to services performed by Subconsultants unless Exhibit "F" expressly so allows. Compensation payable under this Agreement shall be on a (1) fixed fee, (2) hourly, or (3) combined fixed fee and hourly basis in accordance with the terms below, as may be more particularly specified in Exhibit "F" and Exhibit "G."

a. Fixed Fee. Lump sum compensation for satisfactory performance of Tasks as may be identified as "Lump Sum" in Exhibit "F."

b. Hourly Fee. An amount equal to the product of the hours expended by Consultant and the applicable hourly rates set forth in Exhibit "G" for time actually spent in the performance of Tasks as may be identified as "Not-to-Exceed" in Exhibit "F." The rates identified in Exhibit "G" 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.

5.3 Consultant may not increase the rates set forth in Exhibit "G" by any amount after (12) months of service.

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 specifically required in Exhibit "F." 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 four (4) copies of each such invoice for payment in the format that contains the information specified in Exhibit "H" 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 as may be set forth in a Directive. Such documents may include, but are not limited to, provider invoices, payrolls, and time sheets.

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 "I." 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. Consultant is not required to submit support for direct costs items of \$25 or less.

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. City shall use all reasonable effort to pay said sums within sixty (60) days of receipt of each statement.

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, which 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 "J."

9. Indemnity 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 Indemnification for Design Professional Services

To the fullest extent permitted by law (including without limitation, Section 2782.8 of the California Civil Code), when the services to be provided under this Agreement are design professional services to be performed by a design professional, as that term is defined under said Section 2782.8, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its boards, officers, agents, or employees from and against all claims, charges, demands, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever which may be sustained or suffered by or secured against the City, its boards, officers, agents, and/or employees that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, or the acts or omissions of an officer, employee, agent or Subconsultant, excepting only liability resulting from the negligence or willful misconduct of City.

## 9.3 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.

## 9.4 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.

## 9.5 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 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.

#### 9.6 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.

#### 9.7 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.

#### 9.8 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.

#### 9.9 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.

#### 9.10 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.

#### 9.11 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.

#### 9.12 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 its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to Executive Director's consideration of approval of self-insurance and annually thereafter.
7. 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.

#### 9.13 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 "K."

13. Small/Very Small Business Enterprise Program and Local Business Preference Program.

It is the policy of City's Harbor Department to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprise 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 "L."

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.

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 Engineer 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 Engineer 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 Director of Development, 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 43-1870309. 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 "M."

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 10 business days. Failure to comply may result in termination of the Agreement or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213-978-1960.

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

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

Date: July 29, 2015

POPULOUS, INC.  
By: Todd Kohli

Name: TODD KOHLI

Title: PRINCIPAL

Attest: [Signature]

Name: HAZIN LEE

Title: ASSOCIATE

APPROVED AS TO FORM AND LEGALITY

July 30, 2015  
MICHAEL W. FEUER, City Attorney  
Janna B. Sidley, General Counsel

By [Signature]  
Helen J. Sok, Deputy/Assistant

Account #	54220	W.O. #	2532100
Ctr/Div #	1185	Job Fac. #	228-8200
Proj/Prog #	624		228-8300

Budget FY:	Amount:
15/16	\$520,137
16/17	\$1,000,000
17/18	\$500,000
18/19	\$319,863
TOTAL	\$2,340,000

For Acct/Budget Div. Use Only:

Verified by: [Signature]

Verified Funds Available: [Signature]

Date Approved: [Signature]

## EXHIBIT A

# The San Pedro Waterfront – Town Square and Ports O' Call Promenade

## PROJECT DESCRIPTION

The Harbor Department continues its commitment to the community to revitalize the LA Waterfront. The environmental document has set the framework for this development, focusing on the community of San Pedro. The San Pedro Waterfront (SPW) Environmental Impact Report (EIR) was certified in September 2009.

In San Pedro, Ports O' Call (POC), located along the waterfront between 6th Street and the SP Slip, east of Sampson Way, has been a Southern California destination since 1963 and a focal point of the SPW revitalization efforts. The two distinct elements specific to the Ports O' Call re-development area of the SPW Program are the continuous pedestrian waterfront promenade extending along the Main Channel's water's edge of the proposed Ports O' Call re-development and a Downtown Town Square at the foot of 6th Street, south of the recently completed Downtown Harbor. These two elements are defined as The Town Square (Element A) and The Ports O' Call Promenade (Element B).

### Element A. The Town Square

This project will construct an open public gathering space, adjacent to the Downtown Harbor, from 6th Street to Nagoya Way, East of Harbor Blvd., as shown in the attached drawing. The design should incorporate the continuous waterfront promenade, including complimenting architectural features, and be compliant with the LA Waterfront Design Guidelines (2011). The Town Square shall include architectural features including landscaping, hardscape, irrigation, pedestrian signage, lighting, and site furnishings such as public seating, bollards, trash receptacles, bike racks, and public drinking fountains. The Town Square shall be publically accessible from the south and join to the existing Downtown Harbor to the north. It will require provisions for emergency access and general parking for adjacent users (Maritime Museum, Port Police, etc.). The design of open spaces should emulate the environmental and cultural history to create a sense of place, as well as reflecting the current

maritime activities that make the waterfront unique to San Pedro and compliment the nearby San Pedro City Hall.

Consultant Design Services:

Consultant shall develop an architectural vision and plan for the project as described above. The design items identified by the Harbor Department for this task include, but are not limited to, the following: (1) design of multi-use public open space for events/gatherings, (2) landscape/hardscape architecture, including irrigation, that integrates with the Downtown Harbor and Downtown San Pedro, (3) provisions for public art, (4) emergency access and general parking, (5) design and coordination of communications infrastructure, including security, Wi-Fi, CATV and/or CCTV, as required, (6) electrical design, and (7) geotechnical engineering services.

Civil and structural design will be based off the architectural plan and will be done by the Harbor Department's Engineering Staff. Consultant shall coordinate with the Sampson Way/Harbor Blvd and 7<sup>th</sup> Street Intersection Project, the Ports O' Call Development Project, and the Harbor Department's Project Manager (PM) and Design Teams.

**Element B. The Ports O' Call Promenade**

This project will construct a grand urban boardwalk promenade approximately 30 feet wide that provides spacious public access to the water's edge within the Ports O' Call Village and the Main Channel, as shown in the attached drawing. Approximately 3,600 lf in length, this promenade will act as a unifying element to the entire waterfront. It will be constructed on the Berths 74 to Berths 84 backlands, mainly on the bulkhead, with limited portions extending over water. It shall incorporate water access points and will incorporate outlooks. The promenade shall include architectural features including landscaping, hardscape, irrigation, pedestrian signage, lighting, and site furnishings such as public seating, bollards, trash receptacles, bike racks, and public drinking fountains. The promenade shall follow the LA Waterfront Design Guidelines (2011) and the overall theme of the other SPW Projects, such as the Downtown Harbor, Waterfront Gateway and Waterfront Enhancements Projects, but shall also incorporate features that are unique to the Ports O' Call Village. Sometimes modest and at other times bold, it must create a "scene" that brings together activities such as strolling, jogging, and people watching.

This Element B shall include the design and B-permitting for the Sewer Pump Plant located in the Ports O' Call Parking Lot. Design of a new sewer pumping plant shall include, but not limited to, sizing of new pumps to meet new development demand, electrical, instrumentation and controls, communications, wet and dry structures, and inlet and outlet piping.

