

# **REQUEST FOR PROPOSAL**

for

## **PORT SECURITY MANAGEMENT SYSTEM STAFFING**

**14-15/25**



PURCHASING DEPARTMENT  
530 WATER STREET  
OAKLAND, CA 94607



## PORT OF OAKLAND

### REQUEST FOR PROPOSAL

#### RFP No.: 14-15/25 Port Security Management System Staffing

The Port of Oakland (the "Port"), Oakland, California, through the Purchasing Department, is hereby soliciting competitive proposals for the above mentioned project. The successful Respondent will be required to furnish all labor, material, equipment, supplies, applicable taxes, insurance, bonding, and licenses to complete this project.

#### Proposal Information

Proposal Title	Port Security Management System Staffing
Proposal Type	Professional Services
Proposal Number	14-15/25
Proposal Issued	January 12, 2015
Issuing Department	Purchasing Department
Non-mandatory Pre-proposal Meeting	January 28, 2015 at 9:00 a.m. Port of Oakland, 530 Water Street, Oakland, CA 94607 (1st Floor Exhibit Room)
Scheduled Publication Date	January 15, 2015
Proposal Due Date	February 23, 2015 until 11:00 a.m.

#### Instructions for Submitting Proposals

Submittal Address	Port of Oakland Purchasing Department Attn: <b>Rebecca Gibson</b> 530 Water Street Oakland, CA 94607
Submittal Copies	One (1) Original copy clearly marked "Original" and five (5) Copies marked "Copy".
Submittal Envelope Requirements	Proposal must be <u>sealed</u> and have the following information <u>clearly marked</u> and visible on the outside of the envelope: <ul style="list-style-type: none"><li>• Proposal Number</li><li>• Name of Your Company</li><li>• Address</li><li>• Phone Number</li></ul>
Late Submittals	Proposals received after the time and date stated above shall be returned unopened to the Respondent.

## How to Obtain Proposal Documents

Copies of the Proposal documents may be obtained at:

Available	Location
Yes	Port of Oakland--Purchasing Department 530 Water Street Oakland, CA 94607 Monday through Friday 9:00 AM to 4:00 PM (510) 627-1104
Yes	<a href="http://www.portoakland.com/opportunities/bidsrfpsrfqs.aspx">http://www.portoakland.com/opportunities/bidsrfpsrfqs.aspx</a> Or navigate to the Port of Oakland's main website at: <a href="http://www.portoakland.com/">http://www.portoakland.com/</a> , then click on "Business" then on "Opportunities" and then on "Bids/RFPs/RFOs" to download the RFP.

## Questions about the Proposal

Questions and or Requests for Information (RFI) must be submitted in writing and can be submitted by fax or email as follows:

<b>Primary Contact</b>	Rebecca Gibson Fax: (510) 893-2812 Email: <a href="mailto:rgibson@portoakland.com">rgibson@portoakland.com</a>
<b>Question/RFI Due Date</b>	<b>February 6, 2015 until 4:00 p.m.</b> Please submit questions as soon as possible. No questions regarding the specifications will be responded to after the above date. All pertinent questions will be responded to and answered in writing no later than the Response Date listed below.
<b>Response Date</b>	<b>February 11, 2015</b> All pertinent questions will be responded to <b>via addendum</b> faxed (or emailed) to all prospective proposers and placed on the Port's website. Proposers who did not receive a copy of the addendum should download it from the Port's website. See the "How to Obtain Proposal Documents" section for our web address. All addenda must be acknowledged on the RFP Acknowledgement and Signature form.

Once the RFP is issued, and until a recommendation for award is made to the Board of Port Commissioners at a public Board of Port Commissioners meeting, each Proposer and its representatives, agents, and affiliates, shall not contact members of the Evaluation Committee, Port staff or the Board of Port Commissioners to discuss or ask questions about the contents of this RFP or the selection process. All questions shall be submitted in writing as described in this RFP. Any inappropriate contact by a Proposer, its representatives, agents, and affiliates may result in the Proposers' proposal being disqualified.

## Full Opportunity

The Port's policy prohibits discrimination or preferential treatment because of race, color, religion, sex, national origin, ancestry, age (over 40), physical or mental disability, cancer-related medical condition, a known genetic pre-disposition to a disease or disorder, veteran status, marital status, or sexual

orientation. It is the policy of the Port of Oakland to encourage and facilitate full and equitable opportunities for small local businesses to participate in its contracts for the provision of goods and services. It is further the Port's policy that no discrimination shall be permitted in small local business participation in Port contracts or in the subcontracting of Port contracts. The successful Respondent shall comply with the Port's non-discrimination policy.

The Port reserves the right to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of the Port.

--John Banisadr, Purchasing Manager

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### **Attachments:**

Title		Must Be Returned with Proposal
1	Non-Collusion Declaration	Yes
2	Statement of Equal Employment Opportunity	Yes
3	RFP Acknowledgement and Signature Form	Yes
4	Proposal Worksheet	Yes
5	Port of Oakland Non-Discrimination and Small Local Business Utilization Policy A. Chart for Submitting Data for Calculation of Preference Points B. Local Participation Questionnaire C. Monthly Utilization of Local and Small Business Enterprises D. Final Utilization of Local and Small Business Enterprises	Varies  Attachment 5-A and 5-B are required with the Proposal. (Note: If you are submitting a new Certification Application for preference points, then your completed application is due 7 business days prior to the proposal due date.)  Attachments 5-C and –D are required after contract award final completion of the project.
6	Non-Discrimination & Small Local Business Utilization Policy Program Affidavit	Yes
7	City of Oakland City Charter §728 Living Wage Information A. Employer Self-Evaluation for Port of Oakland Living Wage B. Certificate of Compliance—Living Wage	No  (Attachment 7-A and 7-B are required after contract award.)
8	Statement of Living Wage Requirements	Yes

Title		Must Be Returned with Proposal
9	Insurance Acknowledgement Statement	Yes
10	Professional Service Agreement	No  (Note: The successful Respondent will execute the Professional Services Agreement if awarded the contract.)

## **I. Project Overview**

The Port of Oakland invites the submittal of a written proposal from qualified companies interested in providing staffing services for a Port Security Management System (PSMS). The Proposer will provide experienced PSMS operators and supervisor(s) described within this RFP on a temporary contract basis for up to a three-year time period.

This RFP outlines the minimum service requirements and all obligations of the selected Proposer. It also specifies when, how, and with what detail, to respond. Proposers are required to answer all of the Port's required elements in the order and content requested.

The Port reserves the right to not contract out any services, or, through contract negotiations, to settle on final service, cost, and terms with the Proposer that is determined to be the most qualified.

### **About the Port of Oakland**

The Port of Oakland was established in 1927 and oversees the Oakland seaport, Oakland International Airport, Commercial Real Estate, and 20 miles of waterfront. The Oakland seaport is the fifth busiest container port in the U.S.; Oakland International Airport is the second largest San Francisco Bay Area airport offering over 300 daily passenger and cargo flights; and the Port's real estate includes commercial developments such as Jack London Square and hundreds of acres of public parks and conservation areas. Together, through Port operations and those of its tenants and users, the Port supports nearly 70,000 jobs in the region and over 800,000 jobs across the United States. The Port is an independent department of the City of Oakland.

## **II. Scope of Services**

### **A. PSMS Operations Overview**

The Port has developed and implemented a Port Security Management System (PSMS). The PSMS resides in the Port's emergency operations center where existing maritime security systems can be monitored and operated. The Port received a Fiscal Year 13 Federal Port Security Grant for staff to monitor and operate these systems. In addition to monitoring of areas in, and adjacent to the Port of Oakland facilities, the PSMS will provide real-time situational awareness capabilities and provide response support to Port staff, Port tenants, and public safety agencies.

### **B. Basic Services to be Provided by Proposer**

The selected Proposer (or Respondent) shall provide experienced, qualified personnel to staff the PSMS and perform the following duties and others (this is not intended to be a complete or exhaustive list of required experience and duties):

1. The selected contractor must demonstrate experience with positive references in actual performance during an identifiable crisis or emergency at a specific monitoring location. A detailed description of the role and outcome should be provided.
2. Operate and monitor a computerized, integrated system of closed-circuit television cameras, intrusion detection system, geographic mapping, alarm systems, on-line data and tracking systems, and other systems of the PSMS center for the Port of Oakland.
3. Monitor Port's maritime access control systems to ensure no unauthorized access to secure areas by the public, employees, or tenants of the Port; follows established protocols to grant access to authorized users.
4. Identify, acknowledge, and facilitate appropriate response to security system alarms of varying levels of significance; quickly assess conditions and situations based on system information; make notification decisions based on Port maritime security policies and procedures; activate and coordinate emergency response plans; coordinate requests to police and fire dispatch centers for the deployment of emergency personnel to investigate and

- resolve incidents; maintain knowledge and status of the incident response teams; relay information and coordinate Port resources.
5. Receive telephone calls on a range of routine to emergency issues; respond to calls requesting Port services and transfer calls to City Police and Fire Dispatch centers, when appropriate.
  6. Collect, analyze and disseminate all intelligence and information received in the PSMS from a variety of sources including Marine Terminal Operators (MTOs) and other port tenants regarding real or potential security breaches to internal (City of Oakland Police and/or Fire Department), external (U.S. Coast Guard), and other emergency service organizations as may be necessary.
  7. Relay information as appropriate and directed by policy or Port Management to appropriate Port and tenant personnel regarding emergencies and hazardous conditions; operate public communication systems including notification systems, emergency roadside signage, and radio stations.
  8. Log and document all calls for requested service/assistance, emergency response incidences, and general activity including radio transmissions.
  9. Answer telephone calls as necessary.
  10. Transmits and receives radio, text, or other electronic messages to/from mobile units in the field regarding call, vehicle, and suspect information; relays requests to appropriate persons/agencies.
  11. Operate computer software systems in response to requests from field personnel/units in order to retrieve vehicle, person, or situational information for transmittal back to the field unit.
  12. Conducts status checks and reviews the condition of the security system to ensure operational capabilities and to prevent malfunctions; troubleshoots and adjusts the system as directed; provides priority maintenance recommendations; identifies security system improvements needed and submits change requests.
  13. Monitors PSMS equipment and systems; troubleshoots minor malfunctions.
  14. Provides an adequate level of supervision of operators on an assigned shift; trains operators in the proper use of the PSMS center's technology, operating systems, policies and procedures; evaluates the performance of operators on an assigned shift.
  15. Drafts operating policies and procedures for the PSMS in accordance with Port priorities and best practices.
  16. Coordinate with vendors and Port staff to ensure the smooth operation of the PSMS.
  17. Collects monthly statistics and creates reports as defined by Port management.
  18. Perform other duties and tasks as assigned to carry out the terms of the RFP.

### **C. Staff Positions and Qualifications Necessary**

PSMS Operator—*Individuals who will directly monitor and operate electronic and other systems in the PSMS.* These services shall be 24 hours per day, seven (7) days a week, including holidays. An Operator must be on-site at all times. The Port anticipates three (3) 8-hour shifts with one (1) person per shift. Proposals should be based on this level of staffing. The Port considers the two (2) day shift(s) to be between the hours of 6:00 a.m. and 10:00 p.m., and the one (1) night shift to be between the hours of 10:00 p.m. and 6:00 a.m.

PSMS Supervisor—One Supervisor on a 40-hour week, divided evenly Monday through Friday on the day shift, including holidays, to provide operator supervision, scheduling, operating procedure development and maintenance, and necessary coordination with Port and electronic system vendors. The PSMS Supervisor shall be responsible for many of the managerial duties listed above and for the collection of necessary data for statistical analysis and reports.

In addition to the services outlined above, the Port may need additional staff for special and/or emergency events. The services for any special/emergency events are as-needed and would be paid under a separate purchase order at the same hourly rate quoted for basic services outlined in this RFP.

The successful Proposer shall verify that all its employees have the right to work in the United States in compliance with the Immigration Reform and Control Act of 1996. Upon execution of an agreement, the Port reserves the right to inspect employment eligibility verification forms (Form 1-9 OBM No. 1115-0236, or any revised version). The successful Proposer must be able to provide personnel possessing the following qualifications:

PSMS Operator Qualifications:

- Graduation from an accredited college with an Associate's Degree in computer technology, homeland security or related field.
- One year of recent, full-time equivalent work experience involving monitoring a technology-based security system operation, military, police, or intelligence organization.
- The required experience must be in the monitoring of large, complex, high risk, vulnerable maritime, airport or other complex security center such as those found in transportation, industrial, military, government centers, and/or multisite complexes containing public facility and infrastructure.
  - The job tasks in that experience shall have included working in a multifunctional center that monitored other systems in addition to security such as fire, maintenance, Supervisory Control and Data Acquisition (SCADA), environmental, traffic management systems, industrial processes, etc.
- Additional and verified relevant experience may be substituted for education requirement.

PSMS Supervisor Qualifications:

- Graduation from an accredited college with an Associate's Degree in computer technology, homeland security or related field.
- Three years of recent, full-time equivalent work experience involving monitoring a technology-based security system operation, military, police, or intelligence organization, one year of which is in a supervisory capacity.
- The required experience must be in the monitoring of large, complex, high risk, vulnerable maritime, airport or other complex security center such as those found in transportation, industrial, military, government centers, and/or multisite complexes containing public facility and infrastructure.
  - The job tasks in that experience shall have included working in a multifunctional center that monitored other systems in addition to security such as fire, maintenance, (SCADA), environmental, traffic management systems, industrial processes, etc.
- Additional and verified relevant experience may be substituted for education requirement.

In addition, all staff must possess the following qualifications:

1. Strong computer skills and the ability to learn new programs and software.
2. Ability to collect data, review and create detailed reports.
3. Excellent teamwork, interpersonal skills in both routine and emergent situations.
4. Ability to observe, read, and assess the significance of system alarms and data, quickly and accurately, make logical and rational decisions with limited supervision.
5. Ability to follow response procedures accurately and calmly and work effectively with a broad range of people/situations.
6. Excellent ability to multi-task and communicate clearly.
7. Ability to work under stress of a major incident.
8. Ability to work any shift assignment, including evening, nights, weekends, and holidays as may be required.
9. Speak, read, write, and comprehend instructions in English.
10. Must pass a background and fingerprint check following the established Port of Oakland Standards, as well as U.S. government requirements to handle Sensitive Security Information (SSI).
11. Must be willing to sign a confidentiality agreement.

