

REQUEST FOR PROPOSAL

Lease of Charles P. Howard Marine Terminal (Berths 67-68)

RFP No.: 13-14/06



PORT OF OAKLAND

MARITIME DIVISION
530 WATER STREET
OAKLAND, CA 94607



REQUEST FOR PROPOSAL
13-14/06

Lease of Charles P. Howard Marine Terminal (Berths 67-68)

The Port of Oakland ("Port"), Oakland, California, is issuing this Request for Proposals ("RFP") for the lease of the Charles P. Howard Marine Terminal ("Howard Terminal").

Proposal Information

Proposal Title	Lease of Charles P. Howard Marine Terminal (Berths 67-68)
Proposal Type	Lease or other form of Property Rental Agreement
Length of Term	Up to 66 Years
RFP Issuance	October 7, 2013
Newspaper Publication	October 10, 2013
Pre-Proposal Meeting	October 18, 2013 at 9:00 a.m.
Site Tour	October 18, 2013 following pre-proposal meeting (estimated 10:30 a.m.) Reservations are required for the Site Tour no later than 12:00 p.m. on Tuesday, October 15, 2013. Please contact Brenda James at bjames@portoakland.com or (510) 627-1189
Proposals Due	December 6, 2013 at 4:00 p.m.

Instructions for Submitting Proposals

Submittal Address	Port of Oakland Maritime Division Attn: Delphine Prevost 530 Water Street Oakland, CA 94607
Submittal Copies	Three (3) original (clearly marked Original) paper versions and five (5) electronic copies provided on disk or USB drive
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 13-14/06 • Name of Company • Address • Phone Number • E-mail address
Late Submittals	Proposals received after the time and date stated above shall not be considered and will be returned to the Respondent unopened.

How to Obtain Proposal Documents

Copies of the RFP may be obtained at:

Available	Location
Yes	Port of Oakland Maritime Division 530 Water Street Attention: Brenda James Oakland, CA 94607 Monday through Friday 9:00 a.m. to 4:00 p.m. (510) 627-1189
Yes	http://www.portoakland.com/opportunities/bidsrfpsrfqs.aspx Or navigate to the Port of Oakland's main website at: http://www.portoakland.com/ , then click on "Business" then on "Opportunities" and then on "Bids/RFPs/RFQs" 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	Delphine Prevost Maritime Division Email: dprevost@portoakland.com Fax: (510) 835-1641
Question/RFI Due Date for All Proposer Questions	October 28, 2013 at 4:00 p.m. Please submit questions as soon as possible. No questions regarding this RFP will be responded to if received after the above date. All pertinent questions will be responded to and answered in writing no later than the Response Date listed below.
Port Responses to Questions	November 6, 2013 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 do not receive a copy of the addendum should download it from the Port's website. All addendums 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, each Proposer and its representatives, agents, and affiliates, shall not contact members of the Evaluation Committee, Port staff or the Port Board to discuss or ask questions about the contents of this RFP, the lease or the selection process. All questions shall be submitted in writing as described above. Inappropriate contacts may result in the Proposer's disqualification.

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. The successful Respondent shall comply with the Port's non-discrimination policy.

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

-- *Jean Banker, Deputy Executive Director*

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Attachments:

Title		Must Be Returned with Proposal
1	Non-Collusion Declaration	Yes
2	Statement of Equal Employment Opportunity	Yes
3	RFP Acknowledgement and Signature Form	Yes
4	Statement of Living Wage Requirements	Yes
5	Insurance Acknowledgment Statement	Yes

Exhibits:

Title	
A	Key Lease Provisions
B	Map of Port of Oakland Seaport
C	Site Map
D	Site Aerial Photo

I. Solicitation Overview

1) Port Overview

The Port of Oakland (“Port”) manages aviation (Oakland International Airport), maritime (“seaport”), and commercial real estate properties (commercial/recreation purposes) located on the mainland shore of San Francisco Bay, in the City of Oakland, California. The seaport serves as the principal ocean gateway for international containerized cargo shipments in Northern California, and is one of five major gateways on the West Coast of North America. The seaport is the 5th busiest container port in the U.S.; approximately 2.3 million TEUs (twenty-foot equivalent units) were handled in 2012. The seaport complex comprises approximately 1,300 acres, including approximately 770 acres of marine terminals. The seaport is served by two Class I railroads, BNSF Railway and Union Pacific (UP) Railroad. A robust roadway transportation network also supports seaport activities: access to I-80, I-880, State Route 24, and I-980 is located within approximately 1 mile of the marine terminals.



Figure 1: Vicinity Map

2) Solicitation

The Port is soliciting proposals for the use and occupancy of Charles P. Howard Marine Terminal (the “Site”). The Site is located along the northern shoreline of the Port’s Inner Harbor, adjacent to the Port’s Inner Harbor Turning Basin and west of Jack London Square, and is accessible by land from Martin Luther King Jr. Way and Market Street. The Site is comprised of Berths 67 and 68 and approximately 50 acres of paved land with lighting and other improvements in support of container terminal uses. Berths 67 and 68 have a water depth of approximately -42 feet mean lower low water (MLLW), and there are four container cranes mounted on rails on the wharf adjacent to the berths. The Site is currently being used as a maritime container and roll-on/roll-off (“ro-ro”) auto terminal.

The Port anticipates that the Site will be available for rent as early as February 1, 2014. The Port is soliciting proposals for maritime port uses, including without limitation:

- Container terminal
- Ro-ro auto and vehicle processing / ro-ro equipment
- Break-bulk
- Dry and/or liquid bulk
- Refrigerated cargo and warehousing
- Project cargo
- Marine construction and vessel services
- Other maritime support services

Uses that have significant adverse impacts, including, but not limited to, operational impacts on maritime activities elsewhere in the seaport, as determined by the Port, will not be considered.

The Port prefers proposals for the whole Site, but will consider proposals for portions of the Site. The Port will consider all proposed durations of term for use and occupancy of the Site; however, the Port is limited by the City of Oakland Charter and California Tidelands Trust law to a maximum term of duration of 66 years for any property rental agreement.

