

REQUEST FOR PROPOSAL

for

Maritime Security Patrol Services 18-19/17



PORT OF OAKLAND

PURCHASING DEPARTMENT
530 WATER STREET
OAKLAND, CA 94607



PORT OF OAKLAND

REQUEST FOR PROPOSAL

RFP No.: 18-19/17 Maritime Security Patrol Services

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	Maritime Security Patrol Services
Proposal Type	Professional Services
Proposal Number	18-19/17
Proposal Issued	February 27, 2019
Department Requesting Services	Maritime Division
Non-Mandatory Pre-Proposal Meeting	March 8, 2019 at 10:00 a.m. Port of Oakland, 530 Water Street, Oakland, CA 94607 (2nd Floor, Courtyard Conference Room) To join via conference call, dial: 1-888-585-9008. Enter conference room #:797-092-566
Scheduled Publication Date	March 1, 2019
Proposal Due Date	April 1, 2019 until 11:00 a.m.

Instructions for Submitting Proposals

Submittal Address	Port of Oakland Purchasing Department Attn: Rebecca Gibson 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">• Proposal Number• Name of Your Company• Address• Phone Number
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:

Location	Address
Physical	Port of Oakland--Purchasing Department 530 Water Street, Oakland, CA 94607 Monday through Friday 9:00 AM to 4:00 PM (510) 627-1104
Website	http://www.portofoakland.com/business/bids-rfps/ Or navigate to the Port of Oakland's main website at: http://www.portofoakland.com/ , then click on "Bids/RFPs" from the banner on the top of the page, and then scroll down 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:

Primary Contact	Rebecca Gibson Fax: (510) 893-2812 Email: rgibson@portoakland.com
Question/RFI Due Date	March 12, 2019 until 4:00 p.m. 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.
Response Date	March 18, 2019 All pertinent questions will be responded to via addendum 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 (or in cases where a recommendation for award does not require a public Board meeting, when Proposers are notified by Port staff of the recommendation for award), 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/or 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.

Title VI Solicitation Notice: The Port of Oakland, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

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,
Port Purchasing Manager

Table of Contents

I. Project Overview	1
II. Scope of Services.....	1
III. Port Policy and Other Requirements.....	4
IV. Submission Requirements	6
V. Evaluation Criteria	9
VI. Additional Provisions.....	10

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	Yes 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 and 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	Security Patrol Services Agreement	No (Note: If awarded the contract, the successful Respondent will execute a revised version of the Port's standard Security Patrol Services Agreement, which will be consistent with the provisions of this RFP.)
11	Information Required to Comply with California Labor Code Section 2810	Yes
12	Maritime Area Security Patrol Services – Required Patrol Area Map	No

I. Project Overview

The Port of Oakland invites the submittal of a written proposal from qualified companies interested in providing unarmed security and patrol services (one (1) person and one (1) vehicle) to the Port's Maritime Area, 24 hours a day, seven (7) days per week (Monday – Sunday, including holidays). The primary focus of these services is to provide safe and efficient vehicular traffic flow in the Maritime Area and to observe and report suspicious or criminal activity to the appropriate response agency. In addition, the Port requires flexibility to request additional guard services for specific operational periods throughout the period of the contract, as needed. The Port will provide an office space, telephone access and portable radios for use by the selected Contractor. Proposing Contractors should carefully review the requirements of this Request for Proposals (RFP) to ensure that they meet all stated requirements.

The Port's Maritime Area includes container terminals, intermodal rail facilities and the Port owned property of the former Oakland Army Base. The areas requiring unarmed security services and patrol are depicted in **Attachment 12**.

This Request for Proposal (RFP) outlines the minimum service requirements and the 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 one of the top 10 busiest container ports 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. Overview

The Port will select a Contractor to provide unarmed security patrol services for the Maritime Area. The selected Contractor will work with Port Staff to provide the scope of services as defined below. Interested Contractors should tour the Maritime Area (**Attachment 12**) to familiarize themselves with the Port of Oakland Seaport.

B. Basic Services to be Provided by Proposer

The Scope of Services for this RFP is organized into two (2) separate tasks with each of the major components summarized as follows:

Task 1: General Patrol Services

Task 2: Short Term, Additional Patrol Services

Task 1: General Patrol Services

1.1 General Requirements

1. Basic Security Services shall be one (1) person (identified as "guard" or "guards" throughout the body of this document) and one (1) vehicle providing security patrol services, via three eight (8) hour shifts from 7 AM – 3 PM, 3 PM -11 PM, and 11 PM – 7 AM, seven (7) days per week (Monday – Sunday), including holidays. Proposals should be based on this level of staffing.
2. The Contractor shall make available a Supervisor who will manage assigned guards and act as a liaison and point of coordination to the Port at all times. Supervisors shall be available 24 hours per day, 7 days per week, and be available for immediate consultation with Port staff as needed. Please refer to Exhibit E of the Security Patrol Services Agreement (**Attachment 10**) for more information on supervisory requirements.
3. Guard uniforms shall be professional in nature, yet visible for traffic safety operations. All uniforms must be approved by the Port. Pants shall be black, blue, khaki, tan, brown and/or green in color. Shirts and jackets shall be an American National Standards Institute (ANSI), traffic safety approved color.
4. The Contractor must have a California State Private Patrol Operator License Certificate issued by the State of California, through the Department of Consumer Affairs, Bureau of Security and Investigative Services.
5. All guards assigned to work under this agreement must hold current "Guard Cards" issued by the State of California, through the Department of Consumer Affairs, Bureau of Security and Investigative Services to fulfill the Scope of Services, including coverage during lunch/breaks, vacation, sick leave, or other leaves as they may occur.
6. Any guard assigned driving responsibilities must possess and maintain a valid, State of California driver's license for the duration of the driving assignment. Upon execution of an agreement, the Contractor shall provide to the Port a copy of the completed DMV check on each guard prior to start-up of assignment and annually on any guard assigned driving duties.
7. All Guards must obtain and maintain a valid Transportation Worker Identification Credential (TWIC) within 45 days from execution of the Security Patrol Services Agreement with the Port of Oakland for this scope of services. All costs associated with obtaining the TWIC shall be the responsibility of the successful, selected respondent. Information about the TWIC can be found at: <https://www.tsa.gov/for-industry/twic>
8. Guards shall have at least three (3) years of experience providing security services consistent with those required under this RFP.
9. Supervisors must have at least five (5) years of experience managing or supervising security guard operations; preferably on a multi-shift operation.
10. In the event a security officer is unable to perform his/her duties during a shift due to illness, injury, or other reasons, the Contractor shall provide a replacement officer within one (1) hour from the time the post is vacated.

1.2 Basic Security Services

1. Guards conducting patrol services throughout the Maritime Area will generally receive tasking, and report to, the Port Security Operations Center (PSOC) Supervisor or Operator on watch, who are acting under the direction of the Port Facilities Security Officer.
2. Typically, Guards shall patrol the surface streets within the Maritime Area depicted in **Attachment 12**, or as otherwise directed by the Operator on watch, or cognizant Port Staff, by vehicle (suitable for an industrial area) provided by the selected respondent, throughout the entire shift.
3. Guards are to immediately report suspicious or criminal activities to Port Staff, generally via the PSOC Operator.

4. Guards will monitor traffic (primarily trucks) both transiting and that are in queue awaiting entry to marine terminals. When observed, guards shall respond to truck line cutting incidents by tactfully communicating with truck drivers and directing them to go to the back of the queue line, in accordance with Port policy and best practices.
5. When observed, guards are to assist with intersection management and direct traffic during times of high congestion.
6. Guards will liaise and coordinate with Port Staff, often via the PSOC Supervisor or Operator, to patrol and secure construction and vacant sites as directed.
7. Guards shall collect information related to parties for all incidents as they occur including, but not limited to, vehicular collisions, hazardous material spills, truck line cutting, theft, vandalism, etc.
8. Guards will liaise with Port staff and first response agencies as needed to mitigate Port emergencies and incidents.
9. Guards shall effectively communicate about above mentioned incident types via Port-provided UHF radio system. Contractor should provide a common cellular phone for shared use by the guards when on duty, as an alternative communication means.
10. Guards are required to coordinate with Port, Public Safety, and Emergency Responders for significant events and/or specific areas that require increased enforcement.

1.3 Operations Reports

1. Port staff will meet monthly with the management/supervisor of the selected service provider to discuss issues relating to the fulfillment of the Scope of Services.
2. The Contractor shall provide Daily, Weekly, Monthly, and Annual Operations Summary Reports, which shall include, at a minimum:
 - a. Daily employee operations and incident reports
 - b. Weekly employee work schedule and employee rosters
 - c. Monthly employee payroll reports
 - d. Monthly employee training
 - e. Annual report of major incidents that occurred or were responded to by the Contractor since the commencement date or since the prior reporting date
 - f. The Contractor shall immediately report any personal injuries, property loss or damage, threats or potential threats against life or property or any incident or activities that present imminent danger to health and safety of the general public. A follow-up written report delineating the emergency condition and corresponding action taken shall be submitted to the Port within 24 hours.
 - g. Any other information the Contractor deems necessary.
 - h. The Port reserves the right to modify the report format and/or frequency at any time.

At the discretion of the Port Facilities Security Officer, these reports may be incorporated with the daily PSOC operational reports.

1.4 Other Requirements

The Contractor should also refer to the Security Patrol Services Agreement (**Attachment 10**) to this RFP.

1. The Contractor 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 I-9 OMB No. 1115-0236, or any revised version).
2. Upon execution of an agreement, the Contractor will provide a list of the names and duty hours of each employee assigned to the Port. Contractor shall provide subsequent updates to this to this list as employees and/or employee duty hour changes on a weekly basis.

3. Upon execution of an agreement, the Contractor shall perform background checks of at least three (3) years of verifiable background on all guard candidates and certify that all candidates have successfully passed a criminal background check prior to working on Port property.
4. Guard personnel shall be recruited, selected, and assigned to ensure dependable, efficient, courteous and pro-active service to the Port.
5. The Contractor shall ensure that guards receive on-going training in public relations, guard patrol procedures, safety, and other related operations such as traffic enforcement. Please refer to Exhibit E and F of the Security Patrol Services Agreement (**Attachment 10**) for training requirements.
6. Guards must be able to speak, read, write, and comprehend instructions in English.
7. Guards must be able to work while exposed to outdoor elements, including but not limited to wind and rain and be able to climb and bend for various inspections.
8. The Contractor is responsible for the professional and courteous control, conduct, demeanor, and appearance of its guards, agents and employees.
9. The Contractor and/or its employees or family members shall not engage in the sale of any products or services, or the solicitation of sale, on any of the Port's property.

1.5 Holidays

The Contractor is required to fulfill the Scope of Services for all holiday periods. On holidays, Port staff will be available through emergency contact information provided to the Contractor.

Task 2: Short Term, Additional Patrol Services

- 2.1 From time to time, the Port may desire to enhance Port security monitoring and patrols based upon operational needs and requirements. The request for additional patrol services will be placed with as much advance notification as possible, but in no case will the request be made less than 24 hours in advance of the need for those services. All other provisions of Task 1 apply to Task 2. The Port will pay for the work on the basis of the hourly labor rates and costs as specified in the Proposal Worksheet.

C. 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. The Training Program Manual will detail the formal employee training program, including initial qualification and Maritime orientation training, and scheduled ongoing training.

D. Projected Time Line and Length of Contract

The Port will award a two-year agreement and will have the option to issue two (2) one-year extensions, for a total period not to exceed four (4) years.

III. Port Policy and Other Requirements

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

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

The Port desires to maximize the participation of small local business and has instituted a Non-Discrimination and Small Local Business Utilization Policy (NDSLBP). The NDSLBP 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 are awarded 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 may apply online at: <http://srd.portofoakland.com/>. The application and any supporting documentation must be submitted to the Port's Social Responsibility Division seven (7) business days prior to the proposal due date. To apply, please click on the above link and then on the link titled "Register New Company?" and follow the instructions.

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/files/PDF/responsibility/NDSLBP_00810.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://srd.portofoakland.com/> 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 NDSLBP Program Affidavit.

A copy of the Port-certified Small Local Business Enterprises can also be downloaded at: <http://srd.portofoakland.com/>

For questions or assistance regarding NDSLBP, 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 Sample Security Patrol Services Agreement, Exhibit G to **Attachment 10**, 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 the Agreement, the selected Consultant/Contractor may come into possession of sensitive information subject to Port of Oakland regulation. The selected Consultant/Contractor 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, 2018 is at least \$13.75 with credit given to the employer for the provision to covered employees of health benefits, and \$15.78 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 Security Patrol Services Agreement:

Submission of a proposal will confirm that the Respondent fully understands the provisions of the Port's Security Patrol Services Agreement (**Attachment 10**) which will be revised as necessary to be consistent with the provisions of this RFP, and will execute such revised agreement if awarded the contract. Any objections to any provisions in the Port's Security Patrol Services Agreement and/or this RFP must clearly be identified in your proposal. Changes are discouraged.

6. California Labor Code Section 2810 (Requirements for contracts for Construction, Farm Labor, Garment, Janitorial, Security Guard, or Warehouse Services.):

Respondent must demonstrate cost including compensation for select services (listed above) is sufficient to assure the Port's compliance with California Labor Code Section 2810, which prohibits agencies and companies from entering into services contracts that do not provide for wage and benefits mandated by law, which may include the Living Wage law and minimum wage laws. Therefore, if your cost proposal does not include sufficient funds to provide the legally-required wage and benefits, your proposal will be evaluated negatively. (See **Attachment 11**, which must be completed and submitted with your proposal.)

7. Worker Retention:

For at least 90 work days after the commencement of the Professional Services Agreement, the operator must retain existing patrol services employees who have been performing these duties for at least 90 calendar days prior to the commencement of the Agreement, unless such employees are terminated for cause. If the operator has a reduced number of employees than that of the prior operator, then the existing employees shall be offered employment based upon seniority using a combined seniority list.

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 scope of services and the submission requirements.

Please respond to the following 9 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 9, 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 16 pages (one sided or 8 pages double sided) not including required forms, printed on 8 1/2" x 11" paper and formatted in no smaller than 10-point font. Each section shall be labeled according to the sections below. All submitted material must be bound with only **one staple or binder clip** in the upper left corner. Please no binders or any other type of binding. Submittals must be able to fit into a 9 x 11.5 inch folder.

1. **Minimum Qualifications:** Proposals will be pre-screened for compliance with minimum qualifications, on a pass/fail basis (see Section V. "Evaluation Criteria"). If a proposal does not meet the minimum qualifications, it will be rejected and not forwarded to the evaluation committee for review. The minimum qualifications are:
 - California State Private Patrol Operator License Certificate: Your firm must be licensed with the State of California, through the Department of Consumer Affairs, Bureau of Security and Investigative Services. (Provide proof with your proposal.)
 - Proof of Current Guard Licenses: Your Guards must be licensed with the State of California, through the Department of Consumer Affairs, Bureau of Security and Investigative Services. (Provide proof with your proposal.)
2. **Company Information:** Provide the name of your company (including the name of any parent company), business address, email address, Federal Tax ID number, telephone and fax numbers, and names and titles of key management personnel, and a brief history of your company. Provide a brief statement of who is authorized to submit the proposal on the behalf of your company. Please make sure that person signs and dates the statement. If your company is making any exceptions to the Port's Security Patrol Services Agreement **(Attachment 10)** and/or this RFP, they 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.
3. **Knowledge and Experience:** Provide relevant information about your company's knowledge and experience, including a list of three or more projects (in similar size and scope to this RFP) with a brief description that demonstrate your ability to fulfill the scope of services in this RFP; provide names, addresses and contact information for each project. By providing such information, you authorize us to contact such clients.
4. **Client References:** Provide names, addresses and contact information for three (3) current clients. Provide the size and scope of each project and a brief description of the projects. 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. Please make sure all contact information is current. By providing such information, you authorize us to contact such clients.
5. **Plan and Approach:** 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.

1. As part of our response, please discuss the following:

- a) If you believe that your firm's approach is different or more effective than other firms providing the same services, describe those differences in methodology, staff roles, responsibilities, and documentation processes as applicable.
- b) Describe any assets, expertise, data or technology that provides your firm with a competitive edge or advantage.
- c) Describe your plan (including modes of transportation) to provide consistent coverage throughout the Maritime Area. Please note the Port will **not** be providing vehicles to the Contractor.
- d) Describe your plan to fill additional requirements requested by the Port in support of Task 2.
- e) Describe how you would interact with the public.
- f) Describe how you will respond quickly to an emergency situation.
- g) Describe your company's policies or practices regarding local hiring, mentoring, working with workforce development entities, training programs, etc.
- h) Provide two (2) sample incident reports from current or past clients to demonstrate how incidents are documented and communicated. Sample reports should also include any follow-up reports as well as issue resolution. Confidential information may be redacted to protect client or personal information. This sample report will not count towards maximum page count.
- i) Describe your training programs, procedures, and ongoing training to ensure assigned personnel are able to fulfill their duties.

6. Proposed Costs:

- a. The Port intends to pay the Proposer for all services required under the agreement, using the Proposal Worksheet (**Attachment 4**). The Port intends to pay the Proposer for all services required under the agreement based on a single, all-inclusive hourly rate 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. The all-inclusive hourly rate should include a complete breakdown of the hourly cost billing rate in accordance with Proposal Worksheet (**Attachment 4**) set forth in this RFP.
- b. 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.

7. Debarment Statement: 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 company has been debarred, you will need to provide background information and the reason(s) for the debarment. Provide the name and contact information for the agency that debarred your company. The Port must review the reason(s) and duration for the debarment before it can determine if your company can be considered for this project.

8. Litigation and Other Information: Provide information describing any litigation, arbitration, investigations, or any other similar actions that your company, its principals, directors, and/or employees have been involved in during the last five (5) years relating to your company's services. Please list (a) name and court case or other identification number of each matter, (b) jurisdiction in which it was filed, and (c) outcome of matter (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 company can be considered for this project. Failure to provide the litigation information may disqualify your proposal.

9. Required Forms and Adherence to Port Policy and Other Requirements: The Respondent must fill out all of 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 Policy and Other Requirements (listed in Section III, "Port Policy and Other Requirements" of this RFP). Failure of the Respondent to provide any of the required forms 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 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

Item	Criteria	Weights
	Minimum Qualifications: Proposals from Contractors that have not provided proof that demonstrates they meet the below two minimum qualifications will not be forwarded to the evaluation committee for review. <ul style="list-style-type: none">• California State Private Patrol Operator License Certificate• Proof of Guard Licenses provided	Pass/Fail
	<u>Adherence to Port Policy and Other Requirements and Debarment Statement</u> Proposals from companies who have not or will not adhere to the Port Policy and Other 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 7 and 9 of the Submission Requirements section.)	Pass/Fail
1	<u>Company Information, Client References, Litigation and Other Information, and Required Forms</u> Respondent's capacity to provide professional service as evidenced by past performance, company information, reference checks, litigation and other information, and required forms. (Items 2, 4, 8, and 9 of the Submission Requirements section.)	15%
2	<u>Knowledge and Experience</u> Respondent's knowledge and experience in providing security patrol services as evidenced from your response to item 3 of Submission Requirements section.	20%
3	<u>Plan and Approach</u> As evidenced from your response to item 5 of the Submission Requirements section.	20%
4	<u>Proposed Costs</u> As evidenced from your response to item 6 of the Submission Requirements section, and as provided on the Proposal Worksheet.	30%
5	<u>Non-Discrimination and 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 "confidential" and 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. Deadline for Receipt of Proposal

Proposals must be sealed and delivered to the Submittal Address listed in the Request for Proposal (RFP) no later than the time specified in the RFP. The Port will place a clock ("Clock") in a conspicuous location at the place designated for submittal of Proposals. For purposes of determining the time that a Proposal is submitted, the Clock shall be controlling (unless at the time of the receipt the Clock malfunctions, then the Port's clock on its network phone system shall be controlling). The Port suggests that Proposals be hand delivered to the Submittal Address in order to ensure their timely receipt. Any Proposals mailed via an express mail service, US Postal Service, or other courier service shall not be considered timely received until date and time stamped by the controlling Clock. Any Proposals received after the time stated (regardless of the cause of the delay, including whether caused by the express mail service, US Postal Services, other courier service, or the Port's mail handling personnel) shall not be opened and shall be returned, sealed, to the Proposer.

D. Public Records Act

Under 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 "CONFIDENTIAL". 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 or notice to Respondent.

E. Indemnification

If Respondent is selected to receive a contract, it will be required to agree to the indemnification clause contained in the Port's Security Patrol Services Agreement. **See Section 20.1** of the Port' Standard Security Patrol Services Agreement (**Attachment 10**).

F. Reimbursable Expenses

All expenses incidental to performing Consultant's Basic Services including, but not limited to, overtime, 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.

G. 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.

H. Conflicts of Interest

By submitting a proposal, the Respondent represents that it is familiar with Section 1090 and Section 87100 et seq. of the California Government Code, 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 the Port, or other officer, agent or employee of the 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 the 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.

I. 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.

J. 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.

K. Respondent's Relationship

The Respondent's (and Respondent's employees' and contractors') relationship to the Port shall be that of independent contractor and not deemed to be an employee or agent of the Port.

L. 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.

M. False Statements

False statements in a proposal will disqualify the proposal.

N. Taxes

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

O. Grade of Service

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

P. 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.

Q. 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.

R. 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.

S. 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.

T. 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.

U. 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 two-year contract (if any) and will have the option to issue two (2) one-year extensions not to exceed a total period of 4 years (at the costs quoted in this proposal).

V. Contract Termination

The Port may terminate the agreement (and or contract) 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.

W. Protest Procedures

Any party that has timely submitted a responsive proposal that contends or claims that the Port's proposed award of the subject contract fails to comply with the Port's rules and regulations or with law must file a protest in accordance with the provisions set forth below:

1. Any protest must be submitted in writing to Daria Edgerly, Secretary of the Board, and received by the Port no later than 5:00 p.m. by the third (3rd) business day following

publication of the identity of the apparent successful proposer (or of Notice of Intent to 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 referencing the specific portion of the solicitation document that forms the basis for the protest, and 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 credible evidence.

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



Non-Collusion Declaration

RFP No.: 18-19/17, Maritime Security Patrol Services

(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 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

_____, _____

Signature

Authority: Public Contract Code 7106
CCP 2015.5



PORT OF OAKLAND

Statement of Equal Employment Opportunity

RFP No.: 18-19/17, Maritime Security Patrol Services

I hereby certify that I _____ (Legal Name of Respondent/Supplier/Consultant/Contractor), will 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.