The Port of Oakland Security Director will have the final say on the employees to be used by the Proposer to staff the PSMS.

#### **D. Performance Measures – Minimum Requirements**

The Port will require contract performance measures to ensure security staffing services are adequate. The below measures, in addition to others the Port deems necessary, will be incorporated into the final Professional Services Agreement (PSA):

1. Initial and annual training hours, subjects and proven competencies for the PSMS staff.
2. Attendance for continuous coverage by fully trained operators and annual maximum acceptable turnover.
3. Maintenance of security clearances.
4. Ability to follow policies and procedures without undue Port supervision and problem solving follow-up.
5. Ability to operate PSMS systems within the training, Standard Operating Procedures, and vendor support processes to be provided.
6. Ability to execute PSMS assignments in a timely manner under emergency pressure.
7. Ability to work harmoniously with others in the Port, City of Oakland emergency services systems, and other stakeholders including the U.S. Coast Guard and marine terminal operators.
8. Weekly reporting to Port staff; monthly written operations summary reports.
9. Professional appearance of personnel.
10. Adherence to Port Video Systems Use Policy.

#### **E. Operations and Procedures Manual**

The selected Proposer must provide the Port with an Operations and Procedures Manual upon execution of agreement. This manual should describe the Proposer's basic policies, practices, standard of performance and procedures covering all aspects of the management and operation of their services.

#### **F. Port Holiday Schedule**

The Proposer is required to fulfill the Scope of Services every day of the year, including State and Federal holidays. The Port observes twelve (12) holidays per year, as listed below (the selected Proposer is required to have staff on duty during all Port holidays):

New Year's Day, January 1  
Martin Luther King, Jr. Day, third Monday in January  
Lincoln's Birthday, February 12  
President's Day, third Monday in February  
Memorial Day, last Monday in May  
Independence Day, July 4  
Labor Day, first Monday in September  
California Admissions Day, September 9  
Veterans Day, November 11  
Thanksgiving, 4<sup>th</sup> Thursday in November  
Day after Thanksgiving, Friday after Thanksgiving  
Christmas Day, December 25

#### **G. Projected Time Line and Length of Contract**

The Port will award a one-year agreement (if any) and will have the option to issue two (2) one-year extensions not to exceed a total period of three (3) years.

## H. Financial Information

Upon request, the top-ranked Proposer shall submit evidence satisfactory to the Port of the Proposer's financial capacity to carry out and implement every aspect of the Contractor's proposal. Such evidence may include audited financial statements for the last available year; if audited statements are not available, unaudited statements and certification of the Chief Financial Officer (or equivalent) as to the unaudited financial statements may suffice.

## **III. Port Policy Requirements**

The selected Respondent will be required to comply with the following Port Policy Requirements:

1. **Non-Discrimination and Small Local Business Utilization Policy (NDSLBU):**

The Port desires to maximize the participation of small local business and has instituted a Non-Discrimination and Small Local Business Utilization Policy (NDSLBU). The NDSLBU consists of two parts:

- Non-Discrimination policy which all Suppliers (Respondents) must adhere to, by providing the enclosed "Non-Discrimination and Small Local Business Utilization Policy" Program Affidavit (**Attachment 6**) with their proposals
- Preference points to small local businesses who qualify under the Port's definition of a small local business. In order to qualify for preference points, Suppliers (Respondents) must be either certified by the proposal due date or download a Certification Application at: <http://www.portofoakland.com/srd/> and submit it along with any supporting documentation to the Port's Social Responsibility Division seven (7) business days prior to the proposal due date.

A summary of the Port's Non-Discrimination and Small Local Business Utilization Policy is included herein as **Attachment 5**. The entire policy is available at:

[http://www.portofoakland.com/pdf/responsibility/ndslbu\\_policy.pdf](http://www.portofoakland.com/pdf/responsibility/ndslbu_policy.pdf)

Suppliers already certified with the Port do not need to submit proof of certification, but still need to check the Port's certification database at: <http://www.portofoakland.com/srd/> to ensure their certification has not expired and must fill out the Chart for Submitting Data for Calculation of Preference Points (**Attachment 5-A**), and the Local Participation Questionnaire (**Attachment 5-B**), and submit them with your proposal. All Suppliers (Respondents) must still provide proof of adhering to the Port's Non-Discrimination policy by submitting the NDSLBU Program Affidavit.

For questions or assistance regarding NDSLBU, contact Ms. Connie Ng-Wong, Contract Compliance Officer, (510) 627-1390, at the Port's Social Responsibility Division, or fax requests to (510) 451-1656.

2. **Insurance Requirements:**

All Respondents who plan on submitting a proposal in response to this RFP must meet the Port's Insurance requirements listed in the Professional Services Agreement (**Attachment 10 Appendix C**) and must provide proof of insurance at the time of project award. Respondents must include a statement (**Attachment 9**) with their proposal agreeing to the Port's insurance requirements and indicate they will be able to obtain the proper insurances at the time of project award.

3. **Security Sensitive Information:**

By submitting a proposal, Respondent acknowledges that in the course of performing services under this contract, the selected consultant will come into possession of sensitive information subject to Port of Oakland regulation. Those firms which are included on the short list for final consideration will be required to comply strictly with the Port of Oakland's policies and practices for sensitive information.

4. Living Wage Policy:

On March 5, 2002, the voters in the City of Oakland passed Measure I, adding to the City Charter Section 728 ("§728") entitled "Living Wage and Labor Standards at Port-assisted Businesses." §728 requires Port Aviation and Maritime businesses that meet specified minimum threshold requirements to pay all nonexempt employees a Living Wage rate established by City Ordinance and adjusted annually based on the Consumer Price Index for the San Francisco, Oakland, and San Jose area. The current Living Wage rate as of July 1, 2014 is at least \$12.27 with credit given to the employer for the provision to covered employees of health benefits, and \$14.10 without credit for the provision of health benefits. Specifically, §728 applies to Port contractors and financial assistance recipients with the Aviation or Maritime divisions that have contracts worth more than \$50,000 and that employ more than 20 employees who spend more than 25% of their time on Port-related work. §728 also provides covered employers with incentives to provide health benefits to employees, establishes a worker retention policy, requires covered employers to submit quarterly payroll reports and requires covered employers to allow Port representatives access to payroll records in order to monitor compliance and labor organization representatives access to workforces during non-work time and on non-work sites. Covered employers are responsible for complying with the provisions of §728 from the date the covered contract is entered into. When a contract is awarded, the Respondent will be required to fill out the attached Employer Self-Evaluation for Port of Oakland Living Wage Form (**see Attachment 7-A**) and Certificate of Compliance—Living Wage (**see Attachment 7-B**) and return them to the Social Responsibility Division. (i.e., do not include these forms in with your proposal). For more information, please call Connie Ng-Wong in the Port of Oakland's Social Responsibility Division at (510) 627-1390.

Respondent shall acknowledge reviewing the Port's Living Wage program and compliance, by submitting the Statement of Living Wage Requirement (**Attachment 8**) with their proposal.

5. Port's Standard Professional Services Agreement:

Submission of a proposal will confirm that the Proposer fully understands the provisions of the Port's Professional Services Agreement and will execute such agreement if awarded the contract. Any objections to any provisions in such contract must clearly be identified in your proposal. Changes are discouraged.

## **IV. Submission Requirements**

The Port has scheduled a Non-mandatory Pre-proposal meeting on the date indicated in the table labeled "Proposal Information" (on the first page of the invitation for this RFP), to review the submission requirements.

Please respond to the following 8 submission requirements in a straightforward, concise delineation of your capabilities proposed to satisfy the requirements of the RFP. The Port will use your responses to objectively determine your capabilities and experience. Please label your responses 1 through 8, in the order presented below. Please limit your total response to the number of pages indicated below (excludes the required attachment forms provided with this RFP).

### **Submittal Format:**

Responses may not be longer than 50 pages one sided or 25 pages double sided, printed on 8 ½" x 11" paper and formatted in no smaller than 10 point font, with the exception of illustrations which may be 11" x 17" or any necessary larger drawings which may be folded and placed in pockets in the proposal binder. There should be numbered tab dividers in the binder separating the sections listed below. The proposal is to be organized as described below:

#### **1. Company Information/Cover Letter/Table of Contents**

- a. An officer and authorized representative of the Proposer shall sign the cover letter. The cover letter shall contain language clearly conveying a firm and

binding offer to the Port to provide the services requested in the RFP. The letter shall also contain the following:

- i. The name of this project.
  - ii. Name of the firm (including name of any parent company), business address, email address, Federal Tax ID Number, telephone and fax numbers, names and titles of key management personnel, and a brief history of your company.
  - iii. Provide a brief statement that identifies who is authorized to submit the proposal on behalf of your firm.
  - iv. Identification of any subcontractors who comprise the Proposer's team, and the role of each subcontractor in providing the requested services.
- b. If your company is making any exceptions to the Port's standard Professional Services Agreement (enclosed with this RFP), you must be clearly set forth in your proposal and noted in this section. Exceptions are discouraged and may result in lower evaluation points during the Port's evaluation of your proposal.
- c. Provide a Table of Contents: The table of contents shall list all sections and subsections in the order required in this RFP and also list any tables, exhibits, and appendices.

## **2. Knowledge and Experience**

- a. Provide relevant information about your company's knowledge and experience in providing security monitoring and risk analysis with large-scale complex maritime and transportation public facilities, including a list of three (3) or more projects (in similar size and scope to this RFP), with brief descriptions that demonstrate your experience to fulfill the scope of services in this RFP; provide names, addresses and contact information for each project;
- b. Demonstrate experience with positive references in actual performance during an identifiable crisis or emergency at a specific monitoring location. A detailed description of the role and outcome should be provided;
- c. By providing such information, you authorize us to contact such clients.
- d. Provide the names of key personnel who will be assigned to do the work under this project and provide their relevant experience and proof that they have the qualifications listed under the Scope of Services sections Item IIC.

## **3. Clients References**

- a. Provide names, addresses, and contact information for three (3) current clients, and describe the work performed including a description of the security services, staffing methods used for those clients, including the dates of service. Describe the size and scope of each project.
- b. Describe the number of systems monitored, the various communication systems utilized in the center, the number of sites being monitored, the number and type of stakeholders with whom coordination was required;
- c. Please make sure all contact information is current. By providing such information, you authorize us to contact such clients.

## **4. Plan and Approach**

- a. Provide an overview describing the general approach, scope of services, and methodology of your firm's ability to fulfill the general functions required in this RFP. Please clearly demonstrate that your firm can provide at minimum the services listed in the RFP. Please use this section to also describe the services you propose to provide to the Port. Your services can be above and beyond the requirements listed in the "Scope of Service" section.
- b. As part of your response, please also discuss the following:
  - i. The staffing number and job classification and minimum required certifications of staff that will be on duty at the PSMS.

- ii. The staffing number and job classification and minimum required certifications of staff that will provide headquarters and other support services.
- iii. Provision of staffing for coverage during absences and vacancies.
- iv. Performance measures anticipated to be used by the Proposer in measuring the adequacy of service delivery.
- v. Proposed approach to start-up responsibilities from the present arrangement.
- vi. Plan to recruit, select, background check and gain Port's concurrence on the PSMS employees to be assigned by the Proposer.
- vii. The approach to communications with the Port staff, including meetings and written reports.
- viii. The timeline for implementation along with the key steps necessary for implementation. Each key step should be shown in the timeline, reflecting the amount of time in the overall implementation that each step will take. It is understood that some of the key steps can proceed in parallel rather than sequentially.
- ix. Data on the average longevity of the Proposer employees; Proposer may identify a special pool of employees from which the PSMS operators are to be drawn.

## 5. **Cost Proposal**

- a. The Port intends to pay the Proposer for all services required under the agreement based on a single, all-inclusive hourly rate (for Operators and Supervisor) that will encompass all of the Proposer's labor costs, health benefits, equipment, training, administration, management, profit, and any other factors necessary to perform work specified in this RFP (see the Proposal Worksheet provided as **Attachment 4**). The all-inclusive hourly rate should include a complete breakdown of the hourly cost billing rate in accordance with Proposal Worksheet set forth in this RFP.
- b. The Port is requesting the Proposer to submit the cost for one year only. The Professional Services Agreement (**Attachment 10**) sets forth provisions for increase to compensation in additional years of the agreement term, should the term of the agreement be extended.
- c. The Proposer's cost proposal must indicate whether City of Oakland Living Wage rates will be applicable, and, whether the cost proposal includes the funds sufficient to pay the Oakland's minimum wage and other provisions of the proposal should changes to minimum wage be implemented.

## 6. **Debarment**

Provide a written statement that your company has not been debarred from providing services to any State or Federal Agency within the last five (5) years. Sign and Date your statement. If your firm has been debarred, you will need to provide background information and reason for the debarment. Provide the name and contact information for the agency that debarred your firm. The Port must review the reason and duration for the debarment before it can determine if your firm can be considered for this project.

## 7. **Litigation Information**

Provide information describing any litigation, arbitration, investigations, or any other similar actions that your company, the principals, the directors, and employees have been involved in during the last five (5) years relating to your company's services. Please list (a) name and court case identification number of each case, (b) jurisdiction in which it was filed, and (c) outcome of litigation (e.g. whether the case is pending, a judgment was entered, a settlement was reached or the case was dismissed). The Port will review the reason and timing of the action before it can determine if your

firm can be considered for this project. Failure to provide the litigation information may disqualify your proposal.

**8. Required Forms and Adherence to Port Policy Requirements:**

The Proposer must fill out all the forms included in this RFP (listed under the "Attachments" section and marked with a "Yes" in the column titled "Must Be Returned with Proposal"), and return them with your proposal. By returning the listed forms, your company is supporting and agreeing to the Port's Port Policy Requirements (listed in section III "Port Policy Requirements" of this RFP). Failure of the Proposer to provide any of the forms listed in this RFP may result in your proposal being rejected for non-responsiveness. These required forms will not count against the maximum page count (indicated above) for your response.

