To enrich lives through effective and caring service

May 12, 2009

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

46 MAY 12, 2009

SACHI A. HAMAI
EXECUTIVE OFFICER

Los Angeles County Department of Beaches & Harbors

Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 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 for residents and visitors of Marina del Rey during the summer months of 2009, with an option to extend the contract twice more for two years each for a potential total of five years.

IT IS RECOMMENDED THAT YOUR 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 Chairman of the Los Angeles County Board of Supervisors to sign a one-year contract, with two possible two-year extension options, with Hornblower Yachts, Inc. for Marina del Rey WaterBus service from June 26, 2009 through September 7, 2009, to commence on the day of your Board's approval, at an annual County cost not to exceed $269,933.

3. Authorize the Director of the Los Angeles County Department of Beaches and Harbors to exercise the two two-year contract renewal options for this contract, if, in his opinion, Hornblower Yachts, Inc. has successfully performed the services during the previous contract period and the services are still required.

4. Authorize the Director of the Department of Beaches and Harbors to increase the contract amount for this contract by up to 10% in any year of the contract or any option year, 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, Inc. (Hornblower Yachts) will enable the Department of Beaches and Harbors (Department) to provide WaterBus service in Marina del Rey (Marina) for residents and visitors between seven points in the Marina. By providing direct access to the water, as well as itself being a water activity, the program will attract visitors and encourage leisurely weekend use of the Marina as a tourist destination, thereby increasing patronage of retail restaurants and other amenities and, therefore, revenue to the County. In addition, it will provide an alternative form of transportation for residents in the Marina, including providing bicyclists with access to the South Bay Bicycle Trail (coastal bike path) and avoidance of busy streets such as Washington Boulevard.

Implementation of Strategic Plan Goals

The WaterBus service provided by the contractor will promote and further the Board approved Strategic Plan Goal of Community and Municipal Services (Goal 3) as it enables the Department to facilitate enhanced use of Marina facilities, while providing recreational and transportation alternatives for residents and visitors.

FISCAL IMPACT/FINANCING

The total compensation for the Marina del Rey WaterBus service shall not exceed $269,933 in any contract year except for increases up to 10%, which may be authorized by the Department Director for service changes as described below. For the first contract year, the funding for this service has been made available through a $323,000 loan secured by the Department from the Quality and Productivity Commission's Productivity and Investment Fund (PIF); any unspent funds in FY 2008-09 will be carried over into FY 2009-10 to partially fund the first extension option, if executed by the Department. The balance of the first extension option and the second extension option will be funded, if executed, through the Marina operating budget. Repayment of the PIF loan is anticipated to be paid in three annual installments of $105,905 from FY 2009-10 through FY 2011-12.

The contract amount covers service at seven docking sites. To compensate the contractor should the service area/hours covered by the contract be expanded after the start date of the contract, the Department's Director may, by written notice to the contractor, increase the maximum compensation by up to 10% during the term of the contract or any option year. Should the service area/hours increase or decrease, compensation will be based on the quoted hourly rates.

The contract allows no cost of living adjustment (COLA) in the contractor's rate of compensation.

Operating Budget Impact

The Department has submitted a $323,000 Action Budget Adjustment to the Auditor-Controller and Chief Executive Office to recognize the PIF loan in the FY 2008-09 Marina operating budget to fund costs related to the first year of the contract. There is sufficient appropriation in the Marina operating budget for the repayment of the PIF loan, which is anticipated to be paid in three annual installments of $105,905 from FY 2009-10 through FY 2011-12, as well to fund the two extension options, if executed.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The contract with Hornblower Yachts is for WaterBus service for an initial one-year term from June 26, 2009 through September 7, 2009. The service will include seven docking locations, including Fisherman's Village, Burton Chace Park, Marina "Mother's" Beach/Parcel 91 dock, the Waterfront Walk Fire Station #110 dock, the Dolphin Marina dock, the Esprit I dock, and the Marina Harbor dock. The service will be provided on Fridays, 5:00 p.m. to 12:00 a.m. (midnight), Saturdays, 11:00 a.m. to 12:00 a.m. (midnight), Sundays, 11:00 a.m. to 9:00 p.m., four Thursday nights, from 5:00 p.m. to 12:00 a.m. (midnight), and Labor Day, 11:00 a.m. to 9:00 p.m.

The contractor will bill for WaterBus service at fixed hourly rates up to a maximum of $269,933. The contractor is to charge and retain a $1 fee per passenger, per trip. The contractor will provide and be compensated for one operator per vessel and one docking assistant at each of the seven docking locations.

The contract amount has increased by slightly less than $9,000 over the previous contract approved by your Board on May 30, 2006.

The contract contains the County's standard provisions regarding contractor obligations and is in compliance with all Board, Chief Executive Office (CEO) and County Counsel requirements.

The contract is not subject to the County's Living Wage Ordinance, as the services are being utilized on a temporary basis.

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.

The Small Craft Harbor Commission (SCHC) will not hold its May meeting in advance of your Board's consideration of this contract, and, thus, there is no SCHC recommendation.