Consultant Design Services:

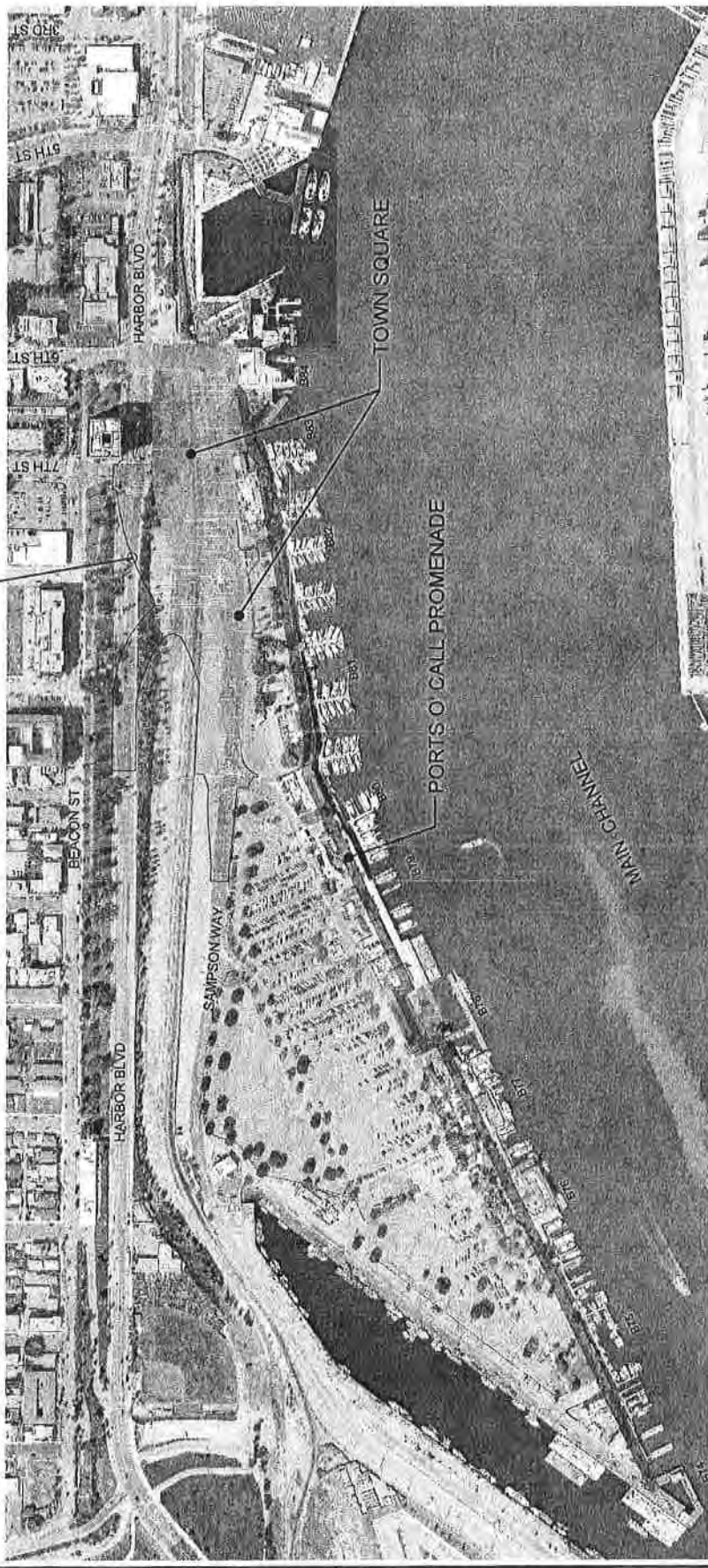
Consultant shall develop an architectural vision and plan for the project as described above. The design items identified by the Harbor Department for this task include, but are not limited to, the following: (1) design and alignment of a boardwalk promenade, including landscape/hardscape architecture and irrigation, (2) design of lighting, railing, and fencing integrated with the promenade (railing to match existing railing for overall cohesiveness), (3) provisions for public art, (4) design of furnishings that will accent the promenade, (5) design a seamless flow to future Ports O' Call cafes, restaurants and retail establishments, (6) design and coordination of communications infrastructure,

including security, Wi-Fi, CATV and/or CCTV, as required, (7) electrical design, (8) geotechnical engineering services, and (9) Sewer Pump Plant design.

Civil and structural design will be based off the architectural plan and will be done by the Harbor Department's Engineering Staff. Consultant shall coordinate with the Sampson Way/Harbor Blvd and 7<sup>th</sup> Street Intersection Project, the Ports O' Call Development Project, and the Harbor Department's Project Manager (PM) and Design Teams.

03/17/2015

SAMPSON WAY/HARBOR BLVD AND 7th STREET INTERSECTION PROJECT (NIC)



DATE		BY		CHECKED		APPROVED		SCALE		SHEET NO.		SHEET TOTAL	

EXHIBIT 1

SAN PEDRO WATERFRONT - TOWN SQUARE AND PORTS O' CALL PROMENADE PROJECTS

THE CITY OF LOS ANGELES  
**ENGINEERING DIVISION**  
 433 S. MAIN STREET, 15TH FLOOR, LOS ANGELES, CA 90013-2000

LA

10 11 12 13 14

EXHIBIT A

## EXHIBIT B

# The San Pedro Waterfront – Town Square and Ports O' Call Promenade

## Scope of Work/Services/Deliverables

The scope of work will cover planning, engineering design, architectural design, landscaping/hardscape design, bidding support, and design support during construction. Consultant shall have qualified personnel and subconsultants to accomplish the requested services. Consultant shall be capable of furnishing all professional, technical, or expert services as may be necessary to research, analyze, program, diagram, draw, sketch, illustrate, write, explain, and present as necessary or required to complete all assignments. All design shall follow requirements per the San Pedro Waterfront Environmental Impact Report (certified September 2009) and LA Waterfront Design Guidelines.

### Element A. The Town Square

Consultant shall develop an architectural vision and plan for the project as described in the Project Description. The design items identified by the Harbor Department for this task include, but are not limited to, the following: (1) design of multi-use public open space for events/gatherings, (2) landscape/hardscape architecture, including irrigation, that integrates with the Downtown Harbor and Downtown San Pedro, (3) provisions for public art, (4) emergency access and general parking, (5) design and coordination of communications infrastructure, including security, Wi-Fi, CATV and/or CCTV, as required, (6) electrical design, and (7) geotechnical engineering services.

Civil and structural design will be based off the architectural plan and will be done by the Harbor Department's Engineering Staff. Consultant shall coordinate with the Sampson Way/Harbor Blvd and 7<sup>th</sup> Street Intersection Project, the Ports O' Call Development Project, and the Harbor Department's Project Manager (PM) and Design Teams.

**Element B. The Ports O' Call Promenade**

Consultant shall develop an architectural vision and plan for the elements as described in the Project Description. The design items identified by the Harbor Department for this task include, but are not limited to, the following: (1) design and alignment of a boardwalk promenade, including landscape/hardscape architecture and irrigation, (2) design of lighting, railing, and fencing integrated with the promenade (railing to match existing railing for overall cohesiveness), (3) provisions for public art, (4) design of furnishings that will accent the promenade, (5) design a seamless flow to future Ports O' Call cafes, restaurants and retail establishments, (6) design and coordination of communications infrastructure, including security, Wi-Fi, CATV and/or CCTV, as required, (7) electrical design, (8) geotechnical engineering services, and (9) Sewer Pump Plant design.

Civil and structural design will be based off the architectural plan and will be done by the Harbor Department's Engineering Staff. Consultant shall coordinate with the Sampson Way/Harbor Blvd and 7<sup>th</sup> Street Intersection Project, the Ports O' Call Development Project, and the Harbor Department's Project Manager (PM) and Design Teams.

The Scope of Services required for each Element is as follows:

**TASK 1 – PROJECT MANAGEMENT AND COORDINATION**

Task 1A.) The Town Square

Task 1B.) The Ports O' Call Promenade

The Consultant shall provide proficient (i.e. sophisticated, professional, skilled, qualified) project management services throughout the project. This project management effort shall be provided for the following processes: project initiation, project planning and scheduling, project controls, project execution, and project administration and closing. The Consultant shall deal with the project issues including, but not limited to, project integration, project scope development, project management, cost management, quality assurance and control issues, human resource requirements, project communications, and project risk management. The Consultant shall initiate, plan, execute, direct, control, and administer the project by effectively organizing, staffing, directing, integrating, and coordinating the required project tasks and services. These services shall be performed in a professional fashion as per current project management principals, guidelines, and standards promoted by recognized project management organizations and institutions.