## **V. Evaluation Criteria**

Prior to contract award, the Port must be assured that the Proposer/Respondent selected has all of the resources required to successfully perform under the contract. This includes, but is not limited to, personnel with skills required, equipment/materials and financial resources sufficient to provide services called for under this contract. If during the evaluation process, the Port is unable to assure itself of the Respondent's ability to perform under the contract, if awarded, the Port has the option of requesting from the Respondent, any information that the Port deems necessary to determine the Respondent's capabilities. If such information is required, the Respondent will be notified and will be permitted five (5) working days to submit the requested information.

In awarding the contract, the Port will evaluate a number of factors in combination. Please make sure you have submitted responses to all items listed in the Submission Requirements section, as your responses will be evaluated based on the weights listed below.

### **A. Evaluation Weights**

<b>Item</b>	<b>Criteria</b>	<b>Weights</b>
	<u>Adherence to Port Policy Requirements and Debarment Statement</u> Proposals from companies who have not or will not adhere to the Port Policy Requirements or who have been debarred and have not provided sufficient reasons/justification for the Port to review the circumstances surrounding the debarment, will not be forwarded to the evaluation committee for review. (Items 6 and 8 of the Submission Requirements section.)	Pass/Fail
1	<u>Company Information, Client References, Litigation Information, and Required Forms</u> Proposer's capacity to provide professional service as evidenced by past performance, company information, reference checks, litigation information, and required forms. (Items 1, 3, 7, and 8 of Submission Requirements section.)	20%
2	<u>Knowledge and Experience</u> Proposer's knowledge and experience in providing services as evidenced from your response to Item 2 of Submission Requirements.	25%
3	<u>Plan and Approach</u> As evidence from your response to item 4 of Submission Requirements section.	20%
4	<u>Proposed Costs</u> As evidence from your response to item 5 of Submission Requirements section, and as provided on the Proposal Worksheet.	20%
5	<u>Non-Discrimination Small Local Business Utilization Policy</u> Does your company meet the Port's definition of Small Local Business? The Port will evaluate companies that have provided substantiating documentation to prove they meet the Port's definition of Small Local Business, and award qualifying companies up to the maximum 15 points.	15%
	Total	100%

### **B. Selection Procedure:**

All proposals received by the deadline which meet the RFP's requirements will be presented to the evaluation committee comprised of Port of Oakland staff and possibly external members. The evaluation committee will evaluate the proposals and score all submissions according to the evaluation

criteria above. The selection process may include interviews (at the discretion of the evaluation committee) for the top scoring submissions. If interviews are to take place, the Port will notify the top scoring Respondents. Interview details and scoring requirements will be provided to selected Respondents prior to the interviews.

## **VI. Additional Provisions**

The terms "Company", "Consultant", "Contractor", "Proposer", "Respondent", "Seller", "Supplier", and "Vendor" whenever appearing in this RFP or any attachments, are used interchangeably to refer to the company or firm submitting a proposal in response to this RFP.

### **A. Port's Legal Name and Jurisdiction**

The Port of Oakland (the "Port") is legally known as the City of Oakland, a Municipal Corporation, Acting by and through its Board of Port Commissioners. The Port is an independent department of the City of Oakland. The Port has exclusive control and management of all Port facilities and properties. Port facilities and properties consist of marine terminals, a railway intermodal terminal and container storage areas (collectively, the "Seaport"); the Oakland International Airport (the "Airport"); and commercial and industrial land and properties (collectively, "Commercial Real Estate"); and other recreational land, other land, undeveloped land, and water areas, all located in Oakland, CA. The Port issues Purchase Orders under the name Port of Oakland.

### **B. Ownership of Proposal**

All rights to information developed, disclosed, or provided in a Proposal and its attendant submissions are the property of Port, unless a Respondent makes specific reference to data that is considered proprietary. To the extent that a Respondent does not make specific reference to data that is considered proprietary, submission of an RFP constitutes the Respondent's express (a) grant and assignment of a perpetual, transferable (in whole or in part), non-exclusive royalty-free license to the Port for copyright, patent, or other intellectual property right (collectively referred to as "intellectual property"), and (b) agreement that the Port may use any such intellectual property without charge for any lawful purpose in connection with other Port development projects, including without limitation the creation of derivative works and issuance of sublicenses.

### **C. Public Records Act**

Per the Public Records Act (Gov. Code 6250 et seq.), the Port may be obligated to make available to the public the submitted proposal and all correspondence and written questions submitted during the Request for Proposal process. However, such disclosure shall not be made prior to the date on which the Port publishes a final Board agenda report recommending award of the contract. Any trade secrets or proprietary financial information, which a Respondent believes should be exempted from disclosure, shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid. The specific information must be clearly identified as such.

The Port reserves the right to independently determine whether any document is subject to disclosure and to make such information available to the extent required by applicable law, without any restriction.

### **D. Indemnification**

If Respondent is selected to receive a contract, it will be required to agree to the indemnification clause contained in the Professional Services Agreement. **See Section 5** of the Professional Services Agreement (**Attachment 10**).

### **E. Reimbursable Expenses**

All expenses incidental to performing Consultant's Basic Services including, but not limited to, reproduction of documents and other materials associated with Respondent's deliverables and presentation materials; reproduction of construction contractor's submittals; reproduction of Design Completion Consultants' submittals; transportation and subsistence; telephone,

computer, facsimile, or other similar costs; and the like, shall be included within the Contract Price.

**F. Port's Right to Modify**

Respondents are advised that the Port has not incurred any obligations or duties in soliciting this Request for Proposals. The Port, at its sole discretion, reserves the right to reject any or all proposals submitted in response to this RFP; to request additional information or clarification of information submitted; to cancel or modify, in part or in its entirety, this RFP; to request new RFPs or pursue any other means for obtaining the desired services; to waive any informalities or minor irregularities in the RFP, and other inconsequential deviations from the RFP's requirements. The Board of Port Commissioners retains the right to award this project in part or in total to the Respondent(s) of its choice, and to decide to undertake the project or to terminate the project at any time prior to approval of a formal contract.

**G. Conflicts of Interest**

By submitting a proposal, the Respondent represents that it is familiar with Section 1090 and Section 87100 et seq. of the Government Code of the State of California, and that it does not know of any facts that constitute a violation of said sections in connection with its proposal. Respondent also represents that its proposal has completely disclosed to the Port all facts bearing upon any possible interests, direct or indirect, which Respondent believes any member of Port, or other officer, agent or employee of Port or any department presently has, or will have, in any agreement arising from this RFP, or in the performance thereof, or in any portion of the profits there under. Willful failure to make such disclosure, if any, shall constitute ground for rejection of the proposals or termination of any agreement by Port for cause. Respondent agrees that if it enters into a contract with the Port, it will comply with all applicable conflict of interest codes adopted by the City of Oakland and Port of Oakland and their reporting requirements.

**H. Cost of Preparing a Response**

All costs for developing a response to this RFP and attending any proposal meetings or selection meetings are entirely the responsibility of the Respondent and shall not be chargeable to the Port.

**I. Law Compliance**

The Respondent must comply with all laws, ordinances, regulations and codes of the Federal, State, and Local Governments, which may in any way affect the preparation of proposals or the performance of the contract.

**J. Respondent's Relationship**

The Respondent's relationship to the Port shall be that of independent contractor and not deemed to be agent of the Port.

**K. Proposal Considerations and Legal Proceeding Waiver**

The Port has absolute discretion with regard to acceptance and rejection of proposals. In order to be considered the party submitting a proposal waives the right to bring legal proceedings challenging the Board of Port Commissioners choice of the award.

**L. False Statements**

False statements in a proposal will disqualify the proposal.

**M. Taxes**

The Respondent will be responsible for all Federal, State, and Local taxes.

**N. Grade of Service**

The Respondent must provide professional service and maintain appropriate personnel to provide expedient and courteous service.

**O. The Respondent's Liability**

The Respondent shall be responsible for any and all damages to the Port's premises resulting from the negligent acts or willful misconduct of the Respondent's agents or employees.

**P. Amendments**

The Port may, at its sole discretion, issue amendments to this RFP at any time before the time set for receipt of proposals. The Respondents are required to acknowledge receipt of any amendments (addenda) issued to this RFP by acknowledging the Addendum in the space provided on the RFP Acknowledgement and Signature Form. The Port shall not be bound by any representations, whether oral or written, made at a pre-proposal, pre-contract, or site meeting, unless such representations are incorporated in writing as an amendment to the RFP or as part of the final contract. All questions or requests for clarification concerning material terms of the contract should be submitted in writing for consideration as an amendment.

**Q. Withdrawal or Modification of Offers**

The Respondent may modify or withdraw an offer in writing at any time before the deadline for submission of an offer.

**R. Acceptance**

Any offer received shall be considered an offer which may be accepted or rejected, in whole or in part, by the Port based on initial submission with or without discussions or negotiations.

**S. Representations**

No representations or guarantees of any kind, either made orally, or expressed or implied, are made with regard to the matters contained in this document, including any attachments, letters of transmittal, or any other related documents. The Respondent must rely solely on its own independent assessment as the basis for the submission of any offer made.

**T. Award Consideration and Length of Contract**

The Port shall not be bound to accept the lowest-quote fee and will award the contract (if any) to the company/firm selected through the competitive process (and any subsequent interviews) outlined in this RFP.

The Port will award a one-year agreement (if any) and will have the option to issue two (2) one-year extensions not to exceed a total period of three (3) years.

**U. Contract Termination**

The Port may terminate the agreement with the Respondent on thirty days' notice for the failure of the Respondent to comply with any term(s) of the agreement/contract between the Port and the Respondent.

The Port may also terminate the agreement with the Respondent on ninety days' notice in the event of Non-Appropriation of Funds in the Port's operating budget. Respondent will not be entitled to additional compensation beyond contract termination.

**V. Protest Procedures**

Any party that has timely submitted a responsive proposal may file a protest of award in accordance with the provisions set forth below:

1. Any protest must be submitted in writing to John Betterton, Secretary of the Board, by 5:00 p.m. of the fifth (5th) business day following publication of the identity of the apparent successful proposer (or of notice of intended award, if such notice is issued).
2. The protest must include the name, address and telephone number of the person representing the protesting party.
3. The initial protest document must contain a complete statement of the basis for the protest, including in detail, all grounds for protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for

the protest; any matters not set forth in the written protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence.

Any protest not conforming to the foregoing shall be rejected by the Port without recourse.



## Non Collusion Declaration

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### **RFP No.: 14-15/25 Port Security Management System Staffing**

(To Be Executed By Proposer and Submitted With Proposal)

I, \_\_\_\_\_, declare as follows:

That I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the attached proposal; that the attached proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

Any person executing this declaration on behalf of a proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, at  
\_\_\_\_\_, California

\_\_\_\_\_  
Signature

Authority: Public Contract Code 7106

CCP 2015.5



**PORT OF OAKLAND**

**Statement of Equal Employment Opportunity**

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**RFP No.: 14-15/25 Port Security Management System Staffing**

I hereby certify that I \_\_\_\_\_ (Legal Name of Respondent/Supplier/Consultant/Contractor), will not discriminate against any employee or applicant for employment because of because of race, color, religion, sex, national origin, ancestry, age (over 40), physical or mental disability, cancer-related medical condition, a known genetic pre-disposition to a disease or disorder, veteran status, marital status, or sexual orientation.

I declare under penalty of perjury under the laws of the state of California that the information I have provided herein is true and correct and is of my own personal knowledge.

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

\_\_\_\_\_  
Print Name



**PORT OF OAKLAND**

**RFP Acknowledgement and Signature Form**

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**RFP No.: 14-15/25 Port Security Management System Staffing**

The undersigned having carefully examined the location of the proposed work, the local conditions of the place where the work is to be done, the Invitation, the General Conditions, the Specifications and all of the documents for this project, proposes to enter into a contract with the Port of Oakland to perform the work listed in this RFP, including all of its component parts, and to furnish any and all required labor, materials, equipment, insurance, bonding, taxes, transportation and services required for this project in strict conformity with the plans and specifications prepared, including any Addenda, within the time specified.

**Addendum Acknowledgement**

The following addendum (addenda) is (are) acknowledged in this RFP: \_\_\_\_\_

**Acknowledgement and Signature:**

1. No Proposal is valid unless signed in ink by the person authorized to make the proposal.
2. I have carefully read, understand and agree to the terms and conditions on all pages of this RFP. The undersigned agrees to furnish the services stipulated in this RFP.

Respondent's Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_ Cell Number: \_\_\_\_\_

Contractor License # (if applicable): \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Federal Tax Identification Number: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**Decline RFP:**

We **do not** wish to submit a Proposal on this Project. Please state your reason below. Please also indicate if you would like to remain on our Supplier list.

Reason: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Company: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**RFP No.: 14-15/25 Port Security Management System Staffing**

The Port intends to pay the Contractor for all services provided under the agreement based on a single all-inclusive hourly rate (for Operators and Supervisor) that comprises all of the Proposer's labor costs, health benefits, equipment, training, administration, management fees, profit, and any other factors necessary to perform work specified in this RFP, for all operational days including holidays. Proposers should carefully consider this as they develop their rates for this Proposal Worksheet. The Port is requesting the Proposer to submit the cost for one year only.

<b>Cost Factor – PSMS Operator</b>	<b>Cost to Port/Hour</b>
A. PSMS Operator Rate paid to employee	
B. Health Benefits (in dollars)	
C. Equipment	
D. Training	
E. Administration	
F. Management (include all supervisor labor costs here)	
G. Profit	
H. Other (Proposer to identify factor as applicable)	
<b>Total – All-Inclusive Hourly Rate (Items A through H)</b>	

<b>Cost Factor – PSMS Supervisor</b>	<b>Cost to Port/Hour</b>
A. PSMS Supervisor Rate paid to employee	
B. Health Benefits (in dollars)	
C. Equipment	
D. Training	
E. Administration (site and off-site)	
F. General Management	
G. Profit	
H. Other (Proposer to identify factor as applicable)	
<b>Total – All-Inclusive Hourly Rate (Items A through H)</b>	

**ESTIMATED ANNUAL COST****Total Cost of Agreement for Year 1** \_\_\_\_\_

(=Total All Inclusive Hourly Rate for PSMS Operator x 24 hours x 365 days and,  
Total All Inclusive Hourly Rate for PSMS Supervisor x 40 hours x 52 weeks)

Respondent Name: \_\_\_\_\_ Title: \_\_\_\_\_

Is the City of Oakland's Living Wage rates applicable to the proposed cost?