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

The Department conducted a Request for Proposals (RFP) process in selecting its proposed contractor. This contract solicitation was advertised in the Eastside Sun, Lynwood Journal, Daily Breeze, Culver City News, the Los Angeles Daily News, Compton Bulletin, Santa Monica Daily Press and the L. A. Watts Times. The opportunity was also advertised on the "Doing Business with the County" Internet site, as well as the Department's own Internet site. The RFP was available for download from both of these websites. Thirty-nine notices inviting proposals were forwarded to firms from our vendor listing and pursuant to requests received through our advertising efforts.

Four firms submitted proposals that met the RFP's minimum requirements and were evaluated. A three-person evaluation committee, comprised of two staff members from the Department's Community and Marketing Services Division and one staff member from the Department's Asset Management Division, evaluated the four proposals based on a weighted evaluation of (1) Price, 40%; (2) Approach to Contract Requirements, 20%; (3) Experience and Organizational Resources, 20%; (4) Quality Control Plan, 10%; and (5) References, 10%. Of the four proposals evaluated, the committee determined that Hornblower Yachts is the most responsive and responsible proposer, ranking highest of the proposals evaluated.

Hornblower Yachts has over 20 years' experience providing water passenger transportation services in Marina del Rey and has available the necessary resources to deliver quality services for a successful WaterBus season.

Attachment II details the minority and gender composition of the proposers. On final analysis and consideration of award, Hornblower Yachts was selected without regard to gender, race, creed or color.

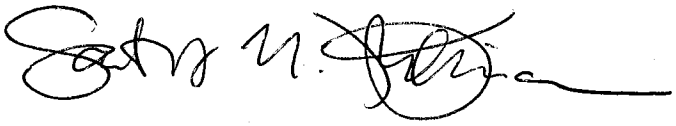
IMPACT ON CURRENT SERVICES (OR PROJECTS)

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

CONCLUSION

Authorize the Executive Officer of the Board to send three approved copies of this letter, as well as four executed copies of the contract, to the Department of Beaches and Harbors.

Respectfully submitted,



SANTOS H. KREIMANN
Director

SHK:SDP:nat

Attachments (2)

c: County Counsel
Chief Executive Office

ATTACHMENT I

CONTRACT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

HORNBLOWER YACHTS, INC.

FOR

WATERBUS SERVICE

No 76981

46 of MAY 12, 2009

LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
WATERBUS SERVICE CONTRACT

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LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
WATERBUS SERVICE CONTRACT

PART ONE – GENERAL CONDITIONS

1.1 INTRODUCTION

1.1.1 Parties

This Contract is entered into by and between the County of Los Angeles (the "County") and Hornblower Yachts, Inc. (the "Contractor").

1.1.2 Recitals

The 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, Form P-1 (Offer to Perform) and Form P-3 (Proposers Work Plan) are true and correct. The Contractor further represents that the express representations, certifications, assurances and warranties given by the Contractor in response to the Request for Proposals are true and correct, including but not limited to Forms P-3, P-4, P-5, P-6, P-7 and P-8 submitted with the Contractor's Proposal.

1.1.3. Effective Date

The effective date of this Contract shall be the later of June 26, 2009 or the date of Board approval.

1.1.4 Contract Provisions

The Contract is comprised of this Part 1 (General Conditions), Part 2 (Standard Contract Terms and Conditions), Part 3 (Unique Terms and Conditions), Exhibits and Forms, all of which are attached to this Contract and incorporated by reference. It is the intention of the parties that when reference is made in this Contract to the language of the Request for Proposals (RFP), the Exhibits or the Proposal, such language shall be deemed incorporated in the Contract; the language of such other part of the Contract shall prevail.

No 769981

1.1.5 Work to be Performed

Contractor shall perform the work set forth in Attachment B, Statement of Work and Form P-3. Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time all tasks, deliverables, services and other work 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.

1.1.6 Rescission

The County may rescind the Contract for the Contractor's misrepresentation of any of the matters mentioned in Section 1.1.2. In the case of a misrepresentation of the facts set forth in Section 2.49 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.

1.1.7 Supplemental Documents

Prior to commencing services under the Contract, the selected Proposer shall provide the Contract Administrator with satisfactory written proof of insurance complying with Section 2.23.

1.2 INTERPRETATION OF CONTRACT

1.2.1 Headings

The headings contained in the Contract are for convenience and reference only. They are not intended to define or limit the scope of any provision of the Contract.

1.3. CONTRACT TERM

1.3.1 Initial Term

The initial Contract term shall commence on the later of June 26, 2009 or after execution by the County's Board of Supervisors, and end on September 7, 2009, unless sooner terminated or extended, in whole or in part, as provided in this Contract.

1.3.2 Two Two-Year Extension Options

If the Director determines that it is in the interest of the County to do so, he may grant up to two two-year extensions of the Contract term. 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 two-year extension option.

1.3.3 Contractor to Notify County When It Is within 6 Months from Expiration of Term

The Contractor shall notify the Department when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to the Department.

1.3.4 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.