The Consultant shall provide project management services in conjunction with all other phases, project elements, and tasks covered under the proposed agreement. The Harbor Department will not provide any separate compensation for the performance of project management. All compensation for project management work shall be included in the compensation for the other tasks. This task includes, but is not limited to, the following:

- A. Project Management Plan - The Consultant shall provide a detailed Project Management Plan (PMP) including information on coordination with appropriate agencies to ensure timely completion of the plans, specifications, and estimates (PS&E) packages. This plan shall include a schedule for milestone completion and an hourly breakdown for each task and subtask. The PMP shall be delivered within 30 days of the first Notice-To-Proceed (NTP).

- B. Quality Control/Quality Assurance Plan - In conjunction with the PMP, the Consultant shall also prepare a Quality Control/Quality Assurance (QC/QA) Plan for this project within 30 days of the first NTP. The QC/QA Plan shall be prepared in accordance with the Harbor Department's minimum requirements, and shall identify procedures for reviewing and checking computations, design drawings, and other submittals specific to the design phase for the Consultant, the Consultant's subconsultants, and the Harbor Department. The QC/QA Plan shall also identify roles and responsibilities for implementing and monitoring quality control and quality assurance. The QC/QA Plan shall be included as part of the PMP.
- C. Project Schedule – The Consultant shall develop a computerized Critical Path Method (CPM) schedule using Microsoft Project. This schedule shall be created and maintained in close coordination with the Harbor Department's Project Manager (PM). The initial schedule shall be submitted for approval by the Harbor Department's PM 30 days after the first NTP. The schedule shall initially focus on design phase activities, including significant milestones (including 40%, 80%, and 100% design delivery and review periods), permits, utility coordination and related tasks, to allow for effective planning, monitoring, and reporting throughout the project. The schedule shall at a minimum accommodate a 10-business day review period at the 80% design milestone, and an additional 10-business day period to meet and resolve any issues. It shall combine activities related to cost, planning and design, reviews, delivery, and approvals; and shall provide uniform guidance for planning, scheduling, budgeting, and coordination efforts. Updates to the schedule should coincide with the monthly Project Development Team (PDT) Meetings, where reporting shall take place.
- D. Monthly Progress Status Reports and Schedule Updates - The Consultant shall prepare monthly progress status reports that will include an update to the key milestone delivery schedule and percent completion of each task worked on during that period. Consultant shall update and maintain the CPM schedule in accordance with these monthly progress reports. A monthly schedule shall be issued for project progress meetings and other public meetings where project status and the schedule may be an agenda item.
- E. Project Development Team Meetings - The Consultant team shall at a minimum, attend two monthly PDT meetings with project stakeholders throughout the project's design duration. The Consultant's Project Manager shall attend each meeting. It is anticipated that various other members of the project team, including subconsultants, shall attend the meetings as needed.
- The Consultant shall prepare an agenda and distribute meeting notes, as well as track design contract action items. It is anticipated that each meeting will last approximately two hours. Monthly progress reports shall be presented and discussed at this meeting.
- F. Subconsultant Administration - The Consultant shall administer all subconsultants on this project. All Subconsultant requests for information, questions, clarifications, and invoices shall be processed through the Consultant.
- G. Assist Harbor Department with External Coordination - Consultant shall coordinate with Harbor Department staff, agencies, adjacent projects, Sampson Way and 7<sup>th</sup> Street Intersection, and the Ports O' Call Development and their consultants/subtenants, to ensure the proposed project elements and design measures are consistent with the vision of the Ports O' Call development, the Waterfront Program, and the Harbor Department's Sustainability Program and Policies.

H. Assist Harbor Department with Permit Requirements - The Consultant shall assist the Harbor Department in preparing and securing all necessary approvals, clearances, and permits for this project according to the following assignment of activities. The Harbor Department shall be the primary contact with any agency of jurisdiction (permit, regulatory, funding, or other) and shall pay any needed permit fees directly to the permitting agency. The Consultant shall follow permit requirements per The Port of Los Angeles Guidelines for City Ordinance No. 182330.

1. For permits and permit related activities as described below, the Consultant shall be solely responsible for preparing applications, including providing all required data, support documents, and drawings; completing the application; submitting the permit application after review and approval by the Harbor Department; obtaining all clearances; monitoring the permit progress; and picking up and delivering the permit to the Harbor Department, including, but not limited to:
  - a. Permits and approvals that are under the jurisdiction of the City of Los Angeles Department of Building and Safety (LADBS) including, but not limited to:
    - Plumbing Permit (Irrigation)
    - Sign Permit
    - Electrical Permit
  - b. Permits and approvals that are under the jurisdiction of the City of Los Angeles Department of Water and Power including, but not limited to:
    - Recycled Water
    - Water Permits (Irrigation)
  - c. Permits and approvals that are under the jurisdiction of the City of Los Angeles Department of Public Works:
    - Sewer Pump Station (B Permit)
2. The Harbor Department shall pay fees for all permits required for the project.
3. The Consultant shall contact permit or regulatory agency personnel only when directed by the Harbor Department for the purpose of clarifying technical issues.
4. The Consultant shall coordinate with the Harbor Department prior to answering questions received from permit or regulatory agencies as required to obtain drawing and design approval.
5. When directed by the Harbor Department, the Consultant shall pick up any documents prepared by the Consultant from permit agencies in order to make required corrections and return those documents to the permit agency, all in a timely manner.
6. The Consultant shall prepare a schedule for processing permits required for this project, including all milestones available for monitoring permit progress.

### **TASK 1 DELIVERABLES**

- Detailed project management plan (PMP);
- Quality control/quality assurance (QC/QA) plan;
- Microsoft (MS) Project Critical Path Method (CPM) schedule;
- Monthly written progress reports, including CPM schedule updates;
- Meeting minutes (for all meetings), agendas and updated renderings (which are updated and tracked per meeting);
- Completed permit applications as specified in Section H above; and
- Schedule for the processing of permits required for the project.

### **TASK 2 – PREPARE GEOTECHNICAL SOILS REPORT**

Task 2A.) The Town Square

Task 2B.) The Ports O' Call Promenade

Geotechnical investigations and reporting shall include, but not necessarily be limited to:

- A. Review of existing geotechnical information in the planning area;
- B. Review of the site geology via plan, section, and profiles;
- C. Inspection of site to determine existing site conditions;
- D. Evaluation of shallow and deep excavations:
  1. Open excavations
  2. Braced excavations
- E. Determine quantity of water expected from dewatering operations and design dewatering systems;
- F. Design of compacted fills and evaluation of compacted fill's performance;
- G. Evaluation of primary and secondary foundation settlement, field and laboratory;
- H. Determination of earth pressures acting on walls, bulkheads, and retaining structures;
- I. Identification and classification of soil and rock;
- J. Field exploration, testing, and instrumentation including additional borings and CPT soundings, both landside and waterside as required based upon existing geotechnical explorations and to adequately characterize the subsurface conditions of the site;
- K. Laboratory soil testing of selected soil samples collected from the borings;
- L. Laboratory testing including index testing, consolidation tests with time plots, soil strength testing, R-Value and CBR tests, compaction tests, and chemical analysis;
- M. Analysis of settlement and volume expansion;

N. Seepage analysis and seepage control:

1. Design of drainage blanket
2. Design of lining of seepage control
3. Erosion control;

O. Slope stability and protection, design and analysis;

P. Provide channel embankment analysis and design of shoreline protection;

Q. Evaluation of liquefaction potential, including recommendations on possible prevention, mitigation, and remediation;

R. Determine required shoring for deep excavations;

S. Prepare site characterization reports;

T. Perform geotechnical and seismic analysis and provide recommendations;

U. Perform analysis and provide recommendations for design and construction of guide piles and pile-supported structures, including, but not limited to, wharf structures, outlook structures, and promenade;

V. Develop and monitor indicator pile programs and perform analysis and provide recommendations for submerged and partially submerged retaining structures;

W. Prepare geotechnical reports for submittal to LADBS and the Harbor Department in accordance with the City of Los Angeles Ordinance No. 182330;

X. Provide pavement recommendations;

Y. Provide geotechnical design and analysis services during construction;

Z. Provide soil-structure interaction evaluation under static and seismic loading Conditions;

AA. Perform engineering analysis to evaluate the potential for liquefaction based on ASCE7-10 section 11.8.3 and develop final geotechnical recommendations;

BB. Provide signed and stamped drawings as required for obtaining LADBS permits;

CC. Incorporate all comments received from LADBS and Harbor Department; and

DD. Infiltration tests for suitability of project site for storm water infiltration Best Management Practice (BMP).

