

0150-13091-0000

TRANSMITTAL

TO The Council	DATE 11/25/2025	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT ALL

PROPOSED PERSONAL SERVICES CONTRACT BETWEEN THE BUREAU OF SANITATION AND PHAMARINE COMMERCIAL DIVING FOR THE HYPERION WATER RECLAMATION PLANT ANNUAL CLEANING AND OUTFALLS INSPECTIONS FOR A TERM OF FIVE YEARS, WITH A 5-YEAR RENEWAL OPTION, AND A MAXIMUM CONTRACT AWARD OF \$1,829,000, INCLUDING THE RENEWAL OPTION.

Approved and transmitted for further processing including Council consideration.
See the City Administrative Officer report attached.



MAYOR
(Mitch Kamin for)

Attachment
MWS:PJH:JVW:JCY:FVC:10260095t

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 11-18-25	C.D. No. All	CAO File No.: 0150-13091-0000				
Contracting Department/Bureau: Public Works: Bureau of Sanitation		Contact: Ricardo Flores – (213) 731-9158					
Reference: Transmittal from the Bureau of Sanitation dated October 3, 2025							
Purpose of Contract: Inspections and underwater video recording of 1-Mile and 5-Mile Outfalls associated with the Hyperion Water Reclamation Plant							
Type of Contract: (X) New contract () Amendment, Contract No.		Contract Term Dates: Five years from the date of execution with one five-year renewal option					
Contract/Amendment Amount: \$1,829,000							
Source of funds: Sewer Operations and Maintenance Fund							
Name of Contractor: Phamarine Commercial Diving							
Address: 4440 Vistameadow Court, Moorpark, CA 93021							
	Yes	No	N/A	Contractor has complied with:	Yes	No	N/A
1. Council has approved the purpose	X			8. Business Inclusion Program	X		
2. Appropriated funds are available	X			9. Equal Benefits & First Source Hiring Ordinances	X		
3. Charter Section 1022 findings completed	X			10. Contractor Responsibility Ordinance	X		
4. Proposals have been requested	X			11. Disclosure Ordinances	X		
5. Risk Management review completed	X			12. Bidder Certification CEC Form 50	X		
6. Standard Provisions for City Contracts included	X			13. Prohibited Contributors (Bidders) CEC Form 55	X		
7. Workforce that resides in the City: 0%				14. California Iran Contracting Act of 2010	X		

RECOMMENDATION

That the City Council authorize the Board of Public Works (Board), or two members of the Board, on behalf of the Bureau of Sanitation, to execute the proposed Personal Services Agreement between the Bureau of Sanitation and Phamarine Commercial Diving for the Hyperion Water Reclamation Plant Annual Outfalls Inspections for a term of five years, with one five-year renewal option and a maximum contract amount of \$1,829,000, which has been previously approved by the Board, subject to City Attorney approval as to form.

SUMMARY

In accordance with Executive Directive No. 3 (Villaraigosa), the Board of Public Works (Board), on behalf of the Bureau of Sanitation (LASAN), requests approval to execute the proposed Personal Services Agreement (Agreement / Contract) between the Bureau of Sanitation and Phamarine Commercial Diving for Hyperion Water Reclamation Plant (HWRP) annual outfalls inspections. The proposed Agreement is for a term of five years, with one five-year renewal option for a total potential term of ten years and a maximum contract amount of \$1,829,000 including the renewal option. Authority to execute this Agreement is subject to approval by the City Attorney as to form.

<i>Felipe Valladolid Chavez</i>			<i>Ricardo Flores</i>		
FVC	Analyst	10260095	City Administrative Officer		

BACKGROUND

The United States Environmental Protection Agency and the California Regional Water Quality Control Board require, as part of the City’s Los Angeles Regional Quality Control Board National Pollutant Discharge Elimination System permit, annual surveys and inspections of the City-operated 1-Mile and 5-Mile Outfall structures. These outfall structures are used to dispose of treated wastewater from HWRP. The inspections, which require professional diving and undersea video recording, are currently carried out by Ballard Marine Construction, Inc. (Ballard). The prior contract expired on June 30, 2025.

Contractor Selection Process – In accordance with Los Angeles City Charter Section 371, on July 26, 2024, the Board approved the release of a RFP for the HWRP Annual Outfalls Inspections for a term of five years with one five-year renewal option for a maximum contract amount of \$1,829,000. The requested services include annual cleaning and inspection of HWRP’s outfalls, removal of marine growth on the outfall diffuse ports, preparation of written reports, and other as-needed repairs.

The City received a total of four proposals by October 25, 2024 in response to the RFP. The proposers are Phamarine Commercial Diving, Aqueos Corp., Undersea Graphics, Inc., and Pacific Maritime Group, Inc. An evaluation panel consisting of three LASAN Hyperion Water Reclamation Plant staff evaluated and scored each proposal based on criteria established in the RFP. Table 1 below displays the scores and evaluation criteria for each proposal. Phamarine received the highest total score of 91 and was selected by the evaluation panel.

Table 1 - Scores and of the Outfalls Inspection Proposals					
Proposer	A. Technical Qualifications, Experience and Expertise (0-35 points)	B. Cost Control (0-35 points)	C. Record of Past Performance (0-20 points)	D. Approach to Work (0-10 points)	TOTAL (Max 100 points)
Aqueos	34	27	19	9	89
Pacific Maritime	34	25	19	9	87
Phamarine	33	33	16	9	91
Undersea Graphics	33	29	19	9	90

Phamarine also received the lowest score in Record of Last Performance because it is a relatively newer company. It is noted that a fifth proposal was submitted by Ballard Marine Construction, but was received after the deadline and could not be considered for this competitive bid process.