1.4 CONTRACT SUM

1.4.1 Compensation

The net amount the County shall expend from its own funds during the Contract term for WaterBus service shall not exceed $269,933. The County may at its discretion expend any portion, all or none of that amount.

1.4.2 Increase of Contract Sum by Director

Notwithstanding Section 1.4.1, the Director may, by written notice to the Contractor(s), increase the $269,933 sum referenced in Section 1.4.1 by up to 10 percent during the Contract term to accommodate an increase in staffing, additional boarding locations and/or working hours in accordance with Section 1.4.4, subject to the availability of funds in the Department's budget.

1.4.3 Decrease of Contract Sum by Director

Notwithstanding Section 1.4.1, the Director may, by written notice, decrease the Contract Sum to accommodate a decrease in staffing and/or working hours in accordance with Section 1.4.4. The decreased Contract Sum will be calculated based on the hourly rates on Form P-1.

1.4.4 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.

1.4.5 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.

1.4.6 Contractor to Notify County When it has Received 75% of Total Contract Amount

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

1.4.7 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.

1.5 INVOICES AND PAYMENTS

1.5.1 Contractor's Invoice Procedures

The Contractor shall submit an invoice to the Department on or before the fifteenth day of each month for compensation earned during the preceding calendar month. The Contractor shall submit two copies of each invoice and shall submit a separate invoice for each Work Order on which it claims payment. Invoices shall identify the Contract number, Contractor address, vessel names used, the dates, hours, and number of operators used to perform the service.

The County may withhold from payment any amount assessed by the CA 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 Section 2.42, Termination for Default.

Upon the Department's receipt and the CA'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.

1.6 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 Representative.

1.7 BACKGROUND AND SECURITY INVESTIGATIONS

1.7.1 All Contractor staff performing work under this Contract shall undergo and pass, to the satisfaction of County, a background investigation which includes but may not be limited to fingerprinting (livescan) as a condition of beginning and continuing to work under this Contract. County shall use its discretion in determining the method of background clearance to be used. The fees associated with obtaining the background information shall be at the expense of the Contractor, regardless if the Contractor's staff passes or fails the background clearance investigation.

PART TWO – STANDARD CONTRACT TERMS AND CONDITIONS

2.1 AMENDMENTS

2.1.1 For any change which affects the scope of work, term, contract sum, payments, or any term or condition included under this Contract, an Amendment shall be prepared and executed by the Contractor and by the Board of Supervisors.

2.1.2 The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change or 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.

2.1.3 The Director of the Department or his/her designee, may at his/her sole discretion, authorize extensions of time as defined in Paragraph 1.3, 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.

2.2 ASSIGNMENT AND DELEGATION

2.2.1 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 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.

2.2.2 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.

2.2.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any 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.

2.3 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.

2.4 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.

2.5 COMPLIANCE WITH APPLICABLE LAW

2.5.1 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.

2.5.2 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 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 2.5 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 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 other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

2.6 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-6 - Contractor's EEO Certification.*

2.7 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM

2.7.1 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 *Exhibit 6* and incorporated by reference into and made a part of this Contract.

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

2. For purposes 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, 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.

2.8 CONFLICT OF INTEREST

2.8.1 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.

2.8.2 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 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 sub-paragraph shall be a material breach of this Contract.

2.9 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.

2.10 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

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.

2.11 CONTRACTOR RESPONSIBILITY AND DEBARMENT

2.11.1 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.

2.11.2 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.

2.11.3 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.

2.11.4 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 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.

2.11.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of County Contractors.

2.12 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. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

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

2.13.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through contract 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.

2.13.2 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).

2.14 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will evaluate the Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors. The report 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.

2.15 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

2.15.1 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.

2.15.2 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.

2.16 EMPLOYMENT ELIGIBLITY VERIFICATION

2.16.1 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 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.

2.16.2 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.

2.17 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 1.1, 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.

2.18 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.

2.19 FORCE MAJEURE

2.19.1 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").

2.19.2 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.

2.19.3 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.

2.20 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.

2.21 INDEPENDENT CONTRACTOR STATUS

2.21.1 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.

2.21.2 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.

2.21.3 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.

2.22 INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents 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 or connected with the Contractor's acts and/or omissions arising from and/or relating to this Contract.

2.23 GENERAL INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the County and during the term of this Contract, the Contractor shall provide and maintain, and shall require

all of its Subcontractors to maintain, the following programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County. Such coverage shall be provided and maintained at the Contractor's own expense.

2.23.1 Evidence of Insurance: Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to:

Los Angeles County Department of Beaches and Harbors
Administrative Services Division, Contracts Section
13837 Fiji Way
Marina del Rey, CA 90292

Prior to commencing services under this Contract. Such certificates or other evidence shall:

- Specifically identify this Contract;
- Clearly evidence all coverages required in this Contract;
- Contain the express condition that the County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
- Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Contract; and
- Identify any deductibles or self-insured retentions for the County's approval. The County retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to the County, or, require the Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

2.23.2 Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less

that A:VII unless otherwise approved by the County.

