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Caring for Your Coast

♦ ♦ ♦
Gary Jones
Director

Kerry Silverstrom
Chief Deputy

John Kelly
Deputy Director

Amy M. Caves
Deputy Director

April 30, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF CONTRACT FOR MARINA DEL REY WATERBUS SERVICE
(SUPERVISORIAL DISTRICT 4)
(3 VOTES)**

SUBJECT

This action is to award a contract providing WaterBus service during the summer months for residents of and visitors to Marina del Rey.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that the Marina del Rey WaterBus service is categorically exempt under the California Environmental Quality Act pursuant to classes 4 (f) and (j) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Approve award of and instruct the Director of Beaches and Harbors to execute a three-year contract, with two one-year optional renewal years, with Hornblower Yachts, LLC for the Marina del Rey WaterBus service, to commence May 6, 2019, at an annual cost not to exceed \$762,005 for the first contract year and \$818,112 annually thereafter, for a total maximum amount of \$4,437,898 over the potential total term of five years, which is inclusive of an additional 10% annually for unforeseen services.
3. Authorize the Director of the Department of Beaches and Harbors to exercise the two one-year optional renewal years, if, in his opinion, Hornblower Yachts, LLC has effectively performed the services during the previous contract period and the services are still required; to approve and execute change orders and amendments to incorporate necessary changes within the scope of work; to assign rights or delegation of duties should the contracting entity merge, be acquired or

otherwise change entities; and to suspend or terminate the contract if, in the opinion of the Director or his designee, it is in the best interest of the County of Los Angeles to do so.

4. Authorize the Director of the Department of Beaches and Harbors to increase the contract amount by up to 10% in any year, including any renewal option period, for any additional or unforeseen services within the scope of this contract.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the contract (Attachment I) with Hornblower Yachts, LLC (Hornblower Yachts) will enable the Department of Beaches and Harbors (Department) to continue to provide WaterBus service in Marina del Rey (Marina) during the summer months for residents and visitors between nine designated boarding locations in the Marina. By providing direct access to the water, as well as itself being a water activity, the program continues to attract visitors and encourage leisurely weekend use of the Marina as a tourist destination, thereby increasing patronage of retail restaurants and other establishments, resulting in additional revenue to the County. In addition, the WaterBus service provides an alternative form of transportation for residents in the Marina, including providing bicyclists with access to the Marvin Braude Bike Trail (coastal bike path) and alleviating traffic in the Marina during the popular Burton Chace Park summer concert series and other special events.

Since inception in 2002, the WaterBus service has steadily increased in popularity, serving a record 58,000 passengers in the 2018 season of the program. To accommodate the increase in ridership, the service will be expanded in the requested contract, which has increased the annual contract amount by \$394,804 over the current contract. The current contract with Hornblower Yachts was approved by your Board on May 6, 2014 and will expire on May 6, 2019.

Implementation of Strategic Plan Goals

The WaterBus service provided by the contractor will promote and further the Board-approved Strategic Plan Goal II, Foster Vibrant and Resilient Communities, Strategy II.2.2, Expand Access to Recreational and Cultural Opportunities, by enabling the Department to facilitate enhanced use of Marina facilities, while providing recreational and transportation alternatives for residents and visitors.

FISCAL IMPACT/FINANCING

The total maximum compensation for the Marina del Rey WaterBus service shall not exceed \$4,437,898 over the potential total term of five years, which is inclusive of an additional 10% annually for unforeseen services. The WaterBus will operate for 11 weeks during the first contract year, at an annual amount of \$762,005, and for 12 weeks annually thereafter at an annual amount of \$818,112.

There is sufficient appropriation in the Department's Fiscal Year (FY) 2018-19 Adjusted Budget and in the Department's FY 2019-20 Recommended Budget to fund the cost of these services. Any additional or unforeseen services within the scope of this contract will be funded from the Department's Operating Budget within budgetary resources.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The recommended contract term with Hornblower Yachts is three years, with two one-year extension options that may be exercised at the discretion of the Department's Director. The contract will

commence on May 6, 2019 or the date of approval by your Board, if later. Each year of the contract, the WaterBus service will operate for a special two-day Department event in May, and then regular service will begin on the third Thursday in June, continuing through Labor Day.

The service expansion includes an additional boarding location at Pier 44; four additional days of operation for special events, including ARTsea, a two-day event in May, and Discover Marina del Rey and MarinaFest, both one-day events in June; and finally, operation by the contractor of two Department-owned vessels the Department is in the process of acquiring to supplement the WaterBus service during the contract term. These additional vessels will operate during the same hours as the five contractor-provided vessels.

The nine boarding locations include Fisherman's Village, Burton Chace Park, Waterfront Walk, Marina "Mother's" Beach, Dolphin Marina, the Esprit I Dock, Harbor at Marina Bay, Del Rey Landing, and Pier 44. The WaterBus service will be provided on Thursdays through Saturdays, 11:00 a.m. to midnight; Sundays, 11:00 a.m. to 9:00 p.m.; Discover Marina del Rey, MarinaFest, ARTsea and Fourth of July, 11:00 a.m. to midnight; and Labor Day, 11:00 a.m. to 9:00 p.m.

The additional costs are primarily the result of increased WaterBus operator and dockhand hours needed to accommodate the expanded services, as well as an increase in the hourly rates charged by the contractor to cover minimum wage increases and other increased costs, including maintenance and storage of the two Department-owned vessels. The contractor will provide and be compensated at fixed hourly rates for one operator per vessel and one docking assistant at each of the nine boarding locations. The Del Rey Landing boarding location will require an additional part-time docking assistant.

The contractor is able to charge and retain a \$1 fee per passenger, per trip and a \$30 fee for sale of season passes.

The contract contains, and the contractor has agreed to, the County's standard provisions regarding contractor obligations and is in compliance with all Board, Chief Executive Office and County Counsel requirements. The contract has been approved as to form by County Counsel. The CEO's Risk Management Office has approved the insurance coverage, indemnification and liability provisions included in the contract.

This is not a Proposition A contract, as the services are of an extraordinary, professional or technical nature and will be utilized on an intermittent basis; therefore, the Living Wage Program (County Code Chapter 2.2002) does not apply.

ENVIRONMENTAL DOCUMENTATION

Because the WaterBus service will at most involve only minor alterations to existing mooring facilities, this project is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to classes 4 (f) and (j) of the County's Environmental Document Reporting Procedures and Guidelines.

CONTRACTING PROCESS

On October 25, 2018, the Department issued a Request for Proposals (RFP) seeking a qualified vendor to provide the WaterBus service in Marina del Rey. The RFP was advertised in five local

community newspapers, with a notice also posted on the "Doing Business with the County" internet site, as well as on the Department's internet site, where the full RFP document was available for download. Electronic notices of the RFP were sent to 57 registered County vendors.

One proposal was submitted by Hornblower Yachts and was reviewed to ensure it met the minimum requirements. An evaluation committee comprised of three Department staff members evaluated the proposal based on: (1) Price, 40%; (2) Approach to Contract Requirements, 30%; (3) Experience and Organizational Resources, 20%; and (4) Quality Control Plan, 10%. Hornblower Yachts' scores either met or exceeded the requirements in all portions of the evaluation.

Hornblower Yachts has been the contractor for these services for the last 10 years and has over 20 years of experience providing water passenger transportation services.

On final analysis and consideration of this contract award, Hornblower Yachts was selected without regard to gender, race, creed or color.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

This is a continuation of a program provided by the Department to the residents of and visitors to Marina del Rey.

CONCLUSION

Authorize the Executive Officer of the Board to send two adopted copies of this letter to the Department of Beaches and Harbors, Administrative Services Division, 13483 Fiji Way, Trailer #3, Marina del Rey, CA 90292. Should you have any questions, please contact Nicolette Taylor at (424) 526-7821 or NTaylor@bh.lacounty.gov.

Respectfully submitted,



GARY JONES

Director

GJ:NAT:av

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors



CONTRACT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

HORNBLLOWER YACHTS, LLC

FOR

MARINA DEL REY WATERBUS SERVICE

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Exhibit B:	WaterBus Stops
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Exhibit E:	County-owned Vessel Specifications

**CONTRACT BETWEEN
COUNTY OF LOS ANGELES
AND
HORNBLOWER YACHT, LLC
FOR
MARINA DEL REY WATERBUS SERVICE**

This Contract ("Contract") made and entered into this ____ day of _____, 20__ by and between the County of Los Angeles, hereinafter referred to as County and Hornblower Yachts, LLC, hereinafter referred to as "Contractor", to provide Marina del Rey WaterBus Service for the Department of Beaches and Harbors.

RECITALS

WHEREAS, the County may contract with private businesses for WaterBus Service when certain requirements are met; and

WHEREAS, the Contractor is a private firm specializing in providing WaterBus Services; and

WHEREAS, this Contract is therefore authorized pursuant to California Government Section 31000.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

1.0 APPLICABLE DOCUMENTS

This Contract is intended to integrate within one document the terms for the WaterBus Service to be performed for the County by the Contractor. The Contractor represents to the County that the express representations, certifications, assurances and warranties given in this Contract are true and correct. Appendices A through J and Exhibits A through E are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word,

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responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract, referenced Appendices and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract, Appendices and then to the Exhibits.

This Contract constitutes the complete and exclusive statement of understanding between the parties, and supersedes all previous contracts, written, oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to sub-paragraph 8.1 Amendments and signed by both parties.

2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- 2.1 Board of Supervisors (Board)** – The Board of Supervisors of the County of Los Angeles acting as a governing body.
- 2.2 Chief Deputy** – The Chief Deputy of the Department.
- 2.3 Contract** – This agreement executed between County and Contractor. Included are all supplemental agreements amending or extending the service to be performed. The Contract sets forth the terms and conditions for the issuance and performance of all tasks, deliverables, services and other work including the Statement of Work, Appendix B.
- 2.4 Contract Administrator (CA)** – The Chief of the Administrative Services Division of the Department or authorized designee.
- 2.5 Contract Year** – The twelve-month period commencing on the effective date of the Contract and each succeeding twelve-month period over the remaining term of the Contract, including the optional years.

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- 2.6 Contractor(s)** – The person or persons, sole proprietor, partnership, joint venture, corporation or other legal entity who has entered into an agreement with the County to perform or execute the work covered by this Contract.
- 2.7 Contractor’s Representative** – The person designated by the Contractor to represent the Contractor in matters related to performance of the Contract.
- 2.8 County** – The County of Los Angeles.
- 2.9 County Counsel** – The Los Angeles County Office of the County Counsel.
- 2.10 Department** – The Los Angeles County Department of Beaches and Harbors.
- 2.11 Director** – The Director of the Department of Beaches and Harbors.
- 2.12 Evaluation Committee** – The committee appointed by the Director to evaluate Proposals and to recommend a Proposer(s) as a Contractor(s) pursuant to the RFP.
- 2.13 Offer to Perform** – Form P-1 of the RFP.
- 2.14 Proposer** – Any person or entity authorized to conduct business in California who submits a Proposal.
- 2.15 Request for Proposals (RFP)** – All parts of this document, including its attachments, exhibits and forms.
- 2.16 Statement of Work** – The directions, provisions, and requirements provided herein and special provisions pertaining to the method, frequency, manner and place of performing the contract services.
- 2.17 Subcontractor** – Any individual, person, or persons, sole proprietor, firm, partnership, joint venture, corporation, or other legal entity furnishing supplies of services of any nature, equipment, and/or materials to the Contractor in furtherance of Contractor’s performance of this Contract, at any tier, under oral or written agreement.

3.0 WORK

- 3.1** Contractor shall perform the work set forth in Appendix B, Statement of Work. Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time all tasks, deliverables, services and other work

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as set forth herein. If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.

3.2 The County may rescind the Contract for the Contractor's misrepresentation of any of the matters mentioned in 1.0, Applicable Documents. In the case of a misrepresentation of facts set forth in Sub-paragraph 8.44, Termination for Improper Consideration, a penalty may be assessed in the amount of the fee paid by the Contractor to a third person for the award of the Contract.

3.3 Re-Award of Contract

If the Contractor is dismissed or resigns from his/her contractual agreement, or if the Contract is terminated for any reason, the Director, in his sole discretion, may award the Contract to the next highest ranking and responsive/responsible proposer amongst the original proposals or solicit proposals again.

4.0 CONTRACT TERM

4.1 Initial Term

The term of this Contract shall be three years, commencing in May 2019 or upon execution by the County's Board of Supervisors, whichever occurs later, and unless sooner terminated or extended, in whole or in part, as provided in this Contract.