Scope of Work – The scope of work consists of conducting inspections and underwater video recording of the 1-Mile and 5-Mile Outfalls on an annual basis. Other services may be required. The work is highly specialized and performed by trained scuba divers.

Term and Compensation – The term of the proposed contract shall be five years from the date of execution with a five-year renewal option at the sole discretion of the City, and a maximum contract amount of \$1,829,000. The table below provides the rates for the annual inspections and other services.

Table 2 - Rate Schedule for Annual Inspections and Other Services		
Item	Description	Unit Cost
1	1-Mile Outfall Annual Inspection	\$29,400/each
2	5-Mile Outfall Inspection	\$58,800/each
3	7-Mile Outfall Inspection	\$50,581/each
Internal Inspection, Surge Chamber Inspection, and Other Services		
4	1-Mile Internal Inspection	\$190,000/each
5	1-Mile diffuser port cleaning	\$21,915/each
6	Surge Chamber Inspection	\$6,000/each
7	Support Vessel per number of hours	\$1,000/hour
8	Submersible per number of hours	\$838/hour
9	Support Crew Member per number of hours	\$160/hour
10	Each Diver per number of hours at depths of fifty feet of sea water (FSW) or under	\$226/hour
11	Each Diver per number of hours at depths between 50 and 80 FSW	\$314/hour
12	Each Diver per number of hours at depths greater than 80 FSW	\$327/hour

CITY COMPLIANCE

Pursuant to Charter Section 1022, on August 8, 2023, this Office determined that the proposed services can be performed more feasibly and economically by a contractor rather than by City employees. The proposed Agreement and the Contractor comply with the City’s contracting requirements. In accordance with Los Angeles Charter Section 371, this Agreement is subject to the competitive bid process. In accordance with Los Angeles City Administrative Code Section 10.5(a), Council approval is required as the total contract term exceeds three years. Authority to execute this Agreement is subject to approval by the City Attorney as to form.

FISCAL IMPACT STATEMENT

There is no impact to the General Fund. Funding for this contract will be provided by the Sewer Construction and Maintenance Fund (SCM), which is a full cost recovery fund. Approval of the report will result in potential expenditures of up to \$1,829,000 over a five-year term, including the renewal option. A total of \$150,000 is approved and available in the 2025-26 Bureau of Sanitation Contractual Services Schedule Fund No. 760, SCM, Department No. 50, Appropriation Account No. 50CX82, PW-Sanitation Expense and Equipment. Future financing for this contract will be requested through the annual budget process. The Agreement includes Standard Provisions which contain a City obligation limitation clause which limits the City’s obligation to make payments to funds which have been appropriated for this purpose.

FINANCIAL POLICIES STATEMENT

The recommendation in this report complies with the City’s financial policies in that the City’s financial obligation is limited to funds budgeted for this purpose.

Attachment – Board Letter dated October 3, 2025 and Joint Bureau of Sanitation and Bureau of Contract Administration Joint Board Report No 1 dated October 3, 2025 (W.O.#S10FPURC)

**BOARD OF PUBLIC WORKS
MEMBERS**

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JENNY CHAVEZ
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CITY OF LOS ANGELES

CALIFORNIA



KAREN BASS
MAYOR

**OFFICE OF THE
BOARD OF PUBLIC WORKS**

ELYSE MATSON
EXECUTIVE OFFICER

200 NORTH SPRING STREET
ROOM 361, CITY HALL
LOS ANGELES, CA 90012

TEL: (213) 978-0261
TDD: (213) 978-2310
FAX: (213) 978-0278

<http://bpw.lacity.org>

October 3, 2025

BPW-2025-0618

The Honorable Mayor Bass
City Hall – Room 320
Los Angeles, CA 90012

PERSONAL SERVICES CONTRACT – PHAMARINE COMMERCIAL DIVING (PHAMARINE)

As recommended in the accompanying report from the Directors of the Bureaus of Sanitation and Contract Administration, which this Board has adopted, the Board of Public Works (Board) recommends that the Mayor and City Council:

1. APPROVE the request that the Board of Public Works be authorized to execute a Personal Services Contract with Phamarine for The Hyperion Water Reclamation Plant Annual Outfalls Inspections; and
2. AUTHORIZE the President or two members of the Board to execute the contract.

(W.O.: S10FPURC)

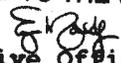
Sincerely,

TJ KNIGHT,

Asst. Executive Officer, Board of Public Works

TK:lc

DEPARTMENT OF PUBLIC WORKS
BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
OCTOBER 3, 2025

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE MAYOR
OCT 03 2025
AND REFERRED TO THE CITY COUNCIL

Executive Officer
Board of Public Works

CD: ALL

AUTHORITY TO AWARD AND EXECUTE PERSONAL SERVICES CONTRACT WITH PHAMARINE COMMERCIAL DIVING FOR HYPERION WATER RECLAMATION PLANT (HWRP) ANNUAL OUTFALL INSPECTIONS (W.O. #S10FPURC)

RECOMMENDATIONS

1. Approve and forward this report with transmittals to the Mayor and City Council (Council) with the request that the Board of Public Works (Board) be authorized to execute a Personal Services Contract with Phamarine Commercial Diving (Phamarine) for The Hyperion Water Reclamation Plant (HWRP) Annual Outfalls Inspections.
2. Upon the Mayor's and Council's authorization, the President or two (2) members of the Board will execute the contract.