2.23.3 **Failure to Maintain Coverage:** Failure by the Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to the County, shall constitute a material breach of the Contract upon which the County may immediately terminate or suspend this Contract. The County, at its sole option, may obtain damages from the Contractor resulting from said breach. Alternatively, the County may purchase such required insurance coverage, and without further notice to the Contractor, the County may deduct from sums due to the Contractor any premium costs advanced by the County for such insurance.

2.23.4 **Notification of Incidents, Claims or Suits: Contractor shall report to the County:**

- Any accident or incident relating to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against the Contractor and/or the County. Such report shall be made in writing within 24 hours of occurrence.
- Any third party claim or lawsuit filed against the Contractor arising from or related to services performed by the Contractor under this Contract.
- Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County's Contract Administrator.
- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to the Contractor under the terms of this Contract.

2.23.5 **Compensation for County Costs:** In the event that the Contractor fails to comply with any of the indemnification or insurance requirements of this Contract, and such failure to comply results in any costs to the County, the Contractor shall pay full compensation for all costs incurred by the County.

2.23.6 **Insurance Coverage Requirements for Subcontractors:** The Contractor shall ensure any and all Subcontractors performing services under this Contract meet the insurance requirements of this Contract by either:

- The Contractor providing evidence of insurance covering the activities of Subcontractors, or

- The Contractor providing evidence submitted by Subcontractors evidencing that Subcontractors maintain the required insurance coverage. The County retains the right to obtain copies of evidence of Subcontractor insurance coverage at any time.

2.23.7 Contractor shall not allow insurance to lapse. Proof of insurance shall comply with Contract requirements in all respects, including but not limited to state authorization of insurer, presence of each required coverage and policy limits.

2.24 INSURANCE COVERAGE REQUIREMENTS

2.24.1 **General Liability** insurance written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

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

2.24.2 **Automobile Liability** written on ISO policy form CA 00 01 or its equivalent with a limit of liability of not less than $1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

2.24.3 **Workers' Compensation and Employers' Liability**

Insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the Contractor is responsible. If the Contractor's employees will be engaged in maritime employment, coverage shall provide workers' compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which the Contractor is responsible. In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	$1 million
Disease - policy limit:	$1 million
Disease - each employee:	$1 million

2.24.4 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.

2.25 LIQUIDATED DAMAGES

2.25.1 If, in the judgment of the Director, or his/her designee, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Director, 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, or his/her designee, in a written notice describing the reasons for said action.

2.25.2 If the Director, or his/her designee, determines that there are deficiencies in the performance of this Contract that the Director, or his/her designee, deems are correctable by the Contractor over a certain time span, the Director, 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, 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 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 *Attachment C, Technical Exhibits*, 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.

2.25.3 The action noted in sub-paragraph 2.25.2 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.

2.25.4 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 2.25.2, and shall not, in any manner, restrict or limit the County's right to terminate this Contract as agreed to herein.

2.26 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.

2.27 NONDISCRIMINATION AND AFFIRMATIVE ACTION

2.27.1 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.

2.27.2 The Contractor shall certify to, and comply with, the provisions of Form 6 – Contractor's EEO Certification.

2.27.3 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.

2.27.4 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.

2.27.5 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.

2.27.6 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 2.27 when so requested by the County.

2.27.7 If the County finds that any provisions of this sub-paragraph 2.27 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 Practices 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.

2.27.8 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.

2.28 NON EXCLUSIVITY

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

2.29 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.

2.30 NOTICE OF DISPUTES

The Contractor shall bring to the attention of the 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 or his/her designee shall resolve it.

2.31 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.

2.32 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 fact sheet is set forth in *Exhibit 8* of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

2.33 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 *Form P-14, Contractor's Administration.*. Notices addressed to the County shall be addressed to the Director, Department of Beaches and Harbors, 13837 Fiji Way, Marina del Rey, California 90292. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The Director or his/her designee shall have the authority to issue all notices or demands required or permitted by the County under this Contract.

2.34 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.

2.35 PUBLIC RECORDS ACT

2.35.1 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 2.37 - 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. 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.

2.36 PUBLICITY

2.36.1 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 Contractor Administrator. The County shall not unreasonably withhold written consent.

2.36.2 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 2.36 shall apply.

2.37 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 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.

2.37.1 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).

2.37.2 Failure on the part of the Contractor to comply with any of the provisions of this sub-paragraph 2.37 shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract.

2.37.3 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 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.

2.38 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.

2.39 SUBCONTRACTING

2.39.1 The requirements of this Contract may not be subcontracted by the Contractor **without the advance 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.

2.39.2 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.

2.39.3 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.

2.39.4 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.

2.39.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its Subcontractors of this County right.

2.39.6 The Department's Director 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.

2.39.7 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.

2.39.8 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. The Contractor shall ensure delivery of all such documents to:

Los Angeles County Department of Beaches and Harbors
Administrative Services Division / Contracts Section
13837 Fiji Way
Marina del Rey, California 90292

before any Subcontractor employee may perform any work hereunder.

