

# **REQUEST FOR PROPOSAL**

for

**OAK Air Cargo Consulting Services**

**12-13/13**



**PORT OF OAKLAND**

PURCHASING DEPARTMENT  
530 WATER STREET  
OAKLAND, CA 94607



## PORT OF OAKLAND

### REQUEST FOR PROPOSAL

#### RFP No.: 12-13/13, OAK AIR CARGO CONSULTING SERVICES

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

#### Proposal Information

<b>Proposal Title</b>	OAK Air Cargo Consulting Services
<b>Proposal Type</b>	Professional Services
<b>Proposal Number</b>	12-13/13
<b>Proposal Issued</b>	April 15, 2013
<b>Issuing Department</b>	Aviation Marketing and Communications
<b>Pre-Proposal Meeting</b>	None
<b>Scheduled Publication Date</b>	April 18, 2013
<b>Proposal Due Date</b>	May 21, 2013 at 3:00pm

#### Instructions for Submitting Proposals

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

## How to Obtain Proposal Documents

Copies of the Proposal documents may be obtained at:

Available	Location
Yes	Port of Oakland Purchasing Department 530 Water Street Oakland, CA 94607 Monday through Friday 9:00 AM to 4:00 PM (510) 627-1526
Yes	Website: <a href="http://www.portofoakland.com/business/rfprfqs.asp">http://www.portofoakland.com/business/rfprfqs.asp</a> Or navigate to the Port of Oakland's main website, then click "Doing Business" and then on "Bids/RFPs/RFOs" to download the RFP.

## Questions about the Proposal

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

<b>Primary Contact</b>	Nicklaus Sioson Fax: (510) 893-2812 Email: <a href="mailto:nsioson@portoakland.com">nsioson@portoakland.com</a>
<b>Question/RFI Due Date</b>	<b>April 30, 2013 at 4:00 p.m.</b> Please submit questions as soon as possible. No questions regarding the specifications will be responded to after the above date. All pertinent questions will be responded to and answered in writing no later than the Response Date listed below.
<b>Response Date</b>	<b>May 6, 2013</b> All pertinent questions will be responded to <b>via addendum</b> faxed (or emailed) to all Proposers and placed on the Port's website. Proposers may also download addendums via 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.

## 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 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 Proposer 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 PSA according to the Proposal which best serves the interests of the Port.

--John Banisadr, Purchasing Manager

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### Attachments:

	Title	Must Be Returned with Proposal
1	Non-Collusion Declaration	Yes
2	Statement of Equal Employment Opportunity	Yes
3	RFP Acknowledgement and Signature Form	Yes
4	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	Yes <b>Attachment 4-A and 4-B</b> are required with the Proposal. (Note: If you are submitting a new Certification Application for preference points, then your application is due 7 business days before the proposal due date.)
5	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 5-A and 5-B are required after contract award.)
6	Statement of Living Wage Requirements	Yes
7	Insurance Acknowledgement Statement	Yes
8	Sample Professional Services Agreement (PSA) and Appendixes	No (Note: The successful Proposer will execute the PSA if awarded the contract.)

## **I. Project Overview**

Through this Request for Proposal (RFP) process, the Port of Oakland (Port) is seeking competitive Proposals from consulting services firms specializing in air cargo and market analysis to support the Port's Aviation Division in maintaining and expanding its air cargo service at the Oakland International Airport (OAK).

The Proposer may form a team of consultants (collectively, a "Proposer") to propose on this project. Proposers should be able to provide the following specialties and to perform the tasks listed in the Scope of Services section (below):

1. Must have knowledge of requirements associated with air cargo analyses and the market as a whole.
2. Must have the ability to design and perform comprehensive air cargo assessments and recommendations.
3. Must demonstrated knowledge of the Air Cargo Industry, operations, customers, business models, strength, and weakness, especially as they relate to route decisions and airport development decisions.

## **II. Minimum qualifications**

Any Proposer who currently contracts with the Port must be in good standing with the Port for their Proposal to be considered responsive. Proposers who fail to meet the below listed minimum qualifications will not be considered for this project.

To be eligible for consideration, Proposers and key staff must have: 10 years' verifiable experience developing and maintaining air cargo service development programs, and specifically, for at least 2 airports in the past 5 years. Each of these airports must be categorized as "Medium Hub" or "Large Hub" airport as defined by the Federal Aviation Administration. Your Proposal should focus on your specific experience in providing the services (listed above) in the Project Overview section, to other large-hub or medium-hub airports. This experience should demonstrate a high level of proficiency in collecting and processing air cargo data for an airport environment similar to OAK.

Each Proposer must identify the project manager to be assigned to this Proposal. The project manager is the primary individual responsible to fulfill the successful Proposer's obligations of the Professional Services Agreement (PSA), as defined below, and interface with OAK's Aviation Marketing Manager.

## **III. Scope of Services**

The successful Proposer will be responsible for a variety of economic and strategic consulting services to be performed on an "on-call" or "as needed" basis. The following list of services represents a sample of the tasks that the Proposer may be requested to conduct.

1. Develop an assessment of the air cargo market at OAK.
2. Review the air cargo makeup at OAK and how it relates to other competing airports of similar size and capacity with respect to air cargo trends both domestically and internationally.
3. Review the infrastructure at OAK and prepare an analysis on what OAK can support (in terms of air cargo service) and necessary improvements if air cargo service is to expand.
4. Develop an effective, comprehensive air cargo service development program to improve domestic and international air cargo service at OAK.
5. Evaluate specific air cargo routes/services at OAK and formulate a plan to address any opportunities.