TRANSMITTALS

1. Copy of the adopted LA Sanitation and Environment (LASAN) and Bureau of Contract Administration Joint Board Report No. 1, dated July 26, 2024, authorizing LASAN to distribute a Request for Proposals (RFP), to interview, select and negotiate with the most qualified proposer, and to return to the Board for authority to award and execute any contract(s) to perform the work.
2. Copy of the proposed contract between the City of Los Angeles and Phamarine Commercial Diving.

FISCAL IMPACT STATEMENT

There is no General Fund impact resulting from the execution of this contract. This contract is funded by Fund No. 760, Sewer Operations and Maintenance Fund.

DISCUSSION

Background

LASAN operates and maintains three (3) submarine outfalls in the Santa Monica Bay to dispose of treated wastewater from HWRP: the 1-Mile Outfall, the 5-Mile Outfall, and the 7-Mile Outfall. The 5-Mile Outfall is the principal disposal means for HWRP effluent. The 1-Mile Outfall is used solely during emergencies (i.e., when the Hyperion Effluent Pumping Plant experiences power outages and discharge flow exceeds the 5-Mile Outfall gravity flow capacity), or during planned maintenance of the 5-Mile Outfall. The 7-Mile Outfall ceased discharging digested sludge and

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
OCTOBER 3, 2025

PAGE 2

became inactive as of November 1987. Although not currently used, the 7-Mile Outfall is listed in HWRP's existing Los Angeles Regional Water Quality Control Board (LARWQCB) National Pollutant Discharge Elimination System (NPDES) Permit Number CA0109991, and is an irreplaceable asset for LASAN.

Both the U.S. Environmental Protection Agency (USEPA), Region IX, and the California Regional Water Quality Control Board (LARWQCB) require, as part of HWRP's NPDES permit, annual surveys and inspections of the 1-Mile Outfall, 5-Mile Outfall and the 1-Mile Surge Chamber and Diversion Structure. These inspections and surveys will also assist City staff in ascertaining the structural integrity of the outfalls, flow distribution through the outfall diffuser ports, and the impact of treated plant effluent on marine life. The inspections will also help City staff determine the need for any cleaning and/or repair of the outfalls.

The professional diving and undersea video recording services provided by the contractor are of an expert and technical nature. The current service contract (C-132310) with Ballard Marine Construction Inc. for these services expired on June 30, 2025. LASAN aims to retain a contractor to provide the outfalls inspection services and maintain compliance with USEPA and LARWQCB after C-132310 expires.

The release of the Request for Proposals (RFP) for Hyperion Water Reclamation Plant (HWRP) Annual Outfalls Inspection was authorized by the Board on July 26, 2024 (Transmittal No. 1).

The RFP Process

On July 26, 2024, the Board authorized LASAN to distribute a Request for Proposals (RFP) to solicit proposals from experienced contractors to provide services for and related to the annual inspection of HWRP's outfalls, including removal of marine growth on the outfall diffuser ports, as-needed repair and cleaning of the outfalls, preparation of written reports based on the inspections, and other as-needed diving services for HWRP. (Transmittal #1).

On the submittal deadline, the City received a total of four (4) proposals. The four (4) proposals submitted were by Phamarine (SBE, EBE), Aqueos Corp.(Aqueos) (OBE), Undersea Graphics, Inc. (Undersea) (SBE, EBE), and Pacific Maritime Group, Inc. (Pacific) (OBE). The evaluation and scoring of the technical proposals for hauling services were completed by an Evaluation Panel consisting of three (3) LASAN Hyperion Water Reclamation Plant staff who evaluated the proposals based on the criteria established in the RFP.

Annual Outfalls Inspection – Proposer Evaluations

Table 1 shows ranks and scores for each proposer that was evaluated.

BUREAU OF SANITATION
 BUREAU OF CONTRACT ADMINISTRATION
 JOINT BOARD REPORT NO. 1
 OCTOBER 3, 2025

PAGE 3

Table 1. Scores and Ranks of the Outfalls Inspection Proposals

Proposer	A. Proposers Technical Qualifications, Experience and Expertise (35 pts)	B. Cost Control (35 pts)	C. Record of Past Performance (20 pts)	D. Approach to Work (10 pts)	Total
Aqueos	34	27	19	9	89
Pacific Maritime	34	25	19	9	87
Phamarine	33	33	16	9	91
Undersea Graphics	33	29	19	9	90

Note: OCC Staff verified that none (0) of the Proposers listed above are LBE-certified. Therefore, none of the Proposers qualified for additional Local Business Preference (LBP) Evaluation Points.

Phamarine, Aqueos, Undersea, Pacific proposals completely responded to each section of the RFP. Their qualifications, responsiveness, and technical capabilities were determined to meet the City’s needs.

Table 2 shows proposed inspection service fees for inspections requested by the City

Table 2. Inspection Service Fees per Outfall

	Phamarine	Aqueos	Undersea	Pacific
5-Mile Outfall Inspection	\$58,800.00	\$53,500.00	\$115,000.00	\$91,300.00
1-Mile Outfall Inspection	\$29,400.00	\$113,000.00	\$25,000.00	\$137,775.00
1-Mile Diversion and Surge Chamber Inspection	\$6,000.00	\$3,200.00	\$6,000.00	\$33,050.00
yearly cost	\$160,200.00	\$204,900.00	\$212,000.00	\$625,675.00
10 year Cost	\$1,602,000.00	\$2,049,000.00	\$2,120,000.00	\$6,256,750.00