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.

Signature

Print Name

Title

Date



PORT OF OAKLAND

RFP Acknowledgement and Signature Form

RFP No.: 18-19/17, Maritime Security Patrol Services

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.
3. I represent that I am familiar with Section 1090 and Section 87100 et seq. of the Government Code of the State of California, and that I do not know of any facts that constitute a violation of said Sections in connection with the proposal.

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: _____

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.: 18-19/17, Maritime Security Patrol Services****A. General Patrol Services – Task 1**

The Port intends to pay the Contractor for all services provided under the agreement based on a single all-inclusive **hourly rate** for unarmed security guard staff that comprises all of the Proposer's labor costs, health benefits, uniforms, equipment, training, administration, management fees, holiday pay, profit, and any other factors necessary to perform work specified in this RFP, for all operational days. 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. *Proposal Worksheet shall be one (1) person providing security patrol services for three shifts (7 AM – 3 PM, 3 PM to 11 PM, and 11 PM to 7 AM), seven (7) days per week (Monday – Sunday), including holidays.*

Cost Factor – Unarmed Security Guard – Task 1	Cost to Port/Hour
A. Unarmed Security Guard Rate paid to employee	
B. Health Benefits (in dollars)	
C. Equipment/Uniforms	
D. Training	
E. Administration	
F. Management (include all supervisor labor costs here)	
G. Holiday Pay	
H. Profit	
I. Other (Proposer to identify factor as applicable)	
Total – All-Inclusive Hourly Rate (Items A through I)	

<u>ANNUAL COST</u>	TASK 1 Annual Cost Unarmed Security Guard
UNARMED SECURITY GUARD – TASK 1 (=Total All Inclusive Hourly Rate for Unarmed Security Guard x 8 hours x 3 shifts x 365 days)	

Respondent Name: _____ Date: _____

B. Security Vehicle – Task 1

The Port intends to pay the Contractor for all services provided under the agreement based on a single all-inclusive **monthly rate** that comprises all of the Proposer's costs associated with providing one (1) security vehicle for three (3) shifts. The monthly cost shall include cost of vehicle, fuel, maintenance, profit, and any other factors necessary to perform work specified in this RFP, for all operational days. 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.

Cost Factor – Security Vehicle – Task 1	Cost to Port/Month
A. Security Vehicle	
B. Fuel	
C. Maintenance	
D. Profit	
E. Other (Proposer to identify factor as applicable)	
Total – All-Inclusive Monthly Rate (Items A through E)	

<u>ANNUAL COST</u>	TASK 1 Annual Cost Security Vehicle
SECURITY VEHICLE – TASK 1 (=Total All Inclusive Monthly Rate for Security Vehicle x 12 months)	

<u>GRAND TOTAL</u>	GRAND TOTAL TASK 1
TOTAL ANNUAL COST – TASK 1 (=Annual Cost Unarmed Security Guard + Annual Cost Security Vehicle)	

Are 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: _____

Please make sure to detail on Attachment 12, "Information Required to Comply with California Labor Code Section 2810" what is the estimated total wage to be paid to the worker.

Respondent Name: _____ Date: _____

C. Short Term, Additional Patrol Services – Task 2

The Port intends to pay the Contractor for all services provided under the agreement for short term additional patrol services (Task 2), as requested and authorized by the Port, based on a single all-inclusive **hourly rate** for unarmed security guard staff that comprises all of the Proposer's labor costs, health benefits, uniforms, equipment, training, administration, management fees, holiday pay, profit, and any other factors necessary to perform work specified in this RFP, for all operational days. 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 the first year only. *Proposal Worksheet shall be one (1) person providing 1,000 additional security patrol hours during the year, including potential patrols during holidays.* The Port will be using the 1000 hours as an estimate only and does not guarantee any additional business.

Cost Factor – Additional Patrol Services – Task 2	Cost to Port/Hour
A. Unarmed Security Guard Rate paid to employees	
B. Health Benefits (in dollars)	
C. Equipment/Uniforms	
D. Training	
E. Administration	
F. Management (include all supervisor labor costs here)	
G. Holiday Pay	
H. Profit	
I. Other (Proposer to identify factor as applicable)	
Total – All-Inclusive Hourly Rate (Items A through I)	

<u>ANNUAL COST</u>	TASK 2 Annual Cost Short Term, Additional Patrol Services
Short Term, Additional Patrol Services – TASK 2 (=Total All Inclusive Hourly Rate for Unarmed Security Guard x 1,000 hours)	

Respondent Name: _____ Date: _____

D. Security Vehicles – Task 2

The Port intends to pay the Contractor for all services provided under the agreement based on a single all-inclusive **hourly rate** that comprises all of the Proposer's costs associated with providing security vehicles. The hourly cost shall include cost of vehicle, fuel, maintenance, profit, and any other factors necessary to perform work specified in this RFP, for all operational days excluding 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.

Cost Factor – Security Vehicle – Task 2	Cost to Port/Hour
A. Security Vehicle	
B. Fuel	
C. Maintenance	
D. Profit	
E. Other (Proposer to identify factor as applicable)	
Total – All-Inclusive Rate (Items A through E)	

<u>ANNUAL COST</u>	TASK 2 Annual Cost Security Vehicle
SECURITY VEHICLE – TASK 2 (=Total All Inclusive Rate for Security Vehicle X 1,000 hours)	

<u>GRAND TOTAL</u>	GRAND TOTAL TASK 2
TOTAL ANNUAL COST – TASK 2 (=Annual Cost Short Term, Additional Patrol Services + Annual Cost Security Vehicle)	

Are 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.portoakland.com/srd/>. For questions regarding certification, you may contact Social Responsibility Division (SRD) at (510) 627-1627 or email SRDAdmin@portoakland.com. 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 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)		Prime				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
(Name of Subs)		Sub				
Total (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.



PORT OF OAKLAND

Local Participation Questionnaire

(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

PRIME CONTRACTOR		BUSINESS ADDRESS				CONTRACT BID AMOUNT		DATE OF THIS REPORT	
PORT PROJECT NAME				PORT PROJECT NUMBER	WORK AUTHORIZATION #	TOTAL CONTRACT AMOUNT INCLUDING CHANGE ORDERS		PROJECT COMPLETION DATE	
(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	CONTRACT PAYMENTS					
				(5a) * LIABE Dollars	(5b) * LBABE Dollars	(5c) * SBE Dollars	(5d) * VSBE Dollars	(6) Date Work Completed	(7) Date of Final Payment
TOTAL				\$	\$	\$	\$		

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).

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

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://srd.portofoakland.com/>) or by calling (510) 627-1627. 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 \$36,000,000
VSBE (Very Small Business Enterprise)	business with 3 year average annual gross revenue not to exceed \$5,000,000

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.**

COMMENTS:



PORT OF OAKLAND

Final Utilization of Local and Small Business Enterprises

PRIME CONTRACTOR		BUSINESS ADDRESS				CONTRACT BID AMOUNT		DATE OF THIS REPORT	
PORT PROJECT NAME				PORT PROJECT NUMBER	WORK AUTHORIZATION #	TOTAL CONTRACT AMOUNT INCLUDING CHANGE ORDERS		PROJECT COMPLETION DATE	
(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	CONTRACT PAYMENTS					
				(5a) * LIABE Dollars	(5b) * LBABE Dollars	(5c) * SBE Dollars	(5d) * VSBE Dollars	(6) Date Work Completed	(7) Date of Final Payment
TOTAL				\$	\$	\$	\$		

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).

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

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://srd.portofoakland.com/>) or by calling (510) 627-1627. 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 \$36,000,000
VSBE (Very Small Business Enterprise)	business with 3 year average annual gross revenue not to exceed \$5,000,000

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.**

COMMENTS:



PORT OF OAKLAND

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

RFP No.: 18-19/17, Maritime Security Patrol Services

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.

Signature

Print Name

Title

Date



PORT OF OAKLAND

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

**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, 2018, \$15.78 without health benefits or \$13.75 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 \$2.03 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) **Submit name, address, date of hire, occupation classification, rate of pay, benefits paid for each of its employees, and compensated time off in a web accessed monitoring system at <https://www.elationsys.com/app/Registration/> 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**

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



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



PORT OF OAKLAND

Statement of Living Wage Requirements

RFP No.: 18-19/17, Maritime Security Patrol Services

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 Requirements. Upon execution of an Agreement, the selected consultant will be required to complete the 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.

Signature

Print Name

Title

Date



PORT OF OAKLAND

Insurance Acknowledgement Statement

RFP No.: 18-19/17, Maritime Security Patrol Services

I hereby certify that _____ (Legal Name of Respondent) agrees to meet all of the Port's Insurance requirements included in the Security Patrol Services Agreement 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.

Signature

Print Name

Title

Date

**SECURITY PATROL SERVICES AGREEMENT
(MARITIME)**

BETWEEN

PORT OF OAKLAND

AND

DATED

(CONTRACT NO. ____)

TABLE OF CONTENTS

	<u>Page</u>
1. RETENTION OF OPERATOR.....	1
2. TERM OF AGREEMENT.....	1
2.1 TERM. 1	
3. SCOPE OF SERVICES; WORKFORCE REQUIREMENTS.....	2
3.1 SERVICES 2	
3.2 WORKFORCE REQUIREMENTS. 2	
3.3 RESOURCE. 3	
4. COMPENSATION.....	3
4.1 TOTAL COMPENSATION. 3	
4.2 HOURLY WORK. 4	
4.3 PRICING ESCALATION. 4	
5. BILLING.	4
5.1 OVERBILLING AND OVERPAYMENT. 4	
6. BOOKS AND RECORDS; ACTIVITY REPORTS.....	5
6.1 MAINTENANCE AND PRODUCTION OF BOOKS AND RECORDS. 5	
6.2 INSPECTION OF BOOKS AND RECORDS. 5	
6.3 AUDIT OF RECORDS. 6	
6.4 DEDUCTIONS FROM PAYMENTS TO OPERATOR. 6	
6.5 OPERATIONS REPORTS. 6	
7. OPERATIONS.....	7
7.1 OPERATIONS AND PROCEDURES MANUAL. 7	
7.2 REPORT OF INJURIES OR LOSS. 7	
8. PERSONNEL.	7
8.1 TRAINING CERTIFICATES. 7	
8.2 REMOVAL OF EMPLOYEES. 8	
8.3 UNIFORMS. 8	
8.4 INDUSTRY OPERATING STANDARDS. 8	
9. PREMISES.....	8
9.1 MAINTENANCE. 8	
9.2 SAFE AND SANITARY WORKING CONDITIONS. 9	
9.3 UTILITIES. 9	
9.4 AREA ACCESS. 9	
9.5 IMPROVEMENT. 10	
9.6 SURRENDER OF THE PREMISES. 10	
9.7 INSPECTION. 10	
10. EQUIPMENT.....	10

10.1	OPERATING AND MAINTENANCE OF EQUIPMENT.	10
11.	LIMITATIONS ON OPERATOR ACTIVITIES.....	11
11.1	LIMITATIONS ON USES.	11
11.2	TOXIC MATERIALS.	12
12.	INSURANCE.	17
13.	OPERATOR AN INDEPENDENT CONTRACTOR; WORKERS' COMPENSATION INSURANCE; PAYROLL TAXES.....	17
14.	FEDERAL AIP GRANT COMPLIANCE.	17
15.	GENERAL CIVIL RIGHTS PROVISIONS.....	17
16.	COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS.	17
17.	TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES.....	18
18.	FAIR LABOR STANDARDS ACT.....	19
20.	ASSUMPTION OF RISKS; INDEMNIFICATION.....	20
20.1	INDEMNIFICATION.	20
20.2	WAIVER BY PORT.	21
20.3	WAIVER BY OPERATOR.	21
21.	EQUAL OPPORTUNITY; NON-DISCRIMINATION.....	21
22.	NON-DISCRIMINATION IN SUBCONTRACTING WITH VENDORS AND/OR SUPPLIERS.....	26
23.	REPRESENTATIONS, WARRANTIES AND COVENANTS.....	26
24.	TERMINATION.....	26
24.1	TERMINATION BY PORT.	26
24.2	TERMINATION BY OPERATOR.	27
24.3	EFFECT OF TERMINATION.	27
24.4	REMOVAL FROM PREMISES.	27
25.	DEFAULT AND REMEDIES.....	27
25.1	EVENTS OF DEFAULT.	27
25.2	REMEDIES FOR DEFAULT.	29
25.3	ACT OF TERMINATION.	30
26.	COMPLIANCE WITH LAWS, RULES, POLICIES AND REGULATIONS.....	30
26.1	AGREEMENT TO COMPLY.	30

27.	TRANSFER AND ASSIGNMENT.	31
27.1	ASSIGNMENT OR SUBCONTRACTING.	31
27.2	TRANSFER OF CONTROL.	31
28.	JOINT AND SEVERAL LIABILITY.	31
29.	GOVERNING LAW.	31
30.	FEES AND TAXES.	31
31.	COVENANT AGAINST CONTINGENT FEES; IMPROPER INFLUENCE.	32
32.	CONSENTS AND APPROVALS; NOTICES.	33
33.	WAIVER OF DAMAGE	33
34.	NO ADVERTISING	33
35.	NON-DISCRIMINATION PLAN FOR EMPLOYMENT.	34
36.	AGREEMENT ADDENDUM.	34
37.	MISCELLANEOUS.	34
37.1	LOST AND FOUND ARTICLES.	34
37.2	ENTIRE AGREEMENT; AMENDMENTS; CONFLICT WITH EXHIBITS.	34
37.3	WAIVER AND SEVERABILITY.	34
37.4	JURISDICTION AND VENUE.	34
37.5	HEADINGS.	35
37.6	TIME OF ESSENCE.	35
37.7	SUCCESSORS AND ASSIGNS.	35
37.8	CONSENTS.	35
37.9	FORCE MAJEURE.	35
37.10	COUNTERPARTS.	35
37.11	NO RECOURSE	36
37.12	GUARANTY.	36
37.13	WAIVER OF JURY TRIAL.	37
13.	OPERATOR AN INDEPENDENT CONTRACTOR; WORKERS' COMPENSATION INSURANCE; PAYROLL TAXES.	17
14.	FEDERAL AIP GRANT COMPLIANCE.	17
15.	GENERAL CIVIL RIGHTS PROVISIONS.	17
16.	COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS.	17
17.	TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND	

AUTHORITIES.....	18
18. FAIR LABOR STANDARDS ACT.....	19
20. ASSUMPTION OF RISKS; INDEMNIFICATION.....	20
20.1 INDEMNIFICATION. 20	
20.2 WAIVER BY PORT. 21	
20.3 WAIVER BY OPERATOR. 21	
21. EQUAL OPPORTUNITY; NON-DISCRIMINATION.....	21
22. NON-DISCRIMINATION IN SUBCONTRACTING WITH VENDORS AND/OR SUPPLIERS.....	26
23. REPRESENTATIONS, WARRANTIES AND COVENANTS.....	26
24. TERMINATION.....	26
24.1 TERMINATION BY PORT. 26	
24.2 TERMINATION BY OPERATOR. 27	
24.3 EFFECT OF TERMINATION. 27	
24.4 REMOVAL FROM PREMISES. 27	
25. DEFAULT AND REMEDIES.....	27
25.1 EVENTS OF DEFAULT. 27	
25.2 REMEDIES FOR DEFAULT. 29	
25.3 ACT OF TERMINATION. 30	
26. COMPLIANCE WITH LAWS, RULES, POLICIES AND REGULATIONS.....	30
26.1 AGREEMENT TO COMPLY. 30	
27. TRANSFER AND ASSIGNMENT.....	31
27.1 ASSIGNMENT OR SUBCONTRACTING. 31	
27.2 TRANSFER OF CONTROL. 31	
28. JOINT AND SEVERAL LIABILITY.	31
29. GOVERNING LAW.....	31
30. FEES AND TAXES.	31
31. COVENANT AGAINST CONTINGENT FEES; IMPROPER INFLUENCE.	32
32. CONSENTS AND APPROVALS; NOTICES.	33
33. WAIVER OF DAMAGE	33
34. NO ADVERTISING	33

35.	NON-DISCRIMINATION PLAN FOR EMPLOYMENT.....	34
36.	AGREEMENT ADDENDUM.....	34
37.	MISCELLANEOUS.	34
37.1	LOST AND FOUND ARTICLES.	34
37.2	ENTIRE AGREEMENT; AMENDMENTS; CONFLICT WITH EXHIBITS.	34
37.3	WAIVER AND SEVERABILITY.	34
37.4	JURISDICTION AND VENUE.	34
37.5	HEADINGS.	35
37.6	TIME OF ESSENCE.	35
37.7	SUCCESSORS AND ASSIGNS.	35
37.8	CONSENTS.	35
37.9	FORCE MAJEURE.	35
37.10	COUNTERPARTS.	35
37.11	NO RECOURSE	36
37.12	GUARANTY.	36
37.13	WAIVER OF JURY TRIAL.	37
EXHIBIT “A”	SCOPE AND SERVICE REQUIREMENTS	
EXHIBIT “B”	COMPENSATION	
EXHIBIT “C”	ADMINISTRATIVE FEES	
EXHIBIT “D”	OPERATIONS AND PROCEDURES MANUAL INFORMATION	
EXHIBIT “E”	PERSONNEL	
EXHIBIT “F”	TRAINING MANUAL INFORMATION	
EXHIBIT “G”	INSURANCE REQUIREMENTS	
EXHIBIT “H”	NON-DISCRIMINATION PLAN FOR EMPLOYMENT	
EXHIBIT “I”	AGREEMENT ADDENDUM	
EXHIBIT “J”	GUARANTY	
EXHIBIT “K”	INFORMATION REQUIRED TO COMPLY WITH CALIFORNIA LABOR CODE SECTION 2810	

**MARITIME AREA
PORT SECURITY MANAGEMENT SYSTEM STAFFING**

THIS MARITIME AREA SECURITY PATROL SERVICES AGREEMENT, dated as of the _____ (“Agreement”), is entered into by and between the CITY OF OAKLAND, a municipal corporation (“City”), acting by and through its Board of Port Commissioners (hereinafter referred to as the “Port”), and _____ as the Operator (hereinafter referred to as the “Operator”).

W I T N E S S E T H

WHEREAS, the Port desires to obtain professional management and operation of Contract Security Services (as hereafter defined) in the Port’s Maritime Area (hereinafter collectively referred to as the “Maritime Area”), and has solicited Proposals from firms with experience and expertise in the management and operation of similar contract security services; and

WHEREAS, in response to such solicitation by the Port through the Port’s Request for Proposals for Maritime Area Security Patrol Services in the Maritime Area (the “RFP”), the Operator submitted a proposal (the “Proposal”); and

WHEREAS, Operator has the requisite experience and expertise to provide the Contract Security Services; and

WHEREAS, the Port desires to accept the Proposal in order to retain Operator as an independent contractor to manage and operate the Contract Security Services in accordance with this Agreement;

NOW, THEREFORE, in consideration of the terms, covenants and conditions contained herein to be kept and performed by the respective parties hereto,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. RETENTION OF OPERATOR.

The Port hereby retains Operator, and Operator agrees with the Port, to manage, operate and provide, as an independent contractor, the Contract Security Services described in this Agreement (hereafter the “Contract Security Services” or the “Services”). The Operator agrees to provide the Contract Security Services at locations at the Maritime Area as directed from time to time by the Port Facilities Security Officer (PFSO) (hereinafter the “PFSO”) or any individual authorized in writing as a designee by the PFSO (“Designee”). The Operator shall be responsible for all functions related to staffing, supervision and overall professional management of the Contract Security Services hereunder.

2. TERM OF AGREEMENT.

2.1 Term.

This Agreement shall have an initial term of two (2) years commencing **July 1, 2019** (“Commencement Date”), and terminating at **11:59 P.M. on June 30, 2021**; 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 mutual agreement by the Port and Operator. The term “Operating Term” shall mean the initial term of this Agreement and any Extension Term

resulting from the automatic renewal of this Agreement under this Section 2.1. 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 as provided in Section 19.1 below. 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 pursuant to Section 19 below, 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.

3. SCOPE OF SERVICES: WORKFORCE REQUIREMENTS.

3.1 Services

The Operator agrees to provide the Services outlined in Exhibit "A" as directed from time to time by the PFSO or the Designee. Operator agrees to provide the Services in the Maritime Area at such locations and during the hours specified in attached Exhibit "A", unless and until other locations or hours for the Services are established by the PFSO or the Designee, in which case Operator shall provide the Services from those locations and during those hours. The Port shall have the right in its sole discretion to increase or decrease Service hours. Operator shall provide replacement security guards to cover vacancies within one (1) hour of a post being vacated or a request by the PFSO or the Designee. Operator shall provide up to four (4) security guards for emergency assignments within four (4) hours' notice from the PFSO or the Designee.

3.2 Workforce Requirements.

a) Operator must provide a reliable and consistent work force, qualified to perform the Services under this Agreement, with a low turnover rate. Throughout the Operating Term of this Agreement, all employees assigned to perform work under this Agreement shall possess a valid security guard license/card issued by the California Department of Consumer Affairs Bureau of Security and Investigative Services in the appropriate discipline for the type of work performed, and shall obtain and maintain all other licenses required to provide any of the Services under applicable federal, state, city or local laws. In addition, Operator and its employees providing any of the Services must comply with the following:

(i) all work sites served by Operator will be non-smoking and Operator's employees shall comply with all applicable smoking restrictions; and

(ii) the Port will issue keys to specific secured areas as needed to Operator at no charge. However, in the sole discretion of the Port, in the event the locks need to be changed to maintain security as the result of Operator's employees' loss or misuse of keys, Operator will be responsible for the cost of changing the affected locks; Operator shall provide Port a copy of all keys made by Operator at Maritime Area within twenty-four (24) hours of keying.

(iii) the Port will issue Port badges to each of the Operators assigned guards and supervisors for access to the Harbor Facilities Complex. Any loss of Port badge must be reported immediately to the PFSO.