4.2 Two One-Year Extensions

If the Director of the County's Department of Beaches and Harbors (the "Director") determines that it is in the interest of the County to do so, he may grant up to two one-year extensions of the Contract term. Each such extension shall be exercised at the sole discretion of the Director or his designee. The Director may exercise the first option by notifying the Contractor in writing before the Contract expiration date. The Director may exercise the second option by notifying the Contractor in writing before the expiration of the first one-year extension option. The County maintains a

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database that tracks/monitors performance history. Information entered into such databases may be used for a variety of purposes, including determining whether the County will exercise a contract term extension option.

4.3 Contractor to Notify County when it is Within Six Months from Expiration of Term

The Contractor shall notify the Department when this Contract is within six months of the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to the Department at the address herein provided in Exhibit D - County's Administration.

4.4 Survival of Obligations

Notwithstanding the stated term of the Contract, some obligations assumed in the Contract shall survive its termination, such as, but not limited to, the Contractor's obligation to retain and allow inspection by the County of its books, records, and accounts relating to its performance of the Contract work.

4.5 Duty of Cooperation upon Expiration or Termination of Contract

Upon expiration of the Contract term or any optional extension period or termination of the Contract for any reason, the Contractor will cooperate with the County and the successor contractor in transferring records and County property and allowing the successor contractor access to all information and County facilities necessary to ensure uninterrupted WaterBus services.

5.0 CONTRACT SUM

5.1 Compensation

The net amount the County shall expend from its own funds during any Contract year for the WaterBus service shall not exceed the maximum annual amount provided by Contractor's submitted Form P-1, Offer to Perform, per Contract year, based on the Department's needs and availability of funds in the County budget. The County may at its discretion expend any portion, all or none of the stipulated amount.

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5.2 Written Approval for Reimbursement

The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any person or entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall not occur except with the County's express prior written approval.

5.3 Increase of Contract Sum by Director

Notwithstanding Sub-paragraph 5.1, the Director may, by written notice to the Contractor, increase the maximum annual amount by up to 10 percent during the Contract term or any extension period, to accommodate an increase in staffing, additional boarding locations, working hours and/or Department excursions and special events, subject to the availability of funds in the Department's budget.

5.4 Decrease of Contract Sum by Director

Notwithstanding Section 5.1, the Director may, by written notice, decrease the Contract sum to accommodate a decrease in staffing and/or working hours in accordance with Section 5.4. The decreased Contract sum will be calculated based on the hourly rates on Form P-1.

5.5 Change of Staff and Working Hours

On reasonable written notice, the Director may require the Contractor to either increase or decrease the assigned number of staff and/or working hours. Notice of seven (7) days shall always be deemed reasonable.

5.6 No Increase in Annual or Hourly Rate(s) of Compensation

Notwithstanding any increase in the Contractor's salary costs or other overhead, no increase in the annual or hourly rate(s) of compensation quoted in Form P-1 shall be given during the term of the Contract or any extension period.

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5.7 Notification of 75% of Total Contract Sum

The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five percent (75%) of the total contract sum under this Contract. Upon occurrence of this event, the Contractor shall send written notification to the Department.

5.8 No Payment for Services Provided Following Expiration/Termination of Contract

The Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Contract. Should the Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment to County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Contract.

5.9 Invoices and Payment

5.9.1 The Contractor shall invoice the County only for providing the tasks, deliverables, goods, services, and other work specified in Appendix B - Statement of Work and elsewhere hereunder. The Contractor shall prepare invoices, which shall include the charges owed to the Contractor by the County under the terms of this Contract. The Contractor shall be paid only for the tasks, deliverables, goods, services and other work approved in writing by the County. If the County does not approve work in writing, no payment shall be due to the Contractor for that work.

5.9.2 The Contractor shall submit an invoice to the Department on or before the fifteenth of the month for compensation earned during the preceding calendar month. The Contractor shall submit two copies of each invoice for which it claims payment. Invoices shall identify the Contract number, Contractor address, the dates and locations where

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work was performed and the names of employees who performed the work. If any repairs to County-provided vessels, unscheduled and/or additional work was performed during the month, the Contractor shall prepare and submit a separate invoice showing the foregoing information as well as the number of hours worked by each employee and the hourly rates of compensation. All invoices under this Contract shall be submitted to the following address:

**Los Angeles County
Department of Beaches and Harbors
Financial Services Section
13575 Mindanao Way
Marina del Rey, CA 90292**

The County may withhold from payment any amount assessed by the Contract Administrator which is authorized as a set off, withholding by the terms and conditions of the Contract, including but not limited to liquidated damages pursuant to Sub-paragraph 8.43, Termination for Default.

Upon the Department's receipt and the Contract Administrator's review and approval of the invoice, the County shall pay the net amount currently payable shown on the invoice less any other setoff or deduction authorized by the Contract. Such setoffs and deductions include, but are not limited to, the cost of replacement services.

5.10 Local Small Business Enterprise – Prompt Payment Program

Certified Local SBEs will receive prompt payment for services they provide to County departments. Prompt payment is defined as 15 calendar days after receipt of an undisputed invoice.

5.11 Default Method of Payment: Direct Deposit or Electronic Funds Transfer

5.11.1 The County, at its sole discretion, has determined that the most efficient and secure default form of payment for goods and/or services provided under an agreement/ contract with the County shall be Electronic Funds Transfer (EFT) or direct deposit, unless an

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alternative method of payment is deemed appropriate by the Auditor-Controller (A-C).

5.11.2 The Contractor shall submit a direct deposit authorization request via the website <https://directdeposit.lacounty.gov> with banking and vendor information, and any other information that the A-C determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.

5.11.3 Any provision of law, grant, or funding agreement requiring a specific form or method of payment other than EFT or direct deposit shall supersede this requirement with respect to those payments.

5.11.4 At any time during the duration of the agreement/contract, a Contractor may submit a written request for an exemption to this requirement. Such request must be based on specific legal, business or operational needs and explain why the payment method designated by the A-C is not feasible and an alternative is necessary. The A-C, in consultation with the contracting department(s), shall decide whether to approve exemption requests.

6.0 ADMINISTRATION OF CONTRACT – COUNTY

A listing of County Administration referenced in the following sub-paragraph is designated in Exhibit G - County's Administration. The County will notify the Contractor in writing of any change in the name of the address shown.

6.1 County's Contract Administrator

Responsibilities of the County's Contract Administrator include:

- ensuring that the objectives of this Contract are met;
 - providing direction to the Contractor in the areas relating to County policy, information requirements, and procedural requirements;
 - meeting with the Contractor's Contract Representative on a regular basis;
- and

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- inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor; however, in no event shall Contractor's obligation to fully satisfy all of the requirements of this Contract be relieved, excused or limited thereby.

The County's Contract Administrator is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

7.0 ADMINISTRATION OF CONTRACT – CONTRACTOR

7.1 Contractor's Contract Representative

The Contractor's Contract Representative is designated in Form P-15 - Contractor's Administration. The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Contract Representative. The Contractor's Contract Representative shall be responsible for the Contractor's day-to-day activities as related to this Contract and shall coordinate with County's Contract Representative on a regular basis.

7.2 Approval of Contractor's Staff

County has the absolute right to approve or disapprove all of the Contractor's staff performing work hereunder and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Contract Administrator.

7.3 Contractor's Staff Identification

Contractor shall provide, at Contractor's expense, all staff providing services under this Contract with a photo identification badge.

7.4 Background and Security Investigations

7.4.1 Each of Contractor's staff performing services under this Contract, who is in a designated sensitive position, as determined by County in County's sole discretion, shall undergo and pass a background investigation to the satisfaction of County as a condition of beginning and continuing to perform services under this Contract. Such

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background investigation must be obtained through fingerprints submitted to the California Department of Justice to include State, local and federal-level review, which may include, but shall not be limited to, criminal conviction information. The fees associated with the background investigation shall be at the expense of the Contractor, regardless of whether the member of Contractor's staff passes or fails the background investigation.

7.4.2 If a member of Contractor's staff does not pass the background investigation, County may request that the member of Contractor's staff be immediately removed from performing services under the Contract at any time during the term of the Contract. County will not provide to Contractor or to Contractor's staff any information obtained through the County's background investigation.

7.4.3 County, in its sole discretion, may immediately deny or terminate facility access to any member of Contractor's staff that does not pass such investigation to the satisfaction of the County or whose background or conduct is incompatible with County facility access.

7.4.4 Disqualification of any member of Contractor's staff pursuant to this paragraph 7.4 shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

7.5 Confidentiality

7.5.1 Contractor shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information.

7.5.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other

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expert, consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with this Paragraph 7.5, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 7.5 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and to reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County's prior written approval.

7.5.3 Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract.

8.0 STANDARD TERMS AND CONDITIONS

8.1 CHANGE NOTICES AND AMENDMENTS

8.1.1 A Change Notice shall be prepared, and executed by the Contractor and the Director for any changes, deemed by the Director as necessary for the appropriate execution of the WaterBus service, and which affect the Contractor's service requirements as set forth in Appendix B, Statement of Work, and any corresponding changes in the Contract Sum, not to exceed the annual contract amount plus ten percent.

8.1.2 For any change which affects the scope of work, term, contract sum, payments, or any term or condition included under this Contract, an

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amendment to the Contract shall be prepared and executed by the Contractor and by the Director of the Department and/or his designee.

8.1.3 The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or Chief Executive Officer. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor and by the Director of the Department and/or his designee.

8.1.4 The Director of the Department or his/her designee, may at his/her sole discretion, authorize extensions of time as defined in Paragraph 4.0 - Contract Term. The Contractor agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions. To implement an extension of time, an Amendment to the Contract shall be prepared and executed by the Contractor and by the Director of the Department and/or his designee.

8.2 ASSIGNMENT AND DELEGATION/MERGERS OR ACQUISITIONS

8.2.1 The contractor shall notify the County of any pending acquisitions/mergers of its company unless otherwise legally prohibited from doing so. If the contractor is restricted from legally notifying the County of pending acquisitions/mergers, then it should notify the County of the actual acquisitions/mergers as soon as the law allows and provide to the County the legal framework that restricted it from notifying the County prior to the actual acquisitions/mergers.

8.2.2 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, County consent shall require a

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written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Contract shall be deductible, at County's sole discretion, against the claims, which the Contractor may have against the County.

8.2.3 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Contract.

8.2.4 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any person or entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Contract which may result in the termination of this Contract. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

8.3 AUTHORIZATION WARRANTY

The Contractor represents and warrants that the person executing this Contract for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

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8.4 BUDGET REDUCTIONS

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Contracts, the County reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by the Contractor under this Contract shall also be reduced correspondingly. The County's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Contract.

8.5 COMPLAINTS

The Contractor shall develop, maintain and operate procedures for receiving, investigation and responding to complaints.

8.5.1 Within 10 business days after the Contract effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.

8.5.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.

8.5.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within 10 business days for County approval.

8.5.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.

8.5.5 The Contractor shall preliminarily investigate all complaints and notify the County's Contract Administrator of the status of the investigation within 10 business days of receiving the complaint.

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8.5.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

8.5.7 Copies of all written responses shall be sent to the County's Contract Administrator within 10 business days of mailing to the complainant.

8.6 COMPLIANCE WITH APPLICABLE LAW

8.6.1 In the performance of this Contract, Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.

8.6.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 8.6 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County.

Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor

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shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with Form P-8, Contractor's EEO Certification.

8.8 COMPLIANCE WITH COUNTY'S JURY SERVICE PROGRAM

8.8.1 Jury Service Program:

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Appendix F and incorporated by reference into and made a part of this Contract.

8.8.2 Written Employee Jury Service Policy.

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with

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the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For the purpose of this sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any Subcontractor to perform services for the County under the Contract, the Subcontractor shall also be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.
3. If the Contractor is not required to comply with the Jury Service Program when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event,

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the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the Program.

4. Contractor's violation of this sub-paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

8.9 CONFLICT OF INTEREST

8.9.1 No County employee whose position with the County enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall

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immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be a material breach of this Contract.

8.10 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

8.11.1 Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor. Contractors shall report all job openings with job requirements to: GAINGROW@DPSS.LACOUNTY.GOV and BSERVICES@WDACS.LACOUNTY.GOV and DPSS will refer qualified GAIN/GROW job candidates.

8.11.2 In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

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8.12 COUNTY RESPONSIBILITY AND DEBARMENT

8.12.1 Responsible Contractor

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible Contractors.

8.12.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing contracts the Contractor may have with the County.