2.40 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 2.13 - 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 2.42 - Termination for Default and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

2.41 TERMINATION FOR CONVENIENCE

2.41.1 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.

2.41.2 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.

2.41.3 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 2.37, Record Retention & Inspection/Audit Settlement.

2.42 TERMINATION FOR DEFAULT

2.42.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of the 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 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.

2.42.2 In the event that the County terminates this Contract in whole or in part as provided in sub-paragraph 2.42.1, 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.

2.42.3 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 2.42.2 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 required performance schedule. As used in this sub-paragraph 2.42.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

2.42.4 If, after the County has given notice of termination under the provisions of this sub-paragraph 2.42, it is determined by the County that the Contractor was not in default under the provisions of this sub-paragraph 2.42, or that the default was excusable under the provisions of sub-paragraph 2.42.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to sub-paragraph 2.41-Termination for Convenience.

2.42.5 The rights and remedies of the County provided in this sub-paragraph 2.42 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

2.43 TERMINATION FOR IMPROPER CONSIDERATION

2.43.1 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.

2.43.2 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.

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

2.44 TERMINATION FOR INSOLVENCY

2.44.1 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.

2.44.2 The rights and remedies of the County provided in this sub-paragraph 2.44 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

2.45 TERMINATION FOR NON-ADHERANCE 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.

2.46 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.

2.47 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.

2.48 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 2.48 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

2.49 WARRANTY AGAINST CONTINGENT FEES

2.49.1 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.

2.49.2 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 or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

PART THREE – UNIQUE TERMS AND CONDITIONS

3.1 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM

3.1.1 This Contract is subject to the provisions of the County's ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

3.1.2 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 Local Small Business Enterprise.

3.1.3 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 Local small business enterprise

3.1.4 If the Contractor has obtained certification as a Local Small Business Enterprise 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 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).

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 OAAC of this information prior to responding to a solicitation or accepting a contract award.

3.2 TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM

3.2.1 This Contract is subject to the provisions of the County's ordinance entitles Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.

3.2.2 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 Transitional Job Opportunity vendor.

3.2.3 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 Transitional Job Opportunity vendor.

3.2.4 If Contractor has obtained County certification as a Transitional Job Opportunity vendor 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 10 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 certifying department of this information prior to responding to a solicitation or accepting a contract award.

3.3 EMPLOYMENT CONFLICTS

Contractor shall accept no employment which conflicts with its obligations to the County under the Contract and shall disclose any existing potential or actual conflict of interest prior to accepting an assignment. All employment by Contractor on behalf of persons or entities that have an existing interest pertaining to real property within Marina del Rey is prohibited. Such existing interests include, but are not limited to: a leasehold, sublease, concession, permit, contract for the operation or management of real property, pending development proposal or pending lease proposal. Employment by Contractor on behalf of persons or entities with such interests is prohibited whether the employment is related to Marina del Rey property or not.

The prohibition shall continue in effect until the later of (1) one year from the termination or expiration of this Contract or any extension period; or (2) if the Contractor has performed work for the County related to an interest of the person or entity offering employment, the prohibition on accepting employment from that person or entity shall continue until the date of execution of an agreement or other conclusion of all negotiations between the County and that person or entity.

However, at no time after termination or expiration of the Contract or any extension period may the Contractor disclose to any third person any confidential information learned or developed as a result of its work under

this Contract or accept employment regarding subject matter as to which the Contractor learned or developed any confidential information as a result of employment by the County.

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IN WITNESS WHEREOF, the County has, by order of its Board of Supervisors, caused this Contract to be subscribed by the Chairman of said Board and attested by the Executive Officer thereof, and the Contractor, by its duly authorized representative, has executed the same, as of the day, month, and year set forth below.

Hornblower Yachts, Inc.

By _____
Kevin Lorton, General Manager

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

No 769981

ATTEST:

SACHI A. HAMAI
Executive Officer-Clerk
of the Board of Supervisors

By _____
Deputy

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN
Acting County Counsel

By _____
Principal Deputy County Counsel

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

46 MAY 12 2009

SACHI A. HAMAI
EXECUTIVE OFFICER

ATTACHMENT II

WATER BUS SERVICE
FIRM/ORGANIZATION INFORMATION

PROPOSER	Certified Local SBE	COMPOSITION	OWNERS/ PARTNERS/ ASSOCIATE		MGRS		STAFF		TOTAL		
			M	F	M	F	M	F		M	F
Hornblower Yachts Inc.	N	Black/African American					14	14	**28**		
		Hispanic/Latino					167	41	**208**		
		Asian or Pacific Islander			1		41	30	**72**		
		Amer. Indian/Alaska Native					3	1	**4**		
		Filipino American							**0**		
		White	1		8		200	160	**369**		
		TOTALS	**1**	**0**	**9**	**0**	**425**	**246**	**681**	**435**	**246**
Tiki Mermaid Charters	N	Black/African American							**0**		
		Hispanic/Latino			1	1			**2**		
		Asian or Pacific Islander							**0**		
		Amer. Indian/Alaska Native							**0**		
		Filipino American							**0**		
		White		1			3	1	**5**		
		TOTALS	**0**	**1**	**1**	**1**	**3**	**1**	**7**	**4**	**3**
Just 4 Dreamers, Inc.	N	Black/African American							**0**		
		Hispanic/Latino							**0**		
		Asian or Pacific Islander							**0**		
		Amer. Indian/Alaska Native							**0**		
		Filipino American							**0**		
		White	2				1		**3**		
		TOTALS	**2**	**0**	**0**	**0**	**1**	**0**	**3**	**3**	**0**
Pacific Adventure Cruises	N	Black/African American							**0**		
		Hispanic/Latino			1				**1**		
		Asian or Pacific Islander							**0**		
		Amer. Indian/Alaska Native							**0**		
		Filipino American							**0**		
		White	2	1					**3**		
		TOTALS	**2**	**1**	**1**	**0**	**0**	**0**	**4**	**3**	**1**

REQUEST FOR PROPOSALS FOR MARINA WATERBUS SERVICE
OFFER TO PERFORM AND PRICE PROPOSAL

Proposer: Name: Hornblower Yachts, Inc.

Address: Pier 3, Hornblower Landing
San Francisco, CA 94111

Phone: (415) 983-8241 Fax: (415) 438-8804

To: Santos H. Kreimann, Director, Department of Beaches and Harbors

Proposer, responding to the Request for Proposals (RFP) issued by the Los Angeles County Department of Beaches and Harbors, offers to provide WaterBus service in Marina del Rey on the terms and conditions for the performance of this work that are set forth in the RFP. Such services shall be performed during an initial term commencing on June 26, 2009 and ending on September 7, 2009, with two two-year option renewal extensions.

The compensation for Proposer's services shall be in accordance with the rates set forth for such work on Page 2 of this form, subject to limitations provided in the Contract.

The proposal is subject to the following additional conditions: _____

(Conditions which reject, limit or modify required terms and Conditions of the Contract may cause rejection)

This offer shall be irrevocable for a period of 120 days after the final date for submission.

Proposer is a (n): ☐ individual ☒ corporation ☐ partnership or joint venture ☐ limited liability company ☐ other:

State of organization: CA Principal place of business: CA

Out of state vendor's authorized agent for service of process in California:

Name Terry MacRae Address Pier 3, Hornblower Landing, San Francisco, CA 94111 Phone (415) 983-8241

The Proposer represents that the person executing this offer and the following persons are individually authorized to commit the Proposer in any matter pertaining to the proposed Contract:

Name	Title	Phone
Kevin Lorton	General Mgr	(949) 574-4305
Richard P. Jacobi	Vice President and General Counsel	415-983-8297

Dated: 4-10-09 Proposer's signature: Richard P. Jacobi

Proposer's signature: Cindee Beechwood, VP (415) 983-8204
Cindee Beechwood

Price Proposal

The Marina WaterBus Service, using vessels provided by the Contractor, will require up to five vessels with a minimum of one operator per vessel and one employee at each of the seven boarding locations to assist in ticketing, collecting fares, boarding and unloading passengers. More than one operator may be required depending on the size of the proposed vessels. The proposed hours of service will be Friday evenings, 5:00 p.m. to midnight, Saturdays 11:00 a.m. to midnight, Sundays and Labor Day, 11:00 a.m. to 9:00 p.m., and four Marina del Rey Summer Concert Series Thursday nights from 5:00 p.m. to midnight. Please note the County will only pay for ONE operator per vessel.

The one-year Contract (plus two two-year option renewal extensions – Schedule to be determined upon renewal at the Director's discretion) will cover the summer months, from June 26, 2009 to September 7, 2009.

Annual Staffing and Hours

Day	Hours per Day**		Weeks		Staff		Total Hours
Friday	7.5	x	11	x	Operators	5	412.5
					Dockhands	7	577.5
Saturday	13.5	x	11	x	Operators	5	742.5
					Dockhands	7	1039.5
Sunday	10.5	x	11	x	Operators	5	577.5
					Dockhands	7	808.5
Thursday	7.5	x	4	x	Operators	5	150.0
					Dockhands	7	210
Monday	10.5	x	1	x	Operators	5	52.5
					Dockhands	7	73.5

Total 4644.0

Number of Vessels: 5

Annual Proposed Rate

	Operating Hours	Proposed Hourly Rate	Annual Compensation*
Water Bus Operator	1935	$ 111.50	$ 215,752.50
Docking Assistants:	2,709	$ 20	$ 54,180.00

The cost of providing all other contractual services and support staff, as well as overhead, risk items or any other expenses to provide this service should be reflected in the quoted hourly rates for the two positions (Operators & Dockhands).

* The price quotation is used for rating purposes only. Because the County may require increases or decreases in WaterBus service during the term of the Contract, the actual annual compensation is likely to vary from the price quotation. Any additional hours of operation will be compensated at the quoted hourly rates. Any decreases in the hours of operation will result in a corresponding decrease in compensation based on the quoted hourly rates.