(iv) the Port will issue portable UHF radios to be used by Operators assigned guards and supervisors. Lost or damaged radios must be reported immediately to the PFSO. Operator will be responsible for the cost to replace any lost or damaged radios.

b) All security guards providing any of the Services under this Agreement must, in addition to all other requirements contained in Section 3(a) above or under "GUARD PERSONNEL QUALIFICATIONS" on attached Exhibit "F," comply with the following:

- (i) be able to distinguish all colors, and have vision correctable to 20/20;
- (ii) be able to climb inside and bend under vehicles for vehicle inspections (example, construction dump trucks, etc.);
- (iii) work while exposed to outdoor elements such as, but not limited to, wind, rain, snow, and aircraft noise;
- (iv) speak, read and write in English, and comprehend sensitive security information and Port rules, regulations, and other communications and communicate effectively. Security guards acting as representatives of the Port shall conduct themselves in a courteous and professional manner while performing duties on behalf of the Port. The Port retains the right to have any guard removed for failure to meet Port standards for customer service and performance;
- (v) hold a valid drivers license or identification issued by the State of California; and
- (vi) conduct its operation in a first-class, businesslike, efficient, courteous and accommodating manner.
- (vii) Operator and/or its employees shall not engage in the sale of any product or service, or the solicitation of such sale, in the Maritime Area.
- (viii) All Guards must obtain and maintain a valid Transportation Worker Identification Credential (TWIC) within 45 days from execution of the professional services agreement with the Port of Oakland for this scope of services. All costs associated with obtaining the TWIC shall be the responsibility of the successful, selected respondent. Information about the TWIC can be found at: <https://www.tsa.gov/for-industry/twic>

Failure to comply with the foregoing shall constitute a breach of the Agreement.

3.3 Resource.

Operator shall dedicate sufficient staff, equipment and other resources exclusively to implement the Services as specified in this Agreement and shall not divert such dedicated staff, equipment or resources to any other security service or to any other business.

4. COMPENSATION.

4.1 Total Compensation.

The Port shall pay Operator for satisfactorily completed Services at the compensation set forth in attached Exhibit "B". Operator 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, 6th Floor, Oakland, CA 94607, Attention: Troy Hosmer. 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 in increments of fifteen (15) minutes

and shall reflect the agreed hourly rates for guards and patrols regardless of the 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 4, and with such supporting documentation as the PFSO or the Designee 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.

Payment for all Services provided by all of Operator's off-site staff shall be included in the hourly rate set forth in attached Exhibit "B" and shall not be paid for as a separate position. In no event shall the Port be obligated to pay Operator for any services under this Agreement if the total amount the Port has paid to Operator under this Agreement exceeds the maximum compensation approved by the Board of Commissioners.

4.2 Hourly Work.

For Services performed in accordance with the terms of this Agreement, each of Operator's invoices shall include, at a minimum, the name, title, rate of hourly pay (any authorized pricing escalation per Section 4.3 below) as such rate may be adjusted pursuant to Section 4.3 below), number of hours, and total charge for the Services performed by each individual being charged.

4.3 Pricing Escalation.

Operator may request a rate adjustment no more frequently than annually for the ensuing Extension Term to reflect actual increases in Operator's cost to perform the Services that have been documented by Operator to the satisfaction of the PFSO or the Designee. 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 Operating Term, and adjustments approved by the PFSO shall be effective as of the beginning of the next Extension Term. The Port reserves the right, in its sole discretion, to deny the Operator'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 Date ("Extension Index") and the Index published most immediately preceding the commencement of the prior term ("Beginning Index").

5. BILLING.

5.1 Overbilling and Overpayment.

If in any given month, the Operator submits a report, invoice or bill which charges the Port for more than what should properly be charged to the Port pursuant to Section 4 of this Agreement and the Port makes such payments to the Operator in reliance on such report, invoice or bill, Operator shall immediately:

a) Repay the Port for any such amount of overpayment together with interest equal to twenty-five one-thousandths of one percent (.025%) of such amount for each day from the day the Port made its payment to the Operator until the day the overpayment is refunded to the Port, but not to exceed the maximum rate of interest permitted by law;

b) If the amount of the overpayment is more than two percent (2%) of the sum which should properly have been paid to the Operator, the Operator shall, in addition to Section 5.1(a) above, pay a \$250.00 Administrative Fee for each invoice, report or bill which overcharges the Port, not to exceed \$500.00 per month, to compensate the Port for the administrative services and burdens in such overpayment recovery; and

c) If the amount of the overpayment is more than five percent (5%) of the sum which should properly have been paid to the Operator, the Port shall, in addition to remedies provided for in Sections 5.1(a) and 5.1(b) above, have the right to terminate this Agreement for cause.

In addition to remedies provided for in Sections 5.1(a) through 5.1(c) above, Operator shall pay the cost of any audit by the Port under Section 6.3 below (including salary, fringe benefits, other direct expenses of the audit and an additional 20% of those costs to cover administrative charges) if such audit reveals, uncovers or identifies an overpayment of more than two percent (2%) of the sum which properly should have been reimbursed or paid, less a credit for any Administrative Fee charged pursuant to Section 5.1(b) above.

As an example, but without limitation, submitting a duplicate bill, invoice or report resulting in a duplicate payment to the Operator by Port shall be considered an overpayment by the Port for purposes of this Section 5.1.

The Port's payment of any amount pursuant to Section 4 above or its approval or payment of any expenditure pursuant to Section 5 to this Agreement shall not waive any of the Port's rights under this Section 5.1 unless the amount of the overstatement or the amount of the excess charge was described as such in a written disclosure to the PFSO or the Designee and was approved in writing by the PFSO or the Designee after such written disclosure.

Any amount owed by Operator to Port pursuant to this Section 5.1 or any other provision of this Agreement may be set-off by Port against any amount otherwise payable by Port to Operator pursuant to this Agreement, including, without limitation, payments under Section 4 or payment of Reimbursable Expenses.

6. BOOKS AND RECORDS; ACTIVITY REPORTS.

6.1 Maintenance and Production of Books and Records.

Operator shall maintain complete and accurate books of account and supporting documentation (collectively "books and records") in a form consistent with generally accepted accounting principles, including such books and records as would normally be examined by an independent certified public accountant in performing an audit or examination of amounts billed by Operator pursuant to Sections 4 or 5 of this Agreement, including employee timesheets, timecards, payroll receipts, and all records required to be kept pursuant to attached Exhibit "F".

6.2 Inspection of Books and Records.

All such books and records shall, upon reasonable notice from Port, be made available either at the offices of the Port or at the offices of the Operator, for inspection and copying by the

Port through its duly authorized representative. If such books and records are not kept and maintained by Operator within a radius of ten (10) miles from the offices of the Port at 530 Water Street, Oakland, California, Operator shall, upon request of the Port, make such books and records available to the Port for inspection at a location within said ten (10) mile radius or Operator shall pay to the Port the reasonable and necessary costs incurred by the Port in inspecting Operator's books and records, including, but not limited to, travel, lodging and subsistence costs. Operator shall provide such assistance as may be reasonably requested by the Port in the course of such inspection. The Port further reserves the right to examine and reexamine and copy said books, records and data during the three (3) year period following the expiration or earlier termination of this Agreement, as evidenced in writing by the Port. The Operator shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any matter whatsoever for three (3) years after the Port makes the final or last payment under this Agreement; provided, however, that if prior to the expiration of such three (3) year period, any audit, review or investigation is commenced by the Port, or any claim is made or litigation is commenced relating to this Agreement by the Port or the Operator, such books and records shall continue to be maintained by Operator, and Port shall continue to have the right to inspect and copy such books and records in the manner stated above, until the audit, claim or litigation is finally resolved (including the determination of any and all appeals or the expiration of time for such appeal).

6.3 Audit of Records.

During the Operating Term of this Agreement, in addition to its rights under Section 6.2 above, the Port, using its own employees or by contracting with a third party, may audit any or all payments made by the Port to Operator under Section 4 above. In case of such audit, the Operator shall make available to the Port any and all ledgers, books of accounts, canceled checks, and other records or documents evidencing or relating to payroll records, personnel files and staffing schedules of personnel assigned to the Services and such other evidence or information as the Port may require with regard to any payroll or other expenditure charged by the Operator. Such audit may also include a review of general, input, processing and output controls of information systems used to record financial transactions and other statistical reports. The Port shall notify the Operator of such audit and Operator shall provide such records in the manner, time and place as provided for in Section 6.2 above and in attached Exhibit "E". Operator's failure to comply shall be subject to administrative fees as specified in attached Exhibit "C" and shall also constitute a breach of Operator's obligations under this Agreement.

6.4 Deductions from Payments to Operator.

The Port shall have the right to deduct from any amounts payable to the Operator, upon written notice, any unauthorized or disputed payments made by Port to Operator, any Administrative Fees imposed, overpayments pursuant to Section 4 by the Port and any other amounts owed by Operator to the Port. If the Port is required or elects to pay any sum, or if it incurs any obligations or expenses, because of the failure, inability, neglect or refusal of the Operator to perform or fulfill any of its obligations under this Agreement, then the Port shall have the right to deduct these sum(s) from any amounts payable to the Operator.

6.5 Operations Reports.

Operator shall submit to the PFSO or its Designee, daily, weekly, monthly and annual reports on report forms, which shall include, at a minimum, all of the information specified under "OPERATIONS REPORTS" on attached Exhibit "A".

Any specific incidents requiring guard actions are to be included in the reports. The Operator shall immediately report any personal injuries, property loss or damage, threats or

potential threats against life or property or any incident or activities that present imminent danger to health and safety of the general public. Any emergency conditions requiring immediate attention are to be reported by telephone immediately to the Port's PFSO at (510) 627-1303 or (510) 719-8027 (mobile) and to the Oakland Police Department. A follow-up written report delineating the emergency condition and corresponding action taken shall be submitted to the Port within 24 hours. Monthly reports shall be submitted by the 15th of each month for the prior months. Operator shall supply Port with such other financial or statistical reports as the PFSO may request from time to time during the term of this Agreement. In addition, Operator shall address each customer complaint regarding the Maritime Area within five (5) working days of receipt by Operator of the notice of such complaint.

7. OPERATIONS.

7.1 Operations and Procedures Manual.

Operator shall provide their company's Operations and Procedures Manual ("Operations Manual"), and shall provide a copy to the PFSO, within thirty (30) days from the Commencement Date, for review and approval by the PFSO or the Designee. The Operator will confer with the PFSO or the Designee in its preparation of the Operations Manual and shall revise the Operations Manual from time to time as required by the PFSO or the Designee.

The Operations Manual shall provide basic guidance on policies, practices, and procedures covering all aspects of the Services, including but not limited to standards of performance. The Operator shall keep the Operations Manual current and shall comply with its provisions throughout the Operating Term. Any revision shall be subject to the written approval of the PFSO or the Designee. Each revision to the Operations Manual shall have a revision number and date. The Operations Manual shall become an integral part of the Agreement, but in the event of any conflict between the Operations Manual and this Agreement, the terms of this Agreement shall prevail. The Operations Manual, including all revisions as approved by the PFSO, is herein incorporated into and made a part of this Agreement. The failure of the Operator to comply with or satisfy the requirements as spelled out in the Operations Manual shall be an Event of Default hereunder, entitling the Port to all of the remedies set forth herein.

7.2 Report of Injuries or Loss.

The Operator, shall immediately report any personal injuries, property loss or damage, threats or potential threats against life or property or any incident or activities that present imminent danger to health and safety of the general public. Any emergency conditions requiring immediate attention are to be reported by telephone immediately to the Port's PFSO at (510) 627-1303 or (510) 719-8027 (mobile) and to the Oakland Police Department or Deputy Sheriff or as otherwise directed in writing by the Port. A follow-up written report, using a form provided by the Port, delineating the emergency condition and corresponding action taken shall be submitted to the Port within 24 hours.

8. PERSONNEL.

Exhibit "E", entitled PERSONNEL, is attached and made a part of this Agreement.

8.1 Training Certificates.

The Operator shall provide proof of guard and other appropriate personnel training within 30 days of the Commencement Date and on January 1 and July 1 (semi-annually) of each

year thereafter to the PFSO, for review and approval by the PFSO. The Operator shall comply with and maintain the training of guards assigned to the Port under the same terms and conditions as provided for in the Operations and Procedures Manual submitted pursuant to Section 7.1. Exhibit "F" attached to this Agreement provides information to assist in structuring the training.

8.2 Removal of Employees.

The PFSO or the Designee, at its sole discretion, reserves the right to require the Operator to remove, and to keep removed, from the Services and the Premises any employee of Operator, including without limitation the Supervisors, if said employee has failed to perform in accordance with any of the terms or conditions of the Agreement, or if said employee is alleged to have been involved in wrongdoing, while those allegations are under investigation. The Operator shall remove from the Services and the Premises any employee who operates a vehicle recklessly or in a manner that endangers the safety of Maritime Area patrons, under the influence of alcohol or other prohibited substances or who no longer satisfies the requirements set forth in Section 3.2 or attached Exhibit "F". The Operator will comply with any request to remove any such employee as soon as written notice is received from the PFSO or the Designee. Operator's failure to comply within twenty-four (24) hours of receipt of such notice shall be considered an Event of Default hereunder, entitling the Port to all of the remedies contained in this Agreement. Operator shall remove any employee of the Operator on the spot from the Services and the Premises, if the Operator is advised that the PFSO or the Designee has determined in his or her sole discretion that the seriousness of the incident justifies such immediate removal.

8.3 Uniforms.

Operator shall at its expense furnish all of its personnel engaged in providing any of the Services with uniforms of the type and in sufficient quantity to satisfy Operator's obligations under "EMPLOYEE UNIFORMS" on attached Exhibit "E", and Operator at its expense shall maintain all such uniforms in good condition. All uniforms shall be approved by the Port and obtained from a vendor selected by the Operator and approved by the Port prior to the Commencement Date. In addition, all of Operator's employees except for day guard shift shall wear similar style uniforms for such shift. Operator shall also provide rain gear, boots, flashlights, and safety equipment required by State of California standards. Operator agrees that each employee shall only use such approved uniforms.

8.4 Industry Operating Standards.

Operator shall operate the Services in compliance with the highest industry operating standards.

9. PREMISES.

For the purpose of performing all duties and obligations required by the Agreement and for no other purpose, the Port shall allow Operator, as a licensee, and at no charge to Operator, to use an office designated at the Harbor Facilities Center located at 651 Maritime Street. The Port reserves the right to terminate the license at any time and to relocate, from time to time and at the Port's expense, the Operator to such other space or location in the Maritime Area as determined by the PFSO. The license to use the Premises provided herein shall cease upon the expiration or earlier termination of this Agreement.

9.1 Maintenance.

Operator shall keep the Premises clean, attractive and in good repair and safe condition. The Port shall provide at its own expense all maintenance, repairs and replacement of the structural portion of the Premises, except with respect to damage resulting from negligence or willful misconduct of Operator, its officers, agents, employees, or contractors, in which case the cost of repair shall be borne by Operator. Operator shall have no obligation under this Agreement to make physical modifications to the Premises or other locations at the Maritime Area where the Contract Security Services are to be performed to comply with applicable Laws (as defined in Section 21.1 below).

9.2 Safe and Sanitary Working Conditions.

The Operator shall not permit any part of the Services to be performed under hazardous or dangerous conditions to its employees or the general public. Subject to the limitations in the last sentence of Section 9.1 above, the Operator shall comply with all Laws applicable to the Premises and all other locations from which any of the Services are performed. The Operator shall, at least once each day, inspect all locations at which the Services are being provided and the Premises to determine whether any hazardous or dangerous conditions exist or if any such location is in need of maintenance or repair. Operator shall immediately provide Port with telephonic notice, which shall later be confirmed by written notice, of any and all hazardous or dangerous conditions or any need for maintenance or repair at any location where the Services are being provided or at the Premises and of any injuries or damages resulting directly or indirectly there from, together with whatever information Operator has about the party responsible for creating any such condition. The Port shall have responsibility for correcting any hazardous or dangerous condition existing at any location where the Services are being provided or, to the extent provided in Section 9.1 above, the Premises, following notice to Port by Operator of the existence of such hazardous or dangerous condition. The Operator shall reimburse the Port promptly after its written demand for (a) any liability incurred by the Port (i) which arose out of any hazardous or dangerous conditions, and any injuries or damages resulting directly or indirectly there from, caused by the Operator, its officers, agents, employees, contractors or invitees, or (ii) which arose after Operator should have reported such conditions to Port pursuant to the provisions of this subsection, and (b) the costs incurred by the Port to correct any such hazardous or dangerous condition to the extent caused by Operator, its officers, agents, employees, contractors or invitees.

9.3 Utilities.

The Port shall pay the cost of all water, electric utility and telephone services to the Premises. The Port will install and pay for all telephone equipment on the Premises. The Port shall determine the number of lines and phones to be provided to the Premises. Subject to the limitations in Section 27 below, the Port shall provide all maintenance and repairs of such telephone equipment to keep such equipment in good working condition, except for damage resulting from the negligence or willful misconduct of Operator, its officers, agents, employees, or contractors, in which case the cost of repair shall be borne by Operator. The Operator shall comply and shall cause all of its employees providing any of the Services to comply with the Port's Policies and Procedures for the Use of Telephones and on Electronic Communications. The Port shall not be responsible to establish or pay for additional telephone service that may be desired by the Operator or any service to obtain, maintain, or operate a connection to the internet.

9.4 Area Access.

Solely for the purpose of performing the Contract Security Services, the Port grants the Operator, without charge therefore, the right of ingress to and egress from the Premises and all other Maritime Area locations from which any of the Contract Security Services are to be performed by the Operator, its officers, agents, employees, or contractors; provided that such right of ingress

and egress shall at all times be exercised in compliance with all applicable Laws and regulations promulgated by lawful authority for the care, operation, maintenance, and security of the Maritime Area.

9.5 Improvement.

Operator shall make no alterations or improvements, and shall post no signs, on the Premises or elsewhere at the Maritime Area, except with the prior written approval of the PFSO or the Designee, which approval may be denied or conditioned as the Port may determine in its sole discretion. Operator may, at no cost to the Port, and subject to subsequent prompt removal, at Operator's expense, at the request of the Port at any time, provide such movable furniture and other trade fixtures, as Operator deems appropriate. Operator agrees that it will not depreciate for tax purposes any alterations or improvements made by it at the Maritime Area.

9.6 Surrender of the Premises.

Upon expiration or earlier termination of this Agreement, the Operator shall vacate the Premises. Operator shall thereupon deliver to the Port the Premises, all Office Equipment, and all other office facilities and equipment belonging to Port, and, to the extent of Operator's obligations, as set forth in this Section 10, assure that they are in good working condition in all respects, reasonable wear and tear excepted, or Operator shall pay to the Port such sums as necessary for the repair of the Office Equipment and any such office facilities and equipment, and to restore the Premises to its original condition, normal wear and tear excepted. If, at the expiration or earlier termination of the Agreement, the Operator retains ownership of any operating equipment, movable furniture and other trade fixtures used at the Premises and provided at Operator's expense (and not reimbursed by Port), the Operator shall remove any such property, subject to any valid lien which the Port may have thereon; provided that, upon removal of any such operating equipment, movable furniture and other trade fixtures, the Operator shall restore the Premises to the original condition, normal wear and tear excepted. The Operator shall be deemed to have abandoned to the Port any operating equipment, furniture and other trade fixtures which it has failed to remove within fifteen (15) calendar days after the expiration or earlier termination of this Agreement, unless the Executive Director or the Designee shall grant additional time for this purpose in writing; provided, however, the Port, at its sole option, shall have the right to remove and store same after it is deemed abandoned and restore the area to satisfactory condition and hold the Operator liable for all costs incident to such removal, storage and restoration. In the event the Port removes such operating equipment, furniture and other trade fixture, the Port shall not sustain, be charged with, or incur any liability by reason of any damage to same or for such removal or custodial care.

9.7 Inspection.

The Port and staff, including but not limited to administrative staff, facilities staff, custodial staff, authorized persons, and the Port's agents, retain the right at the Port's sole discretion to enter the Premises for the examination and inspection of the area from time to time with reference to any emergency, or to the general maintenance of said area, or for the purposes of surveying or viewing the area for anticipated alterations or improvements, or any other purpose deemed necessary by the Port.

10. EQUIPMENT.

10.1 Operating And Maintenance of Equipment.

Operator shall provide and maintain, at its own expense, all office equipment (including but not limited to computer work station), motor vehicles, and other supplies and equipment required for Operator to perform its duties and obligations under the Agreement (the "Equipment"), including without limitation the equipment set forth in Exhibit "A", whether owned by Operator or supplied by the Port. Upon the expiration or earlier termination of this Agreement, Operator shall return all Port provided Equipment to the Port, with any repairs that Operator is required to make completed in a manner that is acceptable to Port.

a) Vehicles. Operator must provide, fuel, and maintain, at its expense and in good working condition, one or more service vehicles approved by the Port and equipped with a fixed or mobile two-way radio or equivalent communication device, a roof-mount light bar to be operated by each of Operator's on-duty field supervisors. Said vehicles shall be, and at all times remain, the property of the Operator and shall be used solely for the Services. Additionally, said vehicles shall display the Operator's name in a minimum 4" type style and size, shall have the Operator's identification number, so as to be readily identifiable as belonging to the Operator. Each vehicle shall have no visible body damage at any time.

b) Operator's Reporting Obligations. Operator shall immediately report to Port any Equipment that Operator knows or reasonably should know is in need of service, repair or replacement, or any Port facility or dangerous condition that Operator knows or reasonably should know is in need of maintenance or repair, and such report shall be made to the Designee during business hours of 8:30 A.M. to 5:00 P.M. Mondays through Fridays (except on Port-observed holidays). In the case of a dangerous condition, Operator shall report to the PFSO immediately.