6. Develop detailed written proposals and professional presentation materials for meetings with targeted air carriers according to any plan proposed.
7. Assist Aviation in scheduling and facilitating meetings at the highest levels with domestic and international air carriers regarding potential new and/or improved air cargo service to/from OAK.
8. Prepare market analyses and economic/demographic research studies, as needed, related to the development of air cargo service at OAK, including, but not limited to, sensitivity analyses regarding the potential impact of infrastructure development, financial, and commercial policy decisions by Aviation on air cargo traffic levels at OAK.
9. Perform analyses of existing OAK air cargo service that identify service inadequacies, quality and quantity of air cargo service (compared to other competitive markets), and air cargo service opportunities for recommended carrier specific proposals for any new/additional service.
10. Assist Aviation in developing and preparing strategic air cargo efforts, including an annual review of the Oakland/East Bay Area market's competitive position.
11. Work with Aviation to identify specific business strategies to respond to opportunities for new and/or improved air cargo that arise as a result of rapidly changing market conditions and/or unexpected changes in the air cargo industry.
12. Review and develop an assessment of the synergies between the Port's Seaport and Airport.
13. Prepare market analyses and specific research studies related to air carrier business model or business relationship changes and resulting potential impacts on the OAK operation.
14. Assist in the development of Aviation's policy positions relative to international aviation negotiations and competitive allocation of routes to include the compilation of economic data where necessary.
15. Prepare data and develop economic, statistical and market analyses for use in competitive route awards, route case presentations, filings, testimony and other formal communications with the United States (U.S.) government.
16. Assess potential impacts of proposed U.S. and foreign government policies and legislation on OAK and its air cargo program, and the development of policy positions and strategies for best communicating Aviation's policy positions to appropriate officials.
17. Attend air cargo conferences as a Port representative or with Port staff as directed.

#### **Management of Services:**

The items listed in the section entitled "Scope of Services" are a sampling of services that may or may not be asked of the successful Proposer. The items are listed in this manner to give Proposers an idea of various tasks that may be performed through the term of the Professional Services Agreement (PSA). The successful Proposer shall demonstrate that it has the capacity to perform any of the services and tasks listed in the Scope of Services.

All tasks asked of the Proposer will be done in the form of a Technical Service Order Form included in the Professional Services Agreement (Appendix A-1) between the Proposer and the Aviation Marketing Manager or his/her designee. These task orders will be performed on a negotiated price between the Port and the Proposer based upon the time and material requirements needed to perform such task. Task orders may only be established and amended through written agreement to be attached to the PSA.

#### **IV. Port Policy Requirements**

The successful Proposer will be required to comply with the following Port Policy 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 (Proposers) must adhere to, and must provide proof with their Proposals.
- Preference points to small local businesses who qualify under the Port's definition of a small local business. To receive these preference points, Suppliers (Proposers) must download a Certification Application at: <http://www.portofoakland.com/srd/certifie.asp> and submit it along with any supporting documentation to the Port's Social Responsibility Division seven (7) days prior to the Proposal due date.

A summary of the Port's Non-Discrimination and Small Local Business Utilization Policy is included herein as **Attachment 4**. The entire policy is available at:

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

Suppliers (Proposers) already certified with the Port do not need to submit proof of certification, but still need to check the Port's certification database at: <http://www.portofoakland.com/srd/> to ensure their certification has not expired and should fill out the Chart for Submitting Data for Calculation of Preference Points (**Attachment 4-A**), and the Local Participation Questionnaire (**Attachment 4-B**), and submit them with the Proposal. All Suppliers (Proposers) must still provide proof of adhering to the Port's Non-Discrimination policy.

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 Proposers who plan on submitting a Proposal in response to this RFP must meet the Port's Insurance requirements included in the Attached Sample Professional Services Agreement (**Attachment 8**), and must provide proof of insurance at the time of project award. Proposers must include a statement with the Proposal (**Attachment 7**) agreeing to the Port's insurances requirements and indicate they will be able to obtain the proper insurances at the time of project 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, 2012 is at least \$11.70 with credit given to the employer for the provision to covered employees of health benefits, and \$13.45 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 Proposal is awarded, the Proposer will be required to fill out the attached Employer Self-Evaluation for Port of Oakland Living Wage Form (**see Attachment 5-A**) and Certificate of Compliance—Living Wage (**see Attachment 5-B**) and return them to the Social Responsibility Division. (i.e., do not include these forms in with the Proposal). For more information, please call Donna Cason in the Port of Oakland's Social Responsibility Division at (510) 627-1252.

Proposers shall acknowledge Living Wage review and compliance by submitting the Statement Living Wage Requirement (**Attachment 6**) with the Proposal.

4. Port's Standard Professional Services Agreement:  
Submission of a Proposal will confirm that the Proposer fully understands the provisions of the Port's Professional Services Agreement (PSA) (**Attachment 8**) and will execute such PSA if it is the successful Proposer. Any objections to any provisions in the PSA must clearly be identified in the Proposal. Changes to the PSA are discouraged.

## **V. Submission Requirements**

Proposers must respond to the following 10 submission requirements in a straightforward, concise delineation of capabilities proposed to satisfy the requirements of the RFP. The Port will use these responses to objectively determine the Proposer's capabilities and experience. Please label responses A through J, in the order presented below. Please limit the Proposal to the total number of pages indicated below (page maximum excludes the required attachment forms provided with this RFP).

### **Submittal Format:**

To assure consistency, all Proposals must conform to the format defined below and contain at least the information requested. Submittals are limited to 10 double-sided (preferred) or 20 single-sided 8½" x 11" pages for items A through E, font size shall not be less than 11 points, and margins not less than one inch. Items F through J are not subject to the page limitations above. Section dividers are encouraged and do not count toward the page limit above, provided they do not contain marketing materials. Each 11" x 17" page will be counted as two 8½" x 11" pages. All Proposals must include the following:

#### **A Cover Letter**

#### **B Introduction/Summary**

Provide the following:

1. Summary of the Scope of Services to provide as perceived by the Proposer's review of this RFP.
2. Tabular listing of all firms (if more than one) on the Proposer team, including the full name of each firm and office location(s) (address, city, zip code, telephone number, fax number, and web site address)

#### **C. Project Manager / Key Staff**

Provide the name of the prime consultant's proposed project manager and key staff with a summary of professional experience as it relates to this Proposal. Also, describe the proposed project manager's and key staff's availability (as a percent of total time) for this project. The Project Manager is expected to be regularly available to attend all meetings, direct work, and be primary liaison with Port staff.