It is anticipated that the Board of Port Commissioners will consider awarding an agreement to occupy and use the Site to the successful Proposer(s). This agreement may take the form of a lease agreement or other property rental agreement (collectively referred to herein as "lease"). Key lease provisions are provided as Exhibit A.

All Proposers must comply with the terms and conditions set forth in this RFP.

3) Opportunity Highlights

The Port believes the following factors and maritime characteristics of the seaport underpin the value of the Site for continued maritime purposes:

- **Key gateway.** The seaport is the 3rd largest container port on the U.S. West Coast and 5th largest in the U.S. in terms of annual cargo traffic. The seaport is consistently ranked among the top five container ports in the U.S.
- **Strong, stable regional cargo traffic.** The seaport serves a strong local and regional market for imports. The seaport also serves as a premier export gateway for agricultural products originating in California and throughout the U.S. Proximity to California's Central Valley, a major agriculture region, provides a strong export cargo base with potential for significant growth in the future.
- **Deep water access.** The Site offers deep water berths (-42 feet MLLW) and a federal channel/turning basin at -50 feet MLLW.
- **Excellent transportation network.** The Site has access to major freeways, providing convenient access for truck and other roadway transport. The Site is also located near Oakland International Airport, the largest air cargo hub in Northern California.
- **Two near-dock intermodal rail facilities.** Both UP and BNSF have rail terminals in very close proximity to the Site. Capacity is available at these facilities to accommodate growth.
- **Flexibility to develop.** The Proposer is welcome to propose improvements it deems appropriate for the maritime use of the Site.

4) Solicitation Goals

The Port's goals for the Site are as follows:

1. Maximize revenues from the use and operation of the Site;
2. Secure business that supports, enhances, or diversifies current maritime operations, and is compatible with the Port's maritime operation;
3. Maintain and enhance environmental performance, especially regarding air quality;
4. Maximize the indirect economic benefit from Port operations to the surrounding local community and region; and
5. Comply with and support the Port's policies.

II. Site Specifications

1) Data Room

The Port has made certain information available to the Proposers in the Physical Data Room located at the Port of Oakland's office. Appointments to view documents in the Physical Data Room may be made in advance with Brenda James, at (510) 627-1189 or bjames@portoakland.com. These documents will be accessible between 8:30 am and 4:00 pm at the Port offices, 530 Water Street, Oakland, CA 94607. None of the documents can be removed from the Port premises. The Port will make copies of the documents upon request, provided that Proposers pays a nominal copying fee in accordance with the fee schedule set forth in Port Ordinance No. 2263.

2) Site Overview

The Site is comprised of Berths 67 and 68 and approximately 50 acres of paved land with lighting and other improvements in support of container terminal uses. The Site is currently being used as a maritime container and roll-on/roll-off ("ro-ro") auto terminal. The Site is located at the southeast end of the seaport, and is generally bounded by:

North:	Pacific Gas & Electric Company ("PG&E") Gas Load Center
North/Northwest:	Embarcadero Street and the Union Pacific Railroad mainline tracks
East:	Dynegy's Oakland Power Plant and the Oakland Fire Department
West:	Schnitzer Steel (a scrap metal bulk export terminal)
South:	Inner Harbor federal navigation channel of the Oakland Estuary

There are two entrances to the Site: Martin Luther King Jr. Way and Market Street. The Market Street entrance is the primary access point, with a security checkpoint, scales, and other infrastructure to support container terminal operations. A Site map and aerial photo are provided as Exhibits C and D, respectively.

The Site is currently being operated by SSA Terminals for Matson Navigation Company container and roll-on/roll-off cargo shipping. The Site is nearly level and paved mainly with asphaltic concrete, which ranges between 4 and 30 inches in thickness above varying depths of fill on top of Bay Mud. The Site includes approximately 1,940 linear feet of wharf, plus a mooring dolphin approximately 70 feet east of Berth 68. The water depth alongside the wharf is permitted and maintained to -42 feet MLLW, and the adjacent Inner Harbor Channel is dredged annually by the U.S. Army Corps of Engineers to maintain a depth of -50 feet MLLW. The wharf backlands ("yard") contain approximately 50 acres of paved surface capable of holding containers, automobiles, and other equipment. There are two outbound gate lanes and six inbound gate lanes with six associated truck scales.

There are a number of active and inactive utilities and pipelines underneath the Site. Two active fuel pipelines generally run underneath the Union Pacific mainline tracks adjacent to the Site, and PG&E has an above ground gas transmission pipeline running through its Gas Load Center site.

3) Wharf and Crane Rail

The table below summarizes the current wharf configurations:

Berth	Wharf Length	Water Depth	Crane Rail Gauge	Equipped with Shore Power?
67	970 ft.	-42' MLLW	100 ft.	No
68	970 ft. + 70 ft. dolphin	-42' MLLW	100 ft.	Yes

The westernmost 1,640 feet of the wharf were constructed by the Port in 1980. The 80-foot wide wharf deck is supported on five rows of vertical piles with 18-foot bent spacing. The landside crane rail is separated from the apron and supported by two rows of batter piles. All piles under the main deck are prestressed, precast octagonal concrete piles, 24-inch in diameter, connected to the deck with 8-#9 dowels. The landside crane rail is supported by 16-inch square prestressed, precast concrete batter piles connected to the longitudinal concrete beam with 4-#9 dowels supports the landside crane rail.

An approximate 300-foot long wharf extension to Berth 68 was constructed in 1995 at the east end of the wharf. An approximate 110-foot wide deck supports both the landside and waterside crane rails. The deck is supported by seven rows of vertical piles with 18-inch bent spacing. All piles are prestressed, precast octagonal concrete piles, 24-inch in diameter, connected to the deck with 8-#9 dowels.

4) Cranes

The Port owns and currently maintains four (4) container cranes on Howard Terminal, which were purchased and installed between 1968 and 1986, as shown in the following table.

Crane	Berth	Manufacturer	Type	Capacity	Net Outreach	Lifting height Over Dock	Year Built	Boom Type
X415	68	Hitachi	Panamax	40LT	108 ft	102.5 ft	1980	Articulating
X416	67	Hitachi	Panamax	40LT	108 ft	102.5 ft	1980	Articulating
X417	68	KSEC	Post-Panamax	50LT	115.5 ft	90 ft	1986	Articulating
X422	67	Paceco	Panamax	40LT	100 ft	100 ft	1968	Shuttle

5) Container Yard Equipment

With the exception of the cranes identified above, the Port owns no container handling equipment at the Site. No such equipment will be included in the lease.