PAGE 4

Local Business Preference (LBP) Program

Los Angeles Administrative Code Division 10, Chapter 1, Article 4, Section 10.25 adopted the Local Business Preference (LBP) Program, which was designed to increase local employment and expenditures in the local private sector. All Proposers are eligible to participate in the LBP Program by qualifying as a Local Business Enterprise (LBE). The City shall grant eight percent (8%) of the total possible evaluation points added to their evaluation score to those Proposers who are certified as an LBE firm. If the LBE is also a Local Small Business (LSB) and/or Local Transitional Employer (LTE), they may be granted an additional two (2) percent of the total possible evaluation points added to their evaluation score for each of those certifications, up to a total of twelve percent (12%). Additionally, all non-LBE Proposers may be granted an additional percentage, up to a total of five (5) percent, of the total possible evaluations points added to their evaluation score for each of those certifications, for every ten (10) percent of their proposal that is to be performed by a LBE, LSB, and/or LTE subconsultant. However, the preferences given for a Proposer's selection of LBE, LSB and/or LTE subconsultants was not granted since no specific work was pledged to subconsultants. Additionally, Staff verified that none (0) of the proposers were certified LBEs.

Community Level Contracting

As part of the City's Community-Level Contracting (CLC) initiative led by the Department of Public Works (DPW), as per the CLC Board Motion issued on May 19, 2021, LASAN seeks to help make City contracting more accessible and equitable by providing small contractors the opportunity to work directly with the City as Prime contractors on smaller, more manageable projects. LASAN staff evaluated the work to be performed at the time of release of the RFP and determined that, due to the highly specialized nature of the inspection work, the RFP is not suitable for a CLC opportunity. The required work includes being able to conduct ocean outfall inspections, perform outfall port marine growth removal, complete necessary outfall repair and other as-needed diving services.

Term of Agreement and Cost Ceiling

The contract term will be for five (5) years, with one (1) five-year renewal option to be exercised at the City's sole discretion. The total estimated contract ceiling for the contract term, including the renewal option is \$1,829,000.00.

Business Inclusion Program

On January 12, 2011, the Mayor issued Executive Directive No. 14 which created the BIP. This program provides MBE, WBE, SBE, EBE, DVBE, and OBE firms an equal opportunity to compete for and participate in City contracts. Additionally, the BIP requires bidders to perform and document BIP Outreach via the internet utilizing the Los Angeles Regional Alliance Marketplace for Procurement (RAMP) service.

The scope of work involves conducting inspections and underwater video recording of the 1-Mile and 5-Mile Outfalls on an annual basis. The work is highly specialized and performed primarily by scuba divers and custom-built one-person and/or remote diving submarines, greatly limiting

PAGE 5

potential subcontracting opportunities; therefore, the Office of Procurement approved waiver of the BIP Outreach requirements on October 25, 2023.

Notification of Intent to Contract

The Notification of Intent to Contract (NOI) was filed with the Office of the City Administrative Officer (CAO) Clearinghouse on 8/23/2023.

Charter Section 1022

The CAO made a Charter 1022 determination on 08/29/2023 and found that the proposed services can be performed more feasibly and economically by a contractor rather than by City employees.

Approved as to Form

The proposed contract has been approved as to form by the Office of the City Attorney.

Other City Policies and Requirements

Phamarine shall comply with all City requirements, including:

- Non-Discrimination/Equal Employment Practices/Affirmative Action
- Living Wage and Worker Retention Ordinances
- Equal Benefits Ordinance
- Business Tax Registration Certificate
- Child Support Obligations Ordinance
- Insurance and Performance Bond Requirements
- Slavery Disclosure and Disclosure of Border Wall Contracting Ordinances
- Americans with Disabilities Act
- Municipal Lobbying Ordinance
- Los Angeles Residence Information
- City of Los Angeles Contract History
- Non-Collusion Affidavit
- First Source Hiring Ordinance
- Contractor Bidder Campaign Contribution and Fundraising Restrictions
- Iran Contracting Act of 2010
- City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance
- Contractor Data Reporting

Contractor Responsibility Ordinance

All contractors participating in this program are subject to compliance with the requirements specified in the City of Los Angeles's Contractor Responsibility Ordinance #173677, [Article 14, Chapter 1, Division 10, L.A.C.C.]. Failure to comply with the requirements specified in this

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
OCTOBER 3, 2025

PAGE 6

ordinance will render the bidder's contract subject to termination pursuant to the conditions expressed therein.

Contractor Performance Evaluation Ordinance

In accordance with Article 13, Chapter 1, Division 10 of the City of Los Angeles Administrative Code, the appropriate City personnel responsible for quality control of this personal services contract shall submit Contractor Performance Evaluation Reports to the Bureau of Contract Administration upon completion of this contract.

Headquarters Address and Workforce Information

The headquarters of Phamarine is 4440 Vistameadow Court, Moorpark, California 93021. Phamarine employs six (6) people, of which four (4) reside in the City of Los Angeles.

Contract Administration

Responsibility for the administration and management of this contract will rest with the HWRP, LASAN.

PROGRAM REVIEW BY DIRECTOR (PRD) APPROVAL

The project budget was approved by PRD on December 16, 2020 in the amount of \$1,891,540 for the contract term, including renewal term.

STATUS OF FINANCING

There is no impact to the General Fund. The total funding for this project is not to exceed \$1,891,540. Funding for Fiscal Year 2025-26 in the amount of \$150,000 is available in the Fund No. 760, Sewer Operations & Maintenance, Department No. 50, Appropriation Account No. 50CX82, PW-Sanitation Expense and Equipment. The remaining funding will be budgeted within the Fund No. 760, Sewer Operations & Maintenance.

Funds and appropriations for future fiscal years are not yet identified and existing appropriations may change based on available cash balances. Therefore, funds and appropriations will be determined by the Director and General Manager of LASAN.

Funding in the amount of \$150,000 for this Board Report has been verified and approved by the Director of the Office of Accounting subject to terms and conditions and cash availability described above.