#### **D. Statement of Understanding**

Provide a statement of the understanding of the Scope of Services necessary to produce a successful and comprehensive cargo market analysis. Include sufficient detail to demonstrate knowledge of OAK (and all the Scope of Service listed in this RFP) and potential strategies and opportunities for air cargo service development at OAK. Include task descriptions, potential recommendations and anticipated level of effort by task may be used as part of conveying the project understanding and approach.

#### **E. Firm Qualifications and Experience**

1. Provide evidence that your firm meets the Minimum Qualifications listed in Section II of this RFP.
2. Provide a brief description of all participating firms, including the following required information: 1) general background, capabilities, and resources, 2) years in business, and 3) total number of staff and number of staff in office(s) that will work on this project.



3. Provide a list of key consultant staff that will be assigned to work on this consulting assignment for OAK, including the following required information: 1) a brief summary of their expertise and experience, 2) number of years they have been with the firm, and 3) the location of staff.
  4. Provide a description of three to five relevant assignments that demonstrate the knowledge, skills, abilities, and services described in Section III of this RFP. Assignments described here must have been undertaken by both the proposed firms and staff while at the proposed firms. Only list projects in which the staff listed in Section V.C. (above) have participated. Include assignment status/outcome.
  5. For the prime consultant, provide names, addresses, and telephone numbers of three airport clients (medium or large hub airports only) familiar with the firm's Air Cargo Consulting Services. For each sub-consultant team member (if any), provide the names, addresses and telephone numbers of two clients familiar with the firm's professional services.
- F. Resumes of Assigned Staff** (Submission of Resumes will not count against the page count for your Proposal.)  
Provide full resumes of the professional staff listed in Section V.C. (above).
- G. Proposed Fees and Expenses**  
This will be a not-to-exceed Professional Services Agreement. Include a schedule of proposed billable hourly rates for individuals, including sub consultant billing rates and markup. Sub consultant and materials markup may not exceed 10%. Also, for comparative purposes, include an estimate of anticipated costs to perform the 17 items listed under the Scope of Services including expenses.
- H. Debarment:**  
Provide a written statement that the Proposer has not been debarred from providing services to any State or Federal Agency within the last five (5) years. Sign and Date this statement. If the Proposer has been debarred, provide background information and reason for the debarment. Provide the name and contact information for the agency that debarred the Proposer. The Port must review the reason and duration for the debarment before it can determine if the Proposer can be considered for this project.
- I. Port Policy Requirements:** Provide documentation to support the policy requirements listed in the Section IV (Port Policy Requirements). Any exceptions to the Port's Professional Services Agreement must be clearly set forth in your proposal. These required forms will not count against the maximum page count (indicated above) for the Proposal.
- J. Required Forms:** The Proposer must fill out all forms included in the RFP (listed in the attachments section) and return them with the Proposal. Failure of the Proposer to provide any information requested in the RFP may result in rejection of the Proposal for non-responsiveness. These required forms will not count against the maximum page count (indicated above) for the Proposal.

## **VI. Evaluation Criteria**

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

In awarding the PSA, the Port will evaluate a number of factors in combination. Please make sure Proposal responds to all items listed in the Submission Requirements Section V, as these responses will be evaluated based on the weights listed below.

**A. Evaluation Weights**

Item	Criteria	Weights
1	<u>References, Resources, and Key Personnel</u> Proposer's capacity to provide professional service as evidenced by past performance, cover letter, company information (summary), resources, statement of understanding, debarment statement, and from list of key personnel, staff, and resumes. (Item A, B,C, D F, and H of the Submission Requirements section.)	20%
2	<u>Knowledge and Experience</u> Proposer's knowledge and experience in providing Air Cargo Consulting Services as evidence from the response to Section V, Item E of the Submission Requirements section.	35%
4	<u>Proposed Fee and Expenses</u> As provided in the Proposal. (Item G of the Submission Requirements section.)	25%
5	<u>Port Policy Requirements and Required Forms</u> Does Proposer adhere to the Port's Non-Discrimination Policy? And has Proposer submitted all the Policy requirements and forms listed in Section V, item I and K of Submission Requirements section?	5%
6	<u>Non-Discrimination Small Local Business Utilization Policy</u> Does Proposer 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 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 Proposers. Interview details and scoring requirements will be provided to selected Proposers prior to the interviews.

**VII. Additional Provisions**

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

**C. Public Records Act**

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

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

**D. Indemnification**

If Respondent is selected to receive a contract, it will be required to agree to the indemnity clause contained in the Professional Services Agreement (Attachment 8, Section 5)

**E. Reimbursable Expenses**

All expenses incidental to performing Consultant's Basic Services including, but not limited to, reproduction of documents and other materials associated with Proposer's deliverables and presentation materials; transportation and subsistence; telephone, computer, facsimile, or other similar costs; and the like, shall be included within the Contract Price.

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

Proposers are advised that the Port has not incurred any obligations or duties in soliciting this Request for Proposals. 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 to award this project in part or in total to the Proposer(s) of its choice, and to decide to undertake the project or to terminate the project at any time prior to approval of a formal contract.

**G. Conflicts of Interest**

By submitting a proposal, the Proposer 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. Proposer also represents that its proposal has completely disclosed to the Port all facts bearing upon any possible interests, direct or indirect, which Proposer 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.