☐ Yes ☐ No

If No, please explain: \_\_\_\_\_

\_\_\_\_\_

Does your cost proposal include the funds sufficient to pay the Oakland's minimum wage and other provisions?

☐ Yes ☐ No

If No, please explain: \_\_\_\_\_

\_\_\_\_\_

Respondent Name: \_\_\_\_\_ Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Non-Discrimination:** Port of Oakland (Port) policy prohibits discrimination or preferential treatment because of race, color, religion, sex, national origin, ancestry, age (over 40), physical or mental disability, cancer-related medical condition, a known genetic pre-disposition to a disease or disorder, veteran status, marital status, or sexual orientation.

**Local Business Utilization:** On October 7, 1997, the Board of Port Commissioners initiated a formal policy to encourage full participation of firms from its Local Business Area ("LBA"), the counties of Alameda and Contra Costa, particularly those in its Local Impact Area ("LIA"), in its work. The LIA includes the cities of Oakland, Alameda, Emeryville and San Leandro. The LBA includes all cities within the counties of Alameda and Contra Costa. The Port will also take into consideration efforts the prime and sub-consultants make to assist in the community, e.g., assigning meaningful work to small and/or very small local sub-consultants, mentor protégé relationships, participation in job/trade fairs, hiring interns, pro bono work, and working with local schools, etc.

**Consultant Preference Points:** The Port allots preference points for the percentage of work being performed by consultants/sub-consultants located in either the LBA or the LIA and for community involvement (i.e. mentoring, intern programs, job fairs, community rehabilitation groups and re-entry programs) for a maximum total of up to 15 points. These points are added to a maximum of 85 technical points for a composite maximum of 100 points in evaluating consultant proposals as follows:

- Up to 5 points will be credited proportionately (counting the whole team, prime consultant and sub-consultant(s)) for LIA certified firms, and 2.5 for LBA certified firms.  
Note: LIA/LBA credit is given only for certified firms which have had established active offices in the respective area for at least a year at the time of proposal due date, and NOT for outside firms which plan to do the project work at a LIA/LBA office;
- An additional 3 points will be credited for an LIA certified prime consultant (proportionate to the share of prime consultant work in the case of a joint venture) and 1.5 points for an LBA certified prime consultant;
- Up to 4 points will be credited proportionately (counting the whole team, prime consultant and sub-consultant(s)) for Very Small Business Enterprise (VSBE) certified firms, and 2 points for Small Business Enterprise (SBE certified firms); and
- Up to 3 points for commitment to the Port's values and programs, e.g., mentoring small and/or very small local businesses and providing meaningful work for small and/or very small local sub-consultants; utilization of college and high school interns from the LIA; participation in job fairs and trade fairs targeted to LIA residents and businesses; and other work showing the consultant's efforts to contribute to the economic development of the LIA.

In summary, please submit the following attachments in each copy of your proposal:

1. Attachment 5-A, Chart for Submitting Data for Calculation of Preference Points. List the team members' (prime and subs) names, roles, location and LIA/LBA/SBE/VSBE status in the format shown in Attachment 5-A. Be specific as to the nature and estimated percentage of the work to be performed by the prime, any joint venture partners and/or sub-consultants.
2. Attachment 5-B, Local Participation Questionnaire. Complete for each sub-consulting firm or individual, as well as for the prime consultant.

3. Attachment 5-C and 5-D, Monthly and Final Utilization of Local and Small Business Enterprises are required after contract award. Attachment 5-C is required after contract award and a final report attachment 5-D, is required after completion of the project.

Any proposal that fails to complete and submit the above two items (Prime *and* sub-consultants) will not be considered. For firms headquartered outside the LIA/LBA wishing to obtain credit for their local office, for the purpose of this project shall utilize personnel from this local office. Additionally, mail, correspondence and telephone calls will be made to this local office.

To obtain credit for these factors and for any preference points on this RFP, consultants or any team member must be certified by the proposal due date or submit an application:

- Consultants or any team members wishing to be certified by the Port must submit a Certification Application, with all supporting documentation seven (7) business days prior to the proposal due date. The questionnaire and checklist of necessary supporting documents for certification may be obtained at: <http://www.portofoakland.com/srd/>. For questions regarding certification, you may contact Pamela Bell at [pbell@portoakland.com](mailto:pbell@portoakland.com) or (510) 627-1419. Firms certified by the Port of Oakland do not need to submit proof of certification.

(Please note Port certification must be current and not expired to count for preference points. Certification is valid for a two year period.)

For questions or assistance regarding this section, contact Ms. Connie Ng-Wong (510) 627-1390, or [cng-wong@portoakland.com](mailto:cng-wong@portoakland.com) in the Port's Social Responsibility Division.



**PORT OF OAKLAND**

**Chart for Submitting Data  
for Calculation of Preference Points**

Company	Nature of Work to be Performed	Prime or Sub?	Location of Firm	*LIA/LBA SBE/VSBE Certification Status	Percent of Total Contract	Percent of Sub-consulting Work
(Name of Prime)		<b>Prime</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
(Name of Subs)		<b>Sub</b>				
<b>Total</b> (must add up to 100%)					100%	100%

**\* In order to qualify for preference points, the firm must be certified by the Port of Oakland.** Local Impact Area (LIA), Local Business Area (LBA), Small Business Enterprise (SBE), Very Small Business Enterprise (VSBE)

Notes:

- Please make sure the column labeled "Percent of Total Contract" adds up to 100%
- Please make sure the column labeled "Percent of Sub-consulting Work" adds up to 100% of the Sub-consulting work.



(Use additional paper if necessary)

1. Is the consultant or large sub-consultant mentoring or providing a professionally meaningful share of the project to small and/or very small LIA firms on this project? Yes\_\_\_ No\_\_\_

If the response is "yes", please provide specific details on how the mentoring or sharing will be performed. In addition, be specific as to the nature of the relationship and the persons responsible for implementing it.

2. (A) Do any team members regularly use local students as interns in their work? Yes\_\_\_ No \_\_\_  
(B) Do any team members currently use local students as interns in their work? Yes\_\_\_ No \_\_\_  
(C) Have any team members used local students as interns in past work? Yes \_\_\_ No\_\_\_  
(D) If planning to use interns on this project, how will you utilize them?

If you answered "yes" to any of these questions, please state from what schools or programs the interns were obtained, what type of work was performed by them, and any other details that might be relevant, i.e. paid internship, length of service, number of interns.

3. Have firms in the team participated in other community projects, e.g., job fairs targeted to local neighborhoods, youth or school programs, community rehabilitation groups, etc.? Yes\_\_\_ No\_\_\_  
If so, please give details:



# PORT OF OAKLAND

## Monthly Utilization of Local and Small Business Enterprises

<b>PRIME CONTRACTOR</b>		<b>BUSINESS ADDRESS</b>				<b>CONTRACT BID AMOUNT</b>		<b>DATE OF THIS REPORT</b>	
<b>PORT PROJECT NAME</b>				<b>PORT PROJECT NUMBER</b>		<b>WORK AUTHORIZATION #</b>		<b>TOTAL CONTRACT AMOUNT INCLUDING CHANGE ORDERS</b>	
(1) Name and Address of Small/Local Firm [Prime, Subcontractor, Supplier or Trucking Broker]		(2) Description of Work Performed and or Materials Supplied	(3) Prime and Sub(s) Original Bid Amount	(4) Port Certification Number	<b>CONTRACT PAYMENTS</b>				
					(5a) * LIABE Dollars	(5b) * LBABE Dollars	(5c) * SBE Dollars	(5d) * VSBE Dollars	(6) Date Work Completed
<b>TOTAL</b>				\$	\$	\$	\$		

List all certified local/small prime and subs regardless of tiers through out the life of the project, whether or not firms were listed on the original bid. Xerox this page if additional sheets are needed.

If actual sub dollars were different than the approval amount at time of award, provide comments on back of form. List actual amount paid to each sub at the above chart.

\* LIABE (Local Impact Area Business Enterprise), LBABE (Local Business Area Business Enterprise), SBE (Small Business Enterprise), and VSBE (Very Small Business Enterprise).

<b>I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE, TRUE AND CORRECT</b>		
<b>AUTHORIZED CONTRACTOR REPRESENTATIVE SIGNATURE and TITLE</b>	<b>BUSINESS PHONE NUMBER</b>	<b>DATE</b>

Distribution:

Original – SRD

Copy To – Engineering Construction / Resident Engineer

## Instructions--Monthly Utilization of Local and Small Business Enterprises

- (I) Enter the project information requested on the first two rows on page 00816-1 (Prime Contractor, Business Address, Contract Bid Amount, etc.)
- (II) Provide the following information **for each portion of the contract work performed by (and for each amount of materials supplied by) a Port-certified small and/or local business**, including the prime contractor if the prime is a Port-certified small/local business:

- Column 1: Name and address of the firm performing work and/or supplying materials.
- Column 2: Description of the work performed and/or materials supplied by said firm.
- Column 3: For subcontractor, supplier or trucker: dollar amount of the bid submitted by the firm to prime bidder, as listed in the Subcontractor and Supplier List Form submitted by prime bidder with its bid. If the subcontractor, supplier or trucker was not listed in the Subcontractor and Supplier List Form, enter "0". For small/local prime bidder: dollar amount of the prime bidder's bid excluding all subcontractor/supplier/trucking broker bid amounts, as listed in the Subcontractor and Supplier List Form.
- Column 4: Port Certification Number of firm. (Port-certified small/local subcontractors, suppliers and truckers should provide their certification number to the Prime Bidder and notify Prime Bidder in writing with the date of the decertification if their status changes during the course of the project.)
- Columns 5a-5d Enter the dollar amount of the work performed and/or materials supplied by the firm in either Column 5a, 5b, 5c or 5d, depending on the firm's certification status. Firm certification status must be certified and determined at the time of bid by Port of Oakland. The certified firm is issued a letter by the Port of Oakland that states their certification status as well as the expiration date of the certification. Firms' certification status may be obtained by accessing the Port of Oakland website (<http://www.portofoakland.com/srd/>) or by calling (510) 627-1419. Refer to the following table for a description of the certification status:

Certification Status	Description
LIABE (Local Impact Area Business Enterprise)	firm located in Oakland, Alameda, Emeryville, or San Leandro
LBABE (Local Business Area Business Enterprise)	firm located in Alameda County or Contra Costa County
SBE (Small Business Enterprise)	business with 3 year average annual gross revenue not to exceed \$14,000,000
VSBE (Very Small Business Enterprise)	business with 3 year average annual gross revenue not to exceed \$3,500,000

If the firm was decertified before completing its portion of the work of this contract, enter the dollar amount of ALL work performed/ materials supplied by the firm, INCLUDING WORK PERFORMED/MATERIALS SUPPLIED AFTER THE DATE OF DECERTIFICATION. **If the amount listed in Column 5 differs from the amount listed in Column 3, provide an explanation in the 'COMMENTS' section as provided.**

- Column 6: Date on which the firm listed in Column 1 completed the work described in Column 2.
- Column 7: Date on which prime contractor made the 'final payment' for the work described in Column 2 to subcontractor/supplier/trucking broker.

- (III) In the 'TOTAL' row, enter the column sums of the dollar amounts listed in Columns 5a through 5d.
- (IV) The authorized contractor representative shall certify the information supplied by signing in the space provided. **Per Port of Oakland provisions, Final Payment WILL NOT be made until this form is properly filled out and submitted to the Port of Oakland.**

<b>COMMENTS:</b>



# PORT OF OAKLAND

## Final Utilization of Local and Small Business Enterprises

<b>PRIME CONTRACTOR</b>		<b>BUSINESS ADDRESS</b>				<b>CONTRACT BID AMOUNT</b>		<b>DATE OF THIS REPORT</b>	
<b>PORT PROJECT NAME</b>				<b>PORT PROJECT NUMBER</b>	<b>WORK AUTHORIZATION #</b>	<b>TOTAL CONTRACT AMOUNT INCLUDING CHANGE ORDERS</b>		<b>PROJECT COMPLETION DATE</b>	
(1) Name and Address of Small/Local Firm [Prime, Subcontractor, Supplier or Trucking Broker]	(2) Description of Work Performed and or Materials Supplied	(3) Prime and Sub(s) Original Bid Amount	(4) Port Certification Number	<b>CONTRACT PAYMENTS</b>					
				(5a) * LIABE Dollars	(5b) * LBABE Dollars	(5c) * SBE Dollars	(5d) * VSBE Dollars	(6) Date Work Completed	(7) Date of Final Payment
<b>TOTAL</b>				<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>		

List all certified local/small prime and subs regardless of tiers through out the life of the project, whether or not firms were listed on the original bid. Xerox this page if additional sheets are needed.

If actual sub dollars were different than the approval amount at time of award, provide comments on back of form. List actual amount paid to each sub at the above chart.

\* LIABE (Local Impact Area Business Enterprise), LBABE (Local Business Area Business Enterprise), SBE (Small Business Enterprise), and VSBE (Very Small Business Enterprise).