6) **Buildings**

The Site includes office, security, and maintenance work spaces generally grouped into three sections, an administrative complex adjacent to the Market Street gate, a maintenance and repair area in the northwestern portion of the Site, and a marine operations building next to the middle of the wharf.

The administrative complex includes:

- E-436 and E-437, security check point kiosks off Market Street.
- E-441, a four-wide modular building, approximately 48 ft by 60 ft. This building is located closest to the Market Street entrance gate.
- E-433, a single-wide modular office building.
- E-434, a five-wide modular building
- E-435, a computer room used for servers and gate transaction systems
- E-423, a small clerks office used as the “kitchen” for processing gate transactions, located adjacent to the scales
- E-428, a small restroom adjacent to the “kitchen”

The maintenance and repair area includes:

- E-439, a pre-engineered metal shop building with four 60-ft bays and a 20-ft clear height.
- E-440, a 36 ft by 60 ft modular office building for the maintenance staff

The marine operations include a single building:

- E-418, a two-story building with a break room and restroom downstairs, and three offices upstairs

7) **Prior Pavement Section Maintenance and Repair**

Over the past approximately three years, the Port has worked with its tenant on subsidence in certain areas where top-picks were stacking containers. To complete an adequate pavement repair, the Port considered a full-depth pavement repair which would have required excavating and removing some of the aggregate base and fill materials below. Rather than remove and dispose of these materials, the Port determined it would be more cost effective to leave the existing soil and base rock in place and constructed a reinforced concrete surface in these areas. The Port continues to monitor the pavement performance on the Site and has not seen other subsidence concerns since these two repair areas were completed. Plans for the pavement repair work are available in the data room.

8) **Rail Access**

The Terminal has not had rail service for some time; however, rail access is available. A spur off Union Pacific's West Oakland rail yard is in place, with tracks extending along the west and south sides of the Terminal. BNSF Railway serves the Port via trackage rights on Union Pacific's mainline. Union Pacific's mainline is directly in front of the Site, along Embarcadero. Inquiries on initiating railroad service should be directed to Union Pacific Railroad and BNSF Railway.

9) Condition of Property and Future Improvements

The successful Proposer must be prepared to take possession and use of the Site in its "as-is, where-is, with all faults" condition, including without limitation, environmental compliance and with the existing cranes in place on the Site.

The Proposer will be responsible for all capital improvements, including without limitation the construction, financing, and maintenance of all such improvements. The Proposer will be responsible for obtaining all applicable permits and other entitlements for such improvements. Any improvements must adhere to the Port's policy requirements of payment of Prevailing Wages, the Maritime and Aviation Project Labor Agreement (MAPLA), and the Port's Web-Accessed Monitoring System (WMAS), as defined in section IV "Port Policy Requirements", later in this RFP.

10) Environmental Conditions in Subsurface

Site

The present day Howard Terminal was constructed by the Port in 1980 by combining the historic Howard Company shipping terminal and the former Station B West, manufactured gas plant ("MGP") owned and operated by PG&E. Howard Company started out in the early 1900s as a coaling station and quickly grew as a general break-bulk marine terminal. Station B was located adjacent to Howard Company on the eastside and was constructed by a predecessor to PG&E in the early 1900s for the manufacture of heating and cooking gas derived from coal for the City of Oakland.

Because of past land use, the majority of the footprint of the present day terminal has subsurface contamination both in the shallow fill soils and the shallow groundwater that is thought to be a threat to both human health and the environment. On October 17, 2000, the California Environmental Protection Agency ("Cal EPA") Department of Toxic Substances Control ("DTSC") issued an Imminent and Substantial Endangerment Order and Remedial Action Order to the Port obligating the Port to conduct certain investigations and removal actions which the Port conducted. Due to the presence of the subsurface contamination, Howard Terminal is subject to a Covenant to Restrict Use of Property, as amended ("CRUP") and an Operations and Maintenance Agreement ("O&M Agreement"). Both agreements are between the Port and DTSC. An environmental cap separates the contamination from the surface environment, thereby preventing exposures to terminal workers and the general environment and enabling routine use of the Howard Terminal. The environmental cap consists of the existing pavement section comprised of both asphaltic concrete and imported base material. This cap is maintained by the Port through twice a year visual inspections, removal of excessive vegetation, and as-needed pavement repairs. Any penetrations of the pavement cap, by any party, require the preparation of a site-specific health and safety plan and the implementation of a Risk Management Plan.

Groundwater under Howard Terminal is monitored on an annual basis by the Port. Nine groundwater wells were constructed for monitoring a number of environmental constituents. The purposes of the wells are to a) check for any constituents that are migrating from under Howard Terminal and potentially entering the Inner Harbor of San Francisco Bay and b) monitor the trend of natural degradation of the constituents.

The Port is required to report annually to the DTSC on the physical conditions within Howard Terminal. The reporting typically consists of the semi-annual cap inspections, maintenance activities on the cap (usually pavement repairs and vegetation removals), groundwater monitoring data and trends, and any general maintenance activities that required digging and the preparation of a health and safety plan.

Adjacent Properties

As required by the Regional Water Quality Control Board, Schnitzer Steel is in the process of conducting an investigation at its facility; part of that investigation abuts a portion of the Site.

PG&E recently completed a four-month environmental cleanup project at the end of Jefferson Street which abuts a portion of Howard Terminal. As part of that project, PG&E removed over 2,000 tons of soil that contained petroleum products from historic site operations; the project was overseen by the DTSC.

The Gas Load Center, currently surrounded on three sides by the Site, was part of the former PG&E MGP. Under the oversight of DTSC, PG&E has undertaken certain removal actions at the Gas Load Center including capping the unpaved areas, and preparing an Operations and Maintenance Plan and CRUP.

Further details on environmental conditions in the subsurface can be found in the Data Room.