8.12.3 Non-responsible Contractor

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

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8.12.4 Contractor Hearing Board

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately

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demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.12.5 Subcontractors of Contractors

These terms shall also apply to Subcontractors of County Contractors.

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8.13 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. Information and posters for printing are available at www.babysafela.org.

8.14 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

8.14.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through contracts are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.14.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

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8.15 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will monitor the Contractor's performance under this Contract on not less than an annual basis. Such monitoring will include assessing the Contractor's compliance with all contract terms and conditions and performance standards. Contractor deficiencies which County determines are significant or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors and listed in the appropriate contractor performance database. The report to the Board of Supervisors will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Contract or impose other penalties as specified in this Contract.

8.16 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

8.16.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.16.2 If the Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by the Contractor by cash payment upon demand.

8.17 EMPLOYMENT ELIGIBILITY VERIFICATION

8.17.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by

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Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

8.17.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

8.18 FACSIMILE REPRESENTATIONS

The County and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to sub-paragraph 8.1, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

8.19 FAIR LABOR STANDARDS

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

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8.20 FORCE MAJEURE

8.20.1 Neither Party shall be liable for such party's failure to perform its obligations under and in accordance with this Contract, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this sub-paragraph as "force majeure events").

8.20.2 Notwithstanding the foregoing, a default by a subcontractor of Contractor shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both Contractor and such subcontractor, and without any fault or negligence of either of them. In such case, Contractor shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this sub-paragraph, the term "subcontractor" and "subcontractors" mean subcontractors at any tier.

8.20.3 In the event Contractor's failure to perform arises out of a force majeure event, Contractor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

8.21 GOVERNING LAW, JURISDICTION, AND VENUE

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

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8.22 INDEPENDENT CONTRACTOR STATUS

8.22.1 This Contract is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

8.22.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

8.22.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Contract.

8.22.4 The Contractor shall adhere to the provisions stated in sub-paragraph 7.5 – Confidentiality.

8.23 INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, agents and volunteers (“County Indemnitees”) from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from and/or

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relating to this Contract, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.

8.24 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Contractor's indemnification of County, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Sub-paragraphs 8.24 and 8.25 of this Contract. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Contract. The County in no way warrants that the Required Insurance is sufficient to protect the Contractor for liabilities which may arise from or relate to this Contract.

8.24.1 Evidence of Coverage and Notice to County

- Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Contract.
- Renewal Certificates shall be provided to County not less than 10 days prior to Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or Subcontractor insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Contractor identified as the contracting party in this Contract. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance

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Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.

- Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to:

**Los Angeles County Department of Beaches and Harbors
Administrative Services Division, Contracts Unit
13483 Fiji Way, Trailer #3
Marina del Rey, CA 90292**

Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its Subcontractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against Contractor and/or County.

8.24.2 Additional Insured Status and Scope of Coverage

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status

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shall apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

8.24.3 Cancellation of or Changes in Insurance

Contractor shall provide County with, or Contractor's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Contract, in the sole discretion of the County, upon which the County may suspend or terminate this Contract.

8.24.4 Failure to Maintain Insurance

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

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8.24.5 Insurer Financial Ratings

Coverage shall be placed with insurers acceptable to the County of Los Angeles with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

8.24.6 Contractor's Insurance Shall be Primary

Contractor's insurance policies, with respect to any claims related to this Contract, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

8.24.7 Waivers of Subrogation

To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Contract. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.24.8 Subcontractor Insurance Coverage Requirements

Contractor shall include all Subcontractors as insureds under Contractor's own policies, or shall provide County with each Subcontractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each Subcontractor complies with the Required Insurance provisions herein, and shall require that each Subcontractor name the County and Contractor as additional insureds on the Subcontractor's General Liability policy. Contractor shall obtain County's prior review and approval of any Subcontractor request for modification of the Required Insurance.

8.24.9 Deductibles and Self-Insured Retentions (SIRs)

Contractor's policies shall not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require Contractor to reduce or eliminate policy deductibles and SIRs

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as respects the County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.24.10 Claims made Coverage

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this Contract. Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

8.24.11 Application of Excess Liability Coverage

Contractors may use a combination of primary and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

8.24.12 Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

8.24.13 Alternative Risk Financing Programs

The County reserves the right to review, and then approve, Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.

8.24.14 County Review and Approval of Insurance Requirements

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

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8.25 INSURANCE COVERAGE

8.25.1 Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate:	\$5 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$5 million

8.25.2 Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Contractor's use of autos pursuant to this Contract, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

8.25.3 Workers Compensation and Employer's Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

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8.25.4 Protection and Indemnity Liability (P&I)

Insurance covering third-party liability for property damage incurred by marine vessels as well as liability under general maritime law for bodily injury with limits of not less than \$50 million or as approved by County.

8.25.5 Non-Owner Policy

A Non-owner policy with coverage of the Department's vessels will be required in accordance with Section 8.24.

8.26 LIQUIDATED DAMAGES

8.26.1 If, in the judgment of the Director of the Department, or his/her designee, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Director of the Department, or his/her designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Contractor from the County, will be forwarded to the Contractor by the Director of the Department, or his/her designee, in a written notice describing the reasons for said action.

8.26.2 If the Director of the Department, or his/her designee, determines that there are deficiencies in the performance of this Contract that the Director of the Department, or his/her designee, deems are correctable by the Contractor over a certain time span, the Director of the Department, or his/her designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Director of the Department, or his/her designee, may: (a) Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or (b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of

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the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is one hundred dollars (\$100) per day per infraction, or as specified in the Performance Requirements Summary (PRS) Chart, as defined in Appendix B, Statement of Work, hereunder, and that the Contractor shall be liable to the County for liquidated damages in said amount. Said amount shall be deducted from the County's payment to the Contractor; and/or (c) Upon giving five (5) days' notice to the Contractor for failure to correct the deficiencies, the County may correct any and all deficiencies and the total costs incurred by the County for completion of the work by an alternate source, whether it be County forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by the County.

8.26.3 The action noted in sub-paragraph 8.26.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover the County cost due to the failure of the Contractor to complete or comply with the provisions of this Contract.

8.26.4 This sub-paragraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Contract provided by law or as specified in the PRS or sub-paragraph 8.26.2, and shall not, in any manner, restrict or limit the County's right to terminate this Contract as agreed to herein.

8.27 MOST FAVORED PUBLIC ENTITY

If the Contractor's prices decline, or should the Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to the County.

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8.28 NONDISCRIMINATION AND AFFIRMATIVE ACTION

8.28.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

8.28.2 The Contractor shall certify to, and comply with, the provisions of Form P-8 - Contractor's EEO Certification.

8.28.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

8.28.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.

8.28.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.

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8.28.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this sub-paragraph 8.28 when so requested by the County.

8.28.7 If the County finds that any provisions of this sub-paragraph 8.28 have been violated, such violation shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract. While the County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Contract.

8.28.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Contract, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

8.29 NON EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict the County from acquiring similar, equal or like goods and/or services from other entities or sources.

8.30 NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

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8.31 NOTICE OF DISPUTES

The Contractor shall bring to the attention of the County's Contract Administrator any dispute between the County and the Contractor regarding the performance of services as stated in this Contract. If the County's Contract Administrator is not able to resolve the dispute, the Director of the Department or designee shall resolve it.

8.32 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015, Appendix H.

8.33 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The information is set forth in Appendix I of this Contract. Additional information is available at www.babysafela.org.

8.34 NOTICES

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibit D, County's Administration and P-15, Contractor's Administration. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The Director of the Department (or his/her designee) shall have the authority to issue all notices or demands required or permitted by the County under this Contract.

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8.35 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

Notwithstanding the above, the Contractor and the County agree that, during the term of this Contract and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

8.36 PUBLIC RECORDS ACT

8.36.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to sub-paragraph 8.38 - Record Retention and Inspection/Audit Settlement of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.36.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

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8.37 PUBLICITY

8.37.1 The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Contract Administrator. The County shall not unreasonably withhold written consent.

8.37.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this sub-paragraph 8.37 shall apply.

8.38 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary

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data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.38.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.38.2 Failure on the part of the Contractor to comply with any of the provisions of this sub-paragraph 8.38 shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract.

8.38.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the County conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Contract or otherwise. If such audit finds that the County's dollar liability

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for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Contract exceed the funds appropriated by the County for the purpose of this Contract.

8.39 RECYCLED BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.40 SUBCONTRACTING

8.40.1 The requirements of this Contract may not be subcontracted by the Contractor **without the advance written approval of the County**. Any attempt by the Contractor to subcontract without the prior consent of the County may be deemed a material breach of this Contract.

8.40.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the County.

8.40.3 The Contractor shall indemnify, defend, and hold the County harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Contractor employees.

8.40.4 The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the County's approval of the Contractor's proposed subcontract.

8.40.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including

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Subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its Subcontractors of this County right.

8.40.6 The Director of the Department is authorized to act for and on behalf of the County with respect to approval of any subcontract and Subcontractor employees. After approval of the subcontract by the County, Contractor shall forward a fully executed subcontract to the County for their files.

8.40.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.

8.40.8 The Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the County from each approved Subcontractor. Before any Subcontractor employee may perform any work hereunder, Contractor shall ensure delivery of all such documents to:

**Los Angeles County Department of Beaches and Harbors
Administrative Services Division, Contracts Unit
13483 Fiji Way, Trailer #3
Marina del Rey, CA 90292**

**8.41 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN
COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE
PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in sub-paragraph 8.14 - Contractor's Warranty of Adherence to County's Child Support Compliance Program, shall constitute default under this Contract. Without limiting the rights and remedies available to the County under any other provision of this Contract, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Contract pursuant to sub-paragraph

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8.43 - Termination for Default and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

8.42 TERMINATION FOR CONVENIENCE

8.42.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

8.42.2 After receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.42.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with sub-paragraph 8.38, Record Retention and Inspection/Audit Settlement.

8.43 TERMINATION FOR DEFAULT

8.43.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of Department's Director:

- Contractor has materially breached this Contract; or
- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of

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any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

8.43.2 In the event that the County terminates this Contract in whole or in part as provided in sub-paragraph 8.43.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this sub-paragraph.

8.43.3 Except with respect to defaults of any Subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in sub-paragraph 8.43.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the

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required performance schedule. As used in this sub-paragraph, the term "Subcontractor(s)" means Subcontractor(s) at any tier.

8.43.4 If, after the County has given notice of termination under the provisions of this sub-paragraph 8.43, it is determined by the County that the Contractor was not in default under the provisions of this sub-paragraph 8.43, or that the default was excusable under the provisions of sub-paragraph 8.43.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to sub-paragraph 8.42 - Termination for Convenience.

8.43.5 The rights and remedies of the County provided in this sub-paragraph 8.43 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.44 TERMINATION FOR IMPROPER CONSIDERATION

8.44.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

8.44.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

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8.44.3 Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

8.45 TERMINATION FOR INSOLVENCY

8.45.1 The County may terminate this Contract forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

8.45.2 The rights and remedies of the County provided in this sub-paragraph 8.45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.46 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which the County may in its sole discretion, immediately terminate or suspend this Contract.

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
MARINA DEL REY WATERBUS SERVICE CONTRACT**

8.47 TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Contract, the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of the County's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Contract in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

8.48 VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

8.49 WAIVER

No waiver by the County of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this sub-paragraph 8.49 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.50 WARRANTY AGAINST CONTINGENT FEES

8.50.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.50.2 For breach of this warranty, the County shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
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or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.51 WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

8.52 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 8.51 "Warranty of Compliance with County's Defaulted Property Tax Reduction Program" shall constitute default under this contract. Without limiting the rights and remedies available to County under any other provision of this contract, failure of Contractor to cure such default within 10 days of notice shall be grounds upon which County may terminate this contract and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

8.53 TIME OFF FOR VOTING

The Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than 10 days before every statewide election, every Contractor and subcontractors shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
MARINA DEL REY WATERBUS SERVICE CONTRACT**

8.54 COMPLIANCE WITH COUNTY'S ZERO TOLERANCE POLICY ON HUMAN TRAFFICKING

Contractor acknowledges that the County has established a Zero Tolerance Policy on Human Trafficking Policy prohibiting contractors from engaging in human trafficking.

If a Contractor or member of Contractor's staff is convicted of a human trafficking offense, the County shall require that the Contractor or member of Contractor's staff be removed immediately from performing services under the Contract. County will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.