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for the City to comply with its governing legal requirements, the City shall have no obligation to make any payments to the Contractor unless the City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
OCTOBER 3, 2025

PAGE 7

The Contractor agrees that any services provided by the Contractor, purchases made by the Contractor or expenses incurred by the Contractor in excess of the appropriation(s) shall be free and without charge to the City and the City shall have no obligation to pay for the services, purchases or expenses. The Contractor shall have no obligation to provide any services, provide any equipment, or incur any expense in excess of the appropriation, amount(s) until the City appropriates additional funds for this Contract.

FUTURE ACTIONS

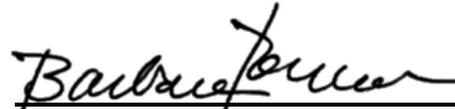
Upon authorization by the Council and the Mayor, the Board will execute the contracts with Phamarine.

(Signature Page to Follow)

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
OCTOBER 3, 2025

PAGE 8

Respectfully submitted,



BARBARA ROMERO
Director and General Manager
Bureau of Sanitation

COMPLIANCE REVIEW PERFORMED
AND APPROVED BY:



Lynda McGlinchey (Aug 26, 2025 15:49:13 PDT)

LYNDA McGLINCHEY, Program Manager II
Office of Contract Compliance
Bureau of Contract Administration



Raoul Mendoza (Aug 26, 2025 15:53:51 PDT)

JOHN L. REAMER, JR.
Inspector of Public Works
Bureau of Contract Administration

REVIEWED AND APPROVED BY:



Sarai Bhaga (Aug 19, 2025 09:41:46 PDT)

SARAI BHAGA, Chief Financial Officer
Bureau of Sanitation
Date: _____

APPROVED AS TO FUNDS:



MIGUEL DE LA PEÑA, Director
Office of Accounting
760/50/50CX82 \$150,000
Date: 8/28/2025

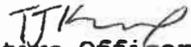
Prepared by:
Ricardo Flores, HWRP
(213) 731-9158

TRANSMITTAL NO. 1

DEPARTMENT OF PUBLIC WORKS
 BUREAU OF SANITATION
 BUREAU OF CONTRACT ADMINISTRATION
 JOINT BOARD REPORT NO. 1
 JULY 26, 2024

ADOPTED BY THE BOARD
 PUBLIC WORKS OF THE CITY
 of Los Angeles California

JUL 26 2024


 Executive Officer
 Board of Public Works

CD: ALL

AUTHORITY TO DISTRIBUTE A REQUEST FOR PROPOSALS AND NEGOTIATE CONTRACT(S) FOR THE HYPERION WATER RECLAMATION PLANT OUTFALLS INSPECTIONS (W.O. #S10FPURC)

RECOMMENDATIONS

Authorize the Director and General Manager of the LA Sanitation and Environment (LASAN) or her designee to:

1. Distribute and advertise the transmitted Request for Proposals (RFP) for The Hyperion Water Reclamation Plant (HWRP) Outfalls Inspections.
2. Evaluate the proposals and based on the established rating criteria, select and interview the most qualified proposer(s).
3. Negotiate a contract(s) with the most responsive proposer(s).
4. Return to the Board of Public Works (Board) for authority to award and execute any contract(s), subject to Mayor and City Council approval prior to contract execution.

TRANSMITTALS

1. Copy of the RFP for The HWRP Outfalls Inspections.

DISCUSSION

Request for Proposals (RFP)

This RFP is a solicitation for proposals from experienced contractors to provide services for and related to the annual inspection of HWRP's outfalls, including removal of marine growth on the outfall diffuser ports, as-needed repair and cleaning of the outfalls, preparation of written reports based on the inspections, and other as-needed diving services for HWRP. The selected contractor(s) will provide professional divers and/or remote vehicle(s) to perform annual surveys and inspections of the 1-Mile Outfall, the 5-Mile Outfall, and the 1-Mile Outfall Diversion Structure and Surge Chamber. The selected contractor(s) will also provide other diving services requested by the City, including surveys and inspections of the 7-Mile Outfall and internal inspections of the 1-Mile and 5-Mile Outfall on an as-needed basis, in accordance with the rate schedule set forth in the contract.

Each year after completing the inspections, the contractor shall provide final inspection reports, presentations, and video documentation of the inspections to LASAN. The inspections and surveys of the outfalls will provide City staff with a comprehensive analysis of the current condition of each outfall, including all components and sections.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 26, 2024

PAGE 2

Background

LASAN operates and maintains three (3) submarine outfalls in the Santa Monica Bay to dispose of treated wastewater from HWRP: the 1-Mile Outfall, the 5-Mile Outfall, and the 7-Mile Outfall. The 5-Mile Outfall is the principal disposal means for HWRP effluent. The 1-Mile Outfall is used solely during emergencies (i.e., when the Hyperion Effluent Pumping Plant experiences power outages and discharge flow exceeds the 5-Mile Outfall gravity flow capacity), or during planned maintenance of the 5-Mile Outfall. The 7-Mile Outfall ceased discharging digested sludge and became inactive as of November, 1987. Although not currently used, the 7-Mile Outfall is listed in HWRP's existing Los Angeles Regional Water Quality Control Board (LARWQCB) National Pollutant Discharge Elimination System (NPDES) Permit Number CA0109991, and is an irreplaceable asset for LASAN.