11. LIMITATIONS ON OPERATOR ACTIVITIES.

11.1 Limitations on Uses.

Operator shall and shall require Operator's Representatives (as defined in Section 11.2(a) below) to use the Premises and to enter and exit the Maritime Area only to provide the Contract Security Services, to perform Operator's obligations under this Agreement, and to construct, install, use and maintain Operator's improvements in or on the Premises, subject to the PFSO's or the Designee's prior written approval of such construction or installation.

a) Operator shall not do or permit anything to be done by Operator's Representatives in, on or about the Premises, or any part of the Maritime Area, nor bring or keep or permit any of Operator's Representatives to bring or keep thereon, anything which is prohibited by or will in any way conflict with any applicable Laws, or which is prohibited by a standard form of fire insurance policy or which will in any way increase or affect the then-existing rate of any fire or other insurance carried by the Port or required to be carried by the Operator under this Agreement, or which will cause a cancellation of any insurance policy covering the Maritime Area or the Premises and any part thereof or any of their contents.

b) Operator shall not and shall not permit any of Operator's Representatives to commit, cause or maintain (except to the extent expressly authorized by Section 11.2(c) below), any Toxic Material (as defined in Section 11.2(a) below) upon the Premises or any part of the Maritime Area, any public or private nuisance, or any other act or thing which may disturb the quiet enjoyment of any tenant, licensee, invitee or person using or occupying any portion of the Maritime Area.

c) Operator shall not and shall not permit any of Operator's Representatives to install, maintain or operate in, on or about the Premises or any part of the Maritime Area, any

vending machine or device designed to dispense or sell foods, beverages, tobacco products or merchandise of any kind to the general public.

d) Operator shall not and shall not permit any of Operator's Representatives to install, erect, affix, paint or place any sign or lettering in, on, or about the Premises or any part of the Maritime Area, except as otherwise provided herein.

e) Operator shall not and shall not permit any of Operator's Representatives to make any improvements or alterations to the Premises or any part of the Maritime Area without the prior written consent of the PFSO or the Designee.

f) Operator agrees to conduct its operations upon the Premises or any part of the Maritime Area so as to reduce to the minimum that is reasonably practicable, the emanation therefrom of fumes and odors.

g) Operator agrees to handle and dispose of its trash, garbage and refuse in a sanitary manner and not to store or maintain any boxes, cartons, barrels, trash, debris or refuse in or about the Premises or any part of the Maritime Area where they will be an eyesore to the public, as reasonably determined by the PFSO or the Designee. If the PFSO or the Designee makes such determination, then at the request of the PFSO or the Designee, the Operator shall promptly remove such boxes, cartons, barrels, trash, debris or refuse from the Maritime Area, or store same in a location approved by the PFSO or the Designee in the exercise of his or her sole discretion.

h) Operator shall not and shall not permit any of Operator's Representatives to engage in the sale of any product or service, the solicitation of such sale, or the distribution of any literature or goods of any type, at the Maritime Area.

i) The Operator's guard(s) shall not carry mace, batons or any other unauthorized weapons at the Port Property.

11.2 Toxic Materials.

a) For the purpose of this Agreement, the following terms shall be defined as follows:

(1) "Clean-up" shall include investigation, feasibility studies, risk assessment, treatment, removal, disposal, handling, transport, containment, capping, mitigation, remediation and monitoring in accordance with all applicable Environmental Laws.

(2) "Environmental Laws" shall mean all Laws (as defined in Section 24 below), including, but not limited to, those so defined in or regulated under any of the following: 15 U.S. Code Section 2601, et seq. (the Toxic Substances Control Act); 33 U.S. Code Section 1251, et seq. (the Federal Water Pollution Control Act); 42 U.S. Code Section 6901, et seq. (the Resource Conservation and Recovery Act); 42 U.S. Code Section 7401, et seq. (the Clean Air Act); 42 U.S. Code Section 9601, et seq. (the Comprehensive Environmental Response, Compensation and Liability Act); 49 U.S. Code Section 1801, et seq. (the Hazardous Materials Transportation Act); 42 U.S. Code Section 4321, et seq. (NEPA); H&S Code Section 116270 et. seq. (California State Drinking Water Act); H&S Code Section 25100, et seq. (Hazardous Waste Control); H&S Code Section 25300, et seq. (the Hazardous Substance Account Act); H&S Code Section 25404, et seq. (Unified Hazardous Waste and Hazardous Materials Management Regulatory Program); Government Code Sections 66600 et

seq. (McAteer Petris Act); H&S Code Section 25531, et seq. (Hazardous Materials Management); H&S Code Section 18901, et seq. (California Building Standards); California Water Code Section 13000, et seq. (the Porter-Cologne Water Quality Control Act); H&S Code Section 25249.5, et seq. (the Safe Drinking Water and Toxic Enforcement Act of 1986); Division 26, of the H&S Code (including H&S Code Section 39000 et seq. and 40200 et seq. among others, (authorizing regulation by CARB and the BAAQMD); Division 25.5 of the H&S Code (H&S Code section 38500 et seq. - the Global Warming Solutions Act); California Public Resources Code Section 21000, et seq. (CEQA); local fire codes; the regulations adopted and promulgated pursuant to such statutes, including any regulations adopted pursuant to such statutes after the Commencement Date, as well as any subsequently enacted federal, California, local and Port law, statute, ordinance, rule, regulation, program, plan, resolution, policy, program, permit, order, or other directive issued by any Governmental Authority as may be modified, amended or reissued, in any way relating to or regulating the Operator's operations with regard to:

(i) Human health, safety and industrial hygiene related to Toxic Materials;

(ii) The environment, including natural resources, pollution or contamination of the air, soil, sediment, soil gas, surface water, groundwater, structures, and subsurface structures including utility vaults, corridors or conduits, or noise or light pollution;

(iii) Toxic Materials, including, without limitation, the handling, use, storage, accumulation, transportation, generation, spillage, migration, discharge, release, treatment or disposal of any Toxic Materials, or Response Actions (as defined in Section 12.2(i)(ii) below) associated with same; or

(iv) Global warming or generation of greenhouse gases.

(3) "Governmental Authority" shall mean any court, federal, State or local government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority, including the Port, of the United States of America, including any successor agency.

(4) "Indemnification Obligations" shall have the definition provided in Section 12.2(i)(i) below.

(5) "Indemnitees" shall mean, collectively, the Port and the Port's Commissioners, agents, employees, representatives, contractors, the Port-designated secondary users of the Premises, PFSOs and officers.

(6) "Operator Release" shall have the definition provided in Section 12.2(e) below.

(7) "Operator's Representatives" shall mean, collectively, Operator's officers, agents, employees, contractors, subcontractors, licensees and invitees.

(8) "Response Action" shall mean the investigation, testing, feasibility study, risk assessment, treatment, removal, disposal, reuse, handling, transport, clean up, remediation, containment, capping, encapsulating, mitigation, or monitoring of Toxic Materials, including the demolition, reconstruction or

construction of any subsurface or surface structures to implement the Response Action and the restoration of the Premises or other Port property after the completion of the Response Action whether required by Environmental Laws or as a result of any future development or construction activities by the Port or a third party.

(9) "Toxic Materials" shall mean (i) substances that are toxic, corrosive, flammable or reactive; (ii) petroleum products, crude oil (or any fraction thereof) and their derivatives; (iii) explosives, asbestos, radioactive materials, hazardous wastes, sewage, infectious substances, toxic substances or related hazardous materials; (iv) air pollutants, noxious fumes, vapors, soot, smoke or other airborne contaminants; and (v) substances which now or in the future are defined by Environmental Laws as "hazardous substances," "hazardous materials," "hazardous wastes," "pollutants," "contaminants", "reproductive toxins," "carcinogens" or "toxic substances," or regulated under applicable Environmental Laws.

b) Operator shall comply with all Environmental Laws relating to the use of Toxic Materials on or about the Premises or any part of the Maritime Area or other property of the Port.

c) Operator shall not contaminate the Premises or any part of the Maritime Area or other property of the Port, or their subsurfaces, with any Toxic Materials. Operator shall not cause or permit any Toxic Materials to be brought upon, remain, kept or used in or about the Premises or any part of the Maritime Area or other property of the Port, by Operator, its agents, employees, contractors or invitees other than those kinds of materials that are normally used in performing the Services, ordinary office and janitorial supplies, and other materials used in the ordinary course of Operator's providing Services so long as such supplies, substances and automobiles and standard contents therein are stored, used and disposed of in accordance with the Environmental Laws.

d) Disposal of any Toxic Materials at the Maritime Area is strictly prohibited. Storage of such permissible Toxic Materials is allowed only in accordance with all applicable Environmental Laws. All safety and monitoring features of any storage facilities shall be subject to the approval of the Port's Executive Director or the PFSO.

e) If Operator, or any of Operator's Representatives, or any other persons as a result of any of the foregoing parties' conduct of Operator's business, cause contamination or deterioration of water, soil or any portion of the Premises or any part of the Maritime Area or other property of the Port on account of Toxic Materials or any release, spill, discharge, disposal, leak, leaching, migration or dispersal of Toxic Materials, (whether onto the Maritime Area, the Premises or other properties of the Port or any other party, or into the city of Oakland's or Alameda's sewerage or storm drainage systems) ("Operator Release"), then Operator shall promptly take any and all action necessary to Clean-up such contamination or remediate such deterioration as required by the Environmental Laws, and to the reasonable satisfaction of Port. Operator shall be solely and fully responsible and liable for any such Operator Release and any costs or expense of Clean-up. Operator shall take Clean-up actions on any portions of the properties of the Port only with the permission of the Port. In any case, Operator shall provide Port with written notification of all actions taken by Operator, its officers, agents, employees or contractors for the Clean-up.

f) In addition to all other rights and remedies of Port hereunder, if an Operator Release is not removed by Operator within 90 days after discovery by Operator, or within 90 days of written notice to Operator of its discovery by the Port or any other third party, or

within such shorter period of time (including immediately) as Port may reasonably determine is necessary to prevent further damage or harm, Port may pay to have the same removed and Operator shall reimburse Port for such costs within five days of Port's written demand for payment.

g) In addition to Operator's obligations to report spillage, discharge, release and disposal of Toxic Materials to local, state and federal agencies, Operator shall immediately provide Port with telephonic notice, which shall later be confirmed by written notice, of any and all spillage, discharge, release and disposal of Toxic Materials onto the Premises or by Operator or any of Operator's Representatives within the Maritime Area or other property of the Port, and any injuries or damages resulting directly or indirectly therefrom. Further, Operator shall deliver to Port each and every notice or order received from any governmental agencies concerning such Toxic Materials and the possession, use and/or disposal thereof promptly upon receipt of each such notice or order.

h) Operator shall at all times maintain with the Port and post in an appropriate location a complete copy of the "Oil & Hazardous Substances Spill Notifications" forms, as said form may be amended from time-to-time by the Port. Operator shall comply with all notification and procedural requirements for Port tenants set forth in the "Port Spill Plan," and as said "Port Spill Plan" may be amended from time-to-time by the Port.

i) (i) Neither the Port nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Operator or Operator's Representatives arising from or relating to Environmental Laws or Toxic Materials under this Agreement. It is understood and agreed that Operator shall be solely responsible for and shall fully indemnify, protect, defend (with counsel chosen by the Port) and hold harmless the Indemnitees from and against any and all claims, suits, actions, costs, expenses, penalties, fines, liabilities and losses of every name, kind and description, which arise during or after the Operating Term of this Agreement as a result of an Operator Release on the Maritime Area during the term of this Agreement or the failure of Operator or Operator's Representatives to comply with Operator's obligations under this Section 12.2, or Operator's responsibilities, if any, for pre-existing contamination as described in subsection 12.2(j) below, including, without limitation: (i) diminution in value of the Premises and of any other Port property; (ii) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises (including, without limitation, deed restrictions), or any other Port property; (iii) damages arising from any adverse impact on marketing of space in the Premises or other Port property; (iv) increased costs of maintenance, construction, repairs or major improvements to the Premises, or any other Port property; (v) stigma damages; (vi) costs of any Response Action; (vii) claims asserted by any governmental entity acting or purportedly acting under any Environmental Laws; (viii) all orders and directives issued by a Governmental Authority pursuant to Environmental Laws; (vix) all Governmental Authority or third party claims or suits for injury to persons or to the environment (including, without limitation, any such claims, suits or actions brought for or on account of damage to or loss of property or injury as identified in Government Code Section 810.8) or failure to comply with Environmental Laws; (x) claims involving lost opportunities, lost profits, lost revenues, business interruption, increased operating expenses and any related damages, including any consequential or exemplary damages arising from or attributable to the requirements of Environmental Laws; and (xi) sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees, damages, injuries, causes of action, judgments, taxes and expenses (collectively referred to as "Indemnification Obligations").

(ii) If the Port receives a notice of an event subject to the Indemnification Obligations hereunder, the Port shall, within a reasonable time, give notice to Operator,

provided that the failure to do so shall not relieve Operator of any liability it may have to the Port under this section. Upon receipt of such notice, Operator shall accept tender of defense of the Indemnification Obligations. The Port and Operator shall cooperate with each other in the defense of such Indemnification Obligations, including, without limitation, the tendering of claims to appropriate insurance carriers for defense and indemnity. Operator's Indemnification Obligations under this Section 12.2(i) shall commence no later than receipt by the Port or Operator or an Operator Representative of any notice of any claim whether by regulatory notice (which shall be deemed to include, without limitation, verbal or written notice by a governmental agency of an informational request, or to take any Response Action) or any other notice by a third party, threatened legal action, arbitration, mediation, administrative proceeding or lawsuit.

j) Operator shall, at its sole cost and expense, promptly undertake and complete any and all Response Action (i) within the Premises or other Port property resulting from an Operator Release (including migration through soil or groundwater) by Operator or Operator Representatives, (ii) within the Premises or any other Port property for all Toxic Materials present therein which are disturbed by Operator or Operator Representatives, to the extent the Response Action is required either by Environmental Laws, or by the specific needs of Operator's activities (such as, for example, where Environmental Laws might allow contaminated soils to remain on the Premises, but there is no available space within the Premises for that soil). Operator's acceptance of the Premises is in an "as-is, whereis" condition, with all faults, including preexisting contamination, if any, within the Premises and any other adjacent Port property for all Toxic Materials present therein which are disturbed by Operator or Operator Representatives in making any improvements to the Premises. Operator shall not be responsible for any Response Action with respect to any Toxic Material outside the Premises unless the Toxic Material was either disturbed or initially the result of an Operator Release by Operator or Operator Representatives. In addition, to the extent that any soils excavated, moved, stockpiled, or otherwise handled in the course of Operator's activities or construction on the Premises may be subject to Response Action, disposal or special handling restrictions under Environmental Laws due to contamination by Toxic Materials, Operator shall be responsible for such Response Action, handling and disposal of such soils in compliance with Environmental Laws. The cost of disposing of any Toxic Materials under this subsection, including, without limitation, any manifest costs (including the execution of hazardous waste manifests or other waste profile sheets as generator), taxes, landfill disposal fees, transportation taxes or fees, shall be paid by Operator. At Operator's sole cost and expense, Operator shall perform all Response Actions in compliance with all applicable Environmental Laws and to the satisfaction of the government agencies having jurisdiction over such Toxic Material or Response Action, but in all cases at least to standards appropriate for unrestricted commercial use; provided, however, that with respect to Operator Releases caused by Operator or Operator Representatives, in the event a future use of any Port property requires a Response Action to a higher standard, such as a unrestricted residential or public use, any such Response Action shall be at Operator's sole cost and expense. Operator shall take reasonable steps to obtain the approval of the Port, which approval shall not be unreasonably withheld, prior to undertaking any Response Actions; provided, however that Operator may perform Response Actions without Port approval (i) if so directed by a Governmental Authority with jurisdiction under any Environmental Laws or (ii) if Operator reasonably and in good faith believes that action is required by any Environmental Laws.

k) This Section 11.2 and the Operator's obligations thereunder shall survive the expiration or earlier termination of this Agreement.

l) Toxic Materials Reporting. Operator's obligation under this Agreement to immediately report to Port or to immediately provide Port with telephonic notice of any presence, spillage, discharge, release or disposal of Toxic Materials shall be made to the PFSO.

12. INSURANCE.

Operator shall comply with Exhibit "G", entitled INSURANCE REQUIREMENTS, which is attached to and made a part of the Agreement.

13. OPERATOR AN INDEPENDENT CONTRACTOR; WORKERS' COMPENSATION INSURANCE; PAYROLL TAXES.

Operator shall provide the Services hereunder as an independent contractor. Nothing contained herein is intended or shall be construed to make the Port and the Operator partners, joint venturers or joint employers, and employees of Operator shall not be considered agents or employees of the Port. Operator shall provide workers' compensation insurance as required by the laws of the State of California. Operator shall have the sole responsibility for paying the salaries, payroll taxes, contributions for unemployment insurance, and all other expenses relating to each employee of Operator.

14. FEDERAL AIP GRANT COMPLIANCE.

By executing this Agreement, Consultant agrees and certifies that Consultant will comply with the FAA Airport Improvement Program (AIP) provisions set forth below and Consultant shall also include each of these provisions in all of its contracts and subcontracts related to this Agreement. For purposes of Sections 15-19, Consultant is sometimes hereinafter referred to as "Contractor" and Port is sometimes hereinafter referred to as "Sponsor".

15. GENERAL CIVIL RIGHTS PROVISIONS.

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

16. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS.

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 16.1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 16.2. Non-discrimination: The Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin

in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

- 16.3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 16.4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and Instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 16.5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the Non-discrimination provisions of this Agreement, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
- Withholding payments to the Contractor under the Agreement until the Contractor complies; and/or
 - Cancelling, terminating, or suspending a Agreement, in whole or in part.
- 16.6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs 16.1 through 16.5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES.

During the performance of this Agreement, the Contractor, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

18. FAIR LABOR STANDARDS ACT.

This Agreement incorporates by reference the provisions of 29 U.S.C. §201, *et seq* (the Federal Fair Labor Standards Act (FLSA)), and its implementing regulations, with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping and

child labor standards for full and part time workers. Consultant has full responsibility to monitor compliance to the referenced statute and regulation. Consultant must address any claims or disputes that arise from this requirement directly with the US Department of Labor – Wage and Hour Division.

19. OCCUPATIONAL SAFETY AND HEALTH ACT.

This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Consultant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Consultant retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. §651, et seq; 29 CFR Part 1910). Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

20. ASSUMPTION OF RISKS; INDEMNIFICATION.

Operator agrees to voluntarily assume any and all risk of loss, damage, or injury to the person or property of Operator, its officers, agents, employees, contractors and invitees, which may occur in, on or about the Premises or the Maritime Area at any time and in any manner, except to the extent such loss, injury, or damage is caused solely by the gross negligence or willful misconduct of Port, its agents, operators, employees, and officers.

20.1 Indemnification.

Operator agrees to indemnify, defend and hold completely harmless Port (including, without limitation, members of Port's Board of Commissioners, and Port's agents, employees, representatives, contractors, directors, PFSOs and officers), from and against all liabilities, suits, claims, demands, judgments, damages, fines, penalties, costs and expenses (including all costs for investigation and defense thereof, including, but not limited to, court costs, expert fees and paralegal and attorneys' fees prior to institution of legal proceedings and at both trial and appellate levels, and in any mediation or arbitration agreed to by Port), which may be incurred by, charged to or recovered from any of the foregoing indemnified parties (i) by reason or on account of damage to or destruction of any property of Port (except as otherwise expressly provided by this Agreement), or any property of, injury to or death of any person resulting from or arising out of Operator's performance of the Services or its use, occupancy, maintenance or repair of the Premises or any improvements thereto, or Operator's operations anywhere on the Maritime Area, or the acts or omissions of Operator's officers, agents, employees, contractors, subcontractors, invitees, vendors, suppliers or licensees, regardless of where the damage, destruction, injury or death occurred, unless such liability, suit, claim, demand, judgment, damage, fine, penalty, cost or expense was caused solely by Port's gross negligence or willful misconduct, or (ii) arising out of any allegation that Operator, or the Port in concert with Operator, has infringed on or violated any Federal, state, or common law patent, trademark, copyright, or trade secret rights, or violated any Federal or state labor laws, or any Federal or state laws governing consumer credit, credit cards, or the sale of abandoned property, or (iii) resulting from or arising out of the failure of Operator to keep, observe or perform any of the covenants or agreements in this Agreement to be kept, observed or performed by Operator. In carrying out its obligations hereunder, Operator shall use counsel acceptable to Port Attorney.

The foregoing provisions of this Section 14.1 are not intended and shall not be construed to limit in any manner whatsoever the protection or benefits to which Port otherwise

would be entitled as an additional insured under any liability insurance maintained or required to be maintained by Operator under this Agreement.

The provisions of this Section 14.1 shall survive the expiration or earlier termination of the Operating Term with respect to any acts or omissions occurring during the Operating Term.

20.2 Waiver By Port.

The waiver by Port of any breach of any provision of this Agreement shall not be deemed for any purpose to be a waiver of any other provision hereof, nor of any continuing or any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the parties in the administration of any of the provisions of this Agreement be construed to waive or to lessen the right of Port to insist upon the performance by Operator in strict accordance with the provisions of this Agreement.

20.3 Waiver By Operator.

As a material part of the consideration to be received by Operator from Port under this Agreement, Operator waives any and all claims or causes of action against Port, the Port's Commissioners and the Port's agents, employees, representatives, contractors, directors, PFSOs and officers which Operator may now or hereafter have at any time for damage to Operator's personal property located in, on or about the Premises or the Maritime Area, and for injury to or death of any person occurring in, on or about the Premises or the Maritime Area from any cause arising at any time, except to the extent that such damage, injury or death is directly caused solely by the gross negligence or willful misconduct of the Port, its agents, operators, employees or officers.

21. EQUAL OPPORTUNITY; NON-DISCRIMINATION.

During the Operating Term of this Agreement, the Operator, for itself, and its authorized assignees and successors in interest, agrees as follows:

(1) In furtherance of the Port's long-standing policy to ensure that equal employment opportunity is achieved and nondiscrimination is guaranteed in all Port-related activities, it is expressly understood and agreed with respect to Operator's activities upon the Maritime Area:

- a) That Operator shall not discriminate against any employee or applicant for employment on any basis prohibited by state or federal law. Operator shall take affirmative action to ensure that applicants and employees are treated fairly. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Operator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Port's Equal Opportunity Officer setting forth the provisions of this paragraph.
- b) That Operator shall, in all solicitations or advertisements for employees placed by or on behalf of Operator, state that all qualified applicants will receive consideration for employment without regard to any basis prohibited by state or federal law.