Disqualification of any member of Contractor's staff pursuant to this paragraph shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

8.55 COMPLIANCE WITH FAIR CHANCE EMPLOYMENT PRACTICES

Contractor shall comply with fair chance employment hiring practices set forth in California Government Code Section 12952, Employment Discrimination: Conviction History. Contractor's violation of this paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

8.56 COMPLIANCE WITH THE COUNTY POLICY OF EQUITY

The contractor acknowledges that the County takes its commitment to preserving the dignity and professionalism of the workplace very seriously, as set forth in the County Policy of Equity (CPOE) (<https://ceop.lacounty.gov/>). The contractor further acknowledges that the County strives to provide a workplace free from discrimination, harassment, retaliation and inappropriate conduct based on a protected characteristic, and which may violate the CPOE. The contractor, its employees and subcontractors acknowledge and certify receipt and understanding of the CPOE. Failure of the contractor, its employees or its subcontractors to uphold the County's expectations of a workplace free from harassment and discrimination, including inappropriate conduct based on a protected

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
MARINA DEL REY WATERBUS SERVICE CONTRACT**

characteristic, may subject the contractor to termination of contractual agreements as well as civil liability.

9.0 UNIQUE TERMS AND CONDITIONS

9.1 LOCAL SMALL BUSINESS ENTERPRISE (LSBE) PREFERENCE PROGRAM

9.1.1 This Contract is subject to the provisions of the County's ordinance entitled LSBE Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

9.1.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a LSBE.

9.1.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a LSBE.

9.1.4 If the Contractor has obtained certification as a LSBE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten (10) percent of the amount of the contract; and

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
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3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State and the Department of Consumer and Business Affairs of this information prior to responding to a solicitation or accepting a contract award.

9.2 SOCIAL ENTERPRISE (SE) PREFERENCE PROGRAM

- 9.2.1** This Contract is subject to the provisions of the County's ordinance entitled SE Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.
- 9.2.2** Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a SE.
- 9.2.3** Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a SE.
- 9.2.4** If Contractor has obtained County certification as a SE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, Contractor shall:

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
MARINA DEL REY WATERBUS SERVICE CONTRACT**

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1) above, the Contractor will be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the Department of Consumer and Business Affairs of this information prior to responding to a solicitation or accepting a contract award.

9.3 DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PREFERENCE PROGRAM

- 9.3.1** This Contract is subject to the provisions of the County's ordinance entitled DVBE Preference Program, as codified in Chapter 2.211 of the Los Angeles County Code.
- 9.3.2** Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a DVBE.
- 9.3.3** Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a DVBE.
- 9.3.4** If Contractor has obtained certification as a DVBE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
MARINA DEL REY WATERBUS SERVICE CONTRACT**

information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, Contractor shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1) above, the Contractor will be assessed a penalty in an amount of not more than 10 percent of the amount of the contract; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

Notwithstanding any other remedies in this contract, the above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State and the Department of Consumer and Business Affairs of this information prior to responding to a solicitation or accepting a contract award.

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IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed, and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Director of the Department of Beaches and Harbors thereof, the month, day and year first above written.

COUNTY OF LOS ANGELES

By _____
Director, Beaches and Harbors

CONTRACTOR:

By _____
Print Name

Signature

Title

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By _____
Christina Angeles, Senior Deputy

STATEMENT OF WORK

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
STATEMENT OF WORK
MARINA DEL REY WATERBUS SERVICE**

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**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS FOR
WATERBUS SERVICE**

STATEMENT OF WORK

1.0 GENERAL REQUIREMENTS

1.1 Scope of Work

The selected Proposer shall be capable of providing the services as listed in this Statement of Work (SOW).

1.2 Contractor's Work Plan

Subject to all other terms and conditions of this Contract, Contractor shall perform the work and maintain quality control in accordance with the Work Plan and other representations submitted with the Contractor's Proposal.

1.3 Materials, Labor and Expenses

The Contractor shall at its own expense provide all labor, equipment, maintenance, material, supplies, uniforms, licenses, registration, data systems, transportation, meals, lodging, services, facilities and expenses required to perform the Contract work.

1.4 Equipment

Vessels should meet performance standards listed in Exhibit A, Vessel Performance Standards. Such standards are subject to, but not limited to, the following general requirements: 1) capacity of at least 22 passengers; 2) be able to accommodate bicycles and strollers; and 3) meet the accessibility standards of the American with Disabilities Act (ADA).

1.5 Contractor's Base of Operations

The Contractor shall maintain a base of operations in Marina del Rey with a listed telephone number where its officers or owners may be contacted personally by telephone, email and by mail.

2.0 ADDITION/DELETION OF EQUIPMENT, FACILITIES, SPECIFIC TASKS AND/OR WORK HOURS

- 2.1** The Department reserves the right to add and/or delete specific tasks, equipment, facilities and/or work hours throughout the term of this Contract, and otherwise amend and modify the scope of work and tasks in accordance with the County's needs.
- 2.2** The Department may from time to time close or cease operating certain facilities or portions of such facilities, or may reduce the number of days on which services are performed. Such events shall not be deemed breaches of this Contract or of any of the covenants of this Contract, and shall not relieve the Contractor of its duties as to the remaining facilities and services.
- 2.3** The Contractor shall be given reasonable written notice by the Contract Administrator (CA) that a facility is to be added or deleted, or that the scope of services is being modified and the effective date of such modifications.
- 2.4** In the event of such addition or deletion of equipment, facilities or other material modifications of the area or scope of regularly scheduled services, the Contractor's compensation shall be adjusted in accordance with Contract, Section 5.0.
- 2.5** All changes must be made in accordance with Contract, Sub-paragraph 8.1, Change Notices and Amendments.

3.0 CONTRACTOR'S QUALITY CONTROL PLAN

- 3.1** The Contractor shall observe, at a minimum, the standards set forth in this Section 3.0, and acknowledges that the adequacy of its compliance with the Contract shall be measured by these standards, as well as all other terms and conditions of the Contract.
- 3.2** The Contractor shall comply with the Contractor's Quality Control Plan as set forth in Form P-7, which shall be incorporated into the Contract by reference. To the extent that provisions of the Contractor's Quality Control Plan are inconsistent with any other part of the Contract, those provisions shall be ineffective. The Contractor shall not change its Quality Control Plan

as incorporated into this Contract without written approval of the Director or his designee.

4.0 QUALITY ASSURANCE PLAN

The Department will evaluate the Contractor's performance under this Contract using the quality assurance procedures as defined in Attachment A, Sample Contract, sub-paragraph 8.15, County's Quality Assurance Plan.

4.1 Contract Discrepancy Report

Verbal notification of a Contract discrepancy will be made to the Contract Representative as soon as possible whenever a Contract discrepancy is identified. The problem shall be resolved within a time period mutually agreed upon by the County and the Contractor.

4.2 The Contract Administrator will determine whether a formal Contract Discrepancy Report shall be issued. Upon receipt of this document, the Contractor is required to respond in writing to the Contract Administrator within five workdays, acknowledging the reported discrepancies or presenting contrary evidence. A plan for correction of all deficiencies identified in the Contract Discrepancy Report shall be submitted to the Contract Administrator within five workdays.

4.3 The Contract Administrator may issue a Contract Discrepancy Report to the Contractor in any incident of failure to comply with the performance standards or other unacceptable performance. In the case of continuing deficiencies, the Contract Administrator may issue a separate Contract Discrepancy Report each day the deficiency continues.

4.4 The Director may excuse the incident, assess and collect liquidated damages in the manner and amounts described in the performance requirements summary in this Statement of Work, or proceed with Contract termination as provided in Section 8.43, Termination for Default.

4.5 County Observations

In addition to the Department staff, other County personnel may observe the Contractor's performance and activities, as well as review documents relevant to this Contract at any time during normal business hours.

However, these personnel may not unreasonably interfere with the Contractor's performance.

5.0 RESPONSIBILITIES

The County's and the Contractor's responsibilities are as follows:

COUNTY

5.1 County's Contract Administrator

5.1.1 The Community and Marketing Services Division shall be the Contract Administrator (CA) who shall have the authority to act for the County in the administration of the Contract, except where action of the Director or Chief Deputy is expressly required by the Contract.

5.1.2 The CA will be responsible for ensuring that the objectives of the Contract are met and shall direct the Contractor as to the County's policy, information, and procedural requirements.

5.1.3 The Contractor's work shall be subject to the CA's acceptance and approval, which shall not be unreasonably withheld.

5.1.4 The CA is not authorized to make any changes in the terms and conditions of the Contract or to obligate the County in any manner.

CONTRACTOR

5.2 Contractor's Representative

5.2.1 The Contractor shall designate a full-time employee as the Contractor's Representative (CR) who shall be responsible for the Contractor's day-to-day activities related to its performance obligations under this Contract and shall be available to the County's CA or the County's attorney by telephone on reasonable notice each business day as well as at other times as required by the work. The Contractor may designate himself or herself as the Contractor's Representative.

5.2.2 The CR shall have full authority to act for the Contractor on all matters relating to the performance of the Contract work.

5.3 Personnel

- 5.3.1** Contractor shall ensure that persons performing Contract services are of sound mental, physical, and emotional condition as necessary to perform the required duties.
- 5.3.2** Personnel employed by the Contractor and assigned to perform Contract work shall have no serious misdemeanor, theft, or felony convictions.
- 5.3.3** Personnel employed by the Contractor and assigned to perform Contract work shall be at their assigned worksite(s) during the hours of operation of WaterBus service. In the event of an employee's illness or other emergency necessitating their absence, the Contractor shall provide replacement personnel.
- 5.3.4** All personnel assigned by the Contractor to perform Contract work shall at all times be employees of the Contractor, and the Contractor shall have the sole right to hire, suspend, discipline, or discharge employees. However, the Director reserves the right to request, at any given time, the immediate exclusion of any member(s) of the Contractor's staff from working on this Contract, and the Contractor shall immediately comply.
- 5.3.5** Personnel employed by the Contractor and assigned to perform Contract work shall undergo and pass a background investigation to the satisfaction of the County, in accordance with Section 7.4 of Appendix A, Sample Contract.
- 5.3.6** The Contractor shall provide the County with a current list of employees including, but not limited to, management and shall keep this list updated during the Contract term.
- 5.3.7** Communication from County agents, employees, and contractors to the Contractor shall be returned promptly in accordance with Section 5.4.

5.4 Communication with Department

Contractor shall maintain an office with a telephone in the company's name where Contractor conducts business. The office shall be staffed during regular business hours, 9:00 a.m. to 6:00 p.m., Monday through Friday, by at least one employee who can respond to inquiries and complaints which may be received about the Contractor's performance of the Contract. The Contractor shall return calls and/or emails during business hours, or no later than the next business day or as soon as reasonably possible if the request is designated urgent. When the office is closed, an answering service shall be provided by the Contractor to receive calls. The Contractor shall answer calls received by the answering service within two hours of receipt of the call.

6.0 SCOPE OF WORK AND OBJECTIVES

6.1 Vessels

The Contractor shall be required to operate five vessels for the WaterBus service. The County requires that during scheduled hours of operation, all WaterBus vessels must display identical signage that will be provided by the Department in order to build awareness of the WaterBus service. The Contractor shall be responsible for all vessel maintenance, storage, and upkeep. It is preferred that the Contractor operate and maintain clean fuel vessels for regular WaterBus service.

Should the Contractor operate the Department's two additional vessels during the term of the Contract, the Contractor will be required to operate at least seven vessels for the WaterBus service.

6.2 Boarding Location/Staffing

The County requires at least one Contractor employee at each boarding location to serve as dockhand, which requires handling payments and ticketing, escorting passengers up and down the dock, and assisting passengers in boarding and disembarking the WaterBus vessels. The Del Rey Landing dock boarding location requires one dockhand and one additional part-time dockhand to assist with boarding at this location.

6.3 Staff Attire

The Contractor is responsible for ensuring that all dock attendants are attired in khaki colored slacks or shorts, and white polo shirts with the WaterBus logo. The digital file for the WaterBus logo will be provided to the Board-approved Contractor upon full execution of the Contract. The Contractor will then be responsible for placing the logo on the polo shirts.

6.4 Summer WaterBus Schedule

The Contractor shall maintain the following schedule to operate the WaterBus Service:

- **Summer Season:**
 - o June (Third Thursday of the Month) – September (Labor Day)
- **Days and Times:**
 - o Thursdays – Saturdays: 11:00 a.m. – midnight
 - o Sundays: 11:00 a.m. 9:00 p.m.
- **Holidays:**
 - o July 4th: 11:00 a.m. - midnight
 - o Labor Day: 11:00 a.m. - 9:00 p.m.