11) Land Use and Permitting

In addition to any environmental regulatory oversight resulting from contamination, the Site is subject to the Tidelands Trust, consistent with the grants affecting the property with oversight from the California State Lands Commission. The San Francisco Bay Area Seaport Plan of the San Francisco Bay Conservation and Development Commission ("BCDC") designates the Site for Port Priority Use. The Site is located within the City of Oakland, and is designated as General Industrial/Transportation Uses in the City of Oakland General Plan. Any proposed change of use or any proposed construction, maintenance or new development at the Site will be subject to environmental review pursuant to the California Environmental Quality Act ("CEQA"). If any federal funds are anticipated or proposed or any federal approvals required, environmental review may be required pursuant to the National Environmental Policy Act ("NEPA"). Much of the Site is within the BCDC upland jurisdictional area, so permits are required for maintenance and construction projects. BCDC also requires sea level rise risk assessments for large shoreline projects. Other regulatory agencies with permitting or other jurisdiction over certain activities at the Site include, without limitation, the California Department of Toxic Substance Control ("DTSC"), the Regional Water Quality Control Board ("RWQCB"), the Bay Area Air Quality Management District ("BAAQMD"), the U.S. Army Corps of Engineers ("Corps"), the City of Oakland, the Federal Maritime Commission, the California State Lands Commission, and the Port of Oakland.

Existing CEQA determinations and regulatory agency permits held by the Port already cover certain activities at the Site, such as shoreline maintenance, expansion of the existing shore power system, berth maintenance dredging and potential berth deepening to -50 feet MLLW.

12) Air Quality

On March 18, 2008, the Port's Board of Port Commissioners ("Board") approved a Maritime Air Quality Policy Statement that sets a goal of an 85% reduction from 2005 to 2020 in neighboring-community cancer health risks related to exposure to diesel particulate matter ("DPM") emissions from the Port's maritime operations through all practicable and feasible means. In April of 2009, the Port adopted its Maritime Air Quality Improvement Plan ("MAQIP") which includes air quality goals and policies that cover all seaport-related development and operations at the Port. The MAQIP specifically includes initiatives, programs and projects for achieving a reduction in DPM and criteria pollutants through targeted emission reductions and enforcement of regulations, including California Air Resources Board regulations pertaining to port sources (ships, harbor craft, cargo handling equipment and drayage trucks.) The Port is also targeting greenhouse gas ("GHG") emissions reductions at the seaport, primarily through installation of shore power infrastructure at the marine terminals.

On June 16, 2009, the Board adopted the Maritime Comprehensive Truck Management Program ("CTMP"), a MAQIP program. The CTMP was developed to comprehensively address security, air quality, business and operations, and community issues related to trucking operations at the Port's maritime facilities. CTMP measures to reduce DPM emissions include a ban on older trucks, consistent with California regulations.

13) Financial

There is tax-exempt debt associated with Howard Terminal and any long-term agreement may require the defeasance of this debt. The Port would need to evaluate the proposed uses, duration, and other terms and conditions of an agreement in order to determine if defeasance is necessary.

III. Port Policy Requirements

The selected Proposer will be required to comply with the following Port Policy Requirements, as applicable:

1. Non-Discrimination and Small/Local Business Utilization Policy (NDSLBU):
It is the policy of the Port of Oakland to encourage and facilitate full and equitable opportunities for small local businesses to participate in Port public works contracts and its contracts for the provision of goods and services. Proposers will be required, as a prerequisite to granting a lease, that the Proposer comply with the NDSLBU. A business may demonstrate its compliance according to the standards set forth in the Port's Policy and administrative regulations. The entire policy is available at:
http://www.portofoakland.com/pdf/responsibility/ndslbu_policy.pdf. A copy of the Port-certified Small Local Business Enterprises can also be downloaded at:
<http://www.portofoakland.com/srd/>

For questions or assistance regarding NDSLBU, contact Donna Cason, Contract Compliance Officer, (510) 627-1252, at the Port's Social Responsibility Division, or fax 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. Exhibit A outlines key lease terms, including insurance requirements. Documents made available in the Data Room also provide examples of Port insurance requirements on various types of leases/property rental agreements. Respondents must include a signed Insurance Acknowledgement Statement (see Attachment 4) 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 award.
3. 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, 2013 is at least \$11.96 with credit given to the employer for the provision to covered employees of health benefits, and \$13.75 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.

The Port's Living Wage Policy may be found on the Port's webpage at:
<http://www.portoakland.com/responsibility/>

4. Prevailing Wages License and Sub-contracting Requirements:

These Requirements apply to the extent there are construction activities proposed as part of the proposal. Respondent submitting a proposal for a "public works" project (defined below) are required to pay prevailing wages pursuant to California Labor Code, Section 1720, et seq, and to abide by all subcontracting and subletting practices as defined by California Public Contract Code section 4100 et seq., and to abide by any Contracting Licensing requirements as defined by California Business and Profession Code. All Contractors performing work on Port property are required by law to be licensed and regulated by the Contractors State License Board.

California Labor Code Section 1720, (a)(1) provides that the term "public works" means:

Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

General prevailing rate of per diem wages in the locality in which the work is to be performed for each craft, classifications or type of worker needed to execute the contract, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes is available at the Department on Industrial Relations Internet site accessible at http://www.dir.ca.gov/DLSR/statistics_research.html.

The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work shall be at least time and one half.

It shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the specified rates to all workers employed by them in the execution of the contract. It is the contractor's responsibility to determine any rate change, which may have or will occur during the intervening period between each issuance of published rates by the Director of Industrial Relations.

The Port has adopted an electronic monitoring system to satisfy certain certified payroll reporting requirements. The successful Proposer will be required to utilize the Web-Accessed Monitoring System (WAMS) to satisfy said requirements.

5. Maritime and Aviation Project Labor Agreement (MAPLA):

The Port has entered into a Maritime and Aviation Project Labor Agreement (MAPLA) with the Building and Construction Trades Council of Alameda County, AFL-CIO that applies to construction contracts awarded by the Port and the Port's tenants in the Port's airport and maritime areas. Any construction undertaken by the successful Proposer that exceeds the thresholds required for coverage under the MAPLA will be subject to the MAPLA. The MAPLA is included as Document 00823 in the Port's Standard Contract Provisions which can be downloaded in PDF format from the Port's website at <http://www.portoakland.com/StandardContractProvisions2009>.