Proposer agrees that if it enters into a contract with the Port, it will comply with all applicable conflict of interest codes adopted by the City of Oakland and Port of Oakland and their reporting requirements.

**H. Cost of Preparing a Response**

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

**I. Law Compliance**

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

**J. Proposer's Relationship**

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

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

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

**L. False Statements**

False statements in a proposal will disqualify the proposal.

**M. Taxes**

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

**N. Grade of Service**

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

**O. The Proposer's Liability**

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

**P. Amendments**

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

**Q. Withdrawal or Modification of Offers**

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

**R. Acceptance**

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

**S. Representations**

No representations or guarantees of any kind, either made orally, or expressed or implied, are made with regard to the matters contained in this document, including any attachments,

letters of transmittal, or any other related documents. The Proposer must rely solely on its own independent assessment as the basis for the submission of any offer made.

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

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

The Port will award a three-year (3) contract (if any) and will have the option to issue two (2) one-year extensions not to exceed a total period of five (5) years (at the costs quoted in this proposal).

**U. Contract Termination**

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

**V. Protest Procedures**

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

1. Any protest must be submitted in writing to John Betterton, Secretary of the Board, 530 Water St., Oakland, CA, 94607, by 5:00 p.m. of the fifth (5th) business day following publication of the identity of the apparent successful proposer (or of notice of intended award, if such notice is issued).
2. The protest must include the name, address and telephone number of the person representing the protesting party.
3. The initial protest document must contain a complete statement of the basis for the protest, including in detail, all grounds for protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the protest; any matters not set forth in the written protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence.

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

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.: 12-13/13, OAK Air Cargo Consulting 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 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 proposer.

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

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

\_\_\_\_\_  
Signature

Authority: Public Contract Code 7106

CCP 2015.5



**PORT OF OAKLAND**

**Statement of Equal Employment Opportunity**

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I hereby certify that I \_\_\_\_\_ (Legal Name of Proposer/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.: 12-13/13, OAK Air Cargo Consulting 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.

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

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

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

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

Email: \_\_\_\_\_

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: \_\_\_\_\_





**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 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 4-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 4-B. 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 4-B, Local Participation Questionnaire.  
Complete for each sub-consulting firm or individual, as well as for the prime consultant.

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, who wish to obtain credit for local offices, the Port will only telephone or address mail to that office and expect personnel assigned to the project to work at that office.

All certified payroll reports must be input into the Port of Oakland's Web Accessed Monitoring System (WAMS). All firms are required to register with Hill International (MyLCM) to submit certified payroll reports. Instructions for using MyLCM will be given to the selected proposer.

To obtain credit for these factors and for any preference points on this RFP, consultants or any team member must submit:

- 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/certifie.asp>. For questions regarding certification, you may contact Pamela Bell at [pbell@portoakland.com](mailto:pbell@portoakland.com) or (510) 627-1419. Firms certified by the Port of Oakland do not need to submit proof of certification.

For questions or assistance regarding this section, contact Ms. Donna Cason (510) 627-1252, or [dcason@portoakland.com](mailto:dcason@portoakland.com) in the Port's Social Responsibility Division.



**PORT OF OAKLAND**

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

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

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

Notes:

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



(Use additional paper if necessary)

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

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

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

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

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



**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, 2012, \$13.45 without health benefits or \$11.70 with health benefits). Port Ordinance No. 3666, as amended also requires that covered businesses provide employees at least twelve compensated days off per year, including holidays.
- 2) Pay at least \$1.75 per hour worked toward the provision of health care benefits for employees and/or their dependents, if the employer claims credit for health benefits.
- 3) **Provide written notification to each current and new employee, at time of hire, of his or her rights to receive the benefits under the provisions of these regulations.** The notification shall be provided in English, Spanish and other languages spoken by a significant number of the employees, and shall be posted prominently in communal areas at the work site. A copy of said notification is available from the Port Division of Social Responsibility.
- 4) Provide all employees earning less than \$12/hour notification in English, Spanish, and any other language spoken by a significant number of employees of their right to advance Earned Income Credit payments.
- 5) **Maintain a list of the name, address, date of hire, occupation classification, rate of pay, benefits paid for each of its employees, and compensated time off - and submit this list to the Port's Social Responsibility Division, Attention: Connie Ng-Wong, Living Wage Compliance Officer, by March 31st, June 30th, September 30th, and December 31st of each year.** If a covered employer has obtained a waiver from the Port Board of Directors, then the employer must still submit an annual payroll report covering each of its employees by December 31st of each year. Failure to provide the list within five days of the due date will result in a penalty of \$500 per day. Covered employers shall maintain payrolls and basic records for all employees and shall preserve them for a period of at least three years after the close of the compliance period.
- 6) Require subcontractors, tenants and subtenants, or licensees who are covered by these requirements to comply with the provisions of these regulations. **Covered employers shall be responsible for including language committing the subcontractor's, tenant's or licensee's agreement to comply, in the contract with the subcontractor.** Covered employers shall submit a copy of such subcontracts or other such agreements to the Port Division of Social Responsibility.
- 7) Permit authorized Port representatives access to work sites and, with employee consent, relevant payroll records for the purpose of monitoring compliance with these regulations, investigating employee complaints of non-compliance and evaluating the operation and effects of these regulations, including the production for inspection and copying of its payroll records for any or all of its employees for the applicable compliance period. Permit a representative of the labor organizations in its industry to have access to its workforce at the Port during non-working time and in non-work areas to ensure compliance.