- c) That Operator will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Port's Equal Opportunity Officer, advising the labor union or workers' representative of the Operator 's commitments under this paragraph, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d) That Operator shall not discriminate by segregation or otherwise against any person or persons on any basis prohibited by state or federal law in furnishing, or by refusing to furnish, to such person or persons the use of any public facility upon the Maritime Area, including any and all services, privileges, accommodations, and activities provided by Operator.
- e) That Operator shall maintain work force records showing male, female and minority employees by job category and similar information with respect to new hires and shall permit the Port's Equal Employment Opportunity Officer to inspect such records at all reasonable times and not less than annually and shall submit a summary of such information annually on a form provided by the Port.
- f) That if Operator has fifteen (15) or more employees, Operator shall within ninety (90) days of the Commencement Date provide the PFSO or his designee with a copy of its affirmative action program, if any, as may be required by any appropriate federal or state agency, by the Port pursuant to any federal or state requirements, or as a result of a court ordered consent decree. Thereafter any change(s) in the Operator 's affirmative action program shall be forwarded to the Port within thirty (30) days of its adoption. Such submissions shall be accorded the same level of confidentiality as provided for by the state or federal regulations or court order under which it was originally submitted.
- g) That Operator 's noncompliance with any of the provision of this Section 16(1) shall constitute a material breach of this Agreement. In the event of a breach of any of the above-stated nondiscrimination and affirmative action covenants, the Port shall have the right to consider but not be limited to the following:
 - (1) Terminate this Agreement and to re-enter and possess the Premises and the facilities thereon, and to hold the same as if this Agreement had never been made without liability therefore; or
 - (2) Seek judicial enforcement of said covenants.
- h) The Port shall assist Operator in preparing the required affirmative action program to secure equal employment opportunities, whenever such assistance would be beneficial and shall be available to advise and counsel Operator in the implementation of Operator 's Affirmative Action Program.

(2) Non-Discrimination and Small/Local Business Utilization Policy

On October 7, 1997, the Board of Port Commissioners initiated a formal policy to encourage full participation of firms from its Local Business Area, the counties of Alameda and Contra Costa ("LBA"), particularly those in its Local Impact Area ("LIA"), in its work. The LIA includes the cities of Oakland, Alameda, Emeryville and San Leandro.

The Operator shall, in consultation with the Port, establish and maintain compliance on a case-by-case basis with the Port's Non-Discrimination and Small Business Utilization Policy, as amended from time-to-time, with respect with the operations and any possible construction, erection or improvements on the Premises.

(3) Prevailing Wage Standards

- a) *Basic Requirements.* The Operator agrees that, with respect to the Services and the Operator's performance of any other work on the Premises (including the construction, erection or improvements), the Operator shall comply with the Public Work Prevailing Wage Requirements and the Private Work Prevailing Wage Requirements (collectively, the "Prevailing Wage Requirements"), provided, however, that the Private Work Prevailing Wage Requirements shall not apply to (i) improvements costing less than \$50,000.00 or with respect to which the initial building permit for such work is issued more than one year after the certificate of occupancy is approved on the core and shell, and (ii) maintenance work.
- b) *Additional Prevailing Wage Provisions.* The following provisions of this Section 16(3)(b) apply only if, and to the extent that, the Prevailing Wage Requirements are applicable:
 - (i) The Prevailing Wage Requirements shall apply to the employees of any employer including the Operator and any Respondent Contractor, including their successors and assignees, but shall not apply to supervisory or managerial personnel or to persons employed in the operation or (in the case of Private Work Prevailing Wage Requirements only) maintenance of the Premises.
 - (ii) The Operator shall cause the provisions of this Section 16(3)(b) to be incorporated into each contract and subcontract and other agreement which would be subject to this Section 16(3)(b). In the event the provisions are not so incorporated, the Operator shall be liable to the worker in any action or proceeding for the difference between the prevailing wage rate required to be paid and the amount actually paid to the worker, including costs and attorney fees, as if the respondent were the actual employer.
 - (iii) Nothing in the Agreement shall prevent the employment of any number of properly registered apprentices, as defined in Chapter 4, Division 3 of the California Labor Code. Every such apprentice shall be paid not less than the standard wage paid to apprentices under the regulations of the crafts or trade at which the apprentice is employed, and shall be employed only at the work of the craft or trade to which the apprentice is registered. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which the apprentice is in training. Good faith efforts shall be made to maintain a ratio of apprentices to journeymen of not less than 20%, if the employer is signatory to an agreement to train, or otherwise bound to train, apprentices.

- (iv) The Operator shall be responsible for complying with Section 1777.5 of the California Labor Code concerning apprenticeable occupations, with respect to all work covered by that section.
- (v) The Operator agrees that to the extent that the Operator is required to comply with the Prevailing Wage Requirements, the Operator shall assure that all workers are paid the prevailing rate of per diem wages, and travel and subsistence payments (defined in applicable collective bargaining agreements filed in accordance with the California Labor Code), in effect at the time the work is performed. Copies of the applicable prevailing rate of per diem wages are on file at the Port's principal office and will be made available to any interested party on request. The Operator agrees to post a copy of the prevailing rate of per diem wages at each job site.
- (vi) Except where the context otherwise requires, the definitions of terms and phrases contained in the California prevailing wage law, Sections 1720 et seq. of the California Labor Code, and in the implementing administrative regulations, shall apply to the same terms and phrases which are used in the Prevailing Wage Requirements of this Section 18(3)(b).
- (vii) The Operator, as a penalty to the Port, shall forfeit twenty-five dollars for each calendar day, or portion thereof (or such other sum as specified from time to time by Section 1775 of the California Labor Code), for each worker paid less than the applicable prevailing rates for such work or craft in which such worker is employed. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Operator

(4) Community Relations

- a) The Operator shall cooperate with the Port's Social Responsibility Division and other departments as directed by the PFSO. Operator understands the Port's Community Relations Department seeks to serve the needs of Port tenants for a qualified workforce and address the needs of Oakland's chronically unemployed and underemployed, by identifying employment opportunities, training and job preparation resources for persons seeking such opportunities and by facilitating access to this information.
- b) The Operator will notify the Port's Social Responsibility Division of job opportunities open with the Operator either informally, or by providing copies of all advertisements or solicitations by or on behalf of the Operator, so that the Port's Community Relations Department may assist the Operator by inclusion of Operator's opportunities in its monthly Job Listing for the Port's website and providing assistance to Operator with additional recruitment if requested. The Port's Community Relations Department focuses on making Operator employment opportunities accessible to the local community and in

particular, agencies and organizations that provide employment and training services.

- c) The Operator shall consider the Port's Community Relations Department for its recruitment and advertisement of available opportunities to solicit applicants from the local community as required by this Section 18(4) and by relevant state or federal equal employment opportunity law. Operator retains and at all times shall have the right, consistent with Operator's obligations pursuant to its non-discrimination program, both to determine qualifications of all applicants for employment and, in its sole discretion, to select the applicants it deems best qualified.

(5) Living Wage Requirements

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, 2018 is at least \$13.75 with credit given to the employer for the provision to covered employees of health benefits, and \$15.78 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 contractor will be required to fill out an Employer Self Evaluation Form and Certificate of Compliance that may be obtained from the Port's website at http://www.portofoakland.com/portnyou/livi_form.asp and return them to the Port's Social Responsibility Division.

(6) Compliance with Regulations.

- a) Nondiscrimination. The Operator, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, creed, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment.
- b) Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive Proposals or negotiation made by the Operator for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Operator of the Operator's obligations under this Agreement relative to nondiscrimination on the grounds of race, color, or national origin.

22. NON-DISCRIMINATION IN SUBCONTRACTING WITH VENDORS AND/OR SUPPLIERS.

Operator agrees that it shall not discriminate against any professional service, contractor or vendor because of race, color, religion, sex, actual or perceived sexual orientation, national origin, age, physical handicap or disability (as set forth in the Americans with Disabilities Act of 1990) or veterans status; and that the Operator shall, in all solicitations or advertisements placed by or on behalf of Operator, for vendors, contractors or professional services, state that all qualified Proposers will receive consideration on merit, without regard to race, color, religion, sex, actual or perceived sexual orientation, national origin, age, physical handicap or disability (as set forth in the Americans with Disabilities Act of 1990) or veteran status.

The Port's Social Responsibility Division will assist Operator in finding diverse professional services, contractors and vendors.

23. REPRESENTATIONS, WARRANTIES AND COVENANTS.

Operator represents warrants and covenants with respect to this Agreement and any amendment hereto (which representations and warranties shall be continuing during the Operating Term):

- a) That all information submitted by Operator, its officers, agents, employees and contractors (the "Aforementioned Parties") during the Port's RFB process, or thereafter, upon request of Port, whether or not submitted by any of the Aforementioned Parties under a continuing obligation by the terms of this Agreement to do so, was true and correct at the time such information was submitted or made available to Port;
- b) That none of the Aforementioned Parties has colluded, conspired, or agreed, directly or indirectly, with any person in regard to the terms and conditions of Operator's response to the and Port's RFB;
- c) That Operator has the power and authority to enter into this Agreement with the Port and that the individual executing this Agreement is duly authorized to do so;
- d) That none of the Aforementioned Parties has made an attempt to exert undue influence with the evaluation committee of the Port to award the Agreement for the Services to the Operator;
- e) That there are no unresolved claims or disputes between Operator and Port; and
- f) That Operator has furnished (and will furnish) true and accurate financial statements, records, reports, resolutions, certifications, and other information as may be requested of Operator by Port from time to time during the term of this Agreement.

24. TERMINATION.

24.1 Termination by Port.

The Port may terminate this Agreement without cause at any time upon giving thirty (30) day's prior written notice to Operator. Port may terminate this Agreement immediately upon

notice upon the happening of an Event of Default (as defined in Section 20.1), and such a termination shall be deemed a termination “for cause.”

24.2 Termination by Operator.

Operator may terminate this Agreement without cause by giving to the Port at least one hundred eighty (180) day’s prior written notice of termination, which notice may not be given earlier than the first anniversary of the Commencement Date.

24.3 Effect of Termination.

At the termination date, the Operator shall immediately quit the assigned Premises and return the Office Equipment, any other Equipment provided by the Port, and any equipment purchased with Port funds or for which Operator has been reimbursed under this Agreement, and any personnel identification badges to the Port in the condition required by this Agreement. If the Port elects to terminate this Agreement for cause, everything contained in this Agreement on the part of the Port to be done and performed shall cease without prejudice, subject, however, to the right of the Port to recover from the Operator all monetary damages or other relief that may be available to the Port arising out of any breach of this Agreement by Operator. Within sixty (60) days after the termination of this Agreement, the Port shall be obligated, subject to its set-off rights provided for in this Agreement, to pay all amounts owed to Operator under this Agreement to the termination date. If either party elects to terminate this Agreement as provided for herein based on the other party’s material breach of this Agreement, the non-breaching party shall be entitled to damages as permitted by law or under this Agreement.

24.4 Removal from Premises.

Upon expiration or termination of this Agreement, the Port may immediately or any time thereafter, re-enter the Premises and remove the Operator, Operator’s employees, agents, subcontractors, invitees and property from the Premises. The Port shall be entitled to the benefits of all provisions of law respecting speedy recovery of the Premises held over by the Operator. Any other notice to quit or other notice to permit Port to re-enter the Premises is hereby expressly waived by the Operator. The Port shall not be liable in any way in connection with any action it takes pursuant to this subsection. The Operator’s liability shall survive the Port’s re-entry, the institution of summary proceedings, and the issuance of any warrants with respect thereto.

25. DEFAULT AND REMEDIES.

25.1 Events of Default. The occurrence of any of the following shall constitute an “Event of Default” or “Default” by Operator:

- a) The failure to provide, voluntary abandonment, discontinuation, cessation or material deterioration of the Services during the Operating Term which, in the opinion of the PFSO or the Designee, results in the failure to provide Services of the duration, quality or standards required to be performed by the Operator under this Agreement, which failure is not cured within five (5) days after Port’s written demand; provided, however, that if Operator has received three (3) notices under this subparagraph within a period of 180 days, commencing on the date of Operator’s receipt of the first such notice, then Operator shall have no right to correct a failure described in any subsequent notice given by Port to Operator under this subparagraph within such 180 day period, even if all of the prior failures were corrected by Operator within the five (5) day cure period.

- b) The filing by the Operator of a voluntary petition in bankruptcy, or failure by the Operator to lift any execution, garnishment or attachment, or to obtain the dismissal of a bankruptcy proceeding commenced involuntarily against the Operator within thirty (30) days after filing thereof or assignment by the Operator for the benefit of creditors, or the entry by the Operator into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Operator in any proceeding instituted under the provisions of the Federal Bankruptcy Act, as amended, or under any similar acts which may hereafter be enacted.
- c) The occurrence of any act which results in the suspension or revocation of the rights, powers, licenses, permits and authorities necessary for Operator to conduct and operate the Services.
- d) Receipt of more than ten (10) complaints within any twelve (12) month period concerning major service deficiencies in the Services, with the determination of a complaint being deemed a "major service deficiency" being in the sole discretion of the Port. Operator shall have the right to contest any complaint by providing to Port within five (5) days after being notified of the complaint such evidence as Operator may have to demonstrate that the complaint was not justified. The determination of whether a complaint was justified shall be in the sole discretion of the Port.
- e) The filing of any lien or sequestration or attachment of or execution or other levy on Operator's interest in this Agreement, the Premises or on Operator's equipment, if any, located on the Maritime Area and Operator fails to obtain a release of such interest or property within thirty (30) days after the filing or attachment, or prior to sale pursuant to such levy, whichever first occurs.
- f) The PFSO's or the Designee's determination that there is a reasonable probability that Operator's financial condition is impaired and Operator cannot provide adequate assurances that any conditions giving rise to the impairment of financial condition can be removed within thirty (30) days of receipt of Port's demand for same.
- g) Failure to obtain and maintain in effect any of the insurance referenced in Sections 12 or 13.
- h) If any of the representations or warranties contained in Section 18 are untrue in any material respect, or if Operator breaches any of its covenants contained in Section 18.
- i) Any transfer or assignment of this Agreement or subcontracting of any of the Services other than in compliance with Section 22.
- j) Breach of or failure to comply with Operator's obligations contained in Section 21.1, Section 26.
- k) Any breach or failure described as an Event of Default or Default by any provision of this Agreement other than this Section 20.1.
- l) Failure by the Operator to observe or perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, other than those specifically referred to above in this subsection 20.1, for a period of fifteen (15) calendar days after written notice specifying such failure and requesting that it be remedied has been given to the Operator by the Port; provided, however, such failure shall not constitute an Event of Default hereunder if such failure stated in the notice can be corrected, but not within

the applicable period, and corrective action is instituted by the Operator within the applicable period and diligently pursued until such failure is corrected, provided that if the cure period is longer than thirty (30) calendar days after the date of such written notice, the Operator shall obtain the prior written consent of the Port.

25.2 Remedies For Default. Upon the occurrence of an Event of Default, Port shall have the following rights and remedies, in addition to all other rights and remedies provided in this Agreement or by law, to which Port may resort cumulatively or in the alternative, and Port may assert them against the Operator and/or any general partner or joint venture partner, jointly and severally:

- a) The Port may enter into a new agreement with another operator that will occupy the Premises for all or any part of the unexpired portion of the Operating Term of this Agreement in which event Operator shall be liable in addition to accrued liability hereunder, for the difference between the payments the Port is obligated to pay the new operator and the payments the Port would have been obligated to pay the Operator under this Agreement for the unexpired portion of the Operating Term (not to exceed the notice period required for the Operator to terminate this Agreement without cause pursuant to Section 20.2 above). The Port has the sole and absolute discretion with respect to the selection of a new operator and the use of the Premises.
- b) In the Event of Default under this Agreement, the Port may, after providing written notice to the Operator of the Event of Default, cure the default at any time through any action deemed appropriate by the Port for the account and at the expense of the Operator. The Operator shall reimburse the Port for any amounts expended by the Port in connection with the cure, together with interest thereon for each day from the date of advance by Port until paid by Operator at the rate of five one hundredths percent (.05%), but not to exceed the maximum rate of interest permitted by law, and any penalties thereon as may be established by Port ordinance. Such cure shall not constitute a waiver of the Port's rights with respect to that or any other Event of Default, unless otherwise expressly stated in writing by the Port.
- c) The Operator shall pay the Port such sums as the court which has jurisdiction thereover may adjudge as reasonable attorney's fees with respect to any lawsuit or action instituted by the Port to enforce the provisions of the Agreement in which the Port is the substantially prevailing party.
- d) The Port shall not be liable for any damage, including, but not limited to, loss of profit and the Operator shall not make a claim of any kind whatsoever against the Port, its agents or representatives, by reason of any action taken pursuant to this Section 20.
- e) At Port's election, Port may keep this Agreement in effect and enforce all of its right and remedies under this Agreement, including the right to withhold compensation and other fees as they become due, and at Port's option, but without any obligation to do so (implied from any of its obligation under this Agreement), Port may, after first giving Operator written notice as provided in Section 20.2(b) above, make such payment or perform such other act to the extent Port may deem appropriate. All sums so paid by Port and all costs in connection therewith shall be due and payable by Operator to Port (except where otherwise expressly provided in this Agreement) within ten (10) days of Port's written demand for payment of same, together with interest and penalties thereon from date of advance by Port at the rate provided in Section 20.2(b) above, plus costs as may be awarded by a court of competent jurisdiction.

- f) Port shall not be liable to Operator for any damage to, or for any diminution or deprivation of Operator's rights hereunder on account of the exercise of any authority granted to Port in this Agreement. Operator shall be liable to the Port for the Port's expense for re-entering or repossessing the Premises, and making any necessary repairs to the Premises, for all of the expenses to obtain a new operator and for the costs of operating or engaging a third party to operate the Services for the unexpired portion of the Operating Term (not to exceed the notice period required for the Operator to terminate this Agreement without cause pursuant to Section 20.2 above) to the extent such costs exceed the expenses that would have been paid had the Operator not defaulted.

25.3 Act of Termination.

In the event Operator ceases to provide the Services at the Maritime Area, this Agreement shall not terminate, unless Port gives Operator written notice of its election to terminate this Agreement. No act by or on behalf of Port intended to mitigate the adverse effect of such breach shall constitute a termination of Operator's obligation to render Services hereunder and use the Premises, unless Port gives Operator written notice of termination.

26. COMPLIANCE WITH LAWS, RULES, POLICIES AND REGULATIONS.

26.1 Agreement to Comply.

Operator covenants and agrees to observe and comply with (and to cause any assignee or subcontractor authorized under Section 25 below to comply with) all present and future Laws (as hereafter defined), subject to the limitations in the last sentence of Section 10.1 above, and all rules, regulations and policies of Port, including without limitation, all safety, security and operations directives of the PFSO or the Designee, which now exist or may hereafter be promulgated from time to time governing conduct on and operations at the Maritime Area or the use of facilities at the Maritime Area (hereafter collectively the "Maritime Area Rules, Policies and Regulations"). The Port shall not have any duty or obligation to Operator to enforce the Maritime Area Rules, Policies and Regulations or the terms and conditions in any permit, lease or other agreement against any third party, and the Port shall not be liable to Operator for violations of same by third parties, their employees, contractors, agents, invitees or licensees. Operator further covenants and agrees to observe and comply with (and to cause all of its assignees or subcontractors authorized under Section 25 below to comply with) any and all valid and applicable requirements of all duly-constituted public authorities (including, without limitation, the Department of Transportation, the Department of Homeland Security, the Federal Maritime Commission.). Operator agrees to pay or reimburse Port for any civil penalties or fines which may be assessed against Port as a result of the violation by Operator or any such assignee or subcontractor of any of the foregoing requirements, which payment shall be made by Operator within fifteen (15) days from receipt of Port's invoice for such amount and documentation showing that payment of such penalty or fine is Operator's responsibility hereunder. Operator shall not be obligated to make a payment to Port under this Section 21.1 if such payment would duplicate a payment for the same violation that has already been made by Operator to the Port.

As used in this Agreement, "Laws" shall mean all present and future federal, state and local statutes, ordinances and regulations and Port ordinances applicable to Operator, the Premises, the Services or the Maritime Area and judicial interpretations thereof, , the Americans with Disabilities Act of 1990, all acts and regulations relating in any way to worker's compensation, sales and use tax, social security, unemployment insurance, hours of labor and overtime, wages, working conditions, the Immigration Reform and Control Act of 1986, Section 7583 of the California Business and

Professional Code, the Charter of the City (including without limitation Section 728 entitled “Living Wage and Labor Standards at Port-Assisted Businesses”), the Oakland Municipal Code (including without limitation Section 5.52 thereof), all Environmental Laws (as defined in Section 11.2(a)(2) above, and the Maritime Area Rules, Policies and Regulations (as defined in this Section 24.1).

If Operator fails to comply with any applicable Laws, the Port may suspend this Agreement until compliance is attained or may perform the Services, including without limitation, the functions of the Supervisor, with its own forces or with hired personnel, and may deduct the cost of these Services from monies otherwise due Operator under the terms of this Agreement. The Port will determine in its reasonable discretion whether Operator has complied with its obligations under this Section 21, and whether the Port will provide Services in lieu of Operator. Operator shall also be subject to any Administrative Fees levied against the Port as a result of Operator's failure to comply with its obligations under this Section 21.

27. TRANSFER AND ASSIGNMENT.

27.1 Assignment or Subcontracting.

Operator shall not sell, assign or transfer this Agreement or any of its rights and obligations hereunder or permit any such sale, assignment or transfer to occur by operation of law, or subcontract for the performance of any of the Services to be provided by it hereunder, without the Port's prior written approval, which approval must be evidenced by resolution adopted by the Board of Port Commissioners and may be granted or withheld by Port in the exercise of its sole discretion and subject to payment by Operator of all administrative expenses incurred by the Port for the processing of such assignment or transfer.

27.2 Transfer of Control.

For purposes of Section 22.1 above, an assignment shall include, if the Operator is a corporation (except if Operator is a corporation whose stock is publicly traded), the issuance or the sale, transfer or other disposition of a sufficient number of shares of stock in the Operator to result in a change in control of the Operator or if the Operator is a partnership, joint venture, or other entity other than a corporation, a transfer of an interest or interests in the partnership, joint venture or other entity (or in any of the general or joint venture partners or members thereof) which results in a change in control of any such entity, or if the Operator is a joint venture, any transfer that would violate the Operator's obligations under Section 32.12 below.

28. JOINT AND SEVERAL LIABILITY.

The obligations and liabilities of the Operator and its general partners or joint venture partners under or arising under this Agreement are joint and several.

29. GOVERNING LAW.

The Port and the Operator agree that the law governing this Agreement shall be that of the State of California.