<b>I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE, TRUE AND CORRECT</b>		
<b>AUTHORIZED CONTRACTOR REPRESENTATIVE SIGNATURE and TITLE</b>	<b>BUSINESS PHONE NUMBER</b>	<b>DATE</b>

Distribution:

Original – SRD

Copy To – Engineering Construction / Resident Engineer

### Instructions--Final Utilization of Local and Small Business Enterprises

- (I) Enter the project information requested on the first two rows on page 00816-1 (Prime Contractor, Business Address, Contract Bid Amount, etc.)
- (II) Provide the following information **for each portion of the contract work performed by (and for each amount of materials supplied by) a Port-certified small and/or local business**, including the prime contractor if the prime is a Port-certified small/local business:

- Column 1: Name and address of the firm performing work and/or supplying materials.
- Column 2: Description of the work performed and/or materials supplied by said firm.
- Column 3: For subcontractor, supplier or trucker: dollar amount of the bid submitted by the firm to prime bidder, as listed in the Subcontractor and Supplier List Form submitted by prime bidder with its bid. If the subcontractor, supplier or trucker was not listed in the Subcontractor and Supplier List Form, enter "0". For small/local prime bidder: dollar amount of the prime bidder's bid excluding all subcontractor/supplier/trucking broker bid amounts, as listed in the Subcontractor and Supplier List Form.
- Column 4: Port Certification Number of firm. (Port-certified small/local subcontractors, suppliers and truckers should provide their certification number to the Prime Bidder and notify Prime Bidder in writing with the date of the decertification if their status changes during the course of the project.)
- Columns 5a-5d Enter the dollar amount of the work performed and/or materials supplied by the firm in either Column 5a, 5b, 5c or 5d, depending on the firm's certification status. Firm certification status must be certified and determined at the time of bid by Port of Oakland. The certified firm is issued a letter by the Port of Oakland that states their certification status as well as the expiration date of the certification. Firms' certification status may be obtained by accessing the Port of Oakland website (<http://www.portofoakland.com/srd/>) or by calling (510) 627-1419. Refer to the following table for a description of the certification status:

Certification Status	Description
LIABE (Local Impact Area Business Enterprise)	firm located in Oakland, Alameda, Emeryville, or San Leandro
LBABE (Local Business Area Business Enterprise)	firm located in Alameda County or Contra Costa County
SBE (Small Business Enterprise)	business with 3 year average annual gross revenue not to exceed \$14,000,000
VSBE (Very Small Business Enterprise)	business with 3 year average annual gross revenue not to exceed \$3,500,000

If the firm was decertified before completing its portion of the work of this contract, enter the dollar amount of ALL work performed/ materials supplied by the firm, INCLUDING WORK PERFORMED/MATERIALS SUPPLIED AFTER THE DATE OF DECERTIFICATION. **If the amount listed in Column 5 differs from the amount listed in Column 3, provide an explanation in the 'COMMENTS' section as provided.**

- Column 6: Date on which the firm listed in Column 1 completed the work described in Column 2.
- Column 7: Date on which prime contractor made the 'final payment' for the work described in Column 2 to subcontractor/supplier/trucking broker.

- (III) In the 'TOTAL' row, enter the column sums of the dollar amounts listed in Columns 5a through 5d.
- (IV) The authorized contractor representative shall certify the information supplied by signing in the space provided. **Per Port of Oakland provisions, Final Payment WILL NOT be made until this form is properly filled out and submitted to the Port of Oakland.**

<b>COMMENTS:</b>



**PORT OF OAKLAND**

**Non-Discrimination and Small Local  
Business Utilization Policy Program Affidavit**

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**RFP No.: 14-15/25 Port Security Management System Staffing**

I hereby certify that I \_\_\_\_\_ (Legal Name of Respondent/Supplier/Consultant/Contractor), shall carry out applicable requirements in the award and administration of this contract and cooperate with the Port of Oakland in meeting its commitments and objectives with regard to ensuring nondiscrimination, and shall use best efforts to ensure that barriers to participation of Small Local Businesses do not exist.

Upon execution of an Agreement, the selected consultant will be required to complete Small and Local attainment reports and a final report at contract completion, and submit them to the Social Responsibility Division.

I declare under penalty of perjury under the laws of the state of California that the information I have provided herein is true and correct.

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title



**PORT OF OAKLAND**

**City of Oakland City Charter § 728  
Living Wage Information**

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**EMPLOYERS SUBJECT TO §728 OF THE CITY CHARTER MUST COMPLY WITH THE  
FOLLOWING REQUIREMENTS:**

- 1) Pay all non-exempt employees the living wage rates (As of July 1, 2014, \$14.10 without health benefits or \$12.27 with health benefits). Port Ordinance No. 3666, as amended also requires that covered businesses provide employees at least twelve compensated days off per year, including holidays.
- 2) Pay at least \$1.83 per hour worked toward the provision of health care benefits for employees and/or their dependents, if the employer claims credit for health benefits.
- 3) **Provide written notification to each current and new employee, at time of hire, of his or her rights to receive the benefits under the provisions of these regulations.** The notification shall be provided in English, Spanish and other languages spoken by a significant number of the employees, and shall be posted prominently in communal areas at the work site. A copy of said notification is available from the Port Division of Social Responsibility.
- 4) Provide all employees earning less than \$12/hour notification in English, Spanish, and any other language spoken by a significant number of employees of their right to advance Earned Income Credit payments.
- 5) **Maintain a list of the name, address, date of hire, occupation classification, rate of pay, benefits paid for each of its employees, and compensated time off - and submit this list to the Port's Social Responsibility Division, Attention: Connie Ng-Wong, Living Wage Compliance Officer, by March 31st, June 30th, September 30th, and December 31st of each year.** If a covered employer has obtained a waiver from the Port Board of Directors, then the employer must still submit an annual payroll report covering each of its employees by December 31st of each year. Failure to provide the list within five days of the due date will result in a penalty of \$500 per day. Covered employers shall maintain payrolls and basic records for all employees and shall preserve them for a period of at least three years after the close of the compliance period.
- 6) Require subcontractors, tenants and subtenants, or licensees who are covered by these requirements to comply with the provisions of these regulations. **Covered employers shall be responsible for including language committing the subcontractor's, tenant's or licensee's agreement to comply, in the contract with the subcontractor.** Covered employers shall submit a copy of such subcontracts or other such agreements to the Port Division of Social Responsibility.
- 7) Permit authorized Port representatives access to work sites and, with employee consent, relevant payroll records for the purpose of monitoring compliance with these regulations, investigating employee complaints of non-compliance and evaluating the operation and effects of these regulations, including the production for inspection and copying of its payroll records for any or all of its employees for the applicable compliance period. Permit a representative of the labor organizations in its industry to have access to its workforce at the Port during non-working time and in non-work areas to ensure compliance.

Employers who fail to submit documents, declarations or information required to demonstrate compliance with these regulations shall be deemed noncompliant or non-responsive and subject to the remedies as set forth in §728.



**PORT OF OAKLAND**

**Employer Self-Evaluation for  
Port of Oakland Living Wage**

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**COVERED BUSINESS CHECKLIST WRITE YES/NO ANSWER IN APPROPRIATE BOX:**

1. ☐ Is the Business entering into a contract, tenancy agreement or subordinate agreement (such as, subcontract, subtenancy, or sublicense) with the Port? *If no, go on to question 2. If yes, go to question 3.*
2. ☐ Has the Business amended an existing contract, tenancy agreement or subordinate agreement at any time since April 2002? *If no to 1 and 2, stop here: the business is not covered. If yes, go to question 3.*
3. ☐ Is the contract with Aviation or Maritime divisions for a value of greater than \$50,000 over the life of the contract (over the next five years if contract is for less than a year and expected to be renewed or extended)? *If no, stop here; the contract is not covered. If yes, go to question 4.*
4. ☐ Is the contract for service other than the delivery of products, equipment or commodities? *If no, stop here: the business is not covered. If yes, go to question 5.*
5. ☐ Does the Business employ more than 20 employees who spend at least 10 hours per week (4 hours per week if part time employees) working under the contract with the Port or on Port property? Indicate the number of employees that are employed by the Contractor \_\_\_\_\_. *If no, stop here the business is not covered. If yes, go to question 6. exemptions for specified employees of a covered employer.*

***All employees of a covered employer are required to be provided compensation and other benefits as provided under §728 of the Charter, except for specified employees exempt under the following exemptions. The following questions should be answered for each employee.***

6. ☐ *Does the employee work less than 25% of his/her time (10 hours per week for full time employee) under the contract with the Port? If yes, stop here; the specified employee is exempt. If no, go to question 7.*
7. ☐ *Is the employee under 21 years of age, employed by a government agency or nonprofit for after school or summer employment, or as a trainee for 90 days or less? If yes, stop here; the specified employee is exempt. If no, go to question 8.*
8. ☐ *Has the Business obtained a waiver that covers the employee? If yes, stop here; the specified employee is exempt. If no, go to question 9.*
9. ☐ *Is the employee participating in a bona-fide temporary job-training program in which a significant part of the compensation consists of acquiring specialized*

*knowledge, abilities or skills in a recognized trade? If yes, stop here; the specified employee is exempt. If no, go to question 10.*

10. ☐ *Is the employee a volunteer who is not compensated other than for incidental expenses or stipends? If yes, stop here; the specified employee is exempt. If no, go to question 11.*
11. ☐ *Is the employee working for the Business less than 20 hours per week for a period of 6 months or less? If yes, stop here the specified employee is exempt. If no, go to question 12.*
12. ☐ *Of the remaining employees (employees for which no exemption applies as indicated by your answers to questions 6 through 11), are there 20 or fewer non-exempt employees working for the employer under the Port Contract? If yes, stop here; each of the remaining specified employee(s) is/are exempt. If no, each of the remaining specified employee(s) is covered by §728.*

The undersigned authorized representative of Contractor hereby certifies under penalty of perjury that all of the information on this form is true and accurate.

_____ Company Name	_____ Signature of Authorized Representative
_____ Address	_____ Type or Print Name & Title
_____ Area Code and Phone	_____ Email Address
_____ Name of Primary Contact	_____ Date
_____ Project Name (Be Specific)	

**Submit Completed Checklist To:**

Connie Ng-Wong

**Port of Oakland**

Social Responsibility Division

530 Water Street

Oakland, CA 94607

Phone: (510) 627-1390 Fax: (510) 451-1656

Email: [cng-wong@portoakland.com](mailto:cng-wong@portoakland.com)



## PORT OF OAKLAND

### Certificate of Compliance – Living Wage

The City of Oakland Living Wage Charter §728 ("§728") and Port Ordinance No. 3666 ("Ordinance 3666") as amended, provide that certain employers that enter into a contract, lease, license (or a subcontract, sublease, sublicense, or other agreement) with the Port for \$50,000 or more over the term of the contract and certain recipients of Port financial assistance for \$50,000 or more shall pay a prescribed minimum level of compensation to their covered employees ("Employees").

The undersigned ("Contractor") submits this certificate under penalty of perjury and as a condition of payment of its invoice(s) for service provided under the \_\_\_\_\_ agreement between the Port and Contractor.

- 1) Contractor hereby certifies that it is in compliance with §728 and Ordinance 3666 with respect to all non-exempt Employees of Contractor engaged in Port-related employment or work on Port property.
- 2) Contractor hereby acknowledges that the Port is relying on Contractor's certification of compliance with §728 and Ordinance 3666 as a condition of payment of Contractor's invoice(s).
- 3) Contractor understands that it may be subject to fines or penalties for noncompliance with §728 and Ordinance 3666 up to and including potential fines of \$500 per day until Contractor complies.
- 4) Contractor hereby certifies that claims, records and statements relating to Contractor's compliance with §728 and Ordinance 3666 are true and accurate, that such claims, records and statements are made with the knowledge that the Port will rely on such claims, records and statements, and that such claims, records and statements are submitted to the Port for the express benefit of Contractor's employees engaged in Port-related employment or work on Port property.

***Please check the appropriate box and sign below***

- ☐ Contractor hereby certifies its compliance with all of its obligations under §728 and Ordinance 3666;
- ☐ Contractor hereby certifies that all Employees of Contractor working under Contractor's contract with the Port are compensated at wage rate(s) greater than \$12.00 per hour;
- ☐ Contractor hereby certifies that it is not currently covered by §728 or Ordinance 3666. Contractor further certifies that should §728 or Ordinance 3666 become applicable, Contractor will comply with all of its Living Wage obligations.

All terms used herein and not defined shall have the meaning ascribed to such terms in §728 and Ordinance 3666.

The undersigned authorized representative of Contractor hereby certifies under penalty of perjury that all of the information on this form is true and accurate.

_____ Company Name	_____ Signature of Authorized Representative
_____ Address	_____ Type or Print Name & Title
_____ Phone and Email	_____ Date
_____ Project Name (Be Specific)	

**Submit to:** Connie Ng-Wong, Port of Oakland, Social Responsibility Division, 530 Water Street, Oakland, CA 94607. Email: [cng-wong@portoakland.com](mailto:cng-wong@portoakland.com)



**PORT OF OAKLAND**

**Statement of Living Wage Requirements**

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**RFP No.: 14-15/25 Port Security Management System Staffing**

I hereby certify that I \_\_\_\_\_(Legal Name of Respondent/Supplier/Consultant/Contractor), has reviewed the Living Wage Requirements, included herein as Attachment 7 to this Request for Proposal and will comply with said requirement. Upon execution of an Agreement, the selected consultant will be required to complete the attached Employer Self-Evaluation Form and Certificate of Compliance –Living Wage Form of this Request for Proposal, and submit them to the Social Responsibility Division.

I declare under penalty of perjury under the laws of the state of California that the information I have provided herein is true and correct.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**PORT OF OAKLAND**

**Insurance Acknowledgement Statement**

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**RFP No.: 14-15/25 Port Security Management System Staffing**

I hereby certify that \_\_\_\_\_ (Legal Name of Respondent) agrees to meet all of the Port's Insurance requirements included in the Professional Services Agreement (Attachment 10 Appendix C) attached to this Request for Proposal and Respondent will be able to evidence such insurance when and if awarded the contract and will provide proof of insurance at the time of project award if awarded the contract.

I declare under penalty of perjury under the laws of the state of California that the information I have provided herein is true and correct and is of my own personal knowledge.

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**ATTACHMENT 10**

**TEMPORARY AGENCY AGREEMENT**

**Between**



**PORT OF OAKLAND**

**And**

**[Agency Name]**

**[Port Security Management System Staffing]**

**(Contract No. «Resolution»)**

**Dated**

**«EffectiveDate»**

## TEMPORARY AGENCY CONTRACT

\_\_\_\_\_  
\_\_\_\_\_

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**THIS TEMPORARY AGENCY CONTRACT** ("Contract") is entered into on \_\_\_\_\_, between the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("Port"), and \_\_\_\_\_ ("Agency"), identified on Appendix D; who agree as follows:

The Agency will provide its employees ("Agency Employees") as requested by the Port for temporary staffing at the Port's facilities set forth in Appendix A ("Services") for the compensation stated in Appendix B ("Payment"), which appendixes are attached and made a part of this Contract.

### 1. TERM.

This Contract shall become effective upon its execution by Agency and by the Port (including approval by the Port Attorney). All services whenever performed shall be deemed performed under this Contract, and all compensation paid to Agency on account of the services performed shall be deemed as payments of the compensation.