Both the U.S. Environmental Protection Agency (USEPA), Region IX, and the California Regional Water Quality Control Board (LARWQCB) require, as part of HWRP's NPDES permit, annual surveys and inspections of the 1-Mile Outfall, 5-Mile Outfall and the 1-Mile Surge Chamber and Diversion Structure. These inspections and surveys will also assist City staff in determining the structural integrity of the outfalls, flow distribution through the outfall diffuser ports, and the impact of treated plant effluent on marine life. The inspections will also help City staff determine the need for cleaning and repair of the outfalls.

The professional diving and undersea video recording services provided by the contractor are of an expert and technical nature. The current service contract (C-132310) with Ballard Marine Construction Inc. for these services will expire on June 30, 2025. LASAN aims to retain a contractor to provide the outfalls inspection services and maintain compliance with USEPA and LARWQCB after C-132310 expires.

Proposed Term of Contract

The contract(s) will be for a term of five (5) years with one (1), five (5)-year renewal option.

Rationale for Using an RFP

The RFP process is being used to solicit the best available services at the most competitive price. A proposal review committee of City staff will evaluate all proposals in order to determine which proposal(s) will bring the greatest benefits to the City.

Selection Process and Evaluation Criteria

The proposal review committee consisting of City staff will evaluate and rate all proposals. Based upon the evaluation panel's final report, the LASAN will submit a report to the Board, containing a recommendation to award and execute a contract(s) with the selected Proposer(s). Contract(s) will then be submitted to the Board, the Mayor, and the City Council for approval.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 26, 2024

PAGE 3

The criteria for the selection of the respondents are outlined in the RFP and are summarized as follows (See Article 4.2 in Transmittal 1 for details):

TABLE 1

Evaluation Criteria	Percentage
Technical Qualifications and Past Experience	35%
Cost Control	35%
Record of Past Performance	20%
Approach to Work	10%
Total	100%

RFP Posting Requirement

The RFP will be posted on the City's Regional Alliance Marketplace for Procurement (RAMP) website in compliance with City Council motion 95-1060S2. RAMP is the centralized portal to access City's contracting opportunities. The RFP, addenda, and all other related documents will be available for download on <https://www.rampla.org/s/>.

Notification of Intent to Contract

The Notification of Intent to Contract (NOI) was filed with the Office of the City Administrative Officer (CAO) Clearinghouse on 8/23/2023.

Charter Section 1022

The CAO made a Charter 1022 determination on 08/29/2023 and found that the proposed services can be performed more feasibly and economically by a contractor rather than by City employees.

Business Inclusion Program (BIP)

The Business Inclusion Program (BIP) will be in compliance with the Mayor's Executive Directive No. 14. LASAN has established anticipated participation levels of 18 percent Minority Business Enterprise (MBE), 4 percent Women Business Enterprise (WBE), 25 percent Small Business Enterprise (SBE), 8 percent Emerging Business Enterprise (EBE), and 3 percent Disabled Veteran Business Enterprise (DVBE), and 0 percent (LGBTBE) Lesbian, Gay, Bi-sexual, Transgender Business Enterprise (for statistical tracking purposes).

Proposers submitting a proposal in response to this RFP are required to perform a BIP Outreach using the Regional Alliance Marketplace for Procurement (RAMP). Failure to comply with the City's BIP Outreach requirements will render the proposal non-responsive.

In addition to the BIP Outreach, the Proposers are required to complete and submit the MBE/WBE/SBE/EBE/DVBE/LGBTBE/OBE Subcontractors Information Form (Schedule A). The Schedule A must be submitted with the Proposer's RFP response. Additionally, during the term of the contract, the Proposer must submit the MBE/WBE/SBE/EBE/DVBE/LGBTBE/OBE Utilization Profile (Schedule B) when submitting an invoice to the City.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 26, 2024

PAGE 4

For BIP waivers:

The inspection services involve conducting underwater video recording and inspections of the 1-Mile and 5-Mile Outfalls on an annual basis, utilizing scuba divers and/or custom-built, one-person or remote diving submarines. The outfall inspections are highly specialized and conducted primarily by one-man or remotely operated submarine, which does not lend itself to subcontracting opportunities. The BIP outreach requirements were waived by the Mayor's office on 10/25/2023, RAMP ID No.210933.

Community Level Contracting

As part of the City's Community-Level Contracting (CLC) initiative led by the Department of Public Works (DPW), LASAN seeks to help make City contracting more accessible and equitable by providing small contractors the opportunity to work directly with the City as Prime contractors on smaller, more manageable projects. LASAN staff evaluated the scope of work to be performed for this RFP and determined that, due to the highly specialized nature of the inspection work, the RFP is not suitable for a CLC opportunity. The required work includes being able to conduct ocean outfall inspections, perform outfall port marine growth removal, complete necessary outfall repair and other as-needed diving services on an as-needed basis.

Compliance with Board RFP Policy

As per Board policy, this RFP was delivered to the Secretary of the Board prior to Board consideration thereof.

(Continued on next page)

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 26, 2024

PAGE 5

Other City Policies and Requirements

The proposers shall be required to comply with the City's policies and requirements including the following:

- Nondiscrimination/Equal Employment Practices/Affirmative Action Program
- Equal Benefits Ordinance
- Living Wage and Worker Retention Ordinances
- Slavery Disclosure Ordinance and Disclosure of Border Wall Contracting Ordinance
- Americans with Disabilities Act
- Child Support Obligations Policy
- Los Angeles Residence Information
- Non-Collusion Affidavit
- Performance Bond and Insurance requirements
- Business Tax Registration Certificate
- City of Los Angeles Contract History
- First Source Hiring Ordinance
- Contract Bidder Campaign Contribution and Fundraising Restrictions
- Municipal Lobbying Ordinance
- Iran Contracting Act of 2010 Compliance Affidavit
- City Contractor's Use of Criminal History for Consideration of Employment Applications Ordinance
- COVID-19 Requirements
- Contractor Data Reporting

Attachments and forms pertaining to these requirements are included in the RFP and on the RAMP.