30. FEES AND TAXES.

Operator agrees timely to pay all applicable fees, taxes, and other charges levied by any governmental entity upon any right or interest granted to Operator by this Agreement or upon the exercise of any such right or interest, including the City of Oakland business licensing fees and

taxes, if applicable. In the event that any provision of this Agreement causes the imposition of a possessory interest tax, Operator shall immediately notify the PFSO and provide a copy of all documents received by the Operator relative to such impositions. The Port agrees to pay on behalf of Operator whatever possessory interest tax may be imposed, provided, however, that the Port reserves the right to challenge the imposition of such a possessory interest tax. Operator agrees to reasonably cooperate with the Port in making necessary investigations and in preparing and presenting necessary documentary and oral evidence in connection with whatever challenge to such tax imposition the Port may deem appropriate.

31. COVENANT AGAINST CONTINGENT FEES; IMPROPER INFLUENCE.

Operator warrants that no person or agent has been employed or retained to solicit or obtain the Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency of Operator. For breach or violation of this warranty, the Port, as its option, may deduct from the Management Fee or payment of Reimbursable Expenses or otherwise recover from Operator, the full amount of the contingent fee, or may exercise any other legal or equitable remedy available to it.

Operator warrants that neither Operator nor any person nor agent acting on Operator's behalf shall exert improper influence to solicit or obtain Port contracts. In addition, Operator warrants that neither Operator nor any person nor agent acting on Operator's behalf shall exert improper influence to extend or prevent termination of this Agreement. "Improper influence", as used in this Section, means any influence that induces or tends to induce a Port Commissioner, employee or officer to give consideration or to act as an agent regarding a Port contract, including this Agreement, on any basis other than the merits of the matter.

Operator's breach of any of its obligations under this Section 26 shall constitute an Event of Default and may result in any or all of the following:

- (i) Port's immediate termination of this Agreement, and
- (ii) an assessment of an Administrative Fee as specified in Exhibit "C".

"Bona fide agency," as used in this Section means an established commercial or selling agency, retained by Operator 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.

"Bona fide employee," as used in this Section, means a person, employed by Operator and subject to Operator'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 himself or herself out as being able to obtain any Port contract or contracts through improper influence.

"Contingent fee," as used in this Section, 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.

"Improper influence," as used in this Section, means any influence that induces or tends to induce a Port Commissioner, employee or officer to give consideration or to act as an agent regarding a Port contract on any basis other than the merits of the matter.

32. CONSENTS AND APPROVALS; NOTICES.

All consents or approvals provided for in this Agreement must be contained in writing signed by the party giving such consent or approval.

Written notices to the Port hereunder shall be given by personal delivery, or by registered or certified mail or overnight courier service, with all postage or freight charges prepaid, and addressed to John Driscoll, Director of Maritime, Port of Oakland, 530 Water Street, 6th Floor, Oakland, CA 94607, with copies to Port Attorney, Port Attorneys Office, 530 Water Street, 4th Floor, Oakland, CA 94607, attention Danny Wan, Esq., or to such other address or addresses as the Port may designate by written notice to Operator.

Written notices to Operator hereunder shall be given by personal delivery, or by registered or certified mail or overnight courier service, with all postage or freight charges prepaid, and addressed to:

With a copy to: _____

or to such other address as Operator may designate by written notice to the Port.

The giving of any such notice by the PFSO or the Designee shall be effective upon receipt, and Operator shall not question the authority of the PFSO or the Designee to give any such notice.

33. WAIVER OF DAMAGE

Operator hereby expressly waives and releases any cause of action or right of recovery for compensation for any and all loss or damage sustained by reason of any fire, defect, deficiency or impairments of any of the services in or to the Premises or the Maritime Area, including, but not limited to, electrical power, gas, telephone service, steam, heating, air conditioning, water supply, plumbing, drainage or sewage systems, or from wires leading to or inside of any space or structure, or by reason of any loss resulting from the failure of any such system or facility unless such loss or damage is due solely to the willful misconduct of Port or its officers, agents or employees. It is understood that Operator shall take such steps as Operator may consider necessary to protect Operator's trade equipment and other personal property from any damage that may be caused to same in the event of any failure or interruption of such utility service. Whenever the Port shall find it necessary for the purpose of making repairs or improvements to any utility supply system it shall maintain, it shall have the right to suspend temporarily the delivery of gas, electricity, water or other utility service, or any thereof, but in all such cases (except in the event of an emergency) reasonable notice of such suspension will be given to Operator.

The Port and its Board of Port Commissioners and its officers, employees and agents shall not be liable to Operator or to any third party claiming through Operator for any loss of business or any indirect, incidental, special or consequential damages or lost profits arising out of or relating to this Agreement or the operation of Operator at the Maritime Area or for any other cause.

34. NO ADVERTISING

Operator shall not display any advertising on the Premises or the Maritime Area.

35. NON-DISCRIMINATION PLAN FOR EMPLOYMENT.

Operator shall comply with Exhibit "H", entitled NON-DISCRIMINATION PLAN FOR EMPLOYMENT, which is attached to and made a part of this Agreement.

36. AGREEMENT ADDENDUM.

Operator shall comply with Exhibit "J", entitled AGREEMENT ADDENDUM, which is attached to and made a part of this Agreement.

37. MISCELLANEOUS.

37.1 Lost And Found Articles.

All articles found by the Operator, its agents or employees, or which are found by patrons and given to the Operator, shall be turned over to the Maritime Area Lost and Found Department as lost and found items. The Operator, its agents and employees shall have no right to reclaim said articles. Lost and found articles while in possession of the Operator, its agents and employees, that cannot be accounted for will be reimbursed by Operator to the Port at the fair market value of the articles, as reasonably determined by the Port, or replaced at the Operator's sole expense.

37.2 Entire Agreement; Amendments; Conflict with Exhibits.

This Agreement, together with the exhibits and attachments hereto, which are hereby incorporated into this Agreement by this reference, constitutes the entire agreement between the parties with respect to the subject matter hereof, and any prior agreements, representations or statements made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements, representations or statements made with respect to such subject matter are merged herein. Except as otherwise specifically provided in this Agreement, this Agreement may be altered or amended only by written instrument executed by all of the parties hereto. In the event of an express conflict between an Exhibit to this Agreement and this Agreement, the provisions of this Agreement shall prevail.

37.3 Waiver and Severability.

The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such enforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such provisions within the limits of applicable law or applicable court decisions.

37.4 Jurisdiction and Venue.

- a) Operator hereby consents to the jurisdiction of the State of California Superior Court of the County of Alameda and of the Federal District Court for the Northern District of California with respect to any action instituted by Port and arising against Operator under this Agreement, and waives any objection which it may have at any time to the

laying of venue of any such action brought in any such court, waives any claim that such action has been brought in an inconvenient forum and further waives the right to object, with respect to such action, that such court does not have any jurisdiction over Operator. Operator further irrevocably consents to the service of process by certified or registered mail (airmail if overseas) or the equivalent (return receipt requested), or the service of process in any other manner permitted by law, in any action instituted by Port and arising against Operator under this Agreement. Port agrees to serve such process on Operator's registered agent under California law if the name and address of Operator's current registered agent in California has been provided to Port in advance and in writing.

- b) In addition to the foregoing, pursuant to California Code of Civil Procedure, Section 416.10, Operator hereby designates the following person as its agent for service of process:

37.5 Headings.

The article and section headings herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision of this Agreement.

37.6 Time of Essence.

Time is expressed to be of the essence of this Agreement.

37.7 Successors and Assigns.

The Agreement will inure to the benefit of and shall be binding upon the parties hereto and their authorized successors and assigns.

37.8 Consents.

Except as otherwise expressly provided herein, if certain action may be taken only with the consent or approval of the Port, or if a determination or judgment is to be made by the Port, such consent or approval may be granted or withheld, or such determination or judgment shall be made, in the sole discretion of the PFSO or the Designee.

37.9 Force Majeure.

Neither party shall be liable by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, except for strikes by its own employees, riots, insurrections, fires, floods, storms, explosions, earthquakes, acts of God, war, terrorist attacks, governmental action (unless arising out of a party's breach of applicable Laws), or any other similar cause that is beyond the reasonable control of such party, or if such failure or delay was caused by the other party's failure to fulfill its obligations under this Agreement ("Force Majeure"). If any event of Force Majeure occurs, the party delayed or unable to perform shall give immediate notice to the other party and shall re-commence performance at the earliest possible time.

37.10 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any

counterpart of this Agreement shall be validly and effectively delivered if delivered by telefacsimile transmission.

37.11 No Recourse

No recourse under or upon any obligation, covenant or agreement contained in this Agreement, or any other agreement or document pertaining to the operations of Operator hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or under any judgment obtained against Port, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Agreement, shall be had against any member (including, without limitation, members of Port's Board and its citizens advisory committees), director, Pak Manager, officer, employee, representative, contractor, or agent, as such, past, present and future, of Port, either directly or through Port or otherwise, for any claim arising out of this Agreement or the operations conducted pursuant to it, or for any sum that may be due and unpaid by Port. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any Port member, director, PFSO, officer, employee, representative, contractor, or agent, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Agreement or the operations conducted pursuant to it, or for the payment for or to Port, or any receiver therefore or otherwise, of any sum that may remain due and unpaid by Port, is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement.

37.12 Guaranty.

If a third party or third parties joined in the Operator's Proposal as a guarantor, then such third party or third parties, as applicable, shall execute and deliver to the Port the Guaranty in the form attached hereto as Exhibit "J" at the same time that this Agreement is executed and delivered by Operator to the Port.

37.13 WAIVER OF JURY TRIAL.

TO THE EXTENT PERMITTED BY LAW, OPERATOR AND PORT DO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATED TO, ARISING OUT OF OR IN CONNECTION WITH THE TERMS, CONDITIONS AND COVENANTS OF THIS AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Maritime Area Parking Management Services to be executed the day and year first above written.

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

Dated: _____

By: _____
J. CHRISTOPHER LYTLE
Executive Director

OPERATOR:

_____ By: _____

Authorized Signature

Dated: _____

(If Corporate: Chairman, President or Vice
President

Attest _____
Authorized Signature

(If Corporate: Secretary, Assistant Secretary
Chief Financial Officer or Asst. Treasurer

Dated: _____

Approved as to form and legality this _____ day of
_____, 2016.

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.#: 2016 - _____

EXHIBIT “A”

SCOPE AND SERVICE REQUIREMENTS

The Operator agrees to provide Contract Security Services at service locations directed from time to time by the PFSO or the Designee. The Port reserves the right from time to time to order changes in the service locations, the service hours and in the Services to be performed by the Operator. All such changes shall be incorporated in written change orders executed by the PFSO or the Designee which shall specify the changes ordered and the adjustment of compensation if any. No claim for additional compensation will be recognized, except as permitted in the Agreement. Services may not be interrupted at any time. The specified staffing required to be providing the Services, as described herein, must be provided at all times as specified.

Port retains the services of Contractor to provide experienced operators and supervisor(s) to staff the Port Security Management System (PSMS) per the scope of services outline below:

Task 1: General Patrol Services

1.1 General Requirements:

- a) Basic Security Services shall be one (1) person (identified as “guard” or “guards” throughout the body of this document) and one (1) vehicle providing security patrol services, via three eight (8) hour shifts from 7 AM – 3 PM, 3 PM -11 PM, and 11 PM – 7 AM, seven (7) days per week (Monday – Sunday), including holidays. Proposals should be based on this level of staffing.
- b) The Agency shall make available a Supervisor who will manage assigned guards and act as a liaison and point of coordination to the Port at all times. Supervisors shall be available 24 hours per day, 7 days per week, and be available for immediate consultation with Port staff as needed.
- c) Guard uniforms shall be professional in nature, yet visible for traffic safety operations. All uniforms must be approved by the Port. Pants shall be black, blue, khaki, tan, brown and/or green in color. Shirts and jackets shall be an American National Standards Institute (ANSI), traffic safety approved color.
- d) The Agency must have a California State Private Patrol Operator License Certificate issued by the State of California, through the Department of Consumer Affairs, Bureau of Security and Investigative Services.
- e) All guards assigned to work under this Agreement must hold current “Guard Cards” issued by the State of California, through the Department of Consumer Affairs, Bureau of Security and Investigative Services to fulfill the Scope of Services, including coverage during lunch/breaks, vacation, sick leave, or other leaves as they may occur.
- f) Any guard assigned driving responsibilities must possess and maintain a valid, State of California driver’s license for the duration of the driving assignment. The Contractor shall provide to the Port a copy of the completed DMV check on each guard prior to start-up of assignment and annually on any guard assigned driving duties.
- g) All Guards must obtain and maintain a valid Transportation Worker Identification Credential (TWIC) within 45 days from execution of the professional services

agreement with the Port of Oakland for this scope of services. All costs associated with obtaining the TWIC shall be the responsibility of the successful, selected respondent. Information about the TWIC can be found at: <https://www.tsa.gov/for-industry/twic>

- h) Guards shall have at least three (3) years of experience providing security services consistent with those required under this RFP.
- i) Supervisors must have at least five (5) years of experience managing or supervising security guard operations; preferably on a multi-shift operation.
- j) In the event a security officer is unable to perform his/her duties during a shift due to illness, injury, or other reasons, the Agency shall provide a replacement officer within one (1) hour from the time the post is vacated.

1.2 Basic Security Services

- a) Guards shall patrol the surface streets within the Maritime Area by vehicle as directed by the PFSO, or his designee, throughout the entire shift.
- b) Guards are to report suspicious activities to Port Staff.
- c) Guards shall report criminal activity directly to the Oakland Police Department with a follow up report to designated Port Staff.
- d) Guards will monitor traffic (primarily trucks) transiting and who are in queue awaiting entry to marine terminals. When observed, guards shall respond to truck line cutting incidents by tactfully communicating with truck drivers and directing them to go to the back of the queue line, in accordance with Port policy and best practices.
- e) When observed, guards are to assist with intersection management and direct traffic during times of high congestion.
- f) Guards will liaise and coordinate with Port Staff, via the Supervisor, to patrol and secure construction and vacant sites as directed.
- g) Guards shall collect information related to parties for all incidents as they occur including, but not limited to, vehicular collisions, hazardous material spills, truck line cutting, and other vehicle/truck altercations.
- h) Guards will liaise with Port staff and first response agencies as needed to mitigate Port emergencies and incidents.
- i) Guards shall effectively communicate about abovementioned incident types via Port-provided UHF radio system.
- j) Guards are required to coordinate with Port, Public Safety, and Emergency Responders for significant events and/or specific areas that require increased enforcement.

1.3 Operations Reports

- a) Port staff will meet monthly with the Agency to discuss operations reports and all other issues relating to the fulfillment of the Scope of Services.
- b) The Agency shall provide Daily, Weekly, Monthly, and Annual Operations Summary Reports, which shall include, at a minimum:

- i. Daily employee operations and incident reports
- ii. Weekly employee work schedule and employee rosters
- iii. Monthly employee payroll reports
- iv. Monthly employee training
- v. Annual report of major incidents that occurred or were responded to by the Agency since the commencement date or since the prior reporting date
- vi. The Agency shall immediately report any personal injuries, property loss or damage, threats or potential threats against life or property or any incident or activities that present imminent danger to health and safety of the general public. A follow-up written report delineating the emergency condition and corresponding action taken shall be submitted to the Port within 24 hours.
- vii. Any other information the Contractor deems necessary.
- viii. The Port reserves the right to modify the report format and/or frequency at any time.

1.4 Operations and Procedures Manual and Training Program Manual

Agency will provide the Port with an Operations and Procedures Manual. This Manual should describe the Agency's basic policies, practices, standard of performance and procedures covering all aspects of the management and operation of their services. The Training Program Manual will detail the formal employee training program, including initial qualification and Maritime orientation training, and scheduled ongoing training.

1.5 Other Requirements

a) The Contractor 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 I-9 OMB No. 1115-0236, or any revised version).

b) Upon execution of an agreement, the Contractor will provide a list of the names and duty hours of each employee assigned to the Port. Contractor shall provide subsequent updates to this to this list as employees and/or employee duty hour changes on a weekly basis.

c) Upon execution of an agreement, the Contractor shall perform background checks of at least three (3) years of verifiable background on all guard candidates and certify that all candidates have successfully passed a criminal background check prior to working on Port property.

d) Guard personnel shall be recruited, selected, and assigned to ensure dependable, efficient, courteous and pro-active service to the Port.

e) The Contractor shall ensure that guards receive on-going training in public relations, guard patrol procedures, safety, and other related operations such as traffic enforcement.

f) Guards shall be able to speak, read, write, and comprehend instructions in English.

g) Guards must be able to work while exposed to outdoor elements, including but not limited to wind and rain and be able to climb and bend for various inspections.

h) The Agency is responsible for the professional and courteous control, conduct, demeanor, and appearance of its guards, agents and employees.

i) The Agency and/or its employees or family members shall not engage in the sale of any products or services, or the solicitation of sale, on any of the Port's property.

1.6 Holidays

The Agency is required to fulfill the Scope of Services for all holiday periods. On holidays, Port staff will be available through emergency contact information provided to the Contractor.

Task 2: Short Term, Additional Patrol Services

2.1 From time to time, the Port will desire to enhance Port security monitoring and patrols, based upon operational needs and requirements. The request for additional patrol services will be placed with as much advance notification as possible, but in no case will the request be made less than 24 hours in advance of the need for those services. All other provisions of Task 1 apply to Task 2. The Port will pay for the work on the basis of the hourly labor rates and costs as specified in Appendix B (Payment).

EXHIBIT “B”

COMPENSATION

Compensation to Contractor:

The maximum amount payable under this Agreement shall not exceed **\$xxx,xxx** for each year of this Agreement or **\$xxx,xxx** over a period of four (4) years if the Agreement is extended an additional two years.

Cost Factor – Unarmed Security Guard – Task 1	Cost to Port/Hour
a. S/O Wage	
b. Health Benefits	
c. Equip/Uniforms	
d. Training	
e. Admin	
f. Management	
g. Holiday	
h. Profit	
i. Other (vacation and sick)	
TOTAL ALL INCLUSIVE (A through I)	
ANNUAL COST	
Cost Factor Security Vehicle Task 1	
A. Security Vehicle	
B. Fuel	
C. Maintenance	
D. Profit	
E. Other (Insurance)	
TOTAL – ALL INCLUSIVE MONTHLY RATE (A through E)	
ANNUAL COST	
GRAND TOTAL TASK 1	
Cost Factor – Unarmed Security Guard – Task 2	
A. S/O Wage	
B. Health Benefits	
C. Equip/Uniforms	
D. Training	
E. Admin	
F. Management	
G. Holiday	
H. Profit	
I. Other (vacation and sick)	
TOTAL ALL INCLUSIVE (A through I)	
ANNUAL COST X 1000 HOURS	
Cost Factor Security Vehicle Task 2	
A. Security Vehicle	
B. Fuel	
C. Maintenance	
D. Profit	
E. Other (Insurance)	

TOTAL – ALL INCLUSIVE (A through E)	
ANNUAL COST x 1000 HOURS	
GRAND TOTAL TASK 2	

EXHIBIT "C"

ADMINISTRATIVE FEES

The parties agree that certain aspects of the Operators performance are essential to the Port's operation and that the Operator's failure to perform these activities will result in administrative and monitoring expenses for the Port. Therefore, the parties agree that the listed Administrative Fees are reasonable estimates of such expenses to the Port and shall be charged to the Operator.

The Port shall assess Administrative Fees for each instance of the Operator's failure to perform pursuant to the Agreement. The Executive Director or the Designee at his/her sole discretion may elect to waive an assessment of Administrative Fees for a particular violation; however, that waiver shall not apply to prior or future violations. The Executive Director or the Designee shall provide Operator written notice of each violation and of the applicable Administrative Fee with reasonable promptness after receiving actual notice that a violation of the Agreement has occurred for which an Administrative Fee may be charged to the Operator.

The Administrative Fees specified in this Agreement, shall not be assessed if the Operator's failure is excused under Section 31.9 of the Agreement.

STAFFING

Any amounts payable by the Port to the Operator under this Agreement ("Amounts Payable") may, at the option of the Executive Director or the Designee, be reduced by two hundred and fifty dollars (\$250.00) each time one of the following performance violation occurs for each guard, per each shift;

- 1.1 Failing to maintain a neat personal appearance;
- 1.2 Failing to behave courteously;
- 1.3 Failing to possess proper photo ID at all times while at the Maritime Area;
- 1.4 The use, possession or being under the influence of any alcoholic beverage or prohibited substance while on duty or at the Maritime Area;
- 1.5 Use of profane or vulgar language directed to or at the public, Maritime Area personnel, or those designated by the Operator to supervise the Services;
- 1.6 Failure to perform functions of a security guard at the Maritime Area as set forth in this Agreement;
- 1.7 Smoking, eating or littering while on duty or at the Maritime Area except during breaks or lunch periods;
- 1.8 Any "clocking" in or out using another employee's card or identification;
- 1.9 Providing services or working for another entity, including the Operator, other than the Services for the Port while on duty;
- 1.10 Supervisor not available at the Port's request;
- 1.11 Solicitation of passengers for sale of goods or services, or for tips or other unauthorized exchange of money;
- 1.12 Providing false information to passengers;
- 1.13 Failing to operate a vehicle in a safe manner;

- 1.14 Failing to comply with posted speed limits and traffic control signs;
- 1.15 Soliciting or accepting tips or gratuities in any form or manner;
- 1.16 Permitting or giving consent to Maritime Area users to leave vehicles unattended or to load or unload at areas not designated by the Port for that purpose; and
- 1.17 Failure to follow other Maritime Area Rules, Policies and Regulations.

CUSTOMER COMPLAINTS

The Amounts Payable may, at the option of the Executive Director or the Designee, be reduced by three hundred dollars (\$300.00) for each customer complaint that is not addressed or resolved in a manner reasonably acceptable to the Port within five (5) working days of receipt by Operator of the notice of such complaint.

NON-STAFFING

The Amounts Payable may, at the option of the Executive Director or the Designee, be reduced by three hundred dollars (\$300.00) for each fifteen (15) minutes or fraction thereof that a post is unattended.

FAILURE TO SUBMIT REPORTS IN A TIMELY MANNER

Operator acknowledges that it is required to submit periodic reports required under the Agreement and others as required by the PFSO. The Amounts Payable may, at the option of the Executive Director or the Designee, be reduced by One Hundred Dollars (\$100.00) per day, per report, for each day such report(s) are late, or for each time such reports are submitted with material information missing or with material inaccuracies.