**TASK 2 DELIVERABLES**

- Three (3) copies of approved geotechnical reports;
- Other geotechnical reports, letters, or documentation required to obtain LADBS permits; and
- All electronic files on CD (or FTP site or thumb drive) including calculations, model files, photographs, etc. used to perform the geotechnical analysis and report.

### **TASK 3 – CONCEPTUAL PLANNING**

Task 3A.) The Town Square

Task 3B.) The Ports O' Call Promenade

After written NTP, Consultant shall perform a conceptual study and prepare a written report for the project. Work shall include, but not be limited to:

- A. Visit the site and become familiar with the project area.
- B. Review available survey, coordinate control information and record plans and use this material to establish site boundaries, locations of existing facilities, utilities (including utilities below grade) and existing grades. Provide a list of additional surveys required to be obtained by the Harbor Department's survey forces.
- C. Identify and analyze permits, approvals and requirements of local, state, and federal regulatory agencies, and coordinate with them as necessary for conformance with their requirements, rules and regulations.
- D. Planning
  1. Identification of planning goals and objectives. Consultant shall identify and analyze issues affecting planning, design, permits/approvals, costs, and construction.
  2. Coordinate with all major users and regulatory agencies in the area with regard to their present operations, problems, use conflicts, land use efficiency and future plans. These interviews, with Harbor Department participation, shall include, but are not limited to:
    - a. Los Angeles City and County Agencies
      - City Planning Department
      - Cultural Affairs Department
      - Building & Safety
      - Public Works
      - Parks & Recreation
      - Fire Department/Fire Station 149
      - Police Department
      - Transportation Department
      - Water & Power
      - Los Angeles County Department of Public Health Services
    - b. Leaseholders in and around the planning area
- E. Review and coordinate planning efforts with adjacent projects. These shall include, but are not limited to:
  - Ports O' Call development (developer project);
  - 7<sup>th</sup> St., Harbor Blvd and Sampson Way Intersection Project (Harbor Department Project); and
  - Future Sampson Way/Harbor Blvd. Realignment Project (Harbor Department Project).

- F. Coordinate with LADWP on electrical design loads, service requirements, and conceptual layout.
- G. Develop detailed project design criteria and identify critical issues, opportunities, and constraints.
- H. Prepare Conceptual Design and Cost Estimates.

Consultant shall prepare:

- 1. Up to three (3) conceptual alternatives for the subject Element. Each alternative shall include plans, sections, relevant details, cost estimate, and schedule.
  - 2. **(Element B only)** Up to three (3) site alternative locations for Sewer Pump Plant, based on coordination with Ports O' Call Development and two (2) iterations of each alternative. Each alternative/iteration shall include plans, sections, details, cost estimate, and schedule.
  - 3. Two (2) iterations of each alternative. Each iteration shall include plans, sections, relevant details, cost estimate and schedule.
  - 4. Final conceptual design at the direction of the Harbor Department.
  - 5. Draft and final conceptual design report including all above-mentioned items, with discussions of alternatives considered and recommended, and all Harbor Department comments with appropriate consultant responses and resolutions.
  - 6. Architectural/computer generated base files in the latest version of AutoCAD and in California State Plan Coordinates, Zone V, 1983 Datum for the final concept including:
    - a. Landscape and hardscape layout
    - b. Material selection
    - c. Lighting
    - d. Site furnishings
    - e. Signage
- I. Presentation boards and at least two (2) PowerPoint presentations.

### **TASK 3 DELIVERABLES**

- Three (3) conceptual alternatives;
- Preliminary project cost estimates;
- Design and construction schedule;
- Architectural exhibits/artist renderings;
- Landscape, hardscape, material and site furnishing exhibits;
- Construction phasing;
- Electrical load table estimates for service planning;
- All electronic files on CD (or FTP site or thumb drive) including calculations, model files, photographs, etc.;
- Presentation boards identifying project site and proposed improvements; Two (2) public presentations; and
- Draft and Final Conceptual Design Reports.

<b>TASK 4 – PREPARE PRELIMINARY DESIGN PHASE (40% Design Plan Documents)</b>
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Task 4A.) The Town Square

Task 4B.) The Ports O' Call Promenade

- A. Upon completion of the final conceptual design report of the preferred alternative by the Harbor Department and issuance of a written Notice to Proceed from the Engineer or written provisional notice to proceed with individual elements, Consultant shall perform the preliminary (40%) design.
- B. Consultant shall be responsible for all necessary permit plan check submittals and approvals as required by all applicable regulatory agencies with jurisdiction.
- C. Consultant shall be responsible for incorporating all electrical design comments from LADWP.
- D. The preliminary (40%) design submittal shall include, but not necessarily be limited to:
  1. 40% design
    - a. Landscape/hardscape site plan;
    - b. Site lighting;
    - c. Landscaping and irrigation;
    - d. Hardscape;
    - e. Signage;
    - f. Site furnishings;
    - g. Electrical design; and
    - h. Sewer Pump Plant design.
  2. 40% specifications outline (in SpecLink format)
  3. 40% cost estimate
  4. 40% schedule

**TASK 4 DELIVERABLES**

- Preliminary architectural plans;
- Preliminary landscape/hardscape site plan;
- Preliminary construction phasing plans;
- Preliminary irrigation plans;
- Preliminary landscape and hardscape plan;
- Preliminary site/area lighting plans;
- Preliminary electrical plans;
- Preliminary Sewer Pump Plant plans;
- Preliminary signage;
- Preliminary construction cost estimate and quantity takeoff;
- Preliminary construction sequencing and schedule;
- Associated reports and analysis work, including basis of design report;
- Preliminary outline of specifications (in SpecLink format);
- PowerPoint presentations, artist renderings, presentations boards (if applicable, these could be submitted to the Department in high resolution, ready to print format);

- Provide electronic formats (CD or FTP site or thumb drive) in latest version of AutoCAD, MS Office Documents, ready to print PDFs, and hard copies; and
- Spreadsheet summarizing comments and responses on 40% submittal.

<p><b>TASK 5 – PREPARE EIGHTY PERCENT CONSTRUCTION DOCUMENTS (80% Design)</b></p>
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Task 5A.) The Town Square

Task 5B.) The Ports O' Call Promenade

- A. Upon review and incorporation of the Harbor Department Engineer's comments from the 40% submittal and issuance of written Notice(s) to Proceed from the Engineer, proceed with 80% design of project.
- B. Consultant shall be responsible for incorporating all electrical design comments from LADWP.
- C. Preparation of contract documents in sufficient detail to provide the information necessary for competitive construction contract bidding for project. The 80% submittal shall include, but not necessarily be limited to:
  - 1. 80% design
    - a. Landscape/hardscape site plan;
    - b. Site lighting;
    - c. Landscaping and irrigation;
    - d. Hardscape;
    - e. Signage;
    - f. Site furnishings;
    - g. Electrical design;
    - h. Sewer Pump Plant design; and
    - i. Wi-Fi, security, CATV and CCTV design.
  - 2. 80% specifications outline (in SpecLink format)
  - 3. 80% cost estimate
  - 4. 80% schedule
- D. Permits and Approvals:
  - 1. Perform all appropriate code coordination and review with all applicable local, state, and federal agencies.
  - 2. Consultant shall complete applications, including necessary documentation, to obtain all permits and approvals for project other than those that are required to be obtained by Contractor(s). These applications shall be submitted to Engineer for review and approval prior to filing with appropriate agencies.
  - 3. Permits/Approvals for this project include, but are not necessarily limited to:
    - a. City of Los Angeles, Department of Building & Safety;
    - b. City of Los Angeles, Fire Department;

- c. City of Los Angeles, Department of Public Works;
  - d. City of Los Angeles, Department of Water & Power;
  - e. County of Los Angeles, Department of Public Health; and
  - f. City of Los Angeles Department of Cultural Affairs.
4. Changes in the permit documents including any changes required by a change in rules, regulations, or laws required to obtain final approval from said agencies, shall be made by Consultant.
  5. Consultant shall determine and obtain any other permits required by the local, state, and federal agencies for project.