6.5 Department Events Schedule

In addition to the schedule noted in Section 6.4, the Contractor shall also operate the WaterBus Service for the following annual Department Events:

- **ARTsea:**
 - o May (two-day event), 11:00 a.m. – midnight
- **Discover Marina del Rey:**
 - o June (one-day event), 11:00 a.m. – midnight
- **MarinaFest:**
 - o June (one-day event), 11:00 a.m. – midnight

Note that the dates for the events listed above may change in subsequent contract years.

6.6 Contractor Set-up/Shut-down Time

An additional 30 minutes has been added to the “Hours per Day” on Form P-1 to accommodate the Contractor’s “set-up and shut-down” time. The hours of operation will remain the same for the optional extension years,

with variations to accommodate holiday dates. Upon Contract extension, at the discretion of the Director, an updated schedule will be provided by the Department. All hours are subject to change. The Contractor shall provide WaterBus service during the established WaterBus schedule.

6.7 Additional WaterBus Services

In addition to the regular WaterBus service during the summer season as described in Paragraph 6.4, the Department may request the Contractor to provide additional WaterBus services and/or Department excursions throughout the year. Such requests for additional services may require a regular full-day operation of WaterBus services. Reasonable notice shall be provided to Contractor prior to the Department's request for additional services.

6.8 Licenses

6.8.1 A Los Angeles County Business License is required for WaterBus/ferry operation in Marina del Rey.

6.8.2 Vessel Operator(s) shall be certified, inspected, and licensed by the U.S. Coast Guard.

6.9 Rules and Procedures

The Contractor shall post facility rules and procedures, subject to Departmental approval, to ensure that the WaterBus operation, i.e., boarding, waiting and disembarking, is conducted in a safe and efficient manner. The Contractor shall operate the WaterBus service according to the posted rules and procedures.

6.10 Permits

Contractor must obtain a Right of Entry Permit from the Department to County Parcels for the following premises: Fisherman's Village (Parcel 56), Burton Chace Park, Marina City Club, Marina "Mother's" Beach, Dolphin Marina, Esprit I, Harbor at Marina Bay and Del Rey Landing.

If a Coastal Development Permit is required, the Department will assist the Contractor in obtaining one from the California Coastal Commission. In the event that no Coastal Development Permit can be obtained, the County may

terminate this Contract in accordance with Sample Contract, Section 8.42, Termination for Convenience.

6.11 Fare/Season Pass

The Contractor shall charge a fare of \$1 per passenger, one way. In addition, the Contractor shall offer and sell a season pass for unlimited WaterBus rides at the rate of \$30 for the entire summer. The season passes will be non-transferable and identification will be necessary for their use. The Contractor shall retain all monies collected for both the fare and season passes. The Contractor shall keep detailed records of the monies collected, along with the daily passenger count, per hour, per location, as required in Section 7.0, Logs and Reports, and forward those records to the County on a weekly basis.

The Department, in its sole discretion, reserves the right to increase the \$1 passenger fee during the contract term. Any revenue collected by the contractor above the \$1 passenger fee will be credited back to the Department by deduction of the revenue amount from contractor's submitted invoices.

6.12 Publicity

The Department will collaborate with the Contractor on development and implementation of an aggressive campaign to advertise and promote the WaterBus service. Media and community outreach may include social media, press releases, websites, brochures and Los Angeles County Television Channel shoots. The Contractor will implement and cooperate with all marketing programs.

7.0 FACILITIES AND EQUIPMENT FURNISHED BY COUNTY

7.1 The County may provide the equipment described in this Section 7.0 for the Contractor's use during the term of the Contract. The equipment furnished by the County may be used by the Contractor only for activities related to performance of the Contract work. The Contractor agrees to defend and hold the County harmless from any loss, liability, claim, lawsuit, property damage, theft, destruction of property or injury resulting from Contractor's

use of the equipment. Contractor assumes full responsibility for all equipment issued by the County to Contractor solely for performance of work contained herein. Should Contractor's employees damage County property or equipment, Department shall issue to Contractor a Contract Discrepancy Report (CDR) detailing costs for all repairs or replacement of lost, stolen or damaged equipment, and deduct costs from Contractor's invoice.

7.2 County-provided vessels

Up to two vessels may be provided to the Contractor for use to supplement the WaterBus service. The County's vessels will require the same hours and staffing as the five contractor operated vessels and shall be operated in accordance with Exhibit A, Vessel Performance Standards. Required storage and maintenance of the Department's vessels shall be as follows:

- County's vessels shall be housed full-time in Marina del Rey. County staff shall have access to its vessels at any time upon reasonable notice to the Contractor.
- Contractor shall ensure that County's vessels receive all required routine maintenance in accordance with the manufacturer's specifications.
- If it is determined that any needed repairs outside of regular routine maintenance is required on any of County's vessels, Contractor shall coordinate and notify County before any work is performed. No work shall be performed on County's vessels without prior written consent from the Department. County, in its sole discretion, may choose to have an independent party inspect and/or perform any repairs.
- To the extent possible, Contractor shall operate and maintain County's vessels with clean fuel for regular WaterBus service.

7.3 Billing for Repairs of County-provided Vessels

After receiving County approval for any needed repairs on any County-provided vessel, Contractor shall submit an invoice separate from its

WaterBus service invoice in accordance with Sub-Paragraph 5.9.2 of the Sample Contract.

8.0 EQUIPMENT FURNISHED BY CONTRACTOR

8.1 Contractor to Furnish Supplies and Equipment

Except for the items furnished by the County pursuant to Section 7.0, the Contractor shall provide all equipment necessary to perform the Contract work.

9.0 LOGS AND REPORTS

9.1 During the Contract term, the Contractor shall report in writing to the CA every Monday a daily passenger count per hour, per location and the total amounts collected per day.

9.2 During the Contract term, the Contractor shall report in writing to the CA every Monday the wait times between passenger departures and pick-ups, documenting the time each vessel departs each stop and the arrival time of the next vessel.

9.3 The Contractor shall provide, by the 15th of every month, covering the prior calendar month, a monthly fuel consumption report and a list of any problems and their resolution during the prior month's services.

9.4 During the Contract term, the Contractor shall provide a quarterly checklist of all maintenance performed on the Department's vessels.

10.0 GREEN INITIATIVES

10.1 Contractor shall use reasonable efforts to initiate "green" or sustainability practices for environmental and energy conservation benefits.

10.2 Contractor shall notify the CA of any new "green" or sustainability initiatives by the Contractor prior to the Contract commencement.

10.3 Proposer shall complete Form P-17 to document its "green" practices.

11.0 PERFORMANCE EVALUATION

The County or its agent will evaluate the Contractor's performance under this Contract on not less than a monthly basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and performance standards. Any Contractor deficiencies that the County deems severe or recurring, and which may jeopardize the performance of the Contract if left uncorrected, will be reported to the Board of Supervisors. The report will include improvement or corrective measures taken by the County and Contractor. If improvement that is consistent with the corrective action measures taken does not occur, the County may terminate this Contract or impose other penalties as specified in this Contract.

12.0 PERFORMANCE REQUIREMENTS SUMMARY

All listings of services used in the Performance Requirements Summary (PRS) are intended to be completely consistent with the Contract and the SOW, and are not meant in any case to create, extend, revise, or expand any obligation of the Contractor beyond those defined in the Contract and the SOW. In any case of apparent inconsistency between services as stated in the Contract and the SOW and this PRS, the meaning apparent in the Contract and the SOW will prevail. If any service seems to be created in this PRS which is not clearly and forthrightly set forth in the Contract and the SOW, that apparent service will be null and void and place no requirement on the Contractor.

12.1 The Contractor's compliance with the performance standards identified in the Performance Requirements Summary shall be evaluated monthly as provided in Section 9.0.

12.2 The Contractor agrees to and accepts the performance standards, including, but not limited to, the sums set forth as liquidated damages for unacceptable performance.

CONTRACT DISCREPANCY REPORT

TO: _____

FROM: _____

DATES: _____

Prepared: _____

Returned by Contractor: _____

Action Completed: _____

DISCREPANCY PROBLEMS: _____

Signature of County Contract Administrator

Date

CONTRACTOR RESPONSE (Cause and Corrective Action): _____

Signature of Authorized Contractor Representative

Date

COUNTY EVALUATION OF CONTRACTOR RESPONSE: _____

Signature of County Representative

Date

COUNTY ACTIONS: _____

CONTRACTOR NOTIFIED OF ACTION

Contract Administrator Signature and Date _____

Contractor Representative's Signature and Date _____

PERFORMANCE REQUIREMENTS SUMMARY (PRS)

Marina del Rey WaterBus Service

SPECIFIC PERFORMANCE REFERENCE	SERVICE	MONITORING METHOD	LIQUIDATED DAMAGES
CONTRACT: PARAGRAPH 5.9 – <i>INVOICES & PAYMENTS</i>	Contractor shall submit invoices by the 15 th of each month.	Review of Invoices	\$100 per occurrence
CONTRACT: SUB-PARAGRAPH 8.8. – <i>COMPLIANCE W/COUNTY'S JURY SERVICE PROGRAM</i>	Contractor shall have and adhere to a written policy meeting the County's Jury Service Program requirements.	Review of Records	\$100 per occurrence
CONTRACT: SUB-PARAGRAPH 8.25 – <i>INSURANCE COVERAGE REQUIREMENTS</i>	Contractor shall maintain required liability amounts and coverages.	Review of Insurance Certificates	\$100 per occurrence
CONTRACT: SUB-PARAGRAPH 8.28 – <i>NONDISCRIMINATION AND AFFIRMATIVE ACTION</i>	Contractor shall certify to, and comply with Form P-8, Contractor's EEO Certification.	Inspection of Files	\$50 per occurrence
CONTRACT: SUB-PARAGRAPH 8.38 – <i>RECORD RETENTION & INSPECTION/AUDIT SETTLEMENT</i>	Contractor shall maintain all required records as specified.	Inspection of Files	\$100 per occurrence
CONTRACT: SUB-PARAGRAPH 8.40 – <i>SUBCONTRACTING</i>	Contractor shall obtain County's written approval prior to subcontracting any work.	Observation	\$100 per occurrence
STATEMENT OF WORK: SUB-PARAGRAPH 1.4 – <i>GENERAL REQUIREMENTS</i>	Contractor shall ensure vessels meet performance standards as stated in Exhibit A.	Observation	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 1.5 – <i>GENERAL REQUIREMENTS</i>	Contractor shall maintain a base of operations in Marina del Rey where owners may be contacted by telephone.	Observation	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 4.2 – <i>QUALITY ASSURANCE PLAN</i>	Contractor shall respond to issued Contract Discrepancy Reports within five workdays.	Observation & Documentation	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 5.2 – <i>RESPONSIBILITIES - CONTRACTOR</i>	Contractor shall designate a full-time employee as Contractor's Representative.	Observation & Documentation	\$100 per occurrence

PERFORMANCE REQUIREMENTS SUMMARY (PRS)

Marina del Rey WaterBus Service

SPECIFIC PERFORMANCE REFERENCE	SERVICE	MONITORING METHOD	LIQUIDATED DAMAGES
STATEMENT OF WORK: SUB-PARAGRAPH 5.3 – <i>RESPONSIBILITIES - CONTRACTOR</i>	Contractor’s personnel shall comply with all responsibilities listed in Section 5.3.	Review of Records	\$150 per occurrence
STATEMENT OF WORK: SUB-PARAGRAPH 5.4 – <i>RESPONSIBILITIES - CONTRACTOR</i>	Contractor shall return calls and/or emails during business hours or no later than the next business day.	Observation	\$150 per occurrence
STATEMENT OF WORK: SUB-PARAGRAPH 6.1 – <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall operate at least five vessels for the WaterBus Service with identical signage displayed.	Observation	\$150 per occurrence
STATEMENT OF WORK: SUB-PARAGRAPH 6.2 – <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall provide operator(s) for each vessel and required additional employees at each docking site.	Observation	\$250 per occurrence
STATEMENT OF WORK: SUB-PARAGRAPH 6.3 – <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall ensure all dock attendants are attired in khaki colored slacks or shorts, with white polo shirts with WaterBus logo.	Observation	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 6.4– <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall maintain a regular weekly schedule, making all scheduled stops on-time as specified in Contract.	Inspection & Observation	\$150 per occurrence
STATEMENT OF WORK: PARAGRAPH 6.5– <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall operate at the days and times as scheduled, making all scheduled stops on-time as specified in Contract.	Inspection & Observation	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 6.7– <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall provide additional WaterBus Service when requested by the Department.	Inspection & Observation	\$100 per occurrence

PERFORMANCE REQUIREMENTS SUMMARY (PRS)