OVERTIME

As applicable, the Amounts Payable may, at the option of the Executive Director or the Designee, be reduced by two hundred and fifty dollars (\$250.00) each time overtime exceeds 2.6 hours per shift unless such overtime is incurred at the request of the Port for additional services pursuant to Exhibit "A" to the Agreement. Operator will have the option to be responsible for payment of all overtime in lieu of the administrative fees of two hundred and fifty dollars (\$250.00) per violation.

FINANCIAL

The Amounts Payable may, at the option of the Executive Director or the Designee, be reduced by two hundred and fifty dollars (\$250.00) for each of the following:

1. Overstatement of any item of actual expense on any bill, statement or report with which reimbursement from the Port is requested, with such fines not to exceed \$500 per month; and
2. Any failure to provide verification or evidence that payments have been made of reimbursed expenses to the party noticed on the bill, statement or report for such reimbursement

MISCELLANEOUS

The Amounts Payable may, at the option of the Executive Director or the Designee, be reduced by the amount specified for each time one of the following performance failures occurs:

- 2.1 One Hundred Dollars (\$100.00) for each instance of failure to meet minimum performance standards;
- 2.2 Five Hundred Dollars (\$500.00) per day for failure to maintain minimum staffing schedule;

2.3 Three Hundred Dollars (\$300.00) for each failure to patrol Maritime Area as required by this Agreement

2.4 Two Hundred Fifty Dollars (\$250.00) for each failure to prepare and submit a written incident report for incidents of injury or loss in an accurate manner within twenty-four (24) hours from the time of the incident;

2.5 Two Hundred Fifty Dollars (\$250.00) for each day the Operator fails to provide the Port with an Operations and Procedures Manual after 30 days from the Commencement Date of the Agreement;

2.6 Two Hundred Fifty Dollars (\$250.00) for each day the Operator fails to provide the Port with a Training Manual after 30 days from the Commencement Date of the Agreement;

2.7 Two Hundred Fifty Dollars (\$250.00) for each day the Operator fails to provide the Port with an Audit Manual after 30 days from the Commencement Date of the Agreement;

2.8 Five Hundred Dollars (\$500.00) for each occurrence of the suspension of any service or the non-receipt or repossession of any product due to Operator's failure to pay invoices or bills subsequent to any reimbursement by the Port for such services or products;

2.9 Five Hundred Dollars (\$500.00) for each occurrence of failure by Operator to maintain the Premises or Equipment as set forth in Sections 9 and 10, or for each failure to meet the training schedule specified in Exhibit "E";

2.10 Five Hundred Dollars (\$500.00) for each occurrence of the failure by Operator to return to the Port all Maritime Area identification badges or keys for each terminated employee within 24 hours of such termination;

2.11 Five Hundred Dollars (\$500.00) for each instance of improper influence, as specified in Section 25 of the Agreement;

2.12 Two Hundred Fifty Dollars (\$250.00) for each failure of an employee of the Operator while on duty to fail to wear a uniform approved by the PFSO and be fully equipped with equipment approved by the PFSO, or for each failure of an employee on a shift to wear similar type uniforms approved by the PFSO;

2.13 Two Hundred Fifty Dollars (\$250.00) for having any unlicensed or untrained employee providing any of the Services;

2.14 Two Hundred Fifty Dollars (\$250.00) for each failure to remove an employee from the Services and the Premises pursuant to Section 8.2 of the Agreement; and

2.15 Two Hundred Fifty Dollars (\$250.00) for any breach of Operator's obligations under "DRUG AND SUBSTANCE ABUSE TESTING" on attached Exhibit "E".

Administrative fees will only be assessed after 10 days written notice to Operator and after Operator has had an opportunity to respond and/or cure.

EXHIBIT “D”

OPERATIONS AND PROCEDURES MANUAL INFORMATION

The Operator shall provide an Operations and Procedures Manual (“Manual”) to the Port for the Port’s review and approval. The Operator shall develop the Manual based upon its best judgment and provide to the PFSO within thirty (30) days from the Commencement Date of the Agreement.

Additionally, the Manual will provide basic guidance on policies, practices, and procedures covering all aspects of the management and operation of the Services, including but not limited to the standards of performance. This Manual shall be kept current by the Operator throughout the Agreement, and shall be revised as approved by the PFSO. The Manual, including all revisions as approved by the PFSO, will be incorporated into and made a part of this Agreement, subject to the provisions of Section 8.1 of the Agreement.

The purpose of this Exhibit is to provide structured information to assist in the development of the Manual. However, this material is not all inclusive and shall not be construed to mean that the only topics included below need to be covered. The Manual shall provide all information needed or desired for employee education on their duties and responsibilities established or directed in writing by the PFSO, including, but not limited to following items:

- Company creed;
- Operational overview;
- Operational policies and procedures;
- Organizational chart;
- Staffing chart;
- Position descriptions;
- Personnel training and policies;
- Primary operating procedures;
- Two-way radio operations and communication etiquette
- Administrative reports;
- Financial, Auditing and accounting procedures (when applicable);
- Home office information;
- Facility location;
- Emergency procedures;
- Other operating procedures.

In addition, the Manual shall specify the manner in which the Operator shall maintain full and adequate records in accordance with Port requirements to show the actual costs incurred by the Operator in the performance of the Agreement, including employee timecards and payroll receipts.

REVISIONS TO THE MANUAL

The provisions of the Manual may be modified and revised as necessary to reflect changes in the operating environment. All Manual revisions shall be subject to the approval of the PFSO or the Designee, prior to incorporation into the Manual.

The PFSO or the Designee may propose a revision to the Manual, and shall initiate an intended revision by sending such intended revision to the Operator. The Port and Operator shall review such intended revision as needed to accurately reflect the change(s) to the operating environment. All revisions to the Manual shall be reviewed and signed by both the Port and the Operator. Each revision to the Operations Manual shall have a revision number and date.

EXHIBIT “E”

PERSONNEL

Operator shall control the conduct, demeanor, and appearance of its officers, agents, and employees. Such officers, agents and employees shall be trained by operator to render a high degree of courteous and efficient service to the public, and it shall be the responsibility of Operator to maintain close supervision over such persons to assure the continuation of the highest standard of service. If, in the opinion of the PFSO, any such officer, agent or employee of the Operator fails to conform to such standard of service, the Operator shall remove such officer, agent or employee from the Maritime Area and shall not reassign that person to the Maritime Area without the written consent of the PFSO.

Operator shall verify the right of all its employees to work in the United States in compliance with the requirements of the Immigration Reform and Control Act of 1986. Port reserves the right to inspect the employment eligibility verification forms (Form 1-9 OBM No. 1115-0236, or any revised version) completed by Operator's employees who are employed at the Maritime Area. A list of the names and duty hours, of each employee shall be supplied to the PFSO on a weekly basis, and promptly updated when changes occur. The Operator shall inform all employees in writing upon hiring that their employment is at will and that their employment may terminate at the conclusion of this Agreement.

The Operator shall select and appoint one (1) Supervisor per shift who will act as liaison to the Port and be responsible for the management of services provided to the Port. Operator shall submit the qualifications and experiences of the Supervisors to the PFSO for his or her approval.

Supervisors

A Supervisor shall be in complete charge of the Operator's operations at the Maritime Area and shall be a qualified and experienced Supervisor vested with full power and authority in respect to the conduct of the Operator's operation hereunder. A Supervisor shall be available at all times for consultation or field monitoring.

The Supervisors must be a highly qualified and experienced manager who is knowledgeable of current security enforcement laws, charged with responsibility and authority by Operator in respect to the method, manner, and conduct of the Services. The Supervisors must have at least five (5) years experience managing or supervising a security guard operation with eight (8) or more employees on a multi-shift operation.

The Supervisors shall maintain continuing liaison with the Park Manager to ensure complete understanding of the Maritime Area's operational and security policies and assure the selection, training, and operation of an efficient and effective contract security force to implement and support such policies. The Supervisors' duties will include but not be limited to the following, consistent with the requirements of this Agreement:

1. Implement a staff training program and the development of training and operational manuals covering all related aspects of the Services. The Supervisors shall establish performance criteria and job descriptions for all staff and make such available to the Port when requested to do so.
2. Develop, as necessary, all forms for use in all aspect of the Services subject to Port approval, for such items as daily incident reports, application, accident report forms, complaint report forms and other forms that are deemed necessary to facilitate efficient management of the Services.

3. Perform or designate assistant supervisory personnel to perform the following duties: a) fully supervise the Operator's employees; b) require all staff to be properly trained, follow rules of conduct and be properly dressed and otherwise prepared and suitable for their assigned duties; c) provide the Port with a weekly staff schedule by assignment in advance, a schedule of all other staff assigned to the Services and schedule of hours of operation.; d) monitor hours of staff to assure that time card and schedules are accurate and in accordance with approved schedules; e) daily inspection of all equipment used for operations; (f) report or correct any problems in accordance with the requirements of this Agreement; g) discipline or dismiss employees who fail to perform in compliance with the highest industry operating standards; and h) perform other field supervision activities as required.
4. Provide an approved means of responding to emergencies and public needs on a twenty four (24) hour per day basis through the use of Supervisors, and/or other designated on-call staff personnel.
5. Coordinate with the PFSO and other security entities and providers in the area to focus security patrols on specific areas of the Maritime Area, depending on emerging threats to security and infrastructure.
6. Ensure that the PFSO is fully briefed on all breach of security matters and emergency incidents which have or will result from the operation of the security force or which come to the attention of any member of the security force and related to the Maritime Area security operation.
7. Remain readily available or designate a Supervisor to remain on call so that all shifts and personnel will have the ability to receive personal direction, review, and inspection of the PFSO or the Designee during emergency situations.

SUPERVISION

Working hours of Supervisors shall not overlap. The Contractor shall make available a Supervisor who will manage assigned guards and act as liaison to the Port at all times. Supervisors must have at least five (5) years of experience managing or supervising security guard operations with eighth or more employees on multi-shift operations. Supervisors shall be on duty 24 hours per day, 7 days per week, and be available for immediate consultation to the Port staff as needed. Supervisors will report directly to the PFSO.

GUARD PERSONNEL QUALIFICATIONS

Security guard personnel shall be recruited, selected, and assigned to assure the most dependable and efficient security force capable of implementing all facets of the Oakland Maritime Area Security Plan, a copy of which will be provided to Operator. Such guards shall be able to understand written and oral instructions in English, to communicate commands, directions and customer information in English, and to interact in a professional and courteous manner with Maritime Area staff, customers and other users of the Maritime Area. Guard candidates will receive preliminary screening at the Operator's office and selected personnel will then be directed to the PFSO at the Maritime Area to perform and carry out Operator's responsibilities under the Agreement.

Operator shall confirm a five (5) year continuous history of employment, with no more than a two (2) month gap in such history on all guard and supervisor candidates prior to final selection. In addition, Operator shall conduct and obtain a three (3) year verifiable background check on all guard candidates prior to final selection, in order to properly screen guard candidates. Operator shall retain all such information for the duration of the Operating Term and shall submit all such supporting background information to the PFSO upon termination of this Agreement. Such

information on active duty guards will also be made available upon request during the Operating Term. Operator shall conduct initial start-up and annual Department of Motor Vehicle (DMV) checks on all guard personnel having assignments which include driving responsibilities. Any guard assigned to driving responsibilities must possess and maintain a valid State of California driver's license for the duration of the driving assignment. The Operator shall provide to the PFSO a copy of the complete DMV check on each guard providing any Services prior to start-up assignment and annually on that guard's start-up date. Operator shall confirm that each guard candidate possesses and maintains a valid security guard license issued by the California Department of Consumer Affairs Bureau of Security and Investigative Services and any other licenses required by Section 3.2(a) of the Agreement for the duration of the assignment. The Operator shall provide to the PFSO a copy of such license(s) for each guard prior to assignment to render any of the Services under this Agreement.

Any guard assigned to traffic control at the Maritime Area shall not also be employed at the Maritime Area by any other concession, vendor, permittee or licensee of the Port operating at the Maritime Area or by any Airline operating at the Maritime Area, in order to prevent any conflict of interest in the guard's duty to provide the Services.

TRAINING

Prior to the Commencement Date, Operator shall cause all of its guards and Supervisors who are to be involved in providing the Services to attend a training program, and all other guards, supervisors and/or managers subsequently employed by Operator during the Operating Term hereof to provide the Services shall also attend such a program. This program shall be for the purposes of guard training, orientation and trial operation of the Services. The program content shall satisfy the requirements of attached Exhibit "F" and shall be subject to review and approval by the PFSO. System requirements, operating characteristics, customer service, work specifications and performance standard operating procedures and an employee disciplinary code shall be more specifically set forth in Operator's Operations and Procedural Manual which shall be reviewed and approved by the PFSO or the Designee pursuant to Section 8.1 of the Agreement. Operator shall provide on-going training on a semi-annual basis to its employees with respect to public relations, guard patrol procedures, safety, and other related operations. Operator shall ensure that each employee completes traffic enforcement training according to the training program that has been reviewed and approved by the PFSO or the Designee. Failure of the Operator to meet the training schedule shall result in the assessment of an Administrative Fee, as specified in Exhibit "C".

SUPERVISOR & SECURITY GUARD PERFORMANCE STANDARDS

To assure quality service and a stable level of operations, the Supervisors and all guards providing any of the Services are expected to capably fulfill the responsibilities and duties described in this Agreement.

Operator shall provide to the PFSO an annual evaluation of the Supervisors based on the following criteria:

1. Implementation of Operator's general operational policies and procedures.
2. Administration of applicable requirements of this Agreement.
3. Knowledgeable in Security procedures, patrolling, record keeping and traffic control (pedestrian and vehicular).
4. Ability to function under stressful conditions.

5. Ability to recognize unusual or abnormal conditions or behavior and respond appropriately.
6. Ability to be assertive and apply effective procedures to a variety of situations.
7. Resolution of any staff shortages prior to any impact on the provision of the Services by the Operator.
8. Ability to supply reporting, accounting and statistical data required by this Agreement.
9. Ability to prepare, review, revise and sign all schedules, reports and forms, or other required documents used in any and all aspects of the Maritime Area Security Service operation.

STAFFING

The Operator will hire and retain employees as may be necessary to manage and provide the Services in a cost effective, efficient manner providing quality customer service. This provision will apply at all times during the Operating Term. The Port retains the right to determine staffing levels and schedules based on operational needs. The Operator shall ensure that minimum staffing levels and schedules are met at all times. For the Services and in the event the Port requests additional services and staffing, pursuant to Section 3.3, the Operator shall only staff, and the Port shall only reimburse, such Services and additional services with the appropriate personnel. Operator will have the option at its expense to provide and pay for higher level staffing in lieu of failing to meet staffing requirements.

A weekly staffing schedule shall be provided to the PFSO on the 1st day of each week for the following week. Failure to provide such reports shall result in the assessment of an Administrative Fee as specified in Exhibit "C".

The Port shall have a right to review all of Operator's employees assigned to provide the Services.

For special events and other situations, the Port may request and the Operator will provide and supervise additional staff as may be needed in addition to the staffing plan. The Port will place requests for additional guard services with as much advance notice as possible, but Operator must be prepared and will support the Port's request with as little as 24 hours notice. Additional staff will be compensated and charged to the Port in accordance with the provisions of this Agreement.

EMPLOYEE REQUIREMENTS

All employees, while on or about the Maritime Area and acting within the course and scope of employment by Operator, shall be clean, neat in appearance, and uniformly attired, and shall behave courteously. No such personnel shall use improper language or act in a loud, offensive, or otherwise improper manner. Operator shall act to prevent the wrongful acts and omissions of its employees on or about the Maritime Area. Operator shall act to ensure that minimum performance standards set forth in this Agreement and as directed by the PFSO or the Designee shall be met at all times. Operator shall control the conduct, demeanor, and appearance of its agents, employees, and officers at the Maritime Area. Operator shall act to prevent its employees from violating any of the following:

1. Failing to maintain a neat personal appearance;
2. Failing to behave courteously;
3. Failing to possess proper photo ID at all times while at the Maritime Area;

4. The use, possession or being under the influence of any alcoholic beverage or prohibited substance while on duty or at the Maritime Area;
5. Use of profane or vulgar language directed to or at the public, Maritime Area personnel, or those designated by the Operator to supervise the Services;
6. Failure to perform functions of a security guard at the Maritime Area as set forth in this Agreement;
7. Smoking, eating or littering while on duty or at the Maritime Area;
8. Any “clocking” in or out using another employee’s card or identification;
9. Providing services or working for another entity, including the Operator, other than the Services for the Port while on duty;
10. Supervisor not available at the Port’s request;
11. Solicitation of Maritime stakeholders for sale of goods or services, or for tips or other unauthorized exchange of money;
12. Providing false information to Maritime stakeholders;
13. Failing to operate a vehicle in a safe manner;
14. Failing to comply with posted speed limits and traffic control signs;
15. Soliciting or accepting tips or gratuities in any form or manner;
16. Permitting or giving consent to Maritime Area users to leave vehicles unattended or to load or unload at areas not designated by the Port for that purpose; and
17. Failure to follow other Maritime Area Rules, Policies and Regulations.
18. Failure by Operator to maintain the Premises or Equipment as set forth in Sections 9 and 10 will be subject to an Administrative Fee for each occurrence.

GENERAL PATROL SERVICES

Hours of Operations: Basic Security Services shall be one (1) qualified guard and one (1) vehicle providing security patrol services, via three shifts from 7 AM – 3 PM, 3 PM -11 PM, and 11 PM – 7 AM, seven (7) days per week (Monday – Sunday), including holidays.

BASIC SECURITY SERVICES

1. Guards shall patrol the surface streets within the Maritime Area by vehicle throughout the entire shift.
2. Guards are to report suspicious activities to Port Staff.
3. Guards shall report criminal activity directly to the Oakland Police Department with a follow up report to designated Port Staff.
4. Guards will monitor traffic (primarily trucks) transiting and who are in queue awaiting entry to marine terminals. When observed, guards shall respond to truck line cutting incidents by tactfully communicating with truck drivers and directing them to go to the back of the queue line, in accordance with Port policy and best practices.
5. When observed, guards are to assist with intersection management and direct traffic during times of high congestion.
6. Guards will liaise and coordinate with Port Staff to patrol and secure construction and vacant sites as directed.
7. Guards shall collect information related to parties for all incidents as they occur including, but not limited to, vehicular collisions, hazardous material spills, truck line cutting, and other vehicle/truck altercations.
8. Guards will liaise with Port staff and first response agencies as needed to mitigate Port emergencies and incidents.
9. Guards shall effectively communicate about abovementioned incident types via Port-provided UHF radio system.
10. Guards are required to coordinate with Port, Public Safety, and Emergency Responders for significant events and/or specific areas that require increased enforcement.

TIME TRACKING AND BREAKS

The Operator shall be able to track time each employee employed by the Operator reports to duty, takes breaks and leaves work, which record must be maintained by Operator.

Guards may take a one-half hour working lunch. Guards may take one fifteen (15) minute break in each of the first and second four (4) hour periods of a shift, the pay for which shall be paid by the Port. During lunch periods and breaks Guards must be prepared to respond to urgent operations as required.

TERMINATION OF EMPLOYEE

The Operator shall inform all employees in writing upon hiring that their employment is at will and that their employment may terminate at any time. Upon termination of any employee, Operator shall be responsible for returning to Port any Maritime Area related keys, or other related materials and any Maritime Area parking cards within 24 hours of such termination. Failure to return such items to the Port shall result in the assessment of an Administrative Fee as specified in Exhibit "C". In addition, the Operator shall be responsible for the cost of replacement for any lost Maritime Area keys or other related materials.

DRUG AND SUBSTANCE ABUSE TESTING

The Operator will maintain a drug-free workplace. The Operator, at its own expense, shall institute a mandatory, random drug and substance abuse testing program for all personnel assigned to provide the Services. The Operator shall retain the expert services of a local, certified and licensed testing facility. The program must be in place prior to the Commencement Date and maintained in force thereafter, throughout the entire Operating Term of the Agreement.

PERSONNEL RECORDS

The Operator shall keep accurate and detailed records on personnel and staffing for examination by the Port upon two (2) days written request to the Operator. This shall include, but not limited to, name and address changes, date of hire, salary and benefits paid, training received and performance reviews. These records shall be maintained and made available upon request for the entire duration of this Agreement, and thereafter for three (3) additional years, or such longer period required by Section 6.2 of the Agreement.

EMPLOYEE UNIFORMS

Employees must be uniformed and must wear name tags at all times while on duty. The Supervisor shall not be required to wear a uniform or name tag unless otherwise required by the Operator. Uniform and equipment standards shall be as specifically approved by the PFSO. The Operator shall provide and maintain in good condition all uniforms at its own expense. The Operator shall furnish all uniforms to all guards in sufficient quantity to assure an official appearance for all personnel. Guard uniforms shall be professional in nature, yet visible for traffic safety operations. Pants shall be black, blue, khaki, tan, brown and/or green in color. Shirts and jackets shall be an American National Standards Institute (ANSI), traffic safety approved color. Each employee shall wear in plain view an employee identification number and/or name tag. In addition, Operator shall issue a company photo identification badge to each employee which shall be produced upon request at all times while on-duty. All uniforms shall be without tears and holes or excessive unsightly repairs. Any violations for employees' failure to wear approved uniform and equipment, or for

failure of all employees on a shift to wear similar style uniforms approved by the PFSO, shall result in the assessment of an Administrative Fee as specified in Exhibit "C".

EMPLOYEE PARKING

Parking for the Operator's employees providing the Services will be available in the Harbor Facilities Center Parking Lot or other area designated by the Port. Employees are to park in this area only, unless other provisions are arranged by the Port.

NO SOLICITATION OF TIPS

Guards shall neither solicit tips or gratuities nor accept tips or gratuities from anyone at the Maritime Area.

EXHIBIT "F"

TRAINING CERTIFICATES INFORMATION

The Operator will ensure that all employees are fully trained for their duties. The Operator will establish a formal employee training program specific to the Services. The program content shall be subject to review and approval by the PFSO. Operator will provide scheduled on-going training on a semi-annual basis to its employees in safety, on-the-job behavior requirements, conduct, operational rules, proper dress and employee attitude, public relations, driver safety and other operations and safety procedures.

TRAINING CERTIFICATES

The Operator shall provide Training Certificates to the Port within thirty (30) days from the Commencement Date and semi-annually thereafter as set forth in Section 8.1 of this Agreement.