**TASK 5 DELIVERABLES**

An 80% version of the following, grouped by contract set, shall be provided to the Harbor Department at the end of this design phase, including:

- Architectural plans;
- Landscape/hardscape site plans;
- Construction phasing plan;
- Landscape and hardscape plans;
- Irrigation plans;
- Signage plans
- Site/Area lighting;
- Electrical plans;
- Sewer Pump Plant plans;
- Wi-Fi, security, CATV and CCTV design;
- Site Furnishing plans;
- Updated construction cost estimates;
- Updated construction schedule;
- Associated reports and analysis work;
- Calculations;
- Specifications (in SpecLink);
- PowerPoint presentations, artist renderings, presentations boards (if applicable, these could be submitted to the Department in high resolution, ready to print format);
- Provide electronic formats (CD or FTP site or thumb drive) in latest version of AutoCAD, MS Office Documents, ready to print PDFs, and hard copies; and
- Spreadsheet summarizing comments and responses on 80% submittal.

<b>TASK 6 – FINAL DESIGN DOCUMENTS (100% Design)</b>
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Task 6A.) The Town Square

Task 6B.) The Ports O' Call Promenade

- A. Upon issuance of a written Notice to Proceed from the Engineer, or written provisional notice to proceed with individual elements, and upon review and incorporation of the Harbor Department Engineer's comments from 80% submittal, Consultant shall prepare the final design submittal and respond to, and incorporate all comments received from including, but not limited to, the City of Los Angeles Harbor Department, City of Los Angeles Department of Building and Safety, City of Los Angeles Department of Water and Power, and City of Los Angeles Department of Transportation.

- B. Preparation of contract documents in sufficient detail to provide the information necessary for competitive construction contract bidding for project. Assist the Harbor Department in preparation of information for pre-bid conferences and participation in said conferences as requested.
- C. Contract documents shall be stamped and signed by an architect or engineer appropriately licensed to practice in the State of California.
- D. Submit to Engineer all construction quantities and any calculations used in the design of the project.
- E. Submit a detailed estimate of the cost based on the bid items and provide a "Class A" estimate.
- F. Submit a proposed construction schedule in sufficient detail for use by Engineer in evaluating the adequacy of Contractor's scheduling submittal.
- G. Consultant shall be responsible for incorporating all electrical design comments from LADWP.

#### **TASK 6 DELIVERABLES**

- Final architectural plans;
- Final landscape/hardscape site plans;
- Final construction phasing plan;
- Final landscape and hardscape plans;
- Irrigation plans;
- Signage plans;
- Site/area lighting;
- Final electrical plans;
- Final Sewer Pump Plant plans
- Final Wi-Fi, security, CATV and CCTV design;
- Site Furnishing plans ;
- Final specifications (in SpecLink format);
- Final construction cost estimate and quantity takeoff;
- Final construction sequencing and schedule;
- Provide electronic formats (CD or FTP site or thumb drive) in latest version of AutoCAD, MS Office Documents, ready to print PDFs, and hard copies;
- All plan check approvals and permits from appropriate agencies;
- PowerPoint presentations, artist renderings, presentations boards (if applicable, these could be submitted to the Department in high resolution, ready to print format); and
- Spreadsheet summarizing comments and responses on 100% submittal.

<b>TASK 7 – PREPARE SIGNATURE SUBMITTAL</b>
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Task 7A.) The Town Square

Task 7B.) The Ports O' Call Promenade

- A. Following review and incorporation of the Harbor Department Engineer's comments from 100% Submittal QA/QC, original contract documents, stamped and signed by an engineer or architect appropriately licensed to practice in the State of California, shall be submitted for signature by Engineer.

- B. Preparation of contract documents in sufficient detail to provide the information necessary for competitive construction contract bidding for project.
- C. The original drawings and two vellums, drawing electronic AutoCAD files, unbound original specification, and two copies of final specification, cost estimate and schedule shall be submitted.
- D. Submit to Engineer all final construction quantities and any calculations used in the design of the project.

#### **TASK 7 DELIVERABLES**

- Signature submittal architectural plans (full size vellum, stamped and signed);
- Signature submittal landscape/hardscape site plans (full size vellum, stamped and signed);
- Signature submittal construction phasing plan (full size vellum, stamped and signed);
- Signature submittal final landscape and hardscape plans (full size vellum, stamped and signed);
- Signature submittal irrigation plans (full size vellum, stamped and signed);
- Signature submittal signage plans (full size vellum, stamped and signed);
- Signature submittal site/area lighting (full size vellum, stamped and signed);
- Signature submittal electrical plans (full size vellum, stamped and signed);
- Signature submittal Sewer Pump Plant plans (full size vellum, stamped and signed);
- Signature submittal WiFi, security, CATV and CCTV plans (full size vellum, stamped and signed);
- Signature submittal site furnishing plans (full size vellum, stamped and signed);
- Signature submittal specs (in SpecLink format), and an unbound original set;
- Provide electronic formats (CD or FTP site or thumb drive) in latest version of AutoCAD, MS Office Documents, ready to print PDFs, and hard copies;
- Final cost estimate;
- Final schedule;
- Final quantities and calculations;
- All plan check approvals and permits from appropriate agencies; and
- Specs (in SpecLink format).

<b>TASK 8 – BID PHASE SUPPORT</b>
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Task 8A.) The Town Square

Task 8B.) The Ports O' Call Promenade

- A. Consultant shall provide assistance to the Harbor Department during the contract(s)' advertising and award process to include the following:
  1. Attendance at, and development of, project scope presentations for pre-bid meetings;
  2. Reviewing and providing responses to bidder inquiries;
  3. Preparing and issuing addendums as needed; and
  4. Assistance in reviewing bids.

### **TASK 8 DELIVERABLES**

- Addendums; and
- Report including bidders' questions and consultant responses.

### **TASK 9 – DESIGN SERVICES DURING CONSTRUCTION**

Task 9A.) The Town Square

Task 9B.) The Ports O' Call Promenade

A. Engineering Design Services During Construction - For each design element PS&E prepared by Consultant, the Consultant shall provide the following engineering services after the advertisement for bids of the construction contract (the Harbor Department will staff each project with a complete construction management team and Consultant's efforts will be in support of the Harbor Department team):

1. Office Engineering shall include, but not necessarily be limited to:

- a. Assist the Harbor Department in preparation of information for pre-bid conferences and participation in said conferences as requested;
- b. Attend meetings;
- c. Prepare delta drawings;
- d. Check detailed construction drawings, shop and erection drawings and substitutions submitted by Contractors for compliance with permits and contract documents;
- e. Review specific non-routine laboratory, shop, and mill test reports of materials and equipment as directed by the Harbor Department;
- f. Respond to all Contractor RFI (Request for Information) and submittals; and
- g. Prepare record drawings per the data supplied by Contractors via the Harbor Department's Construction Manager in accordance with the procedures set forth in the Port of Los Angeles' Design Guidelines. (Consultant to provide all record drawings up to the point of Consultant contract termination; a possible extension may be granted to extend to Contractor's completion.)

2. Field Engineering shall include, but not necessarily be limited to:

- a. Make weekly visits to the site to observe the work in progress and provide appropriate reports including attendance at selected weekly progress meetings;
- b. Observe and report to the Harbor Department on any performance tests required in the contract documents; and
- c. Attend final inspections of project's completed construction contracts.

3. Geotechnical Observation and Testing

- a. The Department staff will provide all field testing and observations. The Consultant shall provide necessary office support to complete construction.