** Hours per Day includes 30 minutes for contractor set up/ shut down.

PROPOSER'S EEO CERTIFICATION

Hornblower Yachts, Inc.
Company Name

Pier 3, Hornblower Landing, San Francisco, CA 94111
Address

94-2699024
Internal Revenue Service Employer Identification Number

GENERAL

In accordance with provisions of the County Code of the County of Los Angeles, the Proposer certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

CERTIFICATION	YES	NO
1. Proposer has written policy statement prohibiting discrimination in all phases of employment.	(✔)	( )
2. Proposer periodically conducts a self-analysis or utilization analysis of its work force.	(✔)	( )
3. Proposer has a system for determining if its employment practices are discriminatory against protected groups.	(✔)	( )
4. When problem areas are identified in employment practices, Proposer has a system for taking reasonable corrective action to include establishment of goal and/or timetables.	(✔)	( )

Signature

April 12, 2009
Date

Kevin Lorton, General Manager
Name and Title of Signer (Please Print)

Form P-7

COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM CERTIFICATION FORM AND APPLICATION FOR EXCEPTION

The County's solicitation for this Request for Proposals is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program), Los Angeles County Code, Chapter 2.203. All proposers, whether a contractor or subcontractor, must complete this form to either certify compliance or request an exception from the Program requirements. Upon review of the submitted form, the County department will determine, in its sole discretion, whether the proposer is excepted from the Program.

Company Name:	Hornblower Yachts, Inc.				
Company Address:	Pier 3, Hornblower Landing				
City:	San Francisco	State:	California	Zip Code:	94111
Telephone Number:	(415) 983-8241				
Solicitation For Water Bus Services:					

If you believe the Jury Service Program does not apply to your business, check the appropriate box in Part I (attach documentation to support your claim); or, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, please sign and date this form below.

Part I: Jury Service Program is Not Applicable to My Business

- ☐ My business does not meet the definition of "contractor," as defined in the Program, as it has not received an aggregate sum of $50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exception is not available if the contract itself will exceed $50,000). I understand that the exception will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of $50,000 in any 12-month period.

- ☐ My business is a small business as defined in the Program. It 1) has ten or fewer employees; and, 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are $500,000 or less; and, 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exception will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

  "Dominant in its field of operation" means having more than ten employees and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the contract awarded, exceed $500,000.

  "Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

- ☐ My business is subject to a Collective Bargaining Agreement (attach agreement) that expressly provides that it supersedes all provisions of the Program.

OR

Part II: Certification of Compliance

- ☑ My business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents, **or** my company will have and adhere to such a policy prior to award of the contract.

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

Print Name:	Kevin Lorton	Title:	General Manager
Signature:		Date:	April 12, 2009

CERTIFICATION OF NO CONFLICT OF INTEREST

The Los Angeles County Code, Section 2.180.010, provides as follows:

CONTRACTS PROHIBITED

Notwithstanding any other section of this Code, the County shall not contract with, and shall reject any proposals submitted by, the persons or entities specified below, unless the Board of Supervisors finds that special circumstances exist which justify the approval of such contract:

1. Employees of the County or of public agencies for which the Board of Supervisors is the governing body;

2. Profit-making firms or businesses in which employees described in number 1 serve as officers, principals, partners, or major shareholders;

3. Persons who, within the immediately preceding 12 months, came within the provisions of number 1, and who:

    a. Were employed in positions of substantial responsibility in the area of service to be performed by the contract; or

    b. Participated in any way in developing the contract or its service specifications; and

4. Profit-making firms or businesses in which the former employees, described in number 3, serve as officers, principals, partners, or major shareholders.

Contracts submitted to the Board of Supervisors for approval or ratification shall be accompanied by an assurance by the submitting department, district or agency that the provisions of this section have not been violated.

Hornblower Yachts, Inc.

Proposer Name

General Manager

Proposer Official Title

Official's Signature

ATTESTATION OF WILLINGNESS TO CONSIDER GAIN/GROW PARTICIPANTS

As a threshold requirement for consideration for contract award, Proposer shall demonstrate a proven record for hiring GAIN/GROW participants or shall attest to a willingness to consider GAIN/GROW participants for any future employment opening if they meet the minimum qualifications for that opening. Additionally, Proposer shall attest to a willingness to provide employed GAIN/GROW participants access to the Proposer's employee mentoring program, if available, to assist these individuals in obtaining permanent employment and/or promotional opportunities.

Proposers unable to meet this requirement shall not be considered for contract award.

Proposer shall complete all of the following information, sign where indicated below, and return this form with their proposal.

A. Proposer has a proven record of hiring GAIN/GROW participants.

_____YES (subject to verification by County) ✔ NO

B. Proposer is willing to consider GAIN/GROW participants for any future employment openings if the GAIN/GROW participant meets the minimum qualifications for the opening. "Consider" means that Proposer is willing to interview qualified GAIN/GROW participants.

✔ YES _____NO

C. Proposer is willing to provide employed GAIN/GROW participants access to its employee-mentoring program, if available.