### 2. STANDARD OF PERFORMANCE.

2.1 From time to time, upon request of the Port, Agency will refer its employees to the Port to provide services on a temporary basis and will also provide agency employee management services (hereinafter referred to as "Management Services") in accordance with the terms and conditions of this Contract for the temporary staffing at the Port. In its sole discretion, the Port may accept or reject any employee referred by Agency. Agency represents that it and its employees possesses all necessary training, licenses and permits to perform the contracted for services, and that its performance of the services will conform to the standard of practice of a professional and/or employee performing services of like nature.

### 3. WARRANTIES.

Agency represents, warrants and covenants that:

3.1 Fair Employment/Employment Law Compliance. The Port requires the referral of qualified Agency Employees for temporary assignment at the Port regardless of race, religion, national origin, ancestry, marital status, sex, age, sexual orientation, mental or physical disability or veteran status, or other protected characteristic. Agency will comply with all applicable federal, state and local employment related laws and regulations, including but not limited to Title VII of the Civil Rights Act of 1964 and applicable corresponding state statutes, EEOC regulations and applicable corresponding state regulations, the Family Medical Leave Act and applicable corresponding state statutes, the Fair Labor Standards Act and applicable corresponding state statutes the American with Disabilities Act and applicable corresponding state statutes and regulations, the Age Discrimination in Employment Act and applicable corresponding state statutes, federal, state and local safety statutes and regulations, workers' compensation statutes and regulations, and unemployment fund statutes and regulations. Agency will be solely liable for and shall indemnify and hold the Port (and any of its employees) harmless for any claims of harassment, retaliation, discrimination, or other unlawful or tortious acts or omissions of Agency, its employees, agents or representatives under this Contract.

3.2 Workplace Harassment Policies and Training. Agency will provide to all Agency Employees a workplace harassment policy and procedure and workplace harassment training (which will include prohibition of harassment on the basis of any protected category referenced in Section 3.1 above). Agency further

warrants that it will investigate any complaint made by an Agency Employee of harassment, discrimination or retaliation against other Agency Employees. The parties agree to cooperate in any investigation of any complaint of harassment, discrimination or retaliation in which an Agency Employee is involved either as the complainant, a witness, or an accused, including providing a supervisor or other management representative to participate in investigatory interviews.

3.3 Disability Accommodation. Agency will provide to Agency Employees a policy, procedure and training regarding requests for accommodation under the Americans with Disability Act or corresponding state or local laws or regulations, and will assume all responsibility for promptly handling requests for accommodations from Agency Employees. The Port will cooperate in providing reasonable accommodation, to the extent that the Port controls aspects of the work environment required for accommodation.

3.3.1 Costs of Accommodation. Both Agency and the Port must agree that a particular accommodation required by an Agency Employee is reasonable, and does not pose an undue hardship on either Agency or the Port.

a) To the extent that modification of the Port's facility is required as a reasonable accommodation, costs associated with such modification will be borne by the Port.

b) To the extent that specific goods must be purchased as a reasonable accommodation, the costs will be shared as follows:

For reasonable accommodations with an actual purchase price of up to \$100, Agency assumes all responsibility. Goods purchased are owned by Agency.

For reasonable accommodations with an actual purchase price of above \$100, Agency and the Port will agree on an appropriate vendor and will share the cost equally. Upon the expiration of the assignment, the Port will have the option to "buy out" Agency's interest in the other half at the then current fair market value. The Port will have fourteen days in which to provide notice of its intent to do so. If the Port does not provide such notice within fourteen days, ownership transfers to Agency in full.

c) To the extent that specific services are required as a reasonable accommodation (e.g., interpreters), those costs will be borne by Agency.

3.4 Background Checks and Performance. Agency shall conduct background checks on all Agency Employees, including, but not limited to, verification of performance and reasons for leaving prior places of employment. Agency shall comply with applicable federal and state law in conducting such background checks, including, but not limited to, obtaining necessary releases and providing required disclosures. Agency represents and warrants to the Port the following:

(a) Agency Employees will not have been convicted of a felony in the last seven (7) years, or, if they have, Agency will have provided information to the Port regarding the nature, severity, and date of each such conviction;

(b) Agency Employees will be under no contractual or other restriction that would prohibit or impair the ability of such Agency Employees to perform services for the Port;

(c) The performance of services by any Agency Employees will not violate any federal or state law, statute or regulation or any contractual obligation with any current or prior employer of such Agency Employee;

(d) Agency Employees that are assigned to perform work will have cleared Transportation Security Administration criminal history background checks; and

(e) Agency's actions taken with respect to this Contract do not violate any federal, state or local laws, including employment laws, as stated in Section 3.1.

3.5 Agency Employee Guarantee. All Agency Employees will adequately perform their assigned duties. If any Agency Employee does not adequately perform assigned duties for the first consecutive eight (8) hours of assigned work (as determined in the Port's sole discretion), the Port will give Agency notice of such and Agency will not charge the Port for that employee's time. At any time, the Port shall have the right in its sole discretion to reject an Agency Employee's services and to require that Agency provide a replacement Agency Employee.

#### 3.6 OSHA Record Keeping.

Agency will comply with all OSHA requirements. Agency will maintain accurate, complete and current OSHA records for all Agency Employees in compliance with OSHA regulations. Agency will provide accurate, complete and current OSHA records to the Port on a monthly basis.

### 4. NON-DISCRIMINATION.

Agency acknowledges that it has received and reviewed a copy of the most current version of the Port of Oakland's Unlawful Harassment Policy and Procedures. The purpose of these procedures is to provide an effective and expedited system of resolving allegations of employment discrimination and prevention of unlawful harassment in the workplace. The Agency shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, age (over 40), physical or mental disability, cancer-related medical condition, a known genetic pre-disposition to a disease or disorder, veteran status, marital status, or sexual orientation. Agency shall take affirmative action to ensure that applicants and employees are treated fairly. Such action shall include, but not be limited to the following: hiring, upgrading, recruitment, advertising, selection for training, including apprenticeship, demotion, transfer, compensation, lay-off or termination, or any other term or conditions of employment.

### 5. INDEMNIFICATION AND LIABILITY.

5.1 To the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782), Agency shall defend (with legal counsel chosen or approved by the Port Attorney), indemnify and hold harmless Port and its officers, agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of Agency), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, paralegal and attorneys' fees (including costs attributable to in-house paralegals and attorneys), Port staff costs, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise from or relate to, directly or indirectly, in whole or in part, from: (1) the services under this Contract, or any part thereof, or (2) any negligent act or omission of Agency or anyone directly or indirectly employed by Agency, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify any indemnitee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence, active negligence, or willful misconduct of such Indemnitee, but shall apply to all other Liabilities.

5.2 Agency shall defend (with legal counsel chosen or approved by the Port Attorney), in and hold harmless the Indemnitees from all loss, cost, damage, expense, liability or claims, in law or in equity, including attorneys' fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by Port, or any of the other Indemnitees, of articles or services to be supplied in the performance of this Contract.

## **6. NOTICES.**

The Port and Agency shall provide notices to the other in the form of a writing, sent by facsimile and by U.S. Mail. If to the Port, it shall be addressed to \_\_\_\_\_ at:

Port of Oakland  
530 Water Street  
Oakland, CA 94607

or to such other place as the Port may such similar notice in writing designate. If to the Agency, the same shall be addressed to the individual and address noted on Appendix D hereto or to such other place as the Agency may by such similar notice in writing designate.

## **7. INSURANCE.**

At its own expense, the Agency shall maintain in force during the term of this Contract the liability insurance of the type and in the amount required by Appendix C hereof.

## **8. INDEPENDENT CONTRACTOR.**

Agency will act as an independent contractor of the Port, and this Contract will not create a partnership, joint venture, agency or employment relationship between Agency and the Port. Agency will have no authority to enter into any agreement on the Port's behalf. Agency may provide services to other individuals and entities, so long as the provision of services does not interfere with Agency's obligations under this Contract. Agency has the exclusive right to hire, transfer, suspend, layoff, recall, promote, discipline, discharge and adjust grievances with Agency Employees. Any personnel used by Agency to perform services under the Contract will not be employed by, or have any contractual relationship with, the Port and will not be entitled to workers' compensation, retirement, insurance, stock options, or other benefits afforded to employees of the Port. Agency will require all of its employees assigned to the Port to complete and sign the Notice of Exclusion From CalPERS Membership form as set forth in Appendix E-2. During the period of this Contract, Agency will represent itself to all Agency Employees as a staffing service that is providing its temporary employees to the Port.

## **9. CONFLICT OF INTEREST; CONFIDENTIALITY.**

9.1 Agency represents that it is familiar with Section 1090 and Section 87100 et seq. of the Government Code of the State of California, and that it does not know of any facts that constitute a violation of said sections.

9.2 Agency represents that it has completely disclosed to Port all facts bearing upon any possible interests, direct or indirect, which Agency believes any member of Port, or other officer, agent or employee of Port or any department presently has, or will have, in this Contract, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Contract by Port for cause. Agency agrees to comply with all conflict of interest codes adopted by the City of Oakland and Port of Oakland and their reporting requirements.

9.3 Agency covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Contract. Without limitation, Agency represents to and agrees with the Port that Agency has no present, and will have no future, conflict of interest between providing the Port the services hereunder and any interest Agency may presently have, or will have in the future, with respect to any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the Port, as determined in the reasonable judgment of the Port. The provisions of this Section 9 shall remain fully effective indefinitely after termination of services to the Port hereunder.

9.4 Agency acknowledges and agrees that, in the performance of the services under this Contract or in the contemplation thereof, Agency and its employees may have access to private or confidential information which

may be owned or controlled by Port and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to Port. Agency agrees that all information disclosed by Port to or discovered by Agency and its employees shall be held in strict confidence and used only in performance of the Contract. Agency and its employees shall exercise the same standard of care to protect such information as a reasonably prudent company or person would use to protect its own proprietary data, and shall not accept assignments or contracts adverse to the Port's interests where such confidential information could be used adversely to the Port's interests. Agency and its employees agree to notify the Port immediately in writing if they are requested to disclose any information made known to or discovered by Agency or its employees during the performance of or in connection with this Contract.

9.5 Agency will restrict the possession, knowledge and use of any confidential information to those of its employees who (i) have a need to know the specific confidential information in connection with the purposes of rendering services to the Port, and (ii) have entered into written nondisclosure agreements attached as Appendix E to this contract. Agency will require all of its employees assigned to the Port to enter into nondisclosure agreements attached as Appendix E.. Agency will ensure that its employees comply with this Contract and their respective nondisclosure agreements.

9.6 All confidential information will remain the exclusive property of the Port. The Port's disclosure of confidential information under this Contract will not constitute an express or implied grant to Agency and its employees of any rights to or under the Port's patents, copyrights, trade secrets, trademarks or other intellectual property rights.

9.7 Any publicity or press releases with respect to the project or services shall be under the Port's sole discretion and control. Agency and its employees shall not discuss the services or project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without Port's prior written consent.

9.8 Agency and its employees shall return or destroy all tangible materials embodying confidential information (in any form and including, without limitation, all summaries, copies and excerpts of confidential information) promptly following the Port's written request. At the Port's option, Agency and its employees will provide written certification of its compliance with this Section.

9.9 The provisions of this Section 9 shall remain fully effective indefinitely after termination of services to the Port hereunder.

## **10. SUSPENSION AND TERMINATION OF SERVICES.**

(i) Port may direct Agency to suspend, delay or interrupt services, in whole or in part, for such periods of time as Port may determine in its sole discretion. Port may issue such directives without cause. Port will issue such directives in writing. Suspension of services shall be treated as an excusable delay.

(ii) Port may terminate performance of the services under this Contract in whole, or from time to time in part, for default, should Agency commit a material breach of this Contract, or part thereof, and not cure such breach within ten (10) calendar days of the date of Port's written notice to Agency demanding such cure. In the event Port terminates this Contract for default, Agency shall be liable to Port for all loss, cost, expense, damage and liability resulting from such breach and termination.

(iii) Port may terminate performance of the services under this Contract in whole, or from time to time in part, for convenience, whenever Port determines that such termination is in Port's best interests. In the event Port terminates this Contract for convenience, Agency shall be entitled to recover its costs expended up to the termination plus reasonable profit thereon to the termination date, but may recover no other cost, damage or expense.

## **11. OWNERSHIP OF PRODUCT.**

Any interest (including copyright interests) of Agency or its employees in studies, reports, memoranda, computational sheets, drawings, plans or any other documents (including electronic media) prepared by employees in connection with the services, shall become the property of the Port. To the extent permitted by Title 17 of the United States Code, work product produced under this Contract shall be deemed works for hire and all copyrights in such works shall be the property of the Port.

## **12. AUDIT INSPECTION OF RECORDS.**

12.1 Agency shall maintain all documents and records prepared by or furnished to Agency during the course of performing the services for at least three (3) years following completion of the services, except that all such items- pertaining to hazardous materials shall be maintained for at least thirty (30) years. Such records include, but are not limited to, correspondence, internal memoranda, calculations, books and accounts, accounting records documenting its work under its Contract, and invoices, payrolls, records and all other data related to matters covered by this Contract. Agency shall permit Port to audit, examine and make copies, excerpts and transcripts from such records. The State of California or any federal agency having an interest in the subject of Contract shall have the same rights conferred to Port by this section. Such rights shall be specifically enforceable.

12.2 The Agency shall maintain full and adequate records in accordance with Port requirements to show the actual costs incurred by the Agency in the performance of this Contract. If such books and records are not kept and maintained by Agency within a radius of fifty (50) miles from the offices of the Port at 530 Water Street, Oakland, California, Agency shall, upon request of the Port, make such books and records available to the Port for inspection at a location within said fifty (50) mile radius or Agency shall pay to the Port the reasonable, and necessary costs incurred by the Port in inspecting Agency's books and records, including, but not limited to, travel, lodging and subsistence costs. Agency shall provide such assistance as may be reasonably required in the course of such inspection. The Port further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Contract or completion of all work hereunder, as evidenced in writing by the Port, and the Agency shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the Port makes the final or last payment or within three (3) years after any pending issues between the Port and Agency with respect to this Contract are closed, whichever is later.