### **TASK 9 DELIVERABLES**

- Responses to RFI and submittals;
- Field reports and "punch lists";

- Record set/as-build drawings (both electronic and full-size paper) (Consultant to provide all record drawings up to the point of Consultant contract termination; a possible extension may be granted to extend to Contractor's completion.); and
- Necessary delta drawings.

#### **TASK 10 – PROJECT COORDINATION, DOCUMENTATION, CONTROLS, AND REPORTING**

Task 10A.) The Town Square

Task 11B.) The Ports O' Call Promenade

- A. Consultant shall provide project control and reporting, administrative support, document control and systems support services as directed by the Engineer, to include, but not limited to:
1. Project status reporting and coordination;
  2. Program budget support;
  3. Documentation system development, data management and distribution;
  4. Program/project task list coordination and administration, schedule support;
  5. Coordination and administration community outreach support, including multi-media development, management, and documentation;
  6. To provide services, support, and coordination for the public workshops, public presentations, and community events; and
  7. Construction support including, but not limited to, managing submittals, RFIs and deltas.

#### **TASK 11 – AS-NEEDED ENGINEERING DESIGN SERVICES**

Task 11A.) The Town Square

Task 11B.) The Ports O' Call Promenade

This work may include, but is not limited to, technical studies, analysis, conceptual and final designs, and other engineering services as directed by the Engineer. These optional tasks, including PS&E, may be awarded by the Board of Harbor Commissioners upon further definition of project elements.

EXHIBIT C

Sample Form of Directive

Date

(Consultant)  
(Consultant Address)  
(City, State, Zip Code)

Attn: (Project Manager)

SUBJECT: DIRECTIVE NO. \_\_\_\_\_  
PROJECT TITLE \_\_\_\_\_  
AGREEMENT NO. \_\_\_\_\_

Pursuant to Section 2.2(a) of the subject Agreement No. \_\_\_\_\_, after receipt of a written Notice to Proceed signed by the Chief Harbor Engineer of the Construction Division, Consultant shall proceed with the following:

<u>Task</u>	<u>Services</u>	<u>Authorized Amount</u>
1	_____	\$ _____ (Lump Sum)
2	_____	\$ _____ (Not to Exceed)

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

Consultant shall complete the work within \_\_\_\_ calendar days from the transmittal of a written Notice to Proceed.

When invoicing for the services covered by this Directive, please identify fees for this Directive as follows:

LAHD EWO No. \_\_\_\_\_ LAHD Job No. \_\_\_\_\_  
LAHD Center No. \_\_\_\_\_ LAHD Program No. \_\_\_\_\_  
LAHD Account No. \_\_\_\_\_

Consultant shall undertake the following MBE/WBE/SBE/DVBE/OBE utilization in connection with its performance of this Directive:

MBE XX%, WBE XX%, SBE XX%, DVBE XX%, OBE XX%, VSBE XX%

Consultant Name

Page 2 of 2

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.

Please sign both original copies of this Directive. Retain one original for your files and return the other executed copy to this office immediately.

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

Sincerely,

Dave Walsh  
Chief Harbor Engineer  
Engineering Division

ACCEPTED:

APPROVED:

\_\_\_\_\_  
(Consultant Name)  
Consultant

\_\_\_\_\_  
ANTONIO V. GIOIELLO  
Deputy Executive Director

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

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

EXHIBIT D

Form of Notice to Proceed

(Date)

(Consultant)  
(Consultant Address)  
(City, State, Zip)

Attention: (Project Manager)

Subject: Notice to Proceed – Directive No. \_\_\_\_\_  
Agreement 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-\_\_\_\_\_.

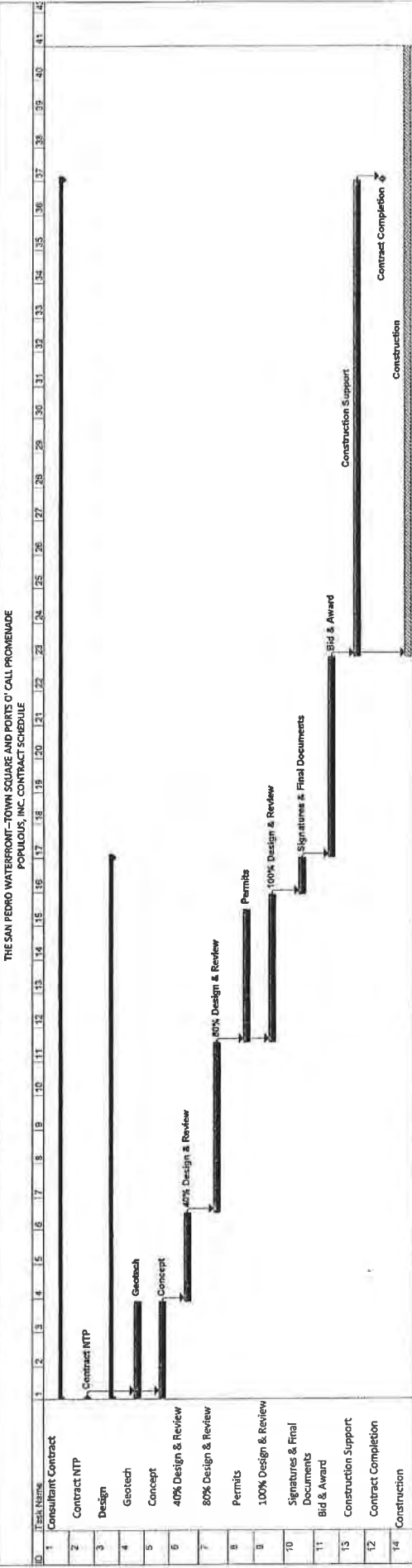
Very truly yours,

Dave Walsh  
Chief Harbor Engineer

Enclosure: Directive No. \_\_\_\_\_

EXHIBIT E

THE SAN PEDRO WATERFRONT-TOWN SQUARE AND PORTS O' CALL PROMENADE  
 POPULOUS, INC. CONTRACT SCHEDULE



## EXHIBIT F

# COMPENSATION

For those items of the Scope of Work for which compensation is payable in fixed fee amounts, payment to the Consultant shall be made in accordance with the compensation schedule as set forth in the project directive, and the percentage of completion of each phase of the Scope of Work, as determined and approved by the Engineer and based upon monthly progress reports submitted by the Consultant. Monthly progress payments shall be equal to the percentage of completion of each phase multiplied by the fixed fee payable for completion of each phase, less amounts previously billed.

For those items of the Scope of Work for which compensation is payable in not-to-exceed amounts, the Consultant shall be paid an hourly fee as defined in Section 5.2 of this Agreement, at the rates set forth in Exhibit "G" and in accordance with the compensation schedule as set forth in the Directive. The Consultant's monthly invoice shall itemize all hours actually worked in performing such services, identifying the personnel and sub-consultant classifications of individuals performing the Directive, and the applicable hourly rates, according to Exhibit "G."

Compensable amounts set forth on (i) an hourly basis, or (ii) on the basis of an estimated Fixed Fee subject to a not-to-exceed maximum, are estimated only. In the event that all necessary services required in any category described above are, in the judgment of the Engineer, fully performed by Consultant at a cost to City which is less than the amounts estimated and authorized hereunder, Engineer may apply the unexpended balance to compensate Consultant for services in any other category for which compensation was underestimated on either of these bases.

A 5% (five percent) mark-up payable to the prime Consultant shall be allowed for work performed by listed Subconsultants.