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



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

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

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

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

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

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

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

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

**Submit Completed Checklist To:**

Connie Ng-Wong

**Port of Oakland**

Social Responsibility Division

530 Water Street

Oakland, CA 94607

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

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



**PORT OF OAKLAND**

**Certificate of Compliance –  
Living Wage**

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

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

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

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

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

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

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

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

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





**RFP No.: 12-13/13, OAK Air Cargo Consulting Services**

I hereby certify that I \_\_\_\_\_ (Legal Name of Proposer/Supplier/Consultant/Contractor), has reviewed the Living Wage Requirements, included herein as Attachment 5 to this Request for Proposal and will comply with said requirement. Upon execution of an Agreement, the selected consultant will be required to complete the attached Employer Self-Evaluation Form and Certificate of Compliance –Living Wage Form of this Request for Proposal, and submit them to the Social Responsibility Division.

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**RFP No.: 12-13/13, OAK Air Cargo Consulting Services**

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

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

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

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

\_\_\_\_\_  
Title

**Attachment 8**

**PROFESSIONAL SERVICES AGREEMENT**

**Between**



**PORT OF OAKLAND**

**And**

**«ConsultantnaMe»**

**[OAK Air Cargo Consulting Services]**

**(Contract No. «Resolution»)**

**Dated**

**«EffectiveDate»**

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# CONTRACT FOR PROFESSIONAL SERVICES

«ConsultantName»  
(«ScopeofWork»)

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THIS CONTRACT FOR PROFESSIONAL SERVICES (“Contract”) is entered into on «EffectiveDate» between the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners (“Port”), and «ConsultantName» (“Consultant”), identified on Appendix C, who agree as follows:

## 1. Scope of Professional Services.

The Consultant shall perform all services described in Appendix A (“Services”), for the compensation set forth in Appendix B (“Compensation”), which appendices are attached and made a part of this Contract.

## 2. Term.

This Contract shall become effective upon its execution by Consultant and by Port (including approval by the Port Attorney) and shall expire on the date set forth in Appendix A. All Services whenever performed shall be deemed performed under this Contract, and all compensation paid to Consultant on account of the Services performed shall be deemed as payments of the Compensation.

## 3. Standard of Performance .

Consultant represents that it possesses all necessary training, licenses and permits to perform the Services, and that its performance of the Services will conform to the standard of practice of a professional that specializes in performing professional services of like nature and complexity of the Services.

## 4. Subconsultants.

Consultant shall perform the Services using the persons and subconsultants listed in Appendix A. Consultant shall hire only qualified persons or firms who are experienced in performing work of like nature and complexity to the Services, and who agree to be bound to the terms of the Contract to the extent of this scope of services. Consultant may substitute personnel or subconsultants prior to any such subconsultants commencing work only upon the Project Manager’s written consent, which may be withheld or delayed in Port’s discretion.

## 5. Indemnification and Liability.

5.1 To the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782), Consultant shall defend (with legal counsel chosen or approved by the Port Attorney), indemnify and hold harmless Port and its officers, agents, departments, officials, representatives and employees (collectively “Indemnitees”) from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of Consultant or its

Subconsultants), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, paralegal and attorneys' fees (including costs attributable to in-house paralegals and attorneys), Port staff costs, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise from or relate to, directly or indirectly, in whole or in part, from: (1) the Services under this Agreement, or any part thereof, or (2) any negligent act or omission of Consultant, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify any Indemnitee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence, active negligence, or willful misconduct of such Indemnitee, but shall apply to all other Liabilities.

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

## **6. Notices.**

The Port and Consultant shall provide notices to the other in the form of a writing, sent by facsimile and by U.S. Mail. If to the Port, it shall be addressed to the Project Manager (identified on Appendix D) at:

**Port of Oakland  
530 Water Street  
Oakland, CA 94607**

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

## **7. Insurance**

At its own expense, the Consultant shall maintain in force during the term of this Agreement insurance type(s) and in the amount(s) required by Appendix E hereof.

## **8. Independent Contractor.**

Consultant shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Contract be construed as creating an employment, agency, joint venture or partnership relationship between Port and Consultant, and no such relationship shall be implied from performance of this Contract. Terms in this Contract referring to direction from Port shall be construed as providing for direction as to policy and the result of services only, and not as to means and methods by which such a result is obtained. Consultant shall pay all taxes (including California sales and use taxes) levied upon this Contract, the transaction, or the Services and/or

goods delivered pursuant hereto without additional compensation, regardless of which party has liability for such tax under applicable law, and any deficiency, interest or penalty asserted with respect thereto. Consultant represents that it will collect, report, and pay all sales and or use taxes to the State Board of Equalization. Upon full payment, the Consultant will issue the Port a receipt pursuant to California Revenue and Taxation Code Section 6203, relieving the Port of all liability for any tax relating to the scope of this Agreement. The Consultant shall pay all other taxes including but not limited to any applicable City of Oakland business tax, not explicitly assumed in writing by the Port hereunder. The Consultant shall comply with all valid administrative regulations respecting the assumption of liability for the payment of payroll taxes and contributions as above described and to provide any necessary information with respect thereto to proper authorities.

## **9. Conflict of Interest; Confidentiality.**

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

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

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

9.4 Consultant acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information which may be owned or controlled by Port and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to Port. Consultant agrees that all information disclosed by Port to or discovered by Consultant shall be held in strict confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data, and shall not accept employment adverse to the Port's interests where such confidential information could be used adversely to the Port's interests. Consultant agrees to notify the Port immediately in writing if it is requested to disclose any information made known to or discovered by Consultant during the performance of or in connection with this Agreement.

9.5 Any publicity or press releases with respect to the Project or Services shall be under the Port's sole discretion and control. Consultant shall not discuss the Services or Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or



representatives of public bodies, without Port's prior written consent. Consultant shall have the right, however, without Port's further consent, to include representations of Services among Consultant's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.