The provisions of MAPLA include, but are not limited to, a Substance Abuse Prevention Policy on drug testing (Document 00824), a Social Justice Labor Management Cooperation Trust Fund (Document 00825), and requirements for Utilization of Off-Site Apprentice Work Force (Document 00826).

IV. Submission Requirements

The Port has scheduled a pre-proposal meeting on October 18, 2013, to review the submission requirements (see page 1 of this RFP).

The Port will provide an optional Site tour. Additional inspections will be made available to the short listed Proposers. The Site tour bus can only accommodate up to 14 persons at a time on the Site tour; please RSVP by October 15 as indicated on the first page of this RFP under Proposal Information. All tour participants must have valid government-issued identification (i.e., driver's license, passport, TWIC card) to access the Site.

Please respond to the submission requirements in a straightforward and concise manner to satisfy the requirements of the RFP. The Port will use your responses to objectively determine your ranking among the proposals received.

Format

The Proposal shall not be longer than 30 pages (one sided or 15 pages double sided), printed on 8 ½" x 11" paper and formatted in no smaller than 10 point font. Please label your responses 1 through 10, in the order presented 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. Failure of the Respondent to provide any information requested in the RFP may result in rejection for non-responsiveness.

Content

The proposal must respond to the following 10 items. Please label your responses 1 through 10, in the order presented below. Responses to items 1 through 9 of this section IV are subject to the 30 page limit.

1) Cover Letter and Company Information

The proposal must provide the following Proposer and team member information:

- a) Cover letter
- b) Name of your company (including the name of any parent company), business address, email address, Federal Tax ID number, telephone and fax numbers. Also provide a brief statement of who is authorized to submit the proposal on the behalf of your firm. Please make sure that person signs and dates the statement.
- c) A description of the Proposer, including a description of all team members and the anticipated legal relationship among the team members. Include the location (address) of each team member.
- d) A brief outline of the roles of each team member. At a minimum, each Proposer must identify all participants of its team and the team members who will have primary responsibility for facility operations, customer relationships, financial matters (including capital improvements) and relations with the Port.
- e) The identity of each individual or company who holds a major or controlling interest in the Proposer and each team member.

- f) The identity of each company and individual who is expected to act as legal, financial, or other advisor for the Proposer.
- g) An organizational chart that illustrates the roles and relationships identified in (b) – (e).
- h) Provide a written statement that your company has not been debarred from providing services to any State or Federal Agency within the last five (5) years. Sign and date your statement. If your firm has been debarred, you will need to provide background information and reason for the debarment. Provide the name and contact information for the agency that debarred your firm. The Port must review the reason and duration for the debarment before it can determine if your firm can be considered for this project.

2) Knowledge and Experience

Provide relevant information about your company's knowledge and experience. By providing reference/client information, you authorize us to contact such clients.

- a) A list of at least three comparable operations in the marine, rail, and/or surface transportation sector in which the Proposer and each team member have participated (limited to the last 10 years). To the extent the Proposal includes capital improvements, also include three comparable development projects of a similar nature to the improvements proposed. Proposers should specify how these comparable projects and/or operations relate to the proposed Project. Provide a description of each project:
 - i) Brief description
 - ii) Cost to implement, revenue generated
 - iii) Nature of the operations
 - iv) Other value-related information that may be pertinent
- b) A list of at least three current Proposer and team member references, which may not include other team members. These references should be able to describe the relevant qualifications and capabilities of team members looking to take a leading role in the operation, maintenance, financing and capital development of the Project. Include names, addresses, and contact information.

3) Land Area Intended to Use/Occupy

The proposal must indicate:

- a) If the proposal is for the entire Site or only portions of it
- b) If the proposal is only for a portion of the Site, the Proposer must specify with maps and/or aerial photos what portion of the Site the Proposer is proposing to use and occupy
- c) If the proposal is for multiple uses, operators, or portions of Howard Terminal, then the proposal must specify which portions of the Site will be used for each type of use and by whom.

4) Term of Occupancy

The proposal must state the proposed term of the lease, including any options to extend the term. Maximum allowable term is 66 years.

5) Intended Use of the Site

The Port is seeking to secure business that supports, enhances, or diversifies current maritime operations, and is compatible with the Port's current maritime operations. The proposal must state the proposed primary use of the Site as well as any secondary uses proposed. As stated in the Project Overview, the Port is soliciting proposals for maritime port uses including without limitation:

- Container terminal
- Ro-ro auto and vehicle processing / ro-ro equipment
- Break-bulk
- Dry and/or liquid bulk
- Refrigerated cargo and warehousing
- Project cargo
- Marine construction and vessel services
- Other maritime support services

Uses that have significant adverse impacts, including, but not limited to, operational impacts on maritime activities elsewhere in the seaport, as determined by the Port, will not be considered.

The statement of proposed primary and any secondary uses must also describe in detail:

- a) The proposed operations of each use
- b) Business plan, including potential cargo activity, key customers, market conditions to support the activities proposed, and how such activity complements the current Port maritime operations
- c) Type and amount of equipment and structures that will be needed for such operations, including any proposed use of the existing cranes
- d) Hours of operation
- e) Estimated schedule for reaching full operations
- f) A map or site plan showing anticipated operations
- g) Proposed measures or methods to minimize or avoid emissions of air pollutants, including but not limited to diesel particulate matter and greenhouse gases, and other measures to maintain and enhance environmental performance
- h) Estimated direct and indirect economic benefit from the proposed use of the Site to the surrounding local community and region. Please include estimated direct and in-direct employment projections over the term proposed

6) Improvements

State what if any improvements, if any, the Proposer proposes developing during the term of the lease, including, without limitation:

- a) Any buildings, utility systems, berth deepening, repaving, or other construction activities.
- b) A proposed site plan showing the general location of each improvement on the premises.
- c) A schedule of performance showing:
 - i. Types of permits/approvals from regulatory agencies the Proposer anticipates will be necessary to secure for the proposed use and improvements
 - ii. When the Proposer anticipates securing all permits, approvals, and financing for such improvements

- iii. When the Proposer plans to begin construction of such improvements
- iv. When such improvements will be completed
- v. Amount and form of financing/funding

7) Rent

The proposal must state the proposed rent for all portions of the Site that the Proposer proposes to use and occupy during the term of the lease, including without limitation:

- a) Proposed commencement date for payment of rent to the Port
- b) Proposed amount of minimum rent
- c) Proposed frequency of minimum rent (the Port prefers monthly minimum rent)
- d) Proposed variable rent (e.g., "participation rent" or "profit sharing"), if any
- e) Proposed rent escalators, including frequency and basis

For any proposed variable rent based on revenues or other basis, describe in detail how such percentage rent would be calculated. If the proposal is for multiple portions of the site to be operated by different entities, provide the above information for each portion of the Site.

