

ATTACHMENT I – SAMPLE AGREEMENT

LOS ANGELES HARBOR DEPARTMENT

GRANT AGREEMENT NO. _____

1. Parties. This Grant Agreement (“Agreement”) is between the City of Los Angeles, acting by and through the Executive Director of the Harbor Department (“City”), and **NAME OF GRANTEE**, a [non-profit/public benefit] corporation, [address] (“Grantee”). This Agreement sets forth the

2. Grant Scope of Work. Grantee has submitted a Port of Los Angeles Community Investment Grant (“Grant”) Application, which has been approved for funding by City. Grantee hereby agrees to diligently conduct, perform and carry out the programs and services as set forth in Exhibit A. Grantee shall also prominently display a plaque, banner, signage or publication announcement declaring that Grant support was provided by the Port of Los Angeles and include the Department’s Port logo (in accordance with Harbor Department use guidelines). Grantee shall provide to City any Grant event member/attendee information as practicable. The Grant program and services in Exhibit A and the additional activities set forth in this paragraph 2 shall comprise the “Grant Scope of Work.”

All events will be subject to a post-execution audit and a site visit.

3. Term. This Agreement shall be effective from the date it is executed on behalf of both parties and shall continue in effect for a period of one year from its effective date. This Grant is made with the understanding that City has no obligation to provide additional grants or support to Grantee.

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

The City, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

The City, its boards, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefore. The Grantee is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Grantee is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Grantee agrees to resume performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60-day period. The Grantee is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

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

5. Grant Award and Payment.

(a) Subject to the limitations set forth below, pursuant to Section 5.47 of Chapter 4, Article 1 of the City’s Administrative Code which authorizes advance funding for services performed through grants, City agrees to pay and Recipient agrees to accept for performance of the Grant Scope of Work, a Grant in the total amount not to exceed [state dollar amount] (\$_____). Grantee shall use the Grant funds solely for the purpose of the Grant Scope of Work.

(b) Grantee's receipt of payment is subject to its prior submittal and the Director of Public Relations' written approval of deliverables set forth in the Grant Scope of Work, if further detailed deliverables are required by the Director of Public Relations beyond that set forth in the Grant Scope of.

(c) Upon approval of the deliverables by the Director of Public Relations, Grantee shall submit an itemized statement setting forth the amount due for the applicable phase or task of the Grant Scope of Work. Each such statement shall be signed by the Grantee and shall include 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.

_____”
Grantee's Signature

(d) Grantee must include on the face of each itemized invoice submitted for payment its Business Tax Registration Certificate number, as required at Paragraph 12 of this Agreement. No statement will be processed for payment by City without this number shown thereon. All statements shall be approved by the Executive Director or his/her designee prior to payment. All statements due and payable and found to be in order shall be paid as soon as, in the ordinary course of City business, the same may be approved, audited and paid.

Grantee shall submit appropriate supporting documents with each invoice. Such documents may include without limitation, receipts, copies of promotional materials, or reports confirming tasks and activities performed. The City may require, and Grantee shall provide, all documents reasonably required to determine whether amounts on the invoice are allowable expenses under this Agreement.

Grantee shall submit to City a mandatory final report with the final invoice, outlining the delivered services and a copy of all materials mentioning the Port of Los Angeles/Harbor Department at the conclusion of the Grant project.

All statements are subject to audit. Grantee is not required to submit support for direct costs items of \$25 or less.

(e) For payment and processing, all statements should be mailed to the following address:

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

6. Recordkeeping and Audit Rights.

(a) Grantee shall keep and maintain full, complete and accurate books of accounts and records of the services performed, expenditures made and payments received under this Grant separately 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 Grantee 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.

(b) 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 Grantee arising from or related to this Agreement or performance of the Grant Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Grantee, or any individual or entity acting for or on behalf of Grantee, and (c) without regard to whether such writings have previously been provided to City. Grantee shall provide City at Grantee'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 Grantee's office or facilities which are engaged in the performance of the Grant Scope of Work. Grantee shall, at no cost to City, furnish reasonable facilities and assistance for such review and audit. Grantee's failure to comply with this Article VI 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. Indemnification and Insurance.

(a) 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, Grantee 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 grantees), damages or liability of any nature whatsoever, for death or injury to any person, including Grantee'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 Grantee 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.

(b) Insurance.

(1) Acceptable Evidence and Approval of Insurance

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

(2) General Liability Insurance

Grantee 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 grantees, 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 Grantee's normal limits of liability but not less than _____ Dollars (\$_____) 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 Grantee. The retention or self-insurance provided shall provide that any other insurance maintained by the Harbor Department shall be excess of Grantee'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.

(3) Automobile Liability Insurance

Grantee 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 Grantee's normal limits of liability but not less than _____ Dollars (\$_____) 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.

(4) Workers' Compensation and Employer's Liability

Grantee 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 Grantee 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. Grantee 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 Grantee, or other vendor retained by Grantee.

(5) Accident Reports

Grantee 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 Grantee'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 Grantee, its officers or managing agents.

8. Affirmative Action. Grantee agrees not to discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition. All subcontracts awarded under or pursuant to this Agreement shall contain this provision.

The provisions of Section 10.8.4 of the Los Angeles Administrative Code are incorporated herein and made a part hereof.

9. Independent Grantee. Grantee, in the performance of the work required by this Agreement, is an independent grantee and not an agent or employee of City. Grantee 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.

10. Conflict of Interest. It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, City may immediately terminate this Agreement by giving written notice thereof.

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

12. Business Tax Registration Certificate. The Grantee represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.09 et seq. of the Los Angeles Municipal Code). The Grantee shall maintain, obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended.

13. Taxpayer Identification Number (TIN). Grantee declares that its authorized Taxpayer Identification Number (TIN) is _____. No payments will be made under this Agreement without a valid TIN.

14. Wage and Earnings Assignment Orders/Notices of Assignments. The Grantee is obligated to fully comply with all applicable state and federal employment reporting requirements for the Grantee's employees. The Grantee shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally. The Grantee shall fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code §§ 5230 et seq. The Grantee shall maintain such compliance throughout the term of the Agreement.

15. Equal Benefits Policy. The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 6328 on January 12, 2005 agreeing to adopt the provisions of Los Angeles City Ordinance 172,908 as amended, relating to Equal Benefits, Section 10.8.2.1 et seq. of the Los Angeles Administrative Code, as a policy of the Harbor Department. Grantee shall comply with the policy wherever applicable. Violation of the policy shall entitle the City to terminate any Agreement with Grantee and pursue any and all other legal remedies that may be available.

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

17. No Assignment. This Agreement and the Grant awarded hereunder is not assignable by Grantee to any other person or entity. Any attempt to assign the performance of this Agreement or Grant funds shall be null and void and shall constitute a material breach of this Agreement.

18. Remedies. In the event that Grantee fails to perform the Grant Scope of Work and/or City determines in its sole discretion that Grantee has received Grant funds without performance of the Grant Scope of Work or has otherwise breached this Agreement, City may refuse to make Grant payments to Grantee and/or require Grantee to return or repay to City, any Grant funds received that are unearned by Grantee's failure to perform all or any portion of the Grant Scope of Work. These remedies shall be in addition to any other remedies available under applicable law.

EXHIBIT A – GRANT SCOPE OF WORK

The Grant Program activities and deliverables set forth below, together with the required actions in Section 2 of this Grant Agreement, comprise the Grant Scope of Work.