**RATE SHEET FOR  
POPULOUS, INC.**

THE SAN PEDRO WATERFRONT  
Element A: Town Square  
Element B: Ports O' Call Promenade

<b><u>TASKS</u></b>	
<b>TASK 1 - PROJECT MANAGEMENT AND COORDINATION:</b>	
COMPENSATION FOR WORK PERFORMED UNDER THIS TASK WILL BE PAID	\$ -
<b>TASK 2 - GEOTECHNICAL ENGINEERING SERVICES:</b>	
Lump Sum	
2.A Town Square	\$ 29,680.00
2.B Ports O'Call Promenade	\$ 53,649.00
<b>Task 2 Sub-Total</b>	<b>\$ 83,329.00</b>
<b>TASK 3 - CONCEPTUAL PLANNING:</b>	
Lump Sum	
3.A Town Square	\$ 147,846.00
3.B Ports O'Call Promenade	\$ 203,828.00
<b>Task 3 Sub-Total</b>	<b>\$ 351,674.00</b>
<b>TASK 4 - PRELIMINARY DESIGN PHASE (40% DESIGN PLAN DOCUMENTS):</b>	
Lump Sum	
4.A Town Square	\$ 103,331.00
4.B Ports O'Call Promenade	\$ 136,806.00
<b>Task 4 Sub-Total</b>	<b>\$ 240,137.00</b>
<b>TASK 5 - EIGHTY PERCENT CONSTRUCTION DOCUMENTS (80% DESIGN):</b>	
Lump Sum	
5.A Town Square	\$ 121,994.00
5.B Ports O'Call Promenade	\$ 176,455.00
<b>Task 5 Sub-Total</b>	<b>\$ 298,449.00</b>
<b>TASK 6 - FINAL DESIGN DOCUMENTS (100% DESIGN):</b>	
Lump Sum	
6.A Town Square	\$ 86,765.00
6.B Ports O'Call Promenade	\$ 154,805.00
<b>Task 6 Sub-Total</b>	<b>\$ 241,570.00</b>
<b>TASK 7 - SIGNATURE SUBMITTAL:</b>	
Lump Sum	
7.A Town Square	\$ 41,151.00
7.B Ports O'Call Promenade	\$ 88,150.00
<b>Task 7 Sub-Total</b>	<b>\$ 129,301.00</b>
<b>TASK 8 - BID PHASE SUPPORT:</b>	
Lump Sum	
8.A Town Square	\$ 15,803.00
8.B Ports O'Call Promenade	\$ 27,741.00
<b>Task 8 Sub-Total</b>	<b>\$ 43,544.00</b>

**RATE SHEET FOR  
POPULOUS, INC.**

THE SAN PEDRO WATERFRONT  
Element A: Town Square  
Element B: Ports O' Call Promenade

<u>TASKS</u>	
<b>TASK 9 - DESIGN SERVICES DURING CONSTRUCTION:</b>	
Lump Sum	
9.A    Town Square	\$      103,595.00
9.B    Ports O'Call Promenade	\$      169,141.00
<b>Task 9 Sub-Total</b>	<b>\$      272,736.00</b>
<b>TASK 10 - PROJECT COORDINATION, DOCUMENTATION, CONTROLS, AND REPORTING:</b>	
Lump Sum	
10.A   Town Square	\$      32,375.00
10.B   Ports O'Call Promenade	\$      46,885.00
<b>Task 10 Sub-Total</b>	<b>\$      79,260.00</b>
<b>TASK 11 - AS-NEEDED ENGINEERING DESIGN SERVICES:</b>	
Not to Exceed	
11.A   Town Square	\$      250,000.00
11.B   Ports O'Call Promenade	\$      350,000.00
<b>Task 11 Sub-Total</b>	<b>\$      600,000.00</b>
<b>The San Pedro Waterfront Project Total:</b>	<b>\$      2,340,000.00</b>

**EXHIBIT G**

**HOURLY RATES FOR  
POPULOUS, INC.**

*THE SAN PEDRO WATERFRONT  
Town Square and Ports O' Call Promenade*

TEAM AND MEMBERS		RATE	TEAM AND MEMBERS		RATE
<b>Populous</b>			<b>Lotus Water</b>		
	A. DuSolier	\$ 250		E. Zickler	\$ 170
	T. Kohli	\$ 250		S. Dunton	\$ 160
	H. Lee	\$ 140		R. Dusenbury	\$ 150
	X. Zhong	\$ 110		N. Stormzand	\$ 120
	M. Urgo	\$ 95			
<b>Moffatt and Nichol</b>			<b>Oculus Light Studio</b>		
	J. Litchfield	\$ 216		A. Jain	\$ 150
	M. Trowbridge	\$ 175		S. Hatton	\$ 150
	O. Jaradat	\$ 235		J. You	\$ 110
	D. Cruz	\$ 235		S. Wang	\$ 90
	R. Ninofranco	\$ 170			
<b>Earth Mechanics (EMI)</b>			<b>Directional Logic</b>		
	A. Arulmoli	\$ 244		A. Roberts	\$ 200
	R. Varatharaj	\$ 153		M. Gordon	\$ 250
	R. Gunaranjan	\$ 120			
	K. Kaekul	\$ 104			
	V. Chang	\$ 52			
<b>Selbert Perkins</b>			<b>JMC<sup>2</sup></b>		
	R. Perkins	\$ 250		J. Cruikshank	\$ 250
	C. Devlin	\$ 175		F. Sin	\$ 180
	P. Nagakura	\$ 160		S. Toh	\$ 155
	C. Marino	\$ 135		L. Johnson	\$ 180
	E. Galeano	\$ 135		J. Lugo	\$ 110
<b>Yunsoon Kim Deslgn</b>			<b>Brinkerhoff &amp; Associates</b>		
	Y. Kim	\$ 180		J. Brinkerhoff	\$ 135
	S. Wong	\$ 85			

# EXHIBIT H

## Company Name & Logo Address

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

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

Project Title:  
Agreement No.:  
Directive No.:

Consultant Contact:  
Telephone:

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

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

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

## MONTHLY SUBCONSULTANT MONITORING REPORT

Instructions: Please indicate the SBE/VSBE/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/DBE)

## EXHIBIT J

### 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 K - 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.

- 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 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;
  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 L

### SMALL/VERY SMALL BUSINESS ENTERPRISE PROGRAM AND LOCAL BUSINESS PREFERENCE PROGRAM

#### (1) SMALL/VERY 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 \_\_%, including \_\_% VSBE participation.** The North American Industry Classification System (NAICS) Code for the scope of services is \_\_\_\_\_. 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 \$\_\_ 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.

#### (2) LOCAL BUSINESS PREFERENCE PROGRAM:

The Harbor Department is committed to maximizing opportunities for local and regional businesses, as well as encouraging local and regional businesses to locate and operate within the Southern California region. It is the policy of the Harbor Department to support an increase in local and regional jobs. The Harbor Department's Local Business Preference Program (LBPP) aims to benefit the Southern California region by increasing jobs and expenditures within the local and regional private sector.

The Harbor Department defines a LBE as:

- (a) A business headquartered within Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties; or
- (b) A business that has at least 50 full-time employees, or 25 full-time employees for specialty marine contracting firms, working in Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties.

In order for Harbor Department staff to determine the appropriate LBE preference, Consultant shall complete, sign, notarize (where applicable) and submit the attached Affidavit and Contractor Description Form. The Affidavit and Contractor Description Form will signify the LBE status of the Consultant and subconsultants. Prior to contract award, the Harbor Department will verify the status of all LBEs.

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 and LBPP requirements. 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.

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.

# A1 SBE/VSBE/ LBE PREFERENCE PROGRAM FORMS AFFIDAVIT

## AFFIDAVIT OF COMPANY STATUS

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

Populous, Inc.