8) Financial Capacity

The proposal shall include:

- a) Evidence satisfactory to the Port of the Proposer's financial capacity to carry out and implement every aspect of the Proposer's proposal, including, without limitation:
 - i. Development and maintenance of any proposed improvements
 - ii. Purchase or acquisition of all necessary equipment and materials
 - iii. Compliance with all environmental or other regulatory requirements that may apply to the proposed use and operation of the premises.
- b) Audited financial statements for the last available year; if audited statements are not available, please provide unaudited statements and certification of the Chief Financial Officer (or equivalent) as to the unaudited financial statements.

9) Additional Information

The proposal shall include:

- a) Any exceptions the Proposer may have to the Port's Key Lease Provisions (Exhibit A)
- b) Additional information the Proposer believes is necessary to more fully describe the intended use and occupancy of the Site, so long as such additional information does not exceed the maximum page limit set forth in this RFP and is not redundant with Items 1 through 8 above

10) Port Policy Requirements and Required Forms

The Respondent must fill out all forms included in the RFP (listed in the attachments section on page 4 of this RFP) and return them with the proposal. These do not count against the maximum page count for the proposal.

V. Evaluation of Proposals

Prior to award, the Port must be assured that the Respondent selected has all of the resources required to successfully perform under the contract. These assurances include, but are not limited to, personnel with skills required, equipment/materials and financial resources sufficient to perform under the award. If during the evaluation process, the Port is unable to assure itself of the Respondent's ability to perform, 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.

Please make sure you have submitted responses to all items listed in the Submission Requirements section, as your proposal will be evaluated based on the following four criteria:

1) Evaluation Criteria

Cover Letter, Company Information, Knowledge and Experience

As evidenced from Items 1 and 2 of Submission Requirements, Content.

Plan and Approach

As evidenced from your response to Items 3 through 6 of Submission Requirements.

Proposed Rent and Financial Capacity

As evidenced from your response to Items 7 and 8 of Submission Requirements.

Additional Information, Port Policy Requirements, and Required Forms

As evidenced from your response to Items 9 and 10 of Submission Requirements.

2) Selection Procedure

All proposals received by the deadline which meet the RFP's requirements will be evaluated. The Port reserves the right to exercise broad discretion in the review and evaluation of all proposals received based on the evaluation criteria listed above. Based on the responses to this RFP, the Port will determine the top ranked Respondents. The selection process may include interviews (at the discretion of the Port) for the top ranked Respondents. If interviews are to take place, the Port will notify the top ranked Respondents. The Port currently expects that it will designate up to three top ranked Respondents ("Shortlisted Proposers").

The Port expects to designate the Shortlisted Proposer(s) approximately one month following the RFP submission deadline. After identifying the Shortlisted Proposer(s), one or more Shortlisted Proposers will then sign a confidentiality agreement with the Port and be invited to one-on-one meetings with the Port to negotiate the final terms and conditions of the lease. The Port currently expects to complete negotiations by March 2014, but may end such negotiations earlier and opt to negotiate with other Shortlisted Proposer(s) at any time prior to March 2014.

The Port reserves the right to modify or terminate this solicitation at any stage if the Port determines such action to be in its best interest. The receipt of proposals or other documents at any stage of the RFP process will in no way obligate the Port to enter into any contract of any kind with any party.

The Port and its advisors are not responsible for costs or damages incurred by Proposers, Shortlisted Proposers, Teams, team members, subcontractors or other interested persons in connection with this solicitation process, including all costs associated with preparing responses to this RFP, and of

undertaking due diligence and participating in any conferences, meetings, presentations, negotiations or other activities.

VI. Additional Provisions

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

A. Port's Legal Name and Jurisdiction

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

B. Ownership of Proposal

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

C. Public Records Act

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

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

D. Port's Right to Modify

Respondents are advised that the Port has not incurred any obligations or duties in soliciting this RFP. The Port 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, exercising broad discretion, 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.

E. Conflicts of Interest

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

F. 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.

G. 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.

H. Respondent's Relationship

The Respondent's relationship to the Port shall not be deemed that of an employee, agent, or joint venture of the Port.

I. 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.

J. False Statements

False statements in a proposal will disqualify the proposal.

K. Grade of Service

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

L. 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.

M. 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.

N. 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.

O. 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.

P. 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.

Q. Award Consideration

The Port shall not be bound to accept or award to the highest paying proposal and will award the contract (if any) to the company/firm selected through the competitive process (and any subsequent interviews) outlined in this RFP.

R. Protest Procedures

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

1. Any protest must be submitted in writing to John Betterton, by 5:00 p.m. of the fifth (5th) business day following publication of the identity of the apparent successful Proposer(s) (or of notice of intended award, if such notice is issued).
2. The protest must include the name, address and telephone number of the person representing the protesting party.
3. The initial protest document must contain a complete statement of the basis for the protest, including in detail, all grounds for protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the protest; any matters not set forth in the written protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence.

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

Provided that a protest is filed in strict conformity with the foregoing, protests shall be heard initially by the Executive Director, or his/her designee, who shall issue a written report and a recommended disposition of the protest, including written findings of fact and any conclusions of law. The Board of Port Commissioners (Board) may then ratify the Executive Director's (or his/her designee's) recommendations or conduct such further review of the protest, as the Board may determine. The Board will render a final determination and disposition of a protest by taking action to adopt, modify or reject the disposition of a protest. Action by the Board relative to a protest shall be final and not subject to appeal or reconsideration by Protestor, the Port, any employee or officer of the Port or the Board of Port Commissioners.