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

## **10. Suspension and Termination of Services.**

(i) Port may direct Consultant to suspend, delay or interrupt Services, in whole or in part, for such periods of time as Port may determine in its sole discretion. Port may issue such directives without cause. Port will issue such directives in writing. Suspension of Services shall be treated as an excusable delay. (ii) Port may terminate performance of the Services under this Contract in whole, or from time to time in part, for default, should Consultant commit a material breach of this Contract, or part thereof, and not cure such breach within ten (10) calendar days of the date of Port's written notice to Consultant demanding such cure. In the event Port terminates this Contract for default, Consultant shall be liable to Port for all loss, cost, expense, damage and liability resulting from such breach and termination. (iii) Port may terminate performance of the Services under this Contract in whole, or from time to time in part, for convenience, whenever Port determines that such termination is in Port's best interests. In the event Port terminates this Contract for convenience, Consultant shall be entitled to recover its costs expended up to the termination plus reasonable profit thereon to the termination date, but may recover no other cost, damage or expense.

## **11. Ownership of Work Product.**

Any interest (including copyright interests) of Consultant or its subcontractors or subconsultants, in studies, reports, memoranda, computational sheets, drawings, plans or any other documents (including electronic media) prepared by Consultant or its subcontractors or subconsultants in connection with the Services, shall become the property of the Port. To the extent permitted by Title 17 of the United States Code, work product produced under this Contract shall be deemed works for hire and all copyrights in such works shall be the property of the Port. With Port's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

## **12. Audit/Inspection of Records.**

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

12.2 The Consultant shall maintain full and adequate records in accordance with Port requirements to show the actual costs incurred by the Consultant in the performance of this Agreement. If such books and records are not kept and maintained by Consultant within a radius of fifty (50) miles from the offices of the Port at 530 Water Street, Oakland, California, Consultant shall, upon request of the Port,

make such books and records available to the Port for inspection at a location within said fifty (50) mile radius or Consultant shall pay to the Port the reasonable, and necessary costs incurred by the Port in inspecting Consultant's books and records, including, but not limited to, travel, lodging and subsistence costs. Consultant shall provide such assistance as may be reasonably required in the course of such inspection. The Port further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the Port, and the Consultant 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 or within three (3) years after any pending issues between the Port and Consultant with respect to this Agreement are closed, whichever is later.

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

12.4 Consultant agrees, upon commencement of an audit by or on behalf of the Port pursuant to this Section 12 (an "Audit"), to toll for the Tolling Period (as defined below) all applicable periods of any statutes of limitations, laches or other defenses based on the Port's failure to file an action during the Tolling Period with regard to any matter arising out of the Audit. Such tolling shall commence on the Port's written notice to the Consultant that the Audit has commenced (the "Tolling Effective Date") and shall end four years after the date that the Port delivers to the Consultant a written copy of the Port's final findings on the Audit or on such later date as may be set forth in a written agreement between the parties (the later of such dates is the "Tolling Termination Date," and the period commencing on the Tolling Effective Date and ending on the Tolling Termination Date is the "Tolling Period"); provided, however, that the Tolling Period shall in no event be in excess of the time provided for in California Code of Civil Procedure § 360.5. Consultant agrees not to assert the defense of laches, statute of limitations or any other defense based upon the Port's failure to timely file an action during the Tolling Period with regard to any matter arising out of the Audit. Notwithstanding the foregoing, the tolling agreement set forth in this paragraph shall be inadmissible to determine liability or damages or any issue in dispute (other than the Tolling Period) under the Audit, whether before regulatory bodies, alternative dispute resolution proceedings or state or federal courts.

### **13. Non-discrimination.**

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

**14. Disputes.**

Consultant shall continue its work throughout the course of any dispute, and Consultant's failure to continue work during a dispute shall be a material breach of this Contract.

**15. California Law.**

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

**16. No Third Party Beneficiaries.**

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

**17. Entire Contract.**

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

**18. No Waiver.**

The granting of any progress payment, and any inspections, reviews, approvals or oral statements by any Port representative, or certification by any governmental entity, shall in no way limit Consultant's obligations under this Contract. Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Contract, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every provision hereof. This Contract may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of Port and Consultant.

**19. Statutes of Limitation.**

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

**20. Covenant Against Contingent Fees.**

20.1 Consultant warrants that no person or agency 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. For breach or violation of this warranty, the Port, at its option, may annul the Agreement or deduct from the contract price or otherwise recover from Consultant the full amount of the contingent fee.

20.2 As used in this Section, "bona fide agency" means an established commercial or selling agency, maintained by Consultant 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.

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

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

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

**21. Severability.**

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

**22. Compliance with Laws.**

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

22.2 Consultant further represents that all plans, drawings, specifications, designs and any other product of the Services will comply with all applicable laws, codes and regulations, consistent with the standard of care in this Agreement.

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

- a. All Employees, as defined respectively under Port Ordinance No. 3666, and Section 728 of the Charter of the City of Oakland (Hereinafter “Living Wage laws”), as amended from time to time, engaged in Covered Activities (as defined in the respective Living Wage laws) shall be compensated in compliance with the requirements of the respective and applicable Living Wage laws;
- b. Claims, records and statements relating to Consultant’s compliance with the Living Wage laws are true and accurate, and are made with the knowledge that the Port will rely on same, and that they are submitted to the Port for the express benefit of Consultant’s employees engaged in Covered Activities;
- c. Should the Living Wage laws not apply to Consultant at the time this Contract is entered into, but thereafter become applicable, Consultant will comply with all of its obligations under the respective Living Wage laws, when applicable; and
- d. All terms used in this Section 22.3 and not defined shall have the meaning ascribed to such terms in the respective applicable Living Wage laws.

**23. Agent for Service of Process.**

Pursuant to California Code of Civil Procedure, Section 416.10, Consultant hereby designates an agent for service of process as set forth in Appendix C.