Local Business Preference (LBP) Program

Los Angeles Administrative Code Division 10, Chapter 1, Article 4, Section 10.25 adopted the Local Business Preference (LBP) Program which was designed to increase local employment and expenditures in the local private sector. Businesses that qualify as a Local Business Enterprise (LBE) may be granted an 8 percent increase of the total possible evaluation points to a proposer's evaluation score. If the LBE is also a Local Small Business (LSB) and/or Local Transitional Employer (LTE), they may be granted an additional 2 percent added to their evaluation score for each of those certifications, up to a total of 12 percent. Additionally, all non-LBE Proposers may be granted an additional percent, up to a total of 5 percent, of the total possible evaluations points added to their evaluation score for each of those certifications, for every 10 percent of their proposal that is to be performed by a LBE, LSB, and/or LTE subconsultant.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 26, 2024

PAGE 6

Contractor Responsibility Ordinance

All contractors participating in this project are subject to compliance with the requirements specified in the City of Los Angeles' Contractor Responsibility Ordinance #173677, [Article 14, Chapter 1, Division 10, L.A.A.C.]. Failure to comply with all requirements specified in the Ordinance will render the proposer's contract subject to termination pursuant to the conditions expressed therein.

Contractor Performance Evaluation

In accordance with Article 13, Chapter 1, Division 10 of the City of Los Angeles Administrative Code, the appropriate City personnel responsible for the quality control of this personal services contract shall submit Contractor Performance Evaluation Reports to the Department of Public Works, Bureau of Contract Administration upon completion of this contract.

Contract Administration

Responsibility for the administration and management of this contract will rest with the Hyperion Water Reclamation Plant, LASAN.

PROJECT REVIEW BY DIRECTOR (PRD) APPROVAL

The project budget was approved by PRD on December 16, 2020 in the amount of \$1,891,540 for the contract term, including renewal term.

STATUS OF FINANCING

There is no impact to the General Fund. The total funding for this project is not to exceed \$1,891,540. No funding is required this fiscal year. Funding sources may include, but are not limited to, the Fund No. 760, Sewer Operations and Maintenance Fund.

Future appropriations may change based on available cash balances. Therefore, funds and appropriations will be determined by the Director and General Manager of LASAN.

The City's liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any succeeding years, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract.

FUTURE ACTIONS

Upon authorization by the Board, the RFP and attachments will be posted on <https://www.rampla.org>.

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 26, 2024

PAGE 7

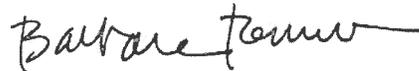
A review committee will evaluate the proposals. The most qualified proposer(s), who submitted the best proposal(s) in response to the RFP, will be interviewed, ranked, and selected. LASAN will then negotiate a personal services contract with the highest rated firm to provide the required services. Subsequent to the negotiation of the contract, LASAN will request the Board for authority to award and execute a contract with the selected proposer.

(Signature page follows)

BUREAU OF SANITATION
BUREAU OF CONTRACT ADMINISTRATION
JOINT BOARD REPORT NO. 1
JULY 26, 2024

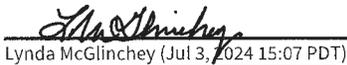
PAGE 7

Respectfully submitted,



BARBARA ROMERO
Director and General Manager
Bureau of Sanitation

COMPLIANCE REVIEW PERFORMED
AND APPROVED BY:



LYNDA McGLINCHEY, Program Manager II
Office of Contract Compliance
Bureau of Contract Administration



JOHN L. REAMER, JR.
Inspector of Public Works
Bureau of Contract Administration

REVIEWED AND APPROVED BY:



SARAI BHAGA, Chief Financial Officer
Bureau of Sanitation
Date: _____

Prepared by:
Stephen Opot, HWRP
(310) 648-5323

CONTRACT NO. C- _____

SERVICE AGREEMENT

BETWEEN

THE CITY OF LOS ANGELES

AND

PHAMARINE COMMERCIAL DIVING

FOR

HYPERION WATER RECLAMATION PLANT (HWRP)
ANNUAL OUTFALL INSPECTIONS



City of Los Angeles
Department of Public Works
Los Angeles Sanitation and Environment

Barbara Romero, Director and General Manager
[INSERT NAME], Assistant Director

Hyperion Water Reclamation Plant Division
Hi-Sang Kim, Manager

**SERVICE AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND
PHAMARINE COMMERCIAL DIVING FOR HYPERION WATER RECLAMATION
PLANT (HWRP) ANNUAL OUTFALL INSPECTIONS**