Marina del Rey WaterBus Service

SPECIFIC PERFORMANCE REFERENCE	SERVICE	MONITORING METHOD	LIQUIDATED DAMAGES
STATEMENT OF WORK: PARAGRAPH 6.8 – <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall maintain required licenses during the term of the Contract.	Review of Records	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 6.9 – <i>SCOPE OF WORK & OBJECTIVES</i>	Operator shall post facility rules and procedures to ensure operation is conducted in a safe and efficient manner.	Observation	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 6.10 – <i>SCOPE OF WORK & OBJECTIVES</i>	Operator must obtain Right of Entry Permit to County parcels and, if necessary, a Coastal Development Permit from the California Coastal Commission.	Inspection & Observation	\$150 per occurrence
STATEMENT OF WORK: PARAGRAPH 6.11 – <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall collect and keep fare and deliver accurate collection records to County.	Inspection of Files	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 6.12 – <i>SCOPE OF WORK & OBJECTIVES</i>	Contractor shall implement and cooperate with all marketing programs.	Observation	\$100 per occurrence
STATEMENT OF WORK: PARAGRAPH 7.2 – <i>EQUIPMENT FURNISHED BY COUNTY</i>	Contractor shall store, maintain and coordinate repair of the Department's vessels in accordance with Section 7.2	Review of Records	\$150 per occurrence
STATEMENT OF WORK: PARAGRAPH 8.1 – <i>LOGS AND REPORTS</i>	Contractor shall report in writing to the Contract Administrator every Monday a daily passenger county per hour, per location & the total amounts collected per day.	Review of Records	\$150 per occurrence
STATEMENT OF WORK: PARAGRAPH 8.2 – <i>LOGS AND REPORTS</i>	Contractor shall report in writing to the Contract Administrator every Monday a reporting of passenger wait times for each stop	Review of Records	\$150 per occurrence

PROPOSER'S ORGANIZATION QUESTIONNAIRE/AFFIDAVIT AND CBE INFORMATION

I. FIRM/ORGANIZATION INFORMATION: The information requested below is for statistical purposes only. On final analysis and consideration of award, contractor/vendor will be selected without regard to race/ethnicity, color, religion, sex, national origin, age, sexual orientation or disability.

Business Structure: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Non-Profit <input type="checkbox"/> Franchise <input type="checkbox"/> Other (Specify) _____						
Total Number of Employees (including owners):						
Race/Ethnic Composition of Firm. Distribute the above total number of individuals into the following categories:						
Race/Ethnic Composition	Owners/Partners/ Associate Partners		Managers		Staff	
	Male	Female	Male	Female	Male	Female
Black/African American			2	1	116	86
Hispanic/Latino	1		5	2	236	120
Asian or Pacific Islander		1	3	4	75	33
American Indian					2	2
Filipino						
White	10	4	22	31	297	124

II. PERCENTAGE OF OWNERSHIP IN FIRM: Please indicate by percentage (%) how ownership of the firm is distributed. **CORPORATE OWNED**

	Black/African American	Hispanic/Latino	Asian or Pacific Islander	American Indian	Filipino	White
Men	%	%	%	%	%	%
Women	%	%	%	%	%	%

III. CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, AND DISABLED VETERAN BUSINESS ENTERPRISES: If your firm is currently certified as a minority, women, disadvantaged or disabled veteran owned business enterprise by a public agency, complete the following and attach a copy of your proof of certification. (Use back of form, if necessary.)

Agency Name	Minority	Women	Disadvantaged	Disabled Veteran	Other

Proposer further acknowledges that if any false, misleading, incomplete, or deceptively unresponsive statements in connection with this proposal are made, the proposal may be rejected. The evaluation and determination in this area shall be at the Director's sole judgment and his/her judgment shall be final.

DECLARATION: I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE.

PROPOSER NAME: HORNBLOWER YACHTS, LLC		COUNTY WEBVEN NUMBER: 14896601
ADDRESS: PIER 3 HORNBLOWER LANDING		
PHONE NUMBER: 415-788-8866	E-MAIL: KLORTON@HORNBLOWER.COM	
PROPOSER OFFICIAL NAME AND TITLE (PRINT): KEVIN LORTON, VICE PRESIDENT AND GENERAL MANAGER		

EXHIBITS

Exhibit A: Vessel Performance Standards

Exhibit B: WaterBus Boarding Locations

Exhibit C: Right of Entry Permit

Exhibit D: County's Administration

Exhibit E: Department-owned Vessel Specifications

VESSEL PERFORMANCE STANDARDS

The following are minimum performance standards and specifications that must be met by the vessels used by the Contractor to provide WaterBus service on behalf of the County.

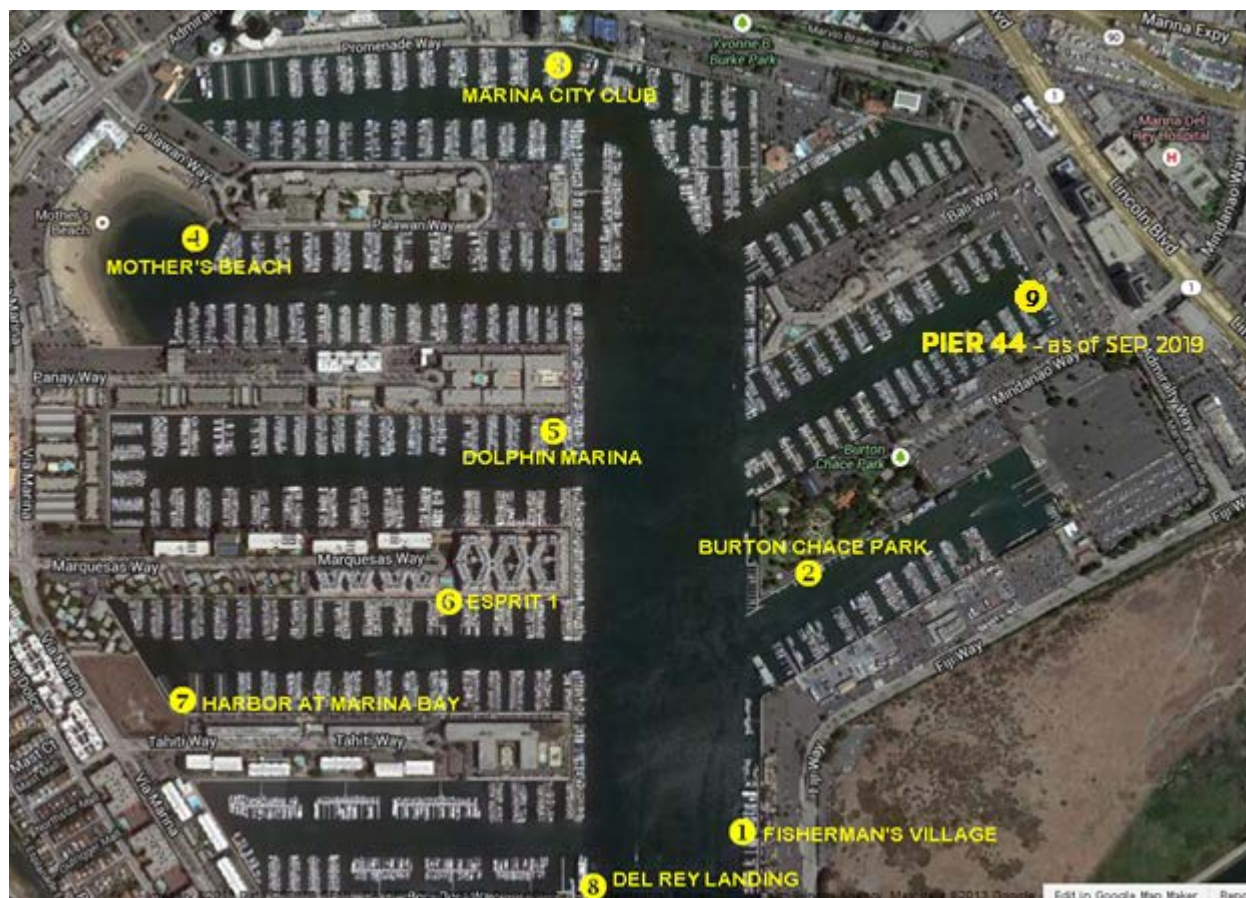
These vessel standards and specifications may be used in part to evaluate, rank and award points for each bid proposal.

1. Vessels with a capacity of at least 22 passengers are preferred;
2. Each vessel shall safely accommodate at least two (2) disabled passengers in wheelchairs;
3. Each vessel shall safely accommodate up to four (4) bicycles;
4. Each vessel shall safely accommodate strollers;
5. Each vessel shall be of either aluminum or composite construction;
6. Each vessel shall provide adequate stability for use on Marina waters as defined in Title 46 Code of Federal Regulations (46 CFR);
7. Standard vessel designs are acceptable provided they satisfy all requirements;
8. Pontoon vessels are preferred;
9. Each vessel shall be highly maneuverable and capable of turning 360 degrees within one (1) boat length.
10. Each vessel shall be delivered with a heavy-duty highway trailer that bears a valid California license for landside storage and transport, and shall have fitted all-weather coverings for protection;
11. All vessels must be able to operate 8 nautical miles per hour for 12 hours at full load with a 10% fuel reserve;
12. Twin-screw propulsion systems are preferred to improve maneuverability;
13. All vessels shall have boarding locations on both sides with a freeboard of approximately 18 inches;
14. All vessels shall be fitted with a transfer span to allow access to and from boarding floats with a freeboard of 18 inches with a maximum slope of 1:12 (8.33%);

VESSEL PERFORMANCE STANDARDS

15. Each vessel shall be provided with a USCG Certificate of Inspection for service within Marina del Rey and the entrance channel to Marina del Rey as defined in the Los Angeles County Code with a one (1) person crew;
16. Each vessel shall carry a Los Angeles County Water Taxi "Vessel" License on board;
17. The WaterBus contractor shall carry a Los Angeles County Water Taxi "Operator" License on its premises;
18. All vessels shall be able to securely accommodate themed graphics, including at least two (2) banners as determined by the Department; and
19. Operated with preferred alternative fuel and environmentally sensitive technologies as listed below:
 - Clean diesel
 - Diesel-electric
 - Gas/GNC-electric
 - Solar-electric (hybrid)
 - Fuel cells

WATERBUS BOARDING LOCATIONS

**WaterBus Boarding Locations:**

1. Fisherman's Village
2. Burton Chace Park
3. Marina City Club
4. Mother's Beach
5. Dolphin Marina
6. Esprit 1
7. Harbor at Marina Bay
8. Del Rey Landing
9. *Pier 44 (starting Sept 2019)*



LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
13837 Fiji Way, Marina del Rey, California 90292

RIGHT OF ENTRY PERMIT NO. XXXX ("Permit")

Effective Date: _____ Expiration Date: _____

BEACH/FACILITY ("Premises"): **EIGHT (8) Marina del Rey dock locations**, as depicted in Exhibit B

PERMITTEE ("Permittee"): _____

CONTACT: _____

PURPOSE OF PERMIT ("Purpose of Permit"): access to the Premises, as depicted in Exhibit B, ("WaterBus Boarding Locations") to provide water bus services relating to the Marina del Rey water bus service (WaterBus Service), County Contract No. XXXX ("Contract")

EQUIPMENT TO BE USED: Boats and appurtenances customarily utilized for the performance of the activities set forth under the above Purpose of Permit: water bus pontoons

STAGING AREA: (none requested)

APPLICATION DATE: _____
PROCESSING FEE: \$ _____

ISSUE DATE: _____
**COUNTY OF LOS ANGELES ("COUNTY"),
DEPARTMENT OF BEACHES AND
HARBORS ("DEPARTMENT")**

TOTAL DUE: \$ _____

**GARY JONES, DIRECTOR or
Authorized Representative**

AMOUNT PAID: \$ _____
RECEIPT NO. _____

By: _____

Chief Property Manager
Asset Management Division

THIS PERMIT INCLUDES AND IS SUBJECT TO THE TERMS AND CONDITIONS AND AMENDMENTS LISTED ABOVE AND BELOW AND TO THE PROVISIONS LISTED UNDER THE "GENERAL PROVISIONS" SECTION HEREIN

SPECIAL CONDITIONS:

- County Contract.** Permittee shall abide by all provisions set forth in the Contract. To the extent that any of the provisions of the Contract and this Permit shall have contrary provisions, the terms, conditions, and limitations of the Contract shall prevail.
- WaterBus Boarding Locations on Private Docks.** Permittee shall abide by rules and regulations set forth at all WaterBus Schedule Boarding Locations, including without limitations: (a) operating the WaterBus Service in accordance to the WaterBus Schedule Boarding Locations; (b) at location No. 3 (Waterfront Walk): (i) escorting WaterBus passengers to and from the dock gate, and (ii) closing the dock-gangway gate; and (c) at location No. 8 (Del Rey Landing), attending an on-site safety training;