_____YES _____NO ✔ N/A (Program not available)

Proposer Organization: Hornblower Yachts, Inc.

Signature: _____

Print Name: Kevin Lorton

Title: General Manager Date: April 13, 2009

Tel. #: (949) 574-4305 Fax #: (949) 646-5924

CERTIFICATION OF INDEPENDENT PRICE DETERMINATION AND ACKNOWLEDGEMENT OF RFP RESTRICTIONS

A. By submission of this Proposal, Proposer certifies that the prices quoted herein have been arrived at independently without consultation, communication, or agreement with any other Proposer or competitor for the purpose of restricting competition.

B. List all names and telephone number of person legally authorized to commit the Proposer.

NAME	PHONE NUMBER
Terry MacRae	(415) 983-8241
Kevin Lorton	(949) 574-4305

NOTE: Persons signing on behalf of the Contractor will be required to warrant that they are authorized to bind the Contractor.

C. List names of all joint ventures, partners, subcontractors, or others having any right or interest in this contract or the proceeds thereof. If not applicable, state "NONE".

None

D. Proposer acknowledges that it has not participated as a consultant in the development, preparation, or selection process associated with this RFP. Proposer understands that if it is determined by the County that the Proposer did participate as a consultant in this RFP process, the County shall reject this proposal.

Hornblower Yachts, Inc.
Name of Firm

Kevin Lorton	General Manager
Print Name of Signer	Title
	April 13, 2009
Signature	Date

Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form

INSTRUCTIONS: All proposers/bidders responding to this solicitation must complete and return this form for proper consideration of the proposal/bid.

I. LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM:

FIRM NAME: Hornblower Yachts, Inc.
COUNTY VENDOR NUMBER: Pending per Cindy Woodward

- ☐ As a Local SBE, certified by the County of Los Angeles Office of Affirmative Action Compliance, I request this proposal/bid be considered for the Local SBE Preference.

II. 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: ☐ Sole Proprietorship ☐ Partnership ☑ Corporation ☐ Non-Profit ☐ Franchise ☐ Other (Please Specify) _____

Total Number of Employees (including owners): 686

Race/Ethnic Composition of Firm. Please 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					14	14
Hispanic/Latino					167	41
Asian or Pacific Islander			1		41	30
American Indian					3	1
Filipino						
White	1		8	5	200	160

III. PERCENTAGE OF OWNERSHIP IN FIRM:

Please indicate by percentage (%) how ownership of the firm is distributed.

	Black/African American	Hispanic/ Latino	Asian or Pacific Islander	American Indian	Filipino	White
Men	%	%	%	%	%	100 %
Women	%	%	%	%	%	%

IV. 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	Dis-advantaged	Disabled Veteran	Expiration Date

V. DECLARATION:

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

Print Authorized Name	Authorized Signature	Title	Date
Kevin Lorton		General Manager	April 13, 2009

TRANSITIONAL JOB OPPORTUNITIES PREFERENCE APPLICATION

COMPANY NAME:		
COMPANY ADDRESS:		
CITY:	STATE:	ZIP CODE:

I hereby certify that I meet all the requirements for this program:

- ❑ My business is a non-profit corporation qualified under Internal Revenue Services Code - Section 501(c)(3) and has been such for 3 years *(attach IRS Determination Letter)*;
- ❑ I have submitted my three most recent annual tax returns with my application;
- ❑ I have been in operation for at least one year providing transitional job and related supportive services to program participants; and
- ❑ I have submitted a profile of our program; including a description of its components designed to help the program participants, number of past program participants and any other information requested by the contracting department.

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

PRINT NAME:	TITLE:
SIGNATURE:	DATE:

REVIEWED BY COUNTY:

SIGNATURE OF REVIEWER	*APPROVED*	*DISAPPROVED*	*DATE*

DOES NOT APPLY

CONTRACTOR'S NAME: Hornblower Yachts, Inc.

CONTRACTOR'S CONTRACT REPRESENTATIVE:

Name: Shawn Ware
Title: Associate Director of Marine Operations
Address: 13755 Fiji Way
Marina del Rey, CA 90292
Telephone: (714) 404-7620
Facsimile: (310) 822-0881
E-Mail Address: sware@hornblower.com

CONTRACTOR'S AUTHORIZED OFFICIAL(S)

Name: Kevin Lorton
Title: General Manager
Address: 13755 Fiji Way
Marina del Rey, CA 90292
Telephone: (949) 574-4305
Facsimile: (310) 822-0881
E-Mail Address: klorton@hornblower.com

Name: Brad Falkenstein
Title: Director of Operations and Guest Services
Address: 13755 Fiji Way
Marina del Rey, CA 90292
Telephone: (310) 497-0332
Facsimile: (310) 822-0881
E-Mail Address: bfalkenstein@hornblower.com

Notices to Contractor shall be sent to the following:

Name: Kevin Lorton
Title: General Manager
Address: 13755 Fiji Way
Marina del Rey, CA 90292
Telephone: (949) 574-4305
Facsimile: (310) 822-0881
E-Mail Address: klorton@hornblower.com