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

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

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

By \_\_\_\_\_  
**DEBORAH ALE FLINT**  
Acting Executive Director

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

«ConsultantnaMe»,  
a \_\_\_\_\_ corporation,

By \_\_\_\_\_  
*Authorized Signature*

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

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

Attest \_\_\_\_\_  
*Authorized Signature*

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

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

Approved as to form and  
legality this \_\_\_\_\_ day  
of \_\_\_\_\_ 2013.

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

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

**Port Resolution No. «Resolution»**

**P.A.#:** \_\_\_\_\_

## APPENDIX A – SCOPE OF SERVICES

This is an appendix attached to, and made a part of, the Contract dated «EffectiveDate» between the City of Oakland acting through its Board of Port Commissioners (“Port”) and «ConsultantnaMe» (“Consultant”) for the provision of professional services.

### SCOPE OF WORK

1. Requirements of Work to be Performed by Consultant:

The work to be performed under this Agreement consists, in general, of \_\_\_\_\_  
\_\_\_\_\_. The work will be on an “on-call” basis. The types of services required are more specifically set forth on Appendix A-1 hereto.

The Port reserves the right to contract with other firms at any time for testing services if it is deemed to be in the best interest of the Port.

2. Commencement and Term:

A. Subject to the provisions of this Agreement, the contract will be in effect for [ no. of years] commencing on \_\_\_\_\_ through \_\_\_\_\_.

B. The Port has the option of extending the Agreement for an additional [no. of years] in [no. of years] increments as authorized by the Executive Director, provided, however, that there shall be no increase in the maximum compensation payable hereunder.

3. Budget:

The estimated total costs of the total work, if annual extensions are approved by the Executive Director for the second and third years of the Agreement is «**Compensation**» however, the actual volume of work could be substantially less (or none at all) and execution of this Agreement does not constitute any guarantee of business or that any work or tasks will be assigned to Consultant.

4. If requested by the Port, Consultant shall submit a draft and a final report on all activities and tasks conducted under this Agreement unless an exception is made by the Project Manager. A status report shall be submitted for all tasks by the first day of each month to the Project Manager, if required.

5. Each work task assigned by the Port will have agreed upon scope, responsibilities of Consultant, costs, subconsultants, and time schedules. Each task shall be in writing and signed by both the Port (through the Project Manager) and Consultant in the form of a Technical Service Order as set forth on Appendix “A-1” hereto.

6. The Port is not obligated to reimburse the Consultant for work unless and until a specific task under this Agreement has been agreed to by the Port and Consultant in writing.

7. The Consultant shall coordinate closely with the Port staff on all work for each task.

**APPROVED SUBCONSULTANTS:** Consultant shall use only the following personnel and subconsultants in performing Services.

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END OF APPENDIX A



APPENDIX A-1

TECHNICAL SERVICE ORDER FORM

CONSULTANT/ADDRESS:

DATE OF TSO:

TSO NO.:

IMPORTANT NOTICES:

1. THIS TECHNICAL SERVICE ORDER ("TSO") IS ACCEPTED IN ACCORDANCE WITH ALL PROVISIONS IN THE AGREEMENT BETWEEN THE PORT AND THE CONSULTANT AS SPECIFIED BELOW AND WILL BE A SUPPLEMENT TO APPENDIX A OF SUCH AGREEMENT. ALL TERMS AND PROVISIONS OF SAID AGREEMENT APPLY TO THIS TSO.
  2. THIS TSO IS NOT VALID UNLESS SIGNED BY BOTH THE PORT (THROUGH THE PROJECT DIRECTOR/MANAGER) AND CONSULTANT.
  3. THE PORT RESERVES THE RIGHT TO CANCEL ANY WORK BY THE CONSULTANT WITHOUT CAUSE.
  4. SEND A FULLY EXECUTED COPY OF THIS TSO TO THE PORT ATTORNEY'S OFFICE.
- 

I. CONSULTANT AGREEMENT INFORMATION

CONSULTANT:  
ORIGINAL AGREEMENT DATE:  
AMENDMENTS (if any):  
SCOPE OF WORK:  
RESOLUTION NO.:  
MAXIMUM AUTHORIZED AMOUNT:

---

II. SCOPE OF WORK

1. PROJECT: Describe work and services to be furnished (or attach Appendix A-2).

Check the box below if appropriate:

- Scope of work is subject to attorney-client and attorney work-product privilege.
- 

III. TIME SCHEDULE

- 2. COMMENCE WORK BY:
  - 3. COMPLETE WORK BY:
- 

**IV. COST**

- 4. MAXIMUM COMPENSATION FOR THIS TSO:

**V. INSURANCE**

Each TSO shall be reviewed and approved by Risk Management for insurance requirements. One (1) box must be checked.

- Subject to Professional Liability Insurance Program ("PLIP") as set forth in the original Agreement.
- This TSO is not subject to PLIP. Insurance requirements are attached hereto.

Reviewed by: Risk Management: \_\_\_\_\_

---

**APPROVALS**

Originator: \_\_\_\_\_

Approved By: \_\_\_\_\_  
Port Project Director/Manager

Accepted By: \_\_\_\_\_  
Consultant

Accounting Coding

Organization Unit:  
Account:  
Activity:  
Facility:  
Work Request:  
Asset Code

## APPENDIX B – PAYMENT

This is an appendix attached to, and made a part of, the Contract dated «EffectiveDate» between the City of Oakland acting through its Board of Port Commissioners (“Port”) and «ConsultantName» (“Consultant”) for the provision of professional services.