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3. **Additional WaterBus Service.** In addition to providing the WaterBus Service as described in the WaterBus Schedule and Boarding Locations, Permittee shall provide WaterBus Service during the Department sponsored XXX event, at the same dock locations, on the date of XXX.
4. **Los Angeles County Sherriff's Department.** Permittee shall complete the Application and Permit to Conduct a Marine Event within Marina del Rey Small Craft Harbor and return it to the Los Angeles County Sheriff's Department, Marina del Rey Station, before starting any work under this Permit.
5. **Best Efforts to Ensure Public Safety.** Permittee shall exercise all the necessary precautions to safeguard the public from injury. Such precautions shall include without limitation, exercising extra caution when navigating through the area described in Exhibit A as WaterBus Boarding Location No. 4 (Marina "Mother's" Beach), where it is open to swimmers and small vessels such as kayaks and dinghies.
6. **Condition of Premises; Alterations.** Permittee has examined the Premises and is familiar and satisfied with the condition thereof. Permittee accepts the Premises "AS IS" with all faults and without any representation or warranty by County as to its condition or suitability for Permittee's use or any other use thereof, in its present state and condition and waives any and all rights or demands against County for any alteration, repair, modification or improvement thereof. Permittee shall make no alterations or improvements to the Premises without prior written approval from the County. Permittee shall arrange for and bear the cost of all required governmental permits, site preparation, utility installation, surface treatment, Premises containment or enclosure, insurance, and utility service, and other costs of any nature whatsoever that are incurred by Permittee or Permittee Parties or otherwise required in connection with Permittee's activities on the Premises. Permittee shall not be entitled to any reimbursement, credit or offset from County for any of such costs, or for any work performed by or on behalf of Permittee.
7. **Premises Current Condition.** Permittee acknowledges that it examined the Premises and is familiar and satisfied with the conditions thereof.

Prior to starting any work under this Permit, Permittee shall take photos to document the preexisting condition of the Premises, including without limitation, all paved-surface and striping, any dents, divots, and gashes. Such photos shall be submitted to the Right of Entry Permit Administrator no later than one week after they are taken.
8. **No Change to Approved Exhibits.** Permittee shall make no changes to any exhibits, without the prior written approval from the Department. Permittee may request Department's approval for any changes to an exhibit, in writing, by contacting the then right-of-entry permit administrator ("Right of Entry Permit Administrator"). The Department's Right of Entry Permit Administrator is Stephen Nguyen (email: SNguyen@bh.lacounty.gov). The Department shall have the right to deny any requests in its sole and absolute discretion.
9. **Working Hours.** All activities under and during the term of this Permit shall be performed within the timeframe stated in the WaterBus Schedule and Boarding Locations ("Working Hours").
10. **No Storage Permitted.** Permittee is strictly prohibited from storing any kind of material or equipment on the Premises at any time,
11. **Premises Prior Conditions.** Permittee shall take photos to document the conditions of the Premises prior to Permittee's work, and submit such photos to the Department within one week after they were taken.
12. **Best Efforts to Minimize Negative Impact.** Permittee shall minimize the negative impact on any of the County's operations, including without limitation ensuring that all vehicles and equipment belonging to Permittee, its agents, employees, contractors, subcontractors, invitees, visitors, servants, and anyone holding under the Permit (collectively, "Permittee Parties") do not block any driveways, entrances or exits, parking spaces, emergency access ways or bike paths, except as expressly permitted under this Permit. Emergency vehicles must be able to navigate safely and freely in and out of the Premises at all times.
13. **Advertising and Marketing Materials.** Permittee shall not exhibit or permit any Permittee Party to exhibit any advertising signs or other marketing material on the Premises, other than signs displaying the name and



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telephone number of Permittee or information permanently affixed to Permittee's or Permittee Parties' vehicles, unless prior written approval of the Director of the Department is first obtained.

14. **Public Courtesy.** Permittee shall conduct work in a courteous, non-profane, and first-class workmanlike manner. Permittee shall not interfere with the use of the Premises by the County or the public, except as herein permitted. Permittee shall promptly remove or cause to be removed from the Premises all Permittee Parties that fail to conduct activities in the manner heretofore described.
15. **Parking.** Permittee is not granted parking privileges on the Premises or at any County parking lots. Permittee Parties shall pay the posted parking lot entry fee for each vehicle upon entry into the Premises or any other County parking lots and shall obey all posted parking lot rules and regulations. Any vehicles found without the valid-paid parking permit clearly visible and appropriately displayed on the left side of the dashboard will be subject to a SIXTY-THREE DOLLAR (\$63) parking citation or such fine as may be in force and effect at the time of citation issuance. Citations will not be waived under any circumstances.
16. **County Not Responsible for Permittee's Property.** Permittee understands and agrees that County shall not be responsible for any theft of or damage to the equipment, tools, vehicles, materials or other property of any Permittee Party or for any personal injury associated with any Permittee Party's entry onto the Premises or incurred in connection with the work under this Permit. Permittee shall indemnify, defend, and hold harmless the County for any and all claims, liabilities, damages, losses, costs and expenses (including without limitation, legal fees and costs) incurred by or brought against County in connection with or related to any of the matters set forth in the immediately preceding sentence.
17. **General Maintenance.** Permittee's general maintenance of the Premises shall include without limitation: (a) on a daily basis, removing all trash, debris or other materials generated in connection with the work under this Permit; (b) removing any graffiti tagged on the Premises or the property of Permittee or Permittee Parties within 24 hours after the earlier of the discovery of such graffiti by Permittee or Permittee Parties or the receipt of notice from the Department; (c) promptly repairing or replacing all damaged property caused by Permittee or Permittee Parties as soon as Permittee is aware of the damage but not later than five (5) calendar days after receipt of notification from the Department; (d) keeping the Premises affected by Permittee's work under this Permit and any of its property on the Premises in good working order, and maintaining such property in a neat, clean, and orderly condition at all times; (e) not permitting graffiti, rubbish, garbage, etc., to accumulate; (f) not using or allowing the use of the Premises for any illegal or unauthorized purpose; and (g) complying with all federal, state, and local laws, statues, and ordinances concerning the Premises and the use thereof.
18. **Repair and Restoration of Premises.** Permittee shall repair all damage caused by Permittee's work under this Permit, and restore the Premises to a substantially similar or better condition than it was at the time Permittee first entered the Premises. Such repair and restoration to the Premises shall include without limitation: (a) repairing or replacing all damaged property caused by Permittee or Permittee Parties; (b) removing all Permittee's property from the Premises; and (c) removing all trash or debris and returning the Premises in a broom-clean condition.

The Department shall have the right to inspect and require Permittee to perform further repair or restoration work if it deems the initial repair or restoration to be unsatisfactory.

19. **Permit Extension for Repair and Restoration Purpose.** Following the Expiration Date, the Permit may be automatically extended with the terms and conditions set forth herein, for the limited purposes of Permittee's repair and restoration work as required in above Special Condition No. 18 (if required by County).
20. **Failure to Comply with Permit's Terms and Conditions.** The failure of Permittee to comply with all terms and conditions of this Permit, including without limitation, these Special Conditions or the General Provisions set forth below, shall constitute a material breach of this Permit by Permittee and shall entitle County, in addition to any other rights or remedies, to immediately terminate or suspend this Permit.



ROE PERMIT NO. RE-XXXX

GENERAL PROVISIONS

1. **Notification to Permittee's Parties.** Permittee shall be responsible for informing Permittee Parties of the conditions of this Permit, and that a copy of this Permit shall be given to the contractor(s) and any subcontractor(s). Further, a copy of this Permit shall be kept at the work site at all times during the term of this Permit.
2. **Additional Conditions.** This Permit is subject to additional conditions that the Director of the Department or his representative may issue during the term of this Permit. When possible, such additional conditions shall be delivered in writing to the address or email address shown on the first page of this Permit.
3. **Compliance with other Permits and Approvals.** Permittee is advised that performance of the work under this Permit may require permits, approvals, waivers or recommendations from those regulatory agencies having jurisdiction thereof, including without limitation, the United States Army Corps of Engineers, the California Coastal Commission, and/or the California Department of Transportation. Permittee shall obtain all required permits, approvals, waivers or recommendations prior to commencing work, and shall keep and perform all provisions contained therein.
4. **Provide Department with all other Permits and Approvals.** Permittee shall provide the Department with a copy of all permits, approvals, waivers, or recommendations for the work under this Permit (including any and all extensions, updates, amendments or addenda) issued or to be issued to Permittee by any regulatory agency. Prior to the commencement of work under this Permit, Permittee shall demonstrate to the satisfaction of the Department that it has obtained and will maintain for the duration of this Permit, all permits, approvals, waivers or recommendations necessary for the work on the Premises, and other related work to be performed by Permittee on any other surrounding land. Failure to comply with this condition shall constitute a material breach of contract upon which the Department may immediately terminate or suspend this Permit.
5. **Compliance with Law.** Permittee shall, at its sole expense, comply with, and cause all Permittee Parties to comply with, all applicable codes, laws, rules, regulations, statutes, resolutions, ordinances, covenants, conditions and restrictions of County, City, State, the United States of America, the California Coastal Commission and/or other governmental or quasi-governmental entities ("Applicable Laws") or of any other person or entity (including without limitation, relevant provisions of the Americans with Disabilities Act ("ADA"), in effect during the term hereof, regulating the use, occupancy or improvement of the Premises.

Permittee also hereby warrants and represents that it shall comply with all federal, state, and local laws and regulations concerning the use, release, storage and disposal of Hazardous Substances on the Premises. "Hazardous Substance" shall mean any substance whose nature and/or quantity of existence, use, manufacture, disposal, release or effect, render it subject to federal, state, or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare.
6. **Best Management Practices.** Permittee shall be responsible for the selection and implementation of Best Management Practices ("BMPs") to prevent contamination of the Premises, adjacent land, water, or local sand. Such BMPs shall include without limitation, placing oil absorbent pads under all vehicles and equipment, and having absorbent material readily available to prevent any hazardous runoff or spill.
7. **Right of Use.** Permittee acknowledges that this Permit is issued to Permittee for the intended activities, and is not intended to create, and shall not be construed to create, the relationship of agent, servant, employee, partnership, joint venture, association or landlord/tenant, as between County and Permittee. It is expressly understood by Permittee that in allowing the right to use the Premises, no estate or interest in real property is being conveyed to Permittee, and that the right to use the Premises pursuant to this Permit is only a nonexclusive, revocable and un-assignable license to conduct work in accordance with the terms and conditions of this Permit.
8. **No Improvements Permitted.** Permittee shall not construct or place any improvements on the Premises.