---

Name of Firm

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

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

SBE   VSBE   MBE   WBE   DVBE   OBE

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

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

LBE  Non-LBE

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

Signature: Todd Kohli  
Printed Name: Todd Kohli

Title: Principal  
Date Signed: May 5, 2015

NOTARY:

On this 5<sup>th</sup> day of May, 2015, before me appeared  
TOD to me personally known, who being duly sworn, did execute the

Name

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

Notary Public: ATTACHED  
Commission Expires: \_\_\_\_\_

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of SAN FRANCISCO

On MAY 05, 2015 before me, ANTONIO LOCATELLI, Notary Public  
(Insert name and title of the officer)

personally appeared TODD DAVID KORLI  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Antonio Locatelli (Seal)



# A2 SBE/VSBELBE PREFERENCE PROGRAM FORMS CONSULTANT DESCRIPTION FORMS (EXHIBIT B)

## Consultant Description Form

### PRIME CONSULTANT:

Contract Title: The San Pedro Waterfront - Town Square & Ports O' Call Promenade & The Wilmington Waterfront Promenade

Business Name: Populous, Inc. Award Total: \$ \*TBD

Owner's Ethnicity: N/A Gender N/A Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES \_\_\_\_\_ NO X (Check only one)

Primary NAICS Code: 54131 Average Three Year Gross Revenue: \$ 103,032,000

Address: 300 Broadway #39

City/State/Zip: San Francisco, CA 94133

Telephone: ( 415 ) 653-3620 FAX: ( 415 ) 496-0779

Contact Person/Title: Todd Kohli, Principal

Email Address: todd.kohli@populous.com

> I certify that I have utilized the LABAVN to outreach to SBE/VSBELBE/WBE/DVBEs of potential subcontracting opportunities associated with this RFP. X Yes (Please check)

### SUBCONSULTANT:

Business Name: Selbert Perkins Design Award Total: \$ \*TBD

Services to be provided: Signage, wayfinding, branding, environmental graphics

Owner's Ethnicity: Caucasian Gender F Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES X NO \_\_\_\_\_ (Check only one)

Primary NAICS Code: 541430 Average Three Year Gross Revenue: \$ 5,087,274

Address: 432 Culver Blvd.

City/State/Zip: Playa Del Rey

Telephone: ( 310 ) 822-5223 FAX: ( 310 ) 822-5203

Contact Person/Title: Tricia Converse, Principal, Marketing & Business Development

Email Address: tconverse@selbertperkins.com

### SUBCONSULTANT:

Business Name: Oculus Light Studio, LLC Award Total: \$ \*TBD

Services to be provided: Lighting Design Services

Owner's Ethnicity: Asian Indian Gender M Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES X NO \_\_\_\_\_ (Check only one)

Primary NAICS Code: 541310 Average Three Year Gross Revenue: \$ 623K

Address: 3122 Nebraska Avenue, Suite 200

City/State/Zip: Santa Monica, CA 90404

Telephone: ( 310 ) 715 8333 FAX: ( 310 ) 715 8337

Contact Person/Title: Archit Jain, Principal

Email address: ajain@oculuslightstudio.com

## Consultant Description Form

### SUBCONSULTANT:

Business Name: Earth Mechanics, Inc. Award Total: \$ \*TBD  
Services to be provided: Geotechnical and earthquake engineering  
Owner's Ethnicity: Asian Gender M Group:  SBE  VSBE  MBE  WBE  DVBE  OBE (Circle all that apply)  
Local Business Enterprise: YES  NO  (Check only one)  
Primary NAICS Code: 541330 Average Three Year Gross Revenue: \$7.5 M  
Address: 17800 Newhope Street, Suite B  
City/State/Zip: Fountain Valley, CA 92708  
Telephone: ( 714 ) 751-3826 FAX: ( 714 ) 751-3928  
Contact Person/Title: Kandiah Arulmoli, PhD, PE, GE/Principal  
Email Address: arulmoli@earthmech.com

### SUBCONSULTANT:

Business Name: Yunsoo Kim Design, Inc. Award Total: \$ \*TBD  
Services to be provided: Landscape Architecture  
Owner's Ethnicity: Asian-American Gender M Group:  SBE  VSBE  MBE  WBE  DVBE  OBE (Circle all that apply)  
Local Business Enterprise: YES  NO  (Check only one)  
Primary NAICS Code: 541320 Average Three Year Gross Revenue: \$120,000  
Address: 404 Shatto Place, #444  
City/State/Zip: Los Angeles, CA 90020  
Telephone: ( 213 ) 220-9699 FAX: ( ) N/A  
Contact Person/Title: Yunsoo Kim, Principal  
Email Address: yunsoo@yunsookimdesign.com

### SUBCONSULTANT:

Business Name: Moffatt & Nichol Award Total: \$ \*TBD  
Services to be provided: Engineering Services  
Owner's Ethnicity: N/A Gender N/A Group:  SBE  VSBE  MBE  WBE  DVBE  OBE (Circle all that apply)  
Local Business Enterprise: YES  NO  (Check only one)  
Primary NAICS Code: 541330 Average Three Year Gross Revenue: \$397M  
Address: 3780 Kilroy Airport Way, Suite 600  
City/State/Zip: Long Beach, CA 90806  
Telephone: ( 562 ) 590-6500 FAX: ( 562 ) 590-6512  
Contact Person/Title: Michael J. McCarthy, PE/Vice President  
Email address: mmccarthy@moffattnichol.com

## Consultant Description Form

### SUBCONSULTANT:

Business Name: Directional Logic Award Total: \$ \*TRD  
Services to be provided: Cost Consulting Services  
Owner's Ethnicity: Asian Gender Female Group: (SBE) (VSBE) (MBE) (WBE) DVBE OBE (Circle all that apply)  
Local Business Enterprise: YES \_\_\_\_\_ NO X (Check only one)  
Primary NAICS Code: 541330 Average Three Year Gross Revenue: \$ 500,000  
Address: 71 Stevenson Street #400  
City/State/Zip: San Francisco, CA 94105  
Telephone: (415 ) 488 6282 FAX: (415 ) 655 6601  
Contact Person/Title: Jenny Young  
Email Address: JennyYoung@directionalloglc.com

### SUBCONSULTANT:

Business Name: Brinkerhoff and Associates Award Total: \$ \*TBD  
Services to be provided: Irrigation Desgin  
Owner's Ethnicity: White Gender \_\_\_\_\_ Group: (SBE) (VSBE) MBE WBE DVBE OBE (Circle all that apply)  
Local Business Enterprise: YES \_\_\_\_\_ NO X (Check only one)  
Primary NAICS Code: 541340 Average Three Year Gross Revenue: \$ 130,700  
Address: 5017 Lake Circle Road  
City/State/Zip: Fallbrook, CA 92028  
Telephone: ( 760 ) 703-7108 FAX: ( ) N/A  
Contact Person/Title: Jim Brinkerhoff, Owner  
Email Address: Jbrinkerhoff@brinkerhoffandassoc.com

### SUBCONSULTANT:

Business Name: John M. Cruikshank Consultants, Inc. Award Total: \$ \*TBD  
Services to be provided: Civil Engineering  
Owner's Ethnicity: White Gender M Group: (SBE) (VSBE) MBE WBE DVBE OBE (Circle all that apply)  
Local Business Enterprise: YES X NO \_\_\_\_\_ (Check only one)  
Primary NAICS Code: 541330 Average Three Year Gross Revenue: \$ 1,367,251  
Address: 411 N. Harbor Blvd., Suite 201  
City/State/Zip: San Pedro, CA 90731  
Telephone: ( 310 ) 241.6550 FAX: ( 310 ) 833.6555  
Contact Person/Title: John M. Cruikshank, President  
Email address: jcruikshank@jmc-2.com

## Consultant Description Form

### SUBCONSULTANT:

Business Name: Lotus Water Award Total: \$ \*TBD  
Services to be provided: Water Resource Planning, Integrated Design, Stormwater Management Design  
Owner's Ethnicity: Caucasian Gender Male Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)  
Local Business Enterprise: YES \_\_\_\_\_ NO \_\_\_\_\_ (Check only one)  
Primary NAICS Code: 541330 Average Three Year Gross Revenue: \$ 660,350  
Address: 215 Kearney Street, Suite A  
City/State/Zip: San Francisco, CA 94108  
Telephone: ( 415 ) 800-6805 FAX: ( 415 ) 742-8108  
Contact Person/Title: Eric Zickler, Principal  
Email Address: ezickler@lotuswater.com

### \*TBD:

Because of the nature of our proposal--that our team is proposing on both projects--and the variables that could occur with regard to the final scope and schedule, the final cost per firm is still to be determined. However, within our current cost proposal for each element, we have exceeded the requirements of the RFP with regard to percentages of OBE, SBE, and VSBE. Please refer to **Tab 7, Cost**, for further explanation and our detailed percentages.

## EXHIBIT M

### 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.