RFP No.: 13-14/06, Lease of Charles P. Howard Marine Terminal (Berths 67-68)

(To Be Executed By Proposer and Submitted With Proposal)

I, _____, declare as follows:

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

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

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

Executed this _____ day of _____, 201__, at
_____, California

Signature

Authority: Public Contract Code 7106
CCP 2015.5



PORT OF OAKLAND

Statement of Equal Employment Opportunity

RFP No.: 13-14/06, Lease of Charles P. Howard Marine Terminal (Berths 67-68)

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

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

BY: _____
Date

Print Name



RFP No.: 13-14/06, Lease of Charles P. Howard Marine Terminal (Berths 67-68)

The undersigned, having carefully examined the Site to be used and occupied, the local conditions of the Site, the Content of this RFP, and documents made available for this project, proposes to enter into a lease with the Port of Oakland consistent with the requirements in this RFP, including all of its component parts, and to comply with all applicable Port policies.

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. By signing below, the undersigned certifies that he/she is authorized to make the proposal.
- 2. I have carefully read, understand and agree to the terms and conditions on all pages of this RFP.
- 3. The Proposal submitted by Proposer is accurate and complete.

Respondent's Name and Title: _____

Company Name: _____

Address: _____

Telephone: _____ Fax: _____

Email: _____

Contractor License # (if applicable): _____ Expiration Date: _____

Federal Tax Identification Number: _____

Authorized Signature: _____ Date: _____



RFP No.: 13-14/06, Lease of Charles P. Howard Marine Terminal (Berths 67-68)

I hereby certify that I _____(Legal Name of Respondent/Supplier/Consultant/Contractor), has reviewed the Living Wage Requirements, and will comply with said requirements. Upon execution of an agreement, the selected Respondent will be required to complete the attached an Employer Self-Evaluation Form and Certificate of Compliance – Living Wage Form, and submit them to the Social Responsibility Division.

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

Print Name

Title

Signature

Date



PORT OF OAKLAND

Insurance Acknowledgement Statement

RFP No.: 13-14/06, Lease of Charles P. Howard Marine Terminal (Berths 67-68)

I hereby certify that _____ (Legal Name of Respondent) agrees to meet all of the Port's Insurance requirements included in this RFP and Respondent will be able to evidence such insurance when and if awarded a lease.

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

BY: _____
Date

Print Name

Title



The actual form and content of the lease or other property rental agreement (collectively referred to herein as the “lease”) between the Port and the successful Proposer will depend on what the successful Proposer has proposed and what the Port has accepted. The list below is intended to give each Proposer a sense of the type of provisions that the Port will require to be incorporated into such lease. For purposes of the table below, the successful Proposer is referred to as the “Tenant.” The table below is not intended to be comprehensive of all lease provisions.

<u>Provision</u>	<u>Description</u>
Effective Date	The lease shall not be effective unless and until the Tenant has signed and delivered three (3) originals of the lease to the Port, and the lease has been formally approved by the Board of Port Commissioners in its sole and absolute discretion and signed and approved as to form and legality by the Port Attorney.
Permitted Uses	The permitted uses of the Premises will be based upon what the Tenant sets forth in its proposal. The permitted uses will also include a detailed description of Tenant’s proposed operations while using and occupying the Premises.
Term	The term of the lease will be the number of years that the Board of Port Commissioners approves based upon the Tenant’s proposal and staff’s recommendation.
Compensation/Rent	The amount that Tenant pays to the Port for the right to use and occupy the Premises shall include at least a minimum annual compensation or “Base Rent.” The compensation or rental provisions may include other forms of rent, such as a percentage rent or participation rent. The amount of Base Rent and/or other forms of rent shall depend on the Tenant’s proposal and staff’s recommendation to the Board.
Condition of Premises	Tenant will take the Premises, including, without limitation, all improvements thereon, in its “as-is, where-is, with all faults” condition.
Environmental Responsibilities	The lease will contain a detailed environmental exhibit describing the Tenant’s obligations with respect to environmental matters which will address all forms of environmental media, including, without limitation, air, soil, groundwater, surface water, storm water and noise. The environmental exhibit will also address the Tenant’s obligations with respect to pre-existing contamination on the Premises.
Equipment	The Port shall have no responsibility for providing any equipment that may be necessary or desirable for Tenant’s use and occupation of the Premises. The Premises currently contains four (4) container cranes as described in the RFP, and the Port may grant the Tenant permission to use one or more of such cranes under such conditions as the Port and Tenant may agree upon. Regardless of whether Tenant uses any of the cranes, the Port will not be required to remove any of the cranes from the Premises during the term of the Agreement. As between the Port and Tenant, Tenant shall be solely responsible for acquiring any equipment necessary or desirable for Tenant’s use and occupation of the Premises, all at no cost to the Port.
Responsibility for Capital Improvements	The Premises contain certain improvements that will have been disclosed to Tenant prior to entering into the lease. The Port will have no responsibility for providing any other improvements or for removing any existing improvements that Tenant does not wish to use. Tenant shall not construct any capital improvements on the Premises without the Port’s prior express written consent,