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9. **Permittee's Right to Terminate.** Permittee may terminate this Permit at any time by giving County no less than thirty (30) calendar days' advance written notice of intention to terminate. However, such termination shall not be effective unless Permittee has complied with all of the following:
- Permittee shall vacate the Premises, including the removal of all equipment and property of Permittee and Permittee Parties and return the Premises in the condition required under this Permit. Permittee acknowledges that it shall be responsible for all costs of vacating the Premises.
 - Permittee shall have performed all of its obligations under this Permit with respect to the work performed prior to such termination or required to be completed by Permittee notwithstanding such termination, including without limitation, all repair and restoration obligations under this Permit and any additional work required to be performed pursuant to Special Condition No 18.
 - An authorized County representative shall have the right to inspect the Premises for compliance with this Permit. Until such compliance is confirmed in writing by an authorized County representative, Permittee shall continue to be responsible for the condition of the Premises.
10. **County's Right to Terminate.** Except as otherwise provided for immediate termination for a material breach of this Permit, County may terminate this Permit at any time by giving Permittee thirty (30) calendar days' written notice of termination. Upon termination for any reason, Permittee shall vacate the Premises as required under this Permit. Permittee agrees that if it fails to vacate and return the Premises to County as herein provided, then County or its authorized agents may enter upon the Premises, remove Permittee's personal property therefrom and perform any obligations of Permittee that Permittee fails to perform hereunder. Permittee shall reimburse County for all expenses incurred by the County pursuant to the immediately preceding sentence, plus interest at the maximum rate allowed by law, accruing from the day County incurred the expense until such time as the principal and interest are fully paid. Permittee waives any and all claims for damages against the County, its officers, agents, or employees in connection with any such termination. This paragraph shall be in addition to, and no term or provision of this Permit shall be deemed a waiver of, any rights of the County to demand and obtain possession of the Premises in accordance with law, if Permittee violates any term or condition of this Permit.
11. **County's Right to Terminate or Temporarily Suspend.** It is understood and agreed that County may terminate or temporarily suspend this Permit immediately upon notice to Permittee to allow the performance of work by County, its officers, agents, and employees, necessary to protect or safeguard persons or property, including without limitation the Premises, from impending danger, hazard, or harm; provided, however, that County shall have no duty, obligation or responsibility with respect to any such dangers, hazards or harms, or with respect to any such protections or safeguards.
12. **Complete Agreement.** This Permit constitutes the entire agreement of the parties with respect to the subject matter hereof. This Permit supersedes all oral and written agreements and understandings made and entered into by the parties before the date hereof. This Permit may be modified only by a written agreement executed by the parties.
13. **Permittee's Waiver and Release.** Permittee hereby waives, and releases County from and against, any and all claims or liabilities for damage to the Premises or injuries to persons that may arise from or be incidental to this Permit or the use and occupancy of the Premises by Permittee or Permittee Parties, or for damages to the property of Permittee or Permittee Parties, or for injuries to Permittee or Permittee Parties or any other person.
14. **Indemnification and General Insurance Requirements.** Except for such claim, liability or financial loss or damage caused by the sole negligence or willful misconduct of the County, as determined by final arbitration or court decision or by agreement of the Parties, Permittee shall protect, indemnify, defend (with counsel reasonably satisfactory to County), and hold harmless County, its Special Districts, elected and appointed officers, employees and agents, from and against any and all liabilities, demands, claims, injury, illness or death, causes of action of any nature or character whatsoever, losses, damage to or destruction of property arising out of or in any way connected to this Permit, fees, costs, and expenses (including court costs, attorney and expert witness fees, and other litigation costs) that arise from or are related to the entry by, or the activities of,



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Permittee or Permittee Parties, or connected with the design, construction, or the use or operation of the work under this Permit, on the Premises or any adjacent or surrounding property.

Such indemnification shall survive in its entirety the termination, suspension, or revocation of this Permit, and shall remain in full force and effect in perpetuity, unless agreed to otherwise in writing by the County.

Without limiting the indemnification or other obligations and liabilities of Permittee under this Permit, Permittee shall, at its own expense, maintain in full force and effect, and require its contractors to maintain in full force and effect, at all times during the term of this Permit (and including any period after the expiration or termination of this Permit prior to when Permittee completes all of its repair, restoration or other obligations under this Permit), a policy or policies of insurance covering the Premises affected by Permittee's work under this Permit and Permittee's use and occupancy of the Premises. Such insurance shall be provided by insurer(s) satisfactory to the County. Permittee, at its sole option, may satisfy all or any part of this insurance requirement through use of a program of self-insurance (i.e., self-funding of its liabilities), subject to County's prior approval. Permittee shall deliver to the Department evidence of such insurance coverage or documentation evidencing self-funding and obtain County's approval thereof prior to any entry onto the Premises or the performance of any work under this Permit.

Immediately upon execution of this Permit, Permittee shall deliver to County a certificate evidencing coverage or documentation evidencing self-insurance. Permittee's failure to so deliver such evidence of insurance or self-insurance shall be a material breach of this Permit and entitle County to immediately terminate or suspend this Permit.

At all times during the term of this Permit, Permittee shall cause its contractor(s), including any subcontractor(s), to provide and maintain the following programs of insurance coverage. Such insurance shall provide, at a minimum, all of the following:

- (a) Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County of Los Angeles, its Special Districts, elected officials, officers, agents, employees and volunteers (collectively, "**County and its Agents**") as additional insureds with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

The Products/Completed Operations coverage shall continue to be maintained in at least the amount indicated above for at least two (2) years from the date when work under this Permit is completed and accepted by Permittee.

- (b) County and its Agents shall be provided additional-insured status under Permittee's and contractor(s) and/or subcontractor(s)' General Liability policies with respect to liability arising out of Permittee's and its contractors' and subcontractors' ongoing and completed operations performed on the Premises. County and its Agents' additional-insured status shall apply with respect to liability and defense of suits arising out of Permittee's acts or omissions, whether such liability is attributed to Permittee or to the County. If County is not named as an additional insured in the original general liability policy, Permittee shall obtain an endorsement to satisfy this provision.

- (c) This Permit No. **RE-014-17** is included as part of the insured premises, to be evidenced by an endorsement or a similar instrument. (If the Premises and this Permit is not named as an additional insured in the original policy, Permittee shall obtain an endorsement to satisfy this provision.)

- (d) Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Permittee's use of autos pursuant to this Permit, including owned, leased, hired, and/or non-owned autos, as each may be applicable.



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(e) Workers' Compensation and Employers' Liability insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, which includes without limitation Employers' Liability coverage with limits of not less than \$1 million per accident and which specifically covers the persons and risks involved in this Permit. Permittee understands and agrees that all persons furnishing services pursuant to this Permit are, for purposes of Workers' Compensation liability, employees solely of Permittee and not of County. Permittee shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services performed on behalf of Permittee pursuant to this Permit.

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII, unless otherwise approved by County.

All policies of insurance or comparable programs of self-insurance shall be with a company or companies authorized by law to transact insurance business in the State of California.

Copies of certificates of insurance or other proof of insurance coverage by Permittee and its contractors shall be delivered by Permittee to:

County of Los Angeles
Department Beaches and Harbors
Asset Management Division
Attention: Right of Entry Permit Administrator
13837 Fiji Way
Marina del Rey, CA 90292

Permittee also shall promptly report to County: (a) any personal injury or property damage accident or incident, including without limitation any injury to an employee or agent of Permittee or Permittee Parties occurring on the Premises or in connection with the work under this Permit; and (b) any third-party claim or suit filed or threatened against Permittee or any Permittee Party that arises from or relates to this Permit.

Failure on the part of Permittee to procure or maintain required insurance or to verify its contractors' required insurance shall constitute a material breach of this Permit, entitling County to immediately terminate or suspend this Permit.

Upon renewal of any of the policies of insurance, Permittee shall furnish to County a Certificate of Insurance evidencing Permittee's continued insurance coverage. Permittee shall ensure that County shall be given notice in writing at least 30 days in advance of cancellation or modification of each such policy.

Permittee shall provide, or ensure that County shall be given, written notice of cancellation or any change in the above-noted minimum requirements, including insurer, limits of coverage, and term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Permittee's failure to so provide such written notice of cancellation or any change in the above-noted minimum requirements shall constitute a material breach of this Permit, upon which County may immediately terminate or suspend this Permit.

15. **Environmental Matters.** Permittee hereby warrants and represents that it and the Permittee Parties shall comply with all applicable Federal, State, and local laws and regulations concerning the use, release, storage and disposal of hazardous substances on the Premises. For purposes of this Agreement, the term "hazardous substances" shall be deemed to include hazardous, toxic or radioactive substances, as defined in California Health and Safety Code Section 25316, as amended from time to time, or the same or a related defined term in any successor or companion statutes, and crude oil or byproducts of crude oil other than crude oil which exists on the Real Property as a natural formation, and those chemicals and substances identified pursuant to Health and Safety Code Section 25249.8., as it may be amended from time to time.



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Permittee shall protect, indemnify, defend, and hold harmless County and the County's Special Districts, elected and appointed officers, employees, agents and contractors against any and all losses, liabilities, claims and costs (including reasonable attorneys' fees and costs) to the extent arising from the breach of any warranty or agreement contained in this environmental-matters General Provision by Permittee or Permittee Parties.

The County may at any time and from time to time, and at its sole discretion, enter upon the Premises to conduct, or have conducted, environmental site assessments. If such an assessment indicates a violation of this environmental-matters General Provision, County may, at its sole discretion, immediately terminate or suspend this Permit. Permittee shall bear any and all responsibility, expense, and liability incurred in the cleanup and treatment of any hazardous materials or condition found on the Premises caused by Permittee's use, storage, or treatment of any hazardous materials on or within the Premises.

16. **County Lobbyist.** Each "County Lobbyist," as defined in Los Angeles County Code Section 2.160.010, retained by Permittee shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any County Lobbyist retained by Permittee to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Permit, upon which County may immediately terminate or suspend this Permit.
17. **Surviving Obligations.** Notwithstanding any contrary term or provision of this Permit, no expiration or termination of this Permit shall release or relieve Permittee from: (a) any obligations or liabilities that arise or accrue prior to such expiration or termination; or (b) any obligations or liabilities of Permittee relating to the repair, restoration or surrender of the Premises. Permittee's obligations and liabilities set forth in the immediately preceding sentence shall survive any suspension, expiration or termination of this Permit.
18. **Suspected Fraud.** Permittee shall, and shall direct Permittee Parties to, report any suspected fraud or wrongdoing by any County employee. Such report may be made anonymously, at the County Fraud Hotline (800) 544-6861, or www.lacountyfraud.org.
19. **Appropriateness or Suitability of Permittee's Work.** County makes no representations regarding County's reviews, if any, of any work plans, specifications, or documentation as to Permittee's work, submitted by Permittee or Permittee Parties. Permittee further acknowledges and agrees that the issuance of this Permit to allow for the entry for the work under this Permit, does not constitute any approval, either implied or explicit, on the part of the County, as to the appropriateness or suitability of Permittee's work under this Permit.
20. **Governing Law.** This Permit shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. In the event of any dispute regarding the conditions of this Permit, or the rights or obligations of the parties hereto, such dispute shall be submitted to arbitration in accordance with the provisions of the California Arbitration Act (California Code of Civil Procedure Section 1280 et seq.).
21. **Interpretation.** Unless the context of this Permit clearly requires otherwise: (i) the plural and singular numbers shall be deemed to include the other; (ii) the masculine, feminine and neuter genders shall be deemed to include the others; (iii) "or" is not exclusive; and (iv) "includes" and "including" are not limiting.



ACCEPTANCE

Permittee represents and warrants that the signatory to this Permit is fully authorized to obligate Permittee hereunder and that all acts necessary for the execution of this Permit have been accomplished.

The undersigned Permittee acknowledges that it has read, understands and agrees to all the terms, conditions, and restrictions contained in this Permit.

PERMITTEE:

Signature: _____

Name in Print: _____

Title: _____

Date: _____

WARNING: COMPLETION OF AN APPLICATION CONFERS NO PRIVILEGES UPON THE APPLICANT. DO NOT ATTEMPT TO ENTER OR USE THE PREMISES UNTIL YOU HAVE RECEIVED A FULLY EXECUTED PERMIT. ANY ATTEMPT TO ENTER OR USE THE PREMISES MAY CAUSE YOUR APPLICATION TO BE REJECTED AND MAY SUBJECT YOU TO CIVIL OR CRIMINAL PROSECUTION.



COUNTY'S ADMINISTRATION

CONTRACT NO. _____

COUNTY PROJECT DIRECTOR:

Name: Carol Baker, Community and Marketing Services Division
Title: Division Chief
Address: 4701 Admiralty
Marina del Rey, CA 90292
Telephone: (310) 305-9562
Facsimile: (310) 306-6605
Email Address: CBaker@bh.lacounty.gov

COUNTY'S CONTRACT ADMINISTRATOR(S):

Name: Lucie Kim, Community and Marketing Services Division
Title: Senior Marketing Analyst
Address: 4701 Admiralty Way
Marina del Rey, CA 90292
Telephone: (424) 526-7875
Facsimile: (310) 822-0119
Email Address: LKim@bh.lacounty.gov

Name: Michael Blenk, Community and Marketing Services Division
Title: Real Property Agent II
Address: 4701 Admiralty
Marina del Rey, CA 90292
Telephone: (424) 526-7882
Facsimile: (310) 822-0119
Email Address: MBlenk@bh.lacounty.gov

Specifications for County-owned Vessels

VESSEL #1 SPECIFICATIONS:

VESSEL TYPE: Commercial Pontoon Boat with Single Motor

LENGTH: 35 feet

WIDTH: 10 feet

PONTOON LENGTH: 36 inch diameter

MINIMUM PASSENGER CAPACITY: 24

MAXIMUM PASSENGER CAPACITY: 28

VESSEL #2 SPECIFICATIONS:

VESSEL TYPE: Commercial Pontoon Boat with Dual Motor

LENGTH: 45 feet

WIDTH: 12 feet

PONTOON LENGTH: 42 inch diameter

MINIMUM PASSENGER CAPACITY: 49

MAXIMUM PASSENGER CAPACITY: 55