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

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

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

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

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

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

**4. Invoices.** All payments shall require a written invoice from Consultant in a form acceptable to Port. Port shall make payment on approved amounts within each invoice within 30 days of receipt. **Original invoices shall be sent directly to the Technical Manager.**

END OF APPENDIX B

APPENDIX C

CONSULTANT AND CONSULTANT'S NOTICE ADDRESS

Full Legal Name of Consultant:

«ConsultantnaMe»

Corporate Address:

Form of Business Entity (Check one)

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

If Corporation: (*Required Information*)

Agent for Service of Process (Name and Address)

Contact Individual / Position:

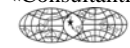
Telephone No.:

Facsimile No.:

E-Mail Address (if any):

Website (if any):

«ConsultantnaMe»



PORT OF OAKLAND  
290440.v1

**APPENDIX D**  
**PROJECT MANAGER**

*Division Director*

*«ProjectManager»  
Technical Manager*

«ConsultantnaMe»



**PORT OF OAKLAND**  
Revised: 7/19/06  
290440.v1

## APPENDIX E – INSURANCE

### PROFESSIONAL LIABILITY INSURANCE PROGRAM

This is an appendix attached to, and made a part of, the Professional Services Agreement (“hereinafter “Agreement”) dated <<EffectiveDate>> between the City of Oakland acting through its Board of Port Commissioners (“Port”) and <<ConsultantName>> (“Consultant”) for the provision of professional services (hereinafter “Services”) as defined and required by the Agreement. Consultant shall fully comply at all times with the requirements set forth in this Exhibit “E”.

**1. Comprehensive or Commercial General Liability insurance for Bodily Injury and Property Damage Liability, including:**

- Premises and Operations
- Blanket Contractual
- Product Liability including Completed Operations
- Broad Form Property Damage
- Personal Injury & Advertising Injury
- Independent Contractor's Coverage
- Cross-Liability/Severability of Interest Clause
- Other: \_\_\_\_\_

with such coverage and limits as may be reasonably requested by the Port from time to time, but in no event for less than the sum of One Million Dollars (\$1,000,000.00) combined single limit per occurrence and Two Million Dollars annual aggregate. Further, City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, Port of Oakland, its Commissioners, Officers, Agents and Employees shall be included as Additional Insureds.

**2. Commercial Automobile Liability, including Bodily Injury and Property Damage Liability for:**

- Owned, Non-owned and Hired Automobile Liability
- Other: \_\_\_\_\_

with such coverage and limits as may be reasonably requested by the Port from time to time, but in no event for less than the sum of One Million Dollars (\$1,000,000.00) combined single limit each accident. Further, City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, Port of Oakland, its Commissioners, Officers, Agents and Employees shall be included as Additional Insureds.

**3. Workers' Compensation, including:**

- Statutory worker's compensation coverage under California law.
- Employers' liability coverage for no less than One Million Dollars (\$1,000,000) per accident, One Million Dollars (\$1,000,000) bodily injury each employee, and One Million Dollars (\$1,000,000) policy limit for bodily injury by disease, for Employers' Liability.
- Longshoreman and Harbor Workers' coverage and Jones Act coverage if applicable.
- Subrogation waiver 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:**

- Consultant shall obtain, at no expense to the Port, professional liability insurance covering Consultant, and its sub-consultants, for acts, errors or omissions arising out of services performed under the Agreement for no less than the sum of One Million Dollars (\$1,000,000) each claim and annual aggregate. Such coverage shall include Technology Liability coverage, including coverage for privacy liability if Consultant provides technology services. If the services include outsourced internet services, Network and Media Liability coverage shall also be included in the scope of coverage.
- In the event that the Consultant is able to obtain, at no expense to the Port, professional liability insurance for whatever limit is available, the Port will be provided with evidence of such coverage.
- Other: **Capital Improvement Projects are subject to conversion to PLIP.** The Port reserves the right (but shall not have an obligation) to include this contract in an owner controlled Professional Liability Insurance Program (PLIP), or to purchase project specific or wrap up insurance when the services provided by the Consultant support a capital improvement project. In the event that a PLIP program is instituted, the Consultant and its independent contractors shall comply with the requirements of the PLIP program, as that program is generally described in Port's Project Insurance Manual, which are available in the office of the Port Attorney, as such may be modified from time to time. Consultant's obligations under this subsection shall be specifically enforceable. Notwithstanding the foregoing, the Port makes no representations or warranties that it will obtain the insurance authorized by this subsection, and Consultant expressly disavows reliance on any such representations or warranties.

**5. Other Insurance:**

- Other: Consultant shall obtain, at no expense to the Port \_\_\_\_\_

**6. Subconsultant's Insurance:**

- All coverage for sub-consultants shall comply with all of the requirements stated herein for Consultant's insurance.

Prior to commencing of services under this Agreement and annually thereafter, Consultant shall furnish a certificate of insurance, satisfactory to the Port of Oakland Risk Management Department, evidencing that the above insurance is in force in compliance with the terms of this insurance section, placed with insurance carriers financially acceptable to the Port, stating name(s) of the insurance carriers, policy numbers, dates of expiration and limits of liability, and further providing that coverage is primary and non-contributory and that Consultant will endeavor to provide at least thirty (30) days prior written notice in the event the insurance is canceled or materially changed. In addition to the certificate of insurance, Consultant shall provide copies of the actual insurance policies if requested by the Port of Oakland at any time.

If any of the insurance required herein is written on a claims-made basis, then Consultant shall maintain such insurance for two (2) years after the termination of this Agreement. Deductibles or Self-Insured Retentions Over \$25,000.00 **must** be Pre-Approved by Risk Manager. Written binders may be acceptable as interim evidence. Upon failure to so file such insurance certificate, the Port may without further notice and at its option either (1) exercise the Port's rights; or (2) procure such insurance coverage at the Consultant's expense and the Consultant shall promptly reimburse the Port for such expense (operations or occupancy may be interrupted without proper evidence). Send certificates to:

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

END OF APPENDIX E