GENERAL TRAINING REQUIREMENTS

The purpose of this Exhibit is to effectively and efficiently provide an outline of training areas to assist in the development of the Maritime Area Security Patrol Service training program ("Training Program"). However, this material is not all inclusive and shall not be construed to mean that the only task included below need to be covered. It will be the Operator's responsibility to certify to the Port completion of each training area. A copy of such certifications will be kept on file in the Maritime Area Security Office. In addition, the Operator shall provide on a semi-annual basis a report on the Training Program, including the status of each employee's training (i.e. Certificates). Failure to provide such reports shall result in the assessment of an Administrative Fee, as specified in Exhibit "C".

Operator shall provide to the PFSO evidence all guard personnel are properly registered with the State of California and have received all State of California required security training prior to assignment to the Maritime Area in form and substance acceptable to the PFSO.

The Training Program shall have its goal to train each security guard in the following general areas:

- (A) DUTIES AND FUNCTIONS OF A SECURITY GUARD,
- (B) PATROL PROCEDURES,
- (C) REPORT WRITING,
- (D) PUBLIC RELATIONS,
- (E) AUTHORITY AND JURISDICTION OF LOCAL ENFORCEMENT AGENCIES,
- (F) CIVIL DISTURBANCE PROCEDURES,
- (G) SAFETY PROCEDURES,
- (H) TELEPHONE AND RADIO COMMUNICATIONS,
- (I) RESPONSE TO AND PRESERVATION OF CRIME SCENE.

SPECIFIC TRAINING AREAS

- (A) HUMAN RESOURCES: OPERATOR SHALL ISSUE AND SHOW TO EACH OF ITS EMPLOYEES ASSIGNED TO THE MARITIME AREA THE FOLLOWING:
 - i. Employee Handbook,
 - ii. Drug Free Work Place Policy,
 - iii. Non-Discrimination and Harassment Policy, and
 - iv. Orientation Film.
- (B) CONDUCT AND CUSTOMER SERVICE
 - i. Personal Appearance and Dress Requirements,
 - ii. Safety,
 - iii. Customer Service,
 - iv. Negotiation,
 - v. Non-resistance,
 - vi. Translations,
 - vii. Personality Types,
 - viii. Strategies,
 - ix. Dealing with angry people,
 - x. Empathy and sympathy
 - xi. When Driver or Pedestrian Do Not Understand
 - xii. Organization and Customer Service Expectations
 - xiii. Interpersonal Relations
 - xiv. Awareness of Self and Others
 - xv. Communication Process and Active Listening
- (C) FIRST AID
- (D) RADIO PROCEDURES
 - i. Protocol
 - ii. Phonetic Alphabet
 - iii. 10 Codes
 - iv. Vocabulary
 - v. Practical
 - vi. Brevity Codes: Brevity codes should be used only when communication with other safety and security personnel.
- (D) CONFLICT AND STRESS MANAGEMENT
- (E) PORT OPERATIONS ORIENTATION
 - i. Port and Marine Terminal Operations
 - ii. Port Security Management System Coordination
 - iii. Port Security Awareness
 - iv. Security Information, Threat and Incident Reporting Procedures

ADMINISTRATIVE TRAINING

Administrative and supervisorial personal shall be trained and receive materials addressing the following areas:

- (A) ORGANIZATION
- (B) WRITTEN DIRECTIVES
- (C) RECORDS
- (D) CODE OF CONDUCT
- (E) ETHICS
- (F) DISCIPLINARY PROCEDURES

- (G) GRIEVANCES
- (H) APPEARANCE AND DEMEANOR
- (I) ISSUED EQUIPMENT
- (J) DEATH/NOTIFICATION
- (K) OFF DUTY EMPLOYMENT
- (L) ADDRESS AND TELEPHONE

EXHIBIT "G"
INSURANCE REQUIREMENTS

Operator at its expense shall procure and maintain during the Operating Term insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Operator, his agents, representatives, employee or subcontractors. Original insurance certificates, specific to the Services, must be submitted prior to the Commencement Date of the Agreement.

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, except as otherwise disclosed to and accepted by the Port 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.
- Endorsements to include Assault & Battery coverage; Care, Custody & Control liability for property to be guarded; coverage for use of firearms, Security Errors & Omissions Liability (alternatively, Security Errors & Omissions Liability can be covered separately as described in Item 4 below – Professional Liability Insurance).
- 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 occurrence, except as otherwise disclosed to and accepted by the Port 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, except as otherwise disclosed to and accepted by the Port Risk Manager.

EXHIBIT G

- 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, if not otherwise included in the Commercial General Liability Insurance described in Item 1 above.

- **Coverage:** For errors and omissions arising out of the Services.
- **Limits:** \$1,000,000 per claim and annual aggregate.
- **Deductible/Self-Insured Retention:** Not more than \$25,000 per occurrence, except as otherwise disclosed to and accepted by the Port Risk Manager.
- **Additional Term:** 2 years after completion and acceptance of the Services.
- Security Errors & Omissions Liability

5. Employee Dishonesty Bond

- **Coverage:** Employee Dishonesty Bond.
- **Limits:** \$1,000,000 blanket limit covering all employees.
- **Deductible/Self-Insured Retention:** Not more than \$100,000 per occurrence unless otherwise disclosed to and approved by Port Risk Management.
- **Loss Payee:** The City of Oakland, a municipal corporation, acting by the through its Board of Port Commissioners.

Other Insurance Requirements:

- **Notice of Cancellation.** Operator or Operator'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.** Operator 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 Operator's expense and the Operator shall promptly reimburse the Port for such expense (Services may be interrupted without proper evidence). In addition to the certificate of insurance, Operator 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

EXHIBIT G

EXHIBIT "H"

NON-DISCRIMINATION PLAN FOR EMPLOYMENT

I. NON-DISCRIMINATION POLICY

Operator will issue a policy statement delineating the policy of the Operator regarding its commitment to equal employment opportunity and non-discrimination, and such policy will be fully implemented. A statement similar to the following is recommended:

Equal Employment Opportunity Statement

It is the policy of Operator, personally subscribed to and supported by its principals, that there shall be no unlawful discrimination against an employee or applicant for employment on the basis 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. This policy includes, but is not limited to, the following: hiring, upgrading, recruitment, recruitment advertising, selection, training, demotion, transfer, compensation, lay-off or termination, or any other term or condition of employment. To implement this policy, Operator has a nondiscrimination program which is supported by all of Operator's managers and supervisors, and which Operator shall fully implement as appropriate during the Operating Term. To assure that equal opportunity and non-discrimination efforts are properly carried out, Operator at all times shall have an Equal Employment Coordinator; provided, however, that the principals of Operator shall be responsible for proper implementation of the Non-Discrimination Plan. Notwithstanding any provisions of this Plan to the contrary, Sections II-V of this Plan shall not become applicable unless and until the Operator has 15 or more employees.

II. RESPONSIBILITIES AND DUTIES OF EQUAL OPPORTUNITY COORDINATOR

In addition to the Equal Employment Opportunity Coordinator's regular duties, it is the Coordinator's responsibility to: (1) develop equal opportunity and non-discrimination procedures and communication techniques; (2) assist supervisors and managers in identifying and solving problems relating to equal opportunity; (3) maintain an open-door policy to all employment problems which may be raised by employees or applicants for employment; (4) design and implement a system of periodic monitoring and reporting Operator's equal opportunity efforts, including monitoring of selection procedures and regular review and validation of any selection requirements and tests which are found to impact adversely on any person belonging to any of the protected classes; (5) keep informed, and keep senior management informed, on equal opportunity developments; (6) act as a liaison with equal opportunity agencies; (7) ensure that all managers and supervisors comply with this policy and implement Operator's non-discrimination program; (8) train employees, including supervisory and management personnel, to create a favorable climate for an effective equal opportunity program; (9) ensure that all of the Operator's facilities are desegregated; (10) conduct a periodic audit to ensure notices are properly displayed; (11) review the qualifications of all employees to ensure that all employees are given full opportunity for promotions or transfer; (12) encourage employees including to participate in all company-sponsored social and recreational events, educational and training programs; (13) communicate to supervisors that their performance is being evaluated on their equal employment opportunity and non-discrimination efforts and results as well as other criteria; (14) ensure that supervisors take action to prevent discriminatory harassment of employees.

III. COMMUNICATION OF POLICY

Operator is desirous of ensuring that all employees and other persons are fully informed of its commitment to equal opportunity. Accordingly, Operator will undertake the following steps to disseminate the policy both internally and externally:

Internal Dissemination

- A. Operator's Equal Employment Opportunity/ Non-Discrimination Policy shall be contained in Operator's policy guide books or employee handbook, whichever may exist.
- B. Operator shall publicize at least once each year its EEO Policy in newsletters and/or magazines which are intended for the general reading of management and employees.
- C. A policy statement and Federally-required Equal Employment Opportunity notice will be posted on Operator's bulletin boards in areas where employees or applicants congregate.
- D. Operator shall communicate to all employees its EEO Policy and program through regular meetings during which managers and supervisors will discuss Operator's EEO policies and programs, individual responsibilities and review progress.
- E. Applications for employment shall include a statement regarding non-discrimination.

External Dissemination

- A. Recruiting services through which Operator hires, and each labor union or workers' representative with which it has a collective bargaining agreement or other employment-related contract, shall be informed through meetings or by written notification of the Operator's policies regarding equal opportunity. Operator will encourage the above actively to recruit and refer diverse applicants.
- B. All advertisements for employment will state that Operator is an equal opportunity employer.
- C. When employees are featured in marketing campaigns, employee handbooks or similar publications under Operator's control, diverse employees will be pictured where practicable.
- D. An Equal Opportunity Clause will be inserted by Operator in all future labor union agreements, purchase orders and all other contracts relative to this Agreement.

Operator's non-discrimination plan compliance will be updated and revised periodically (at least annually) in light of experience, revised laws and regulations and their interpretations, and better understanding of effective approaches which will assure truly equal opportunity for all. The initial set of goals and timetables established pursuant to this Plan shall be forwarded to the PFSO within 90 days after Operator's execution of the Agreement. Each updated plan will be forwarded to the PFSO within 30 days after their adoption. Each updated plan shall be consistent with the goals and objectives of this Plan.

Any questions relating to details of this Plan should be referred to Operator's Equal Employment Opportunity Coordinator.

EXHIBIT "T"

AGREEMENT ADDENDUM

Operator shall incorporate the following statutory provisions into all agreements with contractors performing construction under the Lease to which this Exhibit is attached:

1. **Resolution of Construction Claims.** Contractor and Operator shall resolve construction claims pursuant to the procedures established in Public Contract Code Section 20104.
2. **Workers' Compensation Certificate.** Contractor shall secure workers' compensation coverage for its employees pursuant to Labor Code Section 3700. By executing this Agreement, Contractor certifies that Contractor is aware of the provisions of Section 3700 of the Labor Code, and Contractor will comply with such provisions before commencing the performance of the work of this Agreement.
3. **Prevailing Wages.** Contractor shall pay prevailing wages on all public works projects in excess of \$1,000, pursuant to Port Ordinance 1606.
4. **Bonds.** Contractor shall obtain bonds in accordance with the provisions of Port Ordinance 1606.
5. **Working Hours Restriction.** Contractor shall adhere to the eight-hour workday/forty-hour workweek restriction and payment of overtime requirements of Labor Code Section 1810, et seq.
6. **Payroll Records.** Contractor and subcontractors shall maintain accurate payroll records and certify them upon request, pursuant to California Labor Code Section 1776.
7. **Apprentices.** Contractor shall adhere to the policies regarding hiring of apprentices, pursuant to California Labor Code Section 1777.5.
8. **Substitution of Securities for Retention** shall be permitted pursuant to Public Contract Code Section 22300, which is incorporated herein full by this reference.
9. **Antitrust Claim Assignment.** Contractor shall offer and agree to assign any antitrust claim governed by Public Contract Code Section 7103.5 to the Port.
10. **Licensed General Contractor.** Operator shall employ a licensed general contractor to do the work.
11. **Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA").** The Contractor, whether union or non-union, must comply with the Port of Oakland Maritime and Aviation Project Labor Agreement, attached as Document 00823, and execute Document 00630, Letter of Assent. Non-union Contractors and subcontractors are not required to sign union agreements nor are their employees required to become union members to perform work on this Project. The Contractor further must cause all "Contractors" (as such term is defined in the Project Labor Agreement) that contract under Contractor on this Contract and are covered by the Project Labor Agreement, to comply with the requirements imposed on "Contractors" (as such term is defined in the Project Labor Agreement) under said agreement and to execute Document 00630, Letter of Assent.

EXHIBIT "J"

GUARANTY

WHEREAS, the City of Oakland, a municipal corporation doing business by and through its Board of Port Commissioners, hereafter referred to as "Port", and _____ hereafter referred to as "Operator", are about to execute a document entitled Agreement For Maritime Area Security Patrol Services (the "Agreement") dated _____, under which Operator will manage, operate and provide the Contract Security Services (as defined in the Agreement) at Port of Oakland Maritime Area; and

WHEREAS, the undersigned, hereinafter referred to as "Guarantors", have a financial interest in and/or will receive benefit from Operator, and

WHEREAS, Port would not execute the Agreement if Guarantors did not execute and deliver to Port this Guaranty.

NOW THEREFORE, for and in consideration of the execution of the Agreement by Port and as a material inducement to Port to execute said Agreement, Guarantors hereby jointly, severally, unconditionally and irrevocably guarantee the prompt payment by Operator of all sums payable by Operator under the Agreement and the faithful and prompt performance by Operator of each and every one of the terms, conditions and covenants of the Agreement to be kept and performed by Operator that arise during the Operating Term (as defined in the Agreement) of the Agreement.

It is specifically agreed and understood that the terms of the Agreement may be altered, affected, modified, waived or changed by agreement between Port and Operator, including, without limitation, the amount of compensation payable to Operator, the definition of Reimbursable Expenses, the Operating Term of the Agreement and the location of the Premises, and the Agreement may be assigned by Port or any assignee of Port without consent or notice to Guarantors and that this Guaranty shall thereupon and thereafter continue to guarantee the performance of the Agreement as so changed, modified, affected, altered or assigned, irrespective of the lack of prior notice to or consent by Guarantors.

In the event the Agreement is renewed and/or extended by the Port, this Guaranty shall also apply to the Agreement as so extended or renewed, notwithstanding any changes in the provisions thereof, with the same effect as if this Guaranty had been executed by the undersigned with reference to the renewed or extended Agreement at the time of said renewal or extension.

This Guaranty shall not be released, modified or affected by failure or delay on the part of Port to enforce any of the rights or remedies of the Port under the Agreement, whether pursuant to the terms thereof or at law or in equity.

No notice of occurrence, existence or continuance of any failure of performance or payment under the Agreement, or any other event of default or default by Operator under the Agreement need be given to Guarantors. It is specifically agreed and understood that the guarantee of the undersigned is a continuing guarantee under which Port may proceed forthwith and immediately against Operator or against one or more of the Guarantors following any breach or default by Operator or for the enforcement of any rights which Port may have as against Operator pursuant to or under the terms of the Agreement or at law or in equity.

Port shall have the right to proceed against any of the Guarantors hereunder following any breach or default by Operator without first proceeding against Operator or any of the remaining Guarantors and without previous notice to or demand upon either Operator or Guarantors. Each

Guarantor further assents, without the requirement or condition that notice of any kind or nature be given to such Guarantor on account thereof, to (a) any failure to resort to or exhaust other rights, powers or remedies on the part of Port; (b) the acceptance by Port of (i) any prepayments or partial payments under the Agreement and (ii) any payment in full satisfaction of less than all of the amount due under the Agreement.

Guarantors, and each of them, hereby waive (a) notice of acceptance of this Guaranty, (b) demand of payment, diligence, presentation and protest, including, without limitation, of claims with a court in the event of receivership or bankruptcy of Operator, (c) notice of the reliance of Port upon this Guaranty; (d) any right to require the Port to proceed against the Operator or any other Guarantor or any other person or entity liable to Port, (e) any right to require Port to apply to any default any security deposit or other security it may hold under the Agreement, (f) any right to require Port to proceed under any other remedy Port may have before proceeding against Guarantors, (g) any right of subrogation, reimbursement, indemnification, and contribution, and (h) any other rights and defenses that are or may become available to Guarantors by reason of sections 2787 to 2855 of the California Civil Code. In addition, Guarantor agrees that the performance of any act or payment that tolls the statute of limitations applicable to the Agreement shall similarly operate to toll the statute of limitations applicable to Guarantors' liability hereunder.

Guarantors do hereby subrogate all existing or future indebtedness or other obligations of Operator to Guarantors to the obligations owed to Port under the Agreement and this Guaranty. Each of the undersigned Guarantors that is a natural person represents and warrants to the Port either that: (a) he or she is currently unmarried, and covenants that if he or she marries, (i) recourse may be had against his or her separate property for all of such Guarantor's obligations under this Guaranty, and (ii) his or her spouse shall become a party to this Guaranty so that recourse may be had against such spouse's separate property and to their community property for all of such Guarantor's obligations under this Guaranty; or (b) he or she is currently married, and his or her spouse has executed this Guaranty as a Guarantor.

The Guarantors agree to provide financial and other information about the Guarantors to the Port to the same extent that the Operator is obligated to provide such information under Section 21(f) of the Agreement.

This Guaranty and the liability of Guarantors hereunder shall not be subject to or contingent upon (a) the genuineness, validity, regularity or enforceability of the Agreement, or (b) any law, ordinance, rule, regulation, writ, order or decree now or hereafter in effect which might in any manner affect the Operator's obligations under the Agreement or any rights, powers or remedies of Port in respect thereof, or cause or permit to be invoked any alteration of time, amount or manner of payment or performance of any obligation of the Operator under the Agreement. Further, this Guaranty shall not be deemed discharged, impaired or affected by (x) the power or authority of Operator to enter into or to obtain the Agreement; (y) any subcontracting or assignment by Operator of its interest in the Agreement; or (z) the existence or non-existence of Operator as a legal entity.

All of the rights, powers and remedies of Port under the Agreement and this Guaranty are intended to be distinct, separate and cumulative, and none of such rights, powers and remedies therein and herein contained is intended to be exclusive of or a waiver of any other right, power or remedy therein or herein contained.

This Guaranty shall be governed by, and construed in accordance with, the laws of the State of California. Each provision hereof is intended to be severable. If any clause, phrase, provision or portion of this Guaranty or the application thereof is determined by a court of competent jurisdiction to be invalid or unenforceable under applicable law, the remaining clauses, phrases, provisions and

portions of this Guaranty shall not be affected or impaired thereby, but each remaining clause, phrase, provision and portion shall be valid and be enforceable to the fullest extent permitted by law.

The term "Operator" whenever used in this Guaranty refers to and means the Operator named in the Agreement and also to any successor to the interests of the Operator authorized pursuant to the terms of the Agreement.

This Guaranty shall be binding on the Guarantors and their respective heirs, executors, personal representatives, successors and assigns.

In the event any action is brought by the Port against Guarantors or any of them to enforce the obligation of Guarantors hereunder, the unsuccessful party in such action shall pay to the prevailing party therein a reasonable attorney's fee which shall be fixed by the court.

IN WITNESS WHEREOF, each Guarantor hereby executes this Guaranty this ____ day of _____, 201__.

GUARANTOR:

EXHIBIT “K”

INFORMATION REQUIRED TO COMPLY WITH
CALIFORNIA LABOR CODE SECTION 2810

To comply with CA Labor Code Section 2810, Contractor shall complete and submit this Information Sheet which shall be incorporated into and be a part of the Contract. This only applies to janitorial and security guard contracts and any construction related services.

Contractor	
Name: [Grab your reader's attention with a great quote from the document or use this space to emphasize a key point. To place this text box anywhere on the page, just drag it.]	
Address:	
Telephone No.:	
Employer Identification No.	SAMPLE
Description of Services:	
Describe Services: Unarmed Security services	
Commencement and Completion Dates:	
Worker's Compensation Insurance	
Policy No.	
Name of Insurer (Not Broker):	
Address of Insurer:	
Telephone No. of Insurer:	
For Vehicles owned by Contractor and used in performing work under this Contract	
VIN (Vehicle Identification No.):	
Automobile Liability Insurance Policy No.:	
Name of Insure (Not Broker):	
Address of Insurer:	
Telephone No. of Insurer:	
Address of Property used to house workers on this Contract, if any:	
Workers employed under this Contract	
Estimated Total number of workers to be employed on this Contract:	
Estimated total wages to be paid workers:	
Dates (or schedule) when wages will be paid: (e.g. weekly, monthly, etc.)	
Independent Contractors utilized under this Contract	
Estimated total number of independent contractors to be used in this contract:	
List of current local, state and federal contractor license identification numbers required by law for independent contractors:	
Commissions	
Amount of commission paid under this contract	

THIS PAGE LEFT INTENINALLY BLANK



PORT OF OAKLAND

**Information Required to Comply with
California Labor Code Section 2810**

RFP No.: 18-19/17, Maritime Security Patrol Services

To comply with California Labor Code Section 2810, Contractor shall complete and submit this Information Sheet which shall be incorporated into and be a part of the Contract. This only applies to contacts with labor services associated with Construction, Farm Labor, Garment, Janitorial, Security Guard, or Warehouse Contractors.

Contractor	
Name:	
Address:	
Telephone No.:	
Employer Identification No. (EIN):	
Description of Services:	
Describe Services:	
Commencement and Completion Dates:	
Worker's Compensation Insurance	
Policy No.	
Name of Insurer (Not Broker):	
Address of Insurer:	
Telephone No. of Insurer:	
For Vehicles owned by Contractor and used in performing work under this Contract	
VIN (Vehicle Identification No.):	
Automobile Liability Insurance Policy No.:	
Name of Insurer (Not Broker):	
Address of Insurer:	
Telephone No. of Insurer:	
Address of Property used to house workers on this Contract, if any:	
Workers employed under this Contract	
Estimated Total number of workers to be employed on this Contract:	
Estimated total wages to be paid workers:	
Dates (or schedule) when wages will be paid: (e.g. weekly, monthly, etc.)	
Independent Contractors utilized under this Contract	
Estimated total number of independent contractors to be used in this contract:	
List of current local, state and federal contractor license identification numbers required by law for independent contractors:	
Commissions	
Amount of commission paid under this contract	

MARITIME AREA SECURITY PATROL SERVICES