	and if Tenant constructs any improvements with Port's prior written consent, Tenant shall be solely responsible for permits, entitlements, and other government approvals for such improvements (including, without limitation, any approvals required under the California Environmental Quality Act), as well as for all costs associated with the design, construction, maintenance, and operation of such improvements.
Maintenance & Repairs	Tenant shall be responsible for the maintenance and repair of the Premises, including, without limitation, all improvements thereon at the time of the commencement of the term of the lease and all improvements subsequently developed on the Premises during the term of the lease, unless otherwise expressly stated in the lease.
Compliance with Laws	Tenant shall, at its sole cost and expense, comply with all applicable federal, state and local laws, rules, regulations, permits and orders relating to or governing the Tenant's activities on the Premises. The Tenant shall obtain and maintain all licenses, permits and other approvals or entitlements necessary for the conduct of its activities.
Compliance with Port Policies	Tenant shall also comply with Port policies and procedures in effect from time to time, including without limitation the Port's Maritime Air Quality Improvement Plan, Maritime Comprehensive Truck Management Program, living wage requirements, prevailing wage requirements, Nondiscrimination and Small Local Business Utilization Policy, and any restrictions on cargo or materials that may be transmitted or shipped through the Port or stored at the Port.
Indemnification	Tenant shall be required to indemnify, defend, and hold the Port harmless from any and all claims, actions, losses, damages, or other liabilities (whether to person or property, including, without limitation, any damage to the land caused by Tenant's release of hazardous materials on, at, or below the Premises) arising from Tenant's operations upon or at the Premises or the occupancy or use by the Tenant of the Premises or any part thereof, or occasioned wholly or in part by any act or omission attributable to the Tenant or any other Person for whom the Tenant is responsible in Law.
Insurance	<p>Tenant shall be required to obtain and maintain such insurance as may be reasonably required by the Port from time to time. The amounts and types of insurance that the Port will require may vary depending on the type of uses and other activities that Tenant proposes during the RFP process, as well as changes in industry practices during the term of the Agreement. The types of insurance that the Port will require include the following:</p> <ul style="list-style-type: none"> (1) Commercial General Liability insurance – limit varies from \$1,000,000 per occurrence to \$25,000,000 depending on the type of occupancy, other related coverage, if applicable includes contractors' pollution legal liability; (2) Automobile Liability insurance – limit varies from \$1,000,000 per accident to \$5,000,000 depending on the type of occupancy, other related coverages, if applicable, include MDS-90 and garage keepers' liability; (3) Statutory for Workers' Compensation insurance 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. If work is performed in or around water, U.S. Longshoremen and Harbor Workers Act coverage and, if applicable, Jones Act and Marine Employer's Liability coverage or federal employers' liability insurance. Such insurance shall contain a waiver of subrogation in favor of the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, Port of

	<p>Oakland, its commissioners, officers, agents and employees; (4) If work involves construction or demolition work within 50 feet of railroad property, Railroad Protective Liability insurance in the name of the applicable railroad company with limits of at least \$2,000,000 per occurrence or as otherwise required by the applicable railroad company;</p> <p>(5) Protection and Indemnity insurance (Watercraft Liability) is required if watercraft/vessels are used. Limits are typically \$1,000,000 per person on board the watercraft for bodily injury and property damage, but no less than \$5,000,000 for watercraft of a length of 30 feet to 39 feet and no less than \$10,000,000 for watercraft 40 feet and over; any passenger services watercraft will need to be referred to Risk Management to determine amount of insurance required. Scope of coverage includes liability for bodily injury and property damage including wreck removal and liability to crew, and SP-23 clause or equivalent, including collision liability;</p> <p>(6) All Risk Property insurance - 100% replacement cost coverage for tenant's additions, alterations, furniture, fixtures, equipment including coverage for any increased costs of construction resulting from changes in applicable building codes and regulations and include coverage for 12 months loss of rents. Such insurance shall include the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners as additional insured and loss payee as their interests may appear; such insurance also shall contain a waiver of subrogation in favor of such additional insured, and shall be primary insurance; no insurance or self-insurance of the Port shall be called upon to contribute to a loss. Tenant is also required to maintain builder's risk insurance during construction of all improvements (additions/alterations).</p> <p>(7) Other types of specialty insurance or different limits than disclosed above may apply depending on the type of occupancy proposed.</p> <p>(8) Commercial General Liability, Auto Liability and Protection & Indemnity coverage must include the following as additional insureds and include a waiver of subrogation in favor of such additional insureds: City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, Port of Oakland, its commissioners, officers, agents and employees.</p> <p>(9) Deductibles for the required coverages that exceed \$25,000 must be disclosed to and approved by the Port Risk Manager.</p> <p>Illustrative examples of the types and amounts of insurance that the Port requires in other agreements can be found in the data room.</p>
Security/Guaranty	Port policy requires security for Tenant's payment and performance obligations under the lease. The form of the security may be an irrevocable letter of credit, guaranty, or a cash deposit depending on the nature of Tenant's use and activities on the Premises during the term of the lease.
Taxes	Tenant will be required to pay any and all taxes arising out of Tenant's use and occupancy of the Premises, including, without limitation, any possessory interest taxes.
Utilities	Tenant shall be solely responsible for arranging and obtaining any and all utilities necessary for Tenant's use and operation of the Premises, all at Tenant's sole cost and expense.

Assignment & Subletting	Tenant shall not assign any rights under the lease or sublet any portion of the Premises without the Port's prior written permission as evidenced by a resolution approved by the Board of Port Commissioners in its sole and absolute discretion.
Reporting Requirements	Tenant shall maintain full and accurate books, records and accounts relating to all Tenant's use, occupation, and other activities upon the Premises that shall show all sales and charges arising out of such use, occupation and other activities. Such books and records shall be maintained in a true and accurate manner, in a form consistent with the requirements of the lease and in accordance with generally accepted accounting principles and generally accepted auditing standards. Such records may be in the form of electronic media compatible with or convertible to a format compatible with computers utilized by the Port at its offices, or a computer run hard copy. Tenant shall keep the books and records it is required to maintain segregated from its other operations and shall retain such books and records for a period of no less than five (5) years following the end of any contract year (as will be defined in the Agreement) to which such books and records relate (notwithstanding the expiration or earlier termination of the Agreement); provided, however, that if prior to the expiration of such five (5)-year period, any audit, review or investigation is commenced by the Port, or any claim is made or litigation is commenced relating to the lease by the Port, such books and records shall continue to be maintained by Tenant, and the Port shall continue to have the right to inspect such books and records in the manner stated in the lease, until the audit, claim or litigation is final.
Termination & Surrender	The Port shall have the right to terminate the lease upon an event of default by Tenant that is not cured within the applicable cure period that will be set forth in the lease as well as upon the expiration of the term of the lease. Upon termination of the lease, Tenant shall remove all Tenant's personal property from and vacate the Premises and surrender the Premises to the Port in substantially similar condition as Tenant received the Premises at the commencement of the lease, reasonable wear and tear excepted.



PORT OF OAKLAND

EXHIBIT B – Port of Oakland Seaport Facilities