12.3 If the Agency's books and records have been generated from computerized data, Agency agrees to provide the Port or its representative extracts of data files in a computer readable format on data disks, email with attached files or suitable alternative computer data exchange formats. The Agency should not charge the Port for the reasonable use of the Agency's photocopying machine while conducting the audit, nor for any cost of retrieving, downloading to diskette, and or printing any records or transactions stored in magnetic, optical, microform or other media.

## **13. CALIFORNIA LAW.**

This Contract shall be deemed to have been executed in the City of Oakland, Alameda County, California. Enforcement of this Contract shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all litigation arising from or relating to this Contract shall be in Alameda County, California. Should any clause, provision or aspect of this Contract be determined at any time to be unenforceable or in contravention of law, then the remaining clauses and provisions of this Contract shall be enforceable to the fullest extent permitted by law and construed to give effect to fullest extent possible the intent of this Contract.

## **14. NO THIRD PARTY BENEFICIARIES.**

Except as expressly provided in this Contract, nothing in this Contract shall operate to confer rights or benefits on persons or entities not party to this Contract. Time is of the essence in the performance of this Contract.

**15. NO ASSIGNMENT.**

Agency may not assign this Contract, in whole or in part, without the Port's prior written consent. All the terms and provisions of this Contract will be binding upon, will inure to the benefit of and will be enforceable by the parties and their respective successors and permitted assigns.

**16. ENTIRE CONTRACT.**

This Contract and any written modification shall represent the entire and integrated agreement between the parties hereto regarding the subject matter of this Contract, shall constitute the exclusive statement of the terms of the parties' agreement, and shall supersede any and all prior negotiations, representations or agreements, written or oral, express or implied, that relate in any way to the subject matter of this Contract or written modification. All prior negotiations are merged into this Contract and shall be inadmissible in any enforcement of this Contract.

**17. CONSTRUCTION.**

The Section headings of this Contract are for convenience only and have no interpretive value. This Contract may be executed in counterparts, which together will constitute one and the same agreement. Facsimile versions of such executed counterparts will be as effective for all purposes hereunder as the originally executed versions thereof.

**18. NO WAIVER**

Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Contract, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or, compel strict compliance with every provision hereof. This Contract may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of Port and Agency. The remedies specified in this Contract are in addition to any other remedies that may be available at law or in equity.

**19. CUMULATIVE RIGHTS**

The rights and remedies of the parties under this Contract are cumulative, and either party may enforce any of its rights or remedies under this Contract or other rights and remedies available to it at law or in equity.

**20. STATUTES OF LIMITATION.**

As between the parties to this Contract, any applicable statute of limitations for any act or failure to act shall commence to run on the date of Port's issuance of the final Certificate for Payment, or termination of this Contract, whichever is earlier, except for latent defects, for which the statute of limitation shall begin running upon discovery of the defect and its cause.

**21. COVENANT AGAINST CONTINGENT FEES:**

21.1 Agency warrants that no person or agency has been employed or retained to solicit or obtain the Contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Port, at its option, may annul the Contract or deduct from the contract price or otherwise recover from Agency the full amount of the contingent fee.

21.2 As used in this Section, "bona fide agency" means an established commercial or selling agency, maintained by Agency for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Port contracts nor holds itself out as being able to obtain any Port contract or contracts through improper influence.

21.3 As used in this Section, “bona fide employee” means a person, employed by Agency and subject to Agency’s supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Port contracts nor holds itself out as being able to obtain any Port contract or contracts through improper influence.

21.4 As used in this Section, “contingent fee” means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Port contract.

21.5 As used in this Section, “improper influence” means any influence that induces or tends to induce a Port Commissioner, employee or officer to give consideration or to act regarding a Port contract on any basis other than the merits of the matter.

## **22. ACCOUNTING**

Upon request, the Agency will provide the Port with access to the books and records related to the services of Agency for inspection, audit and reproduction.

## **23. SEVERABILITY.**

Any provision or portion thereof of this Contract prohibited by, or made unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions or portions thereof of this Contract. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Contract maybe deemed to be a valid and binding agreement enforceable in accordance with its terms to the greatest extent permitted by applicable law.

## **24. COMPLIANCE WITH LAWS.**

24.1 Agency represents that it will comply with all applicable laws, ordinances, general rules or regulations, permits, or land use restrictions or limitations at any time applicable thereto of any public or governmental authority, including the City and the Port, including but not limited to The Charter of the City (including without limitation Section 728 entitled “Living Wage and Labor Standards at Port-Assisted Businesses” and Port Ordinance No. 3666 entitled “An Ordinance Establishing a Living Wage Requirement”) in the performance of the services, regardless of whether such laws are specifically stated in this Contract and regardless of whether such laws are in effect on the date hereof. Agency shall comply with all security requirements imposed by authorities with jurisdiction over the Project (including, but not limited to, Federal Aviation Administration, U.S. Department of Transportation, and other government agencies), and will provide all information, work histories and/or verifications as requested by such authorities for security clearances or compliance.

24.2 Agency, as a condition of execution of this Contract certifies under penalty of perjury and as a condition of payment of its invoice(s) for service provided under this Contract as follows:

- a. All Employees, as defined respectively under Port Ordinance No. 3666, and Section 728 of the Charter of the City of Oakland (Hereinafter “Living Wage laws”), as amended from time to time, engaged in Covered Activities (as defined in the respective Living Wage laws) shall be compensated in compliance with the requirements of the respective and applicable Living Wage laws;
- b. Claims, records and statements relating to Agency’s compliance with the Living Wage laws are true and accurate, and are made with the knowledge that the Port will rely on same, and that they are submitted to the Port for the express benefit of Agency’s employees engaged in Covered Activities;
- c. Should the Living Wage laws not apply to Agency at the time this Contract is entered into, but thereafter become applicable, Agency will comply with all of its obligations under the respective Living Wage laws, when applicable; and

- d. All terms used in this Section 22.3 and not defined shall have the meaning ascribed to such terms in the respective applicable Living Wage laws.

24.3 Agency shall include all provisions necessary to ensure compliance with the Port Security Grant Agreement, as set forth in Exhibit F hereto.

## **25. COMPENSATION TO AGENCY EMPLOYEES**

Agency and the Port agree that Agency Employees are not employees of the Port for any purposes, including, but not limited to, any state or federal wage and hour or taxing purposes. Agency acknowledges and agrees that it will be solely responsible and liable for (a) payment of compensation to Agency Employees; (b) withholding and payment of FICA, FUTA and other taxes and applicable amounts with respect to payments made to Agency Employees; (c) providing all insurance and other employment related benefits to Agency Employees; (d) payment of all overtime required by the Fair Labor Standards Act and corresponding state law or regulations; and (f) complying with the Immigration Reform and Control Act. Agency agrees to indemnify, defend, and hold harmless the Port from any claim or assessment from any taxing or wage and hour authority arising from this provision.

The Port shall pay Agency for satisfactorily completed Services at the hourly rate set forth in attached Appendix "B". Agency shall include the Agreement number provided by the Port on all requests for payments and shall submit invoices no more frequently than monthly to: Port of Oakland, 530 Water Street, 6<sup>th</sup> Floor, Oakland, CA 94607, Attention: Eric Napralla. The Port will pay for all completed Services within thirty (30) calendar days after the Port's receipt of a properly completed invoice covering those Services, subject to the Port's set-off rights provided for in this Agreement. Invoices shall detail the number of hours worked and shall reflect the agreed hourly rates regardless of time of day, day of week, or holiday. Until the Port has been provided with invoices that have been properly completed in accordance with the requirements of this Section, and with such supporting documentation as the Port shall reasonably request, which may include, without limitation, employee time sheets, time cards and payroll receipts. Port shall have no obligation to pay Operator any of the invoiced amounts.

For Services performed in accordance with the terms of this Agreement, each of Agency's invoices shall include, at a minimum, the name, title, rate of hourly pay (any authorized pricing escalation), number of hours, and total charge for the Services performed by each individual being charged.

Pricing Escalation: Agency may request a rate adjustment no more frequently than annually for the ensuing Extension Term to reflect actual increases in Agency's cost to perform the Services that have been documented by Agency to the satisfaction of the Port. In no event shall the rate adjustment be more than the change in the Consumer Price Index, or the change in the rate of the City of Oakland's Living Wage as applicable. Any request for a rate adjustment shall be submitted to the Port in writing, with supporting documentation, no less than ninety (90) calendar days prior to the end of the current year of the Opening Term, and adjustments approved by the port shall be effective as of the beginning of the next Extension Term. The port reserves the right, in its sole discretion, to deny the Agency's request for pricing escalation with or without explanation.

For the purposes of this Agreement a "change in the Consumer Price Index" shall mean the difference between the Consumer Price Index, Urban Wage Earners and Clerical Workers, (base year 1982 – 1984 = 100) for the San Francisco – Oakland – San Jose CMSA, published by the United States Department of Labor, Bureau of Labor Statistics ("Index") published most immediately preceding the most recent anniversary of the commencement of the prior term ("Beginning Index").

## **26. NONSOLICITATION**

During the term of this Contract and for 12 months thereafter, Agency will not directly or indirectly solicit or entice any employee or contractor of the Port to terminate, reduce or modify the scope or duration of his or her relationship with the Port.

**27. AGENT FOR SERVICE OF PROCESS.**

Pursuant to California Code of Civil Procedure, Section 416.10, Agency hereby designates an agent for service of process as identified in Appendix D hereto.

Agency may at any time designate a new agent for service in the State of California by providing written notice, duly executed in the same manner as this Contract, of the full name and address of its new agent. Unless otherwise agreed in writing by the Port of Oakland, no attempt to revoke the agent's authority to receive service shall be valid unless Port of Oakland has first received a duly executed designation of a new agent meeting the requirements of California law.

**28. APPLICABLE AFFORDABLE CARE ACT (ACA) PROVISIONS**

With respect to each "full-time" Agency employee who provides services to the Port under this Agreement, offers "minimum essential coverage" to such Agency employee (and the employee's "dependents") that is "affordable" and provides "minimum value" (each term in quotations as defined under the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) and the underlying regulations and guidance) to satisfy the Code Section 4980H requirements with respect to such employee (and the employee's dependents). Agency shall, at the Port's request, provide documentation satisfactory to the Port that the coverage offered by Agency is "minimum essential coverage" that is both "affordable" and provides "minimum value." Additionally, Agency shall, at the Port's request, furnish information regarding any waiting period imposed by Agency with respect to enrolling in Agency's group health plan, Agency's methods for determining full-time status of Agency's employees, and such other information related to compliance with the Affordable Care Act as the Port may reasonably request.

If Agency's employee who provides services to the Port enrolls in Agency's group health plan, Agency shall charge the Port an amount in addition to the normal fee that the Port pays for such employee according to the terms agreed to by Agency and the Port and set forth in this Agreement and such additional amount shall be a separate line item or separately invoiced from the fee that would otherwise apply if such Agency employee did not enroll in Agency's group health coverage.

Agency shall prepare all required information reporting under Code Sections 6055 and 6056, to the extent applicable, with respect to Agency employees who provide services to the Port.

Agency shall indemnify and hold harmless the Port for any costs, expenses, taxes or liabilities arising from Agency's failure to comply with any of the foregoing obligations with respect to employees who provide services to the Port.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day first mentioned above.

CITY OF OAKLAND, a municipal corporation, acting by and through its Board of Port Commissioners,

By: \_\_\_\_\_  
J. CHRISTOPHER LYTLE  
Executive Director

By: \_\_\_\_\_  
\_\_\_\_\_  
Print Name and Title  
(If Corporate: Chairman, President or Vice at)

Attest \_\_\_\_\_  
Print Name and Title  
(If Corporate: Secretary, Assistant Secretary, Chief Financial Officer,  
or Assistant Treasurer)

Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
DANNY WAN  
Port Attorney

**THIS AGREEMENT SHALL NOT BE  
VALID OR EFFECTIVE FOR ANY  
PURPOSE UNLESS AND UNTIL SIGNED  
BY THE PORT ATTORNEY.**

Port Resolution No. \_\_\_\_\_

P.A.#: 2015 - \_\_\_\_\_

## **APPENDIX A**

### **SCOPE OF SERVICES**

#### **SCOPE OF SERVICES:**

#### **COMMENCEMENT AND TERM:**

This agreement shall have an initial term of one (1) year commencing April 1, 2015 (“Commencement Date”), and terminating at 11:59 P.M. March 31, 2016; provided, however that this Agreement may be renewed for up to two (2) extension periods of one (1) year each (each referred to as an “Extension Term”) subject to the written approval of the Executive Director. The term “Operating Term” shall mean the initial term of this Agreement and any Extension Term under this section. Notwithstanding any provision of this Agreement to the contrary, the Port’s Executive Director may terminate this Agreement with or without cause at any time. If this agreement has been extended for two (2) Extension Terms, then upon expiration of the second Extension Term, unless this Agreement is earlier terminated, this Agreement shall extend and continue on a month-to-month basis, subject to termination by either party on 30 days prior written notice to the other party.

## APPENDIX B

### PAYMENT

This is an Appendix attached to, and made a part of, the Contract dated \_\_\_\_\_ between the City of Oakland acting through its Board of Port Commissioners ("Port") and \_\_\_\_\_ ("Agency") for the provision of professional services.

**Basic Services.** The Port will pay Agency for services (the provision and management of temporary Agency employees), a maximum compensation of \_\_\_\_\_ ("Contract Price"), which sum includes costs for reimbursable expenses as identified below. Such payment shall be full compensation for all services required, performed or accepted under this Contract. If Port and Agency previously executed a purchase order for services within the scope of the services of this Contract, then the services performed and the compensation paid under that purchase order shall be subject to the terms of this Contract and the previous payments deemed payments against the Contract Price established in this Appendix. Such maximum compensation may only be increased as follows:

- ☐ With the prior written approval of the Executive Director for an additional amount not to exceed the limit authorized by the Board in Resolution No. «Resolution». Increase in maximum compensation with additional changes in scope of work shall be documented by a supplemental agreement to this contract.
- ☐ With the adoption of authorizing resolution by the Board of Port Commissioners.

**2. Payment Schedule.** Progress payments for Basic Services for each phase of the work shall be made as follows:

- ☐ upon completion of the work      ☐ as invoiced
- ☒ monthly      ☐ as set forth in the attached schedule.

**3. Reimbursable Expenses.** Reasonable expenses to be reimbursed upon approval of Project Manager.

- ☐ Yes (IDENTIFY)
- ☐ No
- ☐ **Limits:**

## APPENDIX C

### INSURANCE

This is an Appendix attached to, and made a part of, the Contract dated \_\_\_\_\_ between the City of Oakland acting through its Board of Port Commissioners (“Port”) and \_\_\_\_\_ (“Agency”) for the provision of temporary staffing services as defined and required by the Contract.

#### 1. Commercial General Liability Insurance

- **Coverage:** Standard ISO Commercial General Liability form.
- **Limits:** \$1,000,000 per occurrence; \$2,000,000 annual general aggregate; \$2,000,000 products and completed operations aggregate; \$1,000,000 each offense for personal and advertising injury.
- **Deductible/Self-Insured Retention:** Not more than \$25,000 per occurrence or as otherwise disclosed to accepted by the Port’s Risk Manager.
- **Additional Insured:** The City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, Port of Oakland, its commissioners, officers, agents and employees.
- Cross liability/separation of insureds.
- Waiver of subrogation in favor of additional insured.
- If the Services involve construction activities, completed operations coverage must remain in force until at least 5 years after completion and acceptance of the Services.

#### 2. Business Automobile Liability Insurance

- **Coverage:** Standard ISO Business Automobile Liability form for all owned, non-owned and hired automobiles.
- **Limits:** \$1,000,000 each accident.
- **Deductible/Self-Insured Retention:** Not more than \$25,000 per accident or as otherwise disclosed to accepted by the Port’s Risk Manager.
- **Additional Insured:** The City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, Port of Oakland, its commissioners, officers, agents and employees.
- Waiver of subrogation in favor of additional insured.

#### 3. Workers’ Compensation and Employer’s Liability Insurance

- **Coverage:** Statutory Workers’ Compensation and Side B Employer’s Liability form.
- **Limits:** Statutory for workers’ compensation and \$1,000,000 per accident, \$1,000,000 bodily injury each employee, and \$1,000,000 policy limit for bodily injury by disease, for Employer’s Liability.

- **Deductible/Self-Insured Retention:** Not more than \$25,000 per occurrence for Employer's Liability or as otherwise disclosed to accepted by the Port's Risk Manager.
- Waiver of subrogation in favor of the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, Port of Oakland, its commissioners, officers, agents and employees.

#### 4. **Professional Liability Insurance**

- **Coverage:** For errors and omissions arising out of the Services.
- **Limits:** \$5,000,000 per claim and annual aggregate.
- **Deductible/Self-Insured Retention:** Not more than \$100,000 per claim or as otherwise disclosed to accepted by the Port's Risk Manager.
- **Additional Term:** 2 years after completion and acceptance of the Services.
- If Services involve software or technology services, Technology Liability coverage, including coverage for privacy liability.
- If the Services involves outsourced technology or internet services, Network and Media Liability coverage.

#### **Other Insurance Requirements:**

- **Deductibles/Self-Insured Retentions.** Deductibles or self-insured retentions that are higher than specified for each of the insurance coverages above must be disclosed to and accepted by the Port's Risk Manager.
- **Notice of Cancellation.** Consultant or Consultant's agent must provide 30-days prior written notice to the Port Risk Management Department of any insurance policy cancellation, except 10-days prior written notice for non-payment of premium.
- **Proof of Insurance/Insurer Rating.** Consultant must deliver to the Port Risk Management Department, prior to the commencement of the Services, certificates of insurance evidencing all required insurance and additional insured status for the Port. All required insurance shall be provided by insurance companies with current A.M. Best ratings of A- VII or better. Upon failure to so file such insurance certificate, the Port may without further notice and at its option either (1) exercise the Port's rights; or (2) procure such insurance coverage at the Consultant's expense and the Consultant shall promptly reimburse the Port for such expense (Services may be interrupted without proper evidence). In addition to the certificate of insurance, Consultant shall provide copies of the actual insurance policies if requested by the Port.
- .Please send certificates and other required insurance information to:

Port of Oakland  
Attn: Risk Management Dept.  
530 Water Street  
Oakland, CA 94607  
Fax: (510) 627-1626  
Email: risktransfer@portoakland.com

## APPENDIX D

### AGENCY AND AGENCY'S NOTICE ADDRESS

**Full Legal Name of Agency:**

**Corporate Address:**

**Form of Business Entity (Check one)**

- ☐ Sole proprietorship
- ☐ Corporation: State of \_\_\_\_\_
- ☐ Partnership: ☐ General ☐ Limited
- ☐ Limited Liability Company
- ☐ Other: \_\_\_\_\_

**If Corporation: (*Required Information*)**

**Agent for Service of Process (Name and Address)**

**Contact Individual / Position:**

**Telephone No.:**

**Facsimile No.:**

**E-Mail Address (if any):**

**Website (if any):**

## **APPENDIX E**

### **CONFIDENTIALITY AGREEMENT**

1. This agreement ("Agreement") is entered by \_\_\_\_\_ ("Agency Employee") and \_\_\_\_\_ ("Staffing Agency"). Agency Employee acknowledges and agrees that, in the performance of the services for Staffing Agency, Agency Employee may, on one or more occasions be assigned to the Port of Oakland (the "Port"). Agency Employee agrees that neither the assignment to the Port nor this Agreement establishes any employment relationship between Agency Employee and the Port. Agency Employee acknowledges that while on assignment to the Port, Agency Employee may have access to private or confidential information which may be owned or controlled by Port and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to Port. Agency Employee agrees that all information disclosed by Port to Agency Employee or discovered by Agency Employee shall be held in strict confidence and used only in performance of services for the Port. Agency Employee shall exercise the same standard of care to protect such information as a reasonably prudent person would use to protect his or her own proprietary data, and shall not accept assignments or contracts adverse to the Port's interests where such confidential information could be used adversely to the Port's interests. Agency Employee agrees to notify the Port immediately in writing if Agency Employee is requested to disclose any information made known to or discovered by Agency Employee during the performance of or in connection with services performed on assignment to the Port.
2. Agency Employee will restrict the possession, knowledge and use of any confidential information to those Port employees authorized by the Port to receive such information.
3. All confidential information will remain the exclusive property of the Port. The Port's disclosure of confidential information to Agency Employee will not constitute an express or implied grant to Agency Employee of any rights to or under the Port's patents, copyrights, trade secrets, trademarks or other intellectual property rights.
4. Any publicity or press releases with respect to the project or services performed by Agency Employee while on assignment to the Port shall be under the Port's sole discretion and control. Agency Employee shall not discuss the services or project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without Port's prior written consent.
5. Agency Employee shall return or destroy all tangible materials embodying confidential information (in any form and including, without limitation, all summaries, copies and excerpts of confidential information) promptly following the Port's written request. At the Port's option, Agency Employee will provide written certification of its compliance with this Agreement.

6. Agency Employee acknowledges and agrees that this Agreement is entered with Staffing Agency and that the Port is the third party beneficiary of the Agreement. Agency Employee acknowledges and agrees that the Port is fully entitled to enforce this Agreement, including but not limited to actions for temporary restraining orders, permanent injunctions and damages.

This Agreement shall remain fully effective indefinitely even after Agency Employee is no longer on assignment to the Port.

[STAFFING AGENCY]

\_\_\_\_\_

By:

\_\_\_\_\_

Signature

[EMPLOYEE]

\_\_\_\_\_

By:

\_\_\_\_\_

Signature

## APPENDIX E-1



### NOTICE OF EXCLUSION FROM CalPERS MEMBERSHIP

1. SOCIAL SECURITY NUMBER	<b>Your employer has contracted with the California Public Employees' Retirement System (CalPERS) to provide an employee benefit package which includes service retirement, death, and disability benefits.</b>		
2. CURRENT NAME (LAST)	(FIRST)	(MIDDLE)	
3. NAME OF PUBLIC AGENCY	4. DEPARTMENT OR SCHOOL DISTRICT	5. JOB OR POSITION TITLE	
6. TERM OF APPOINTMENT  <input type="checkbox"/> PERMANENT <input type="checkbox"/> TEMPORARY	7. IF TEMPORARY, ENTER NEAREST NUMBER OF WHOLE MONTHS THE APPOINTMENT IS EXPECTED TO LAST.  MONTHS	8. APPOINTMENT DATE MM   DD   YYYY	
9. TIME BASE <input type="checkbox"/> FULL-TIME <input type="checkbox"/> INDETERMINATE <input type="checkbox"/> PART-TIME IF PART TIME, ENTER THE FRACTION OF FULL TIME:			

***In your present position with this agency, you are excluded from CalPERS membership because:***

- ☐ 1. Your full-time seasonal or limited term appointment is limited to 6 months or less.
- ☐ 2. Your part-time appointment is limited to less than an average of 20 hours per week for less than one year.
- ☐ 3. Your appointment is an on-call, intermittent, emergency, substitute, or other irregular basis which excludes you from membership until you have worked 1,000 hours (or 125 days if paid on per diem basis) this fiscal year.
- ☐ 4. Your position is excluded by law or by contract agreement which excludes:  
\_\_\_\_\_ Enter contract exclusion (for Public Agencies only).
- ☐ 5. You are an independent contractor.
- ☐ 6. You are employed to render professional legal service to a city.  
Exceptions: Persons holding the office of city attorney, deputy city attorney, or assistant city attorney.
- ☐ 7. You are employed as a student aide by a school district in a position established for students only and you are attending school in the same district (for County Schools only).

**NOTE:** If you are a member of CalPERS by previous employment (either you have funds on deposit or service credit), exclusions 1, 2, and 3 do not apply to you and you should be a member in your present position. Be sure to notify your employer to complete a (PERS-1) Member Action Request Form or appoint via ACES to report your employment to CalPERS.

**If you believe that your employment does qualify you for CalPERS membership, ask your employer for an explanation. If you still have doubts, you may appeal directly to CalPERS by sending a letter to the Actuarial & Employer Services Branch, Membership Analysis & Design Unit, P.O. Box 942709, Sacramento, CA 94229-2709, stating the reasons why you feel you should be a member.**

SIGNATURE OF CERTIFYING OFFICER	TITLE	DATE
SIGNATURE OF EMPLOYEE		DATE

**NOTE: Benefits provided by CalPERS are described in the "CalPERS Benefits" information booklet available from your employer.**

PERS-AESD-139 (3/08)

**California Public Employees' Retirement System**  
**[www.calpers.ca.gov](http://www.calpers.ca.gov)**

**APPENDIX F**

**PORT SECURITY GRANT AGREEMENT**

**Agreement Articles**

2013-09-01 00:00:00.0

U.S. Department of Homeland Security  
Washington, D.C. 20472

**AGREEMENT ARTICLES**  
**Port Security Grant Program**

**GRANTEE:**  
**PROGRAM:**  
**AGREEMENT NUMBER:**

Port of Oakland  
Port Security Grant Program  
EMW-2013-PU-00195-S01

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#### **Article I - Summary Description of Project**

Project 1: Domain Awareness Center Staffing is approved for funding in the amount of \$1,968,000

Project 2: Security System Design work for Oakland Outer Harbor Terminal is approved for funding in the amount of \$236,000

#### **Article II - Assurances, Administrative Requirements and Cost Principles**

a. Recipients of DHS federal financial assistance must complete OMB Standard Form 424B Assurances – Non-Construction Programs. Certain assurances in this form may not be applicable to your project or program, and the awarding agency may require applicants to certify to additional assurances. Please contact the program awarding office if you have any questions.

The administrative requirements that apply to DHS award recipients originate from two sources:

- Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"). These A-102 requirements are also located within DHS regulations at Title 44, Code of Federal Regulations (CFR) Part 13.
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215.

b. The cost principles that apply to DHS award recipients through a grant or cooperative agreement originate from one of the following sources:

- OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220.
- OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225.
- OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230.

The audit requirements for State, Local and Tribal recipients of DHS awards originate from:

- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.

#### **Article III - Acknowledgement of Federal Funding from DHS**

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

#### **Article IV - Activities Conducted Abroad**

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

#### **Article V - Best Practices for Collection and Use of Personally Identifiable Information (PII)**

All award recipients who collect PII are required to have a publically-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate.

Award recipients may also find as a useful resource the DHS Privacy Impact Assessments:

[http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_guidance\\_june2010.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf)

and

[http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_template.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf), respectively.

#### **Article VI - Copyright**

All recipients must affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work

includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

#### **Article VII - Debarment and Suspension**

All recipients must comply with Executive Orders 12549 and 12689, which provide protection against waste, fraud and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the Federal government.

#### **Article VIII - Drug-Free Workplace Regulations**

All recipients must comply with the Drug-Free Workplace Act of 1988 (412 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. These regulations are codified at 2 CFR 3001.

#### **Article IX - Duplication of Benefits**

State, Local and Tribal Recipients must comply with 2 CFR Part §225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority may not be charged to other Federal awards to overcome fund deficiencies.

#### **Article X - False Claims Act and Program Fraud Civil Remedies**

All recipients must comply with the requirements of 31 U.S.C. § 3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.

#### **Article XI - Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.

#### **Article XII - Fly America Act of 1974**

All recipients must comply with Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

#### **Article XIII - Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. §2225(a), all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. §2225.

#### **Article XIV - Lobbying Prohibitions**

All recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

#### **Article XV - Non-supplanting Requirement**

All recipients must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

#### **Article XVI - Trafficking Victims Protection Act of 2000**

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007.

In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient —

- (a) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
- (b) Procures a commercial sex act during the period of time that the award is in effect; or
- (c) Uses forced labor in the performance of the award or subawards under the award.

Full text of the award term is provided at 2 CFR § 175.15.

#### **Article XVII - USA Patriot Act of 2001**

All recipients must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

#### **Article XVIII - Use of DHS Seal, Logo and Flags**

All recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

#### **Article XIX - DHS Specific Acknowledgements and Assurances**

All recipients of financial assistance must acknowledge and agree—and require any sub-recipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

The United States has the right to seek judicial enforcement of these obligations.

#### **Article XX - Compliance with Funding Opportunity Announcement**

The recipient agrees that all allocations and use of funds under this grant will be in accordance with the Funding Opportunity Announcement.

**Article XXI - Acceptance of Post Award Changes**

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to [ASK-GMD@dhs.gov](mailto:ASK-GMD@dhs.gov) if you have any questions.