TABLE OF CONTENTS

ARTICLE 1 – SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN	7
ARTICLE 2 – DEFINITIONS	7
ARTICLE 3 – PROJECT DESCRIPTION	9
ARTICLE 4 – RESPONSIBILITIES OF AND SERVICES/TASKS TO BE PERFORMED BY THE CONTRACTOR	10
ARTICLE 5 – KEY CONTRACTOR PERSONNEL	19
ARTICLE 6 – RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY	20
ARTICLE 7 – TERM OF AGREEMENT AND TIME OF EFFECTIVENESS	20
ARTICLE 8 – SUSPENSION	21
ARTICLE 9 – TERMINATION	21
ARTICLE 10 – SUBCONTRACT APPROVAL	24
ARTICLE 11 – COMPENSATION, INVOICING, AND PAYMENT	24
ARTICLE 12 – AMENDMENTS, CHANGES, OR MODIFICATIONS	29
ARTICLE 13 – INDEMNIFICATION AND INSURANCE	29
ARTICLE 14 – INDEPENDENT CONTRACTORS	30
ARTICLE 15 – WARRANTIES AND RESPONSIBILITY OF CONTRACTOR	30
ARTICLE 16 – INTELLECTUAL PROPERTY INDEMNIFICATION	31
ARTICLE 17 – INTELLECTUAL PROPERTY WARRANTY	32
ARTICLE 18 – OWNERSHIP AND LICENSE	32
ARTICLE 19 – SUCCESSORS AND ASSIGNS	33
ARTICLE 20 – CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION	33
ARTICLE 21 – FORCE MAJEURE (EXCUSABLE DELAYS)	33
ARTICLE 22 – SEVERABILITY	34
ARTICLE 23 – DISPUTES	34
ARTICLE 24 – ENTIRE AGREEMENT	34
ARTICLE 25 – APPLICABLE LAW, INTERPRETATION, AND ENFORCEMENT	34
ARTICLE 26 – CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE [REQUIRED]	35
ARTICLE 27 – WAIVER	35
ARTICLE 28 – PROHIBITION AGAINST ASSIGNMENT OR DELEGATION	35
ARTICLE 29 – PERMITS	35
ARTICLE 30 – BEST TERMS	36
ARTICLE 31 – CLAIMS FOR LABOR AND MATERIALS	36
ARTICLE 32 – BREACH	36
ARTICLE 33 – MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT	36
ARTICLE 34 – CHILD SUPPORT OBLIGATIONS ASSIGNMENT ORDERS	37
ARTICLE 35 – LIVING WAGE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCES	37
ARTICLE 36 – ACCESS AND ACCOMODATIONS	38
ARTICLE 37 – CONTRACTOR RESPONSIBILITY ORDINANCE	39
ARTICLE 38 – LOS ANGELES BUSINESS INCLUSION PROGRAM	39
ARTICLE 39 – DISCLOSURE ORDINANCES	39
ARTICLE 40 – CONTRACTOR PERFORMANCE EVALUATION ORDINANCE	39
ARTICLE 41 – MUNICIPAL LOBBYING ORDINANCE	40
ARTICLE 42 – FIRST SOURCE HIRING ORDINANCE	40
ARTICLE 43 – COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) FOR MEASURE H/CONTRACTOR CONTRIBUTIONS/FUNDRAISING	40

ARTICLE 44 – COMPLIANCE WITH THE IRAN CONTRACTING ACT OF 2010	41
ARTICLE 45 – INTEGRATED CONTRACT	41
ARTICLE 46 – DATA PROTECTION	41
ARTICLE 47 – LOCAL BUSINESS PREFERENCE ORDINANCE	42
ARTICLE 48 – CITY CONTRACTOR’S USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS	42
ARTICLE 49 – COMPLIANCE WITH IDENTITY THEFT LAWS AND PAYMENT CARD DATA SECURITY STANDARDS	42
ARTICLE 50 – COMPLIANCE WITH CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164	43
ARTICLE 51 – POSSESSORY INTERESTS TAX	43
ARTICLE 52 – CONFIDENTIALITY	43
ARTICLE 53 – COUNTERPARTS	43
ARTICLE 54 – CONTRACTOR DATA REPORTING	43

EXHIBITS

Exhibit 01	Standard Provisions For City Contracts
Exhibit 02	Business Inclusion Program Waiver
Exhibit 03	Insurance Contractual Requirements
Exhibit 04	Slavery Disclosure Ordinance
Exhibit 04	Equal Benefit Ordinance Affidavit, First Source Hiring Ordinance
Exhibit 06	Contractor Responsibility Ordinance
Exhibit 07	Business Tax Registration Certificate
Exhibit 08	Los Angeles Residence Information
Exhibit 08	Non-Collusion Affidavit
Exhibit 10	Contract History
Exhibit 11	Municipal Lobbying Ordinance
Exhibit 12	Contract Bidder Campaign Contribution and Fundraising Restrictions
Exhibit 13	Iran Contracting Act of 2010
Exhibit 14	Project Rate Schedule

This AGREEMENT, made and entered into by and between the City of Los Angeles, a municipal corporation acting by order of and through its Board of Public Works, hereinafter called the "CITY", and "**Phamarine Commercial Diving**" hereinafter referred to as the "CONTRACTOR "; is set forth as follows:

WITNESSETH

WHEREAS, the CITY operates and maintains Hyperion Water Reclamation Plant (HWRP), which has three (3) submarine outfalls that discharge treated wastewater into the Santa Monica Bay: the 1-Mile Outfall, 5-Mile Outfall, and the 7-Mile Outfall; and

WHEREAS, annual inspections and surveys of both the 1-Mile and 5-Mile outfalls are required under HWRP's National Pollutant Discharge Elimination System (NPDES) permit, issued and overseen by the U.S. Environmental Protection Agency, Region IX, and California Regional Water Quality Control Board - Los Angeles Region; and

WHEREAS, in addition to being a permit requirement, inspections of the outfalls will assist CITY staff in determining the structural integrity of the outfalls, flow distribution through the outfall diffuser ports, and the impact of treated plant effluent on marine life growth in the vicinities of the ports; and

WHEREAS, additionally, the result of the inspections will determine the need for any repairs and/or cleaning; and

WHEREAS, on July 26, 2024, the Board of Public Works authorized the Bureau of Sanitation (LASAN) to distribute a Request for Proposals (RFP) to solicit proposals from qualified and experienced firms to provide professional diving and undersea video recording services to conduct the annual inspections of the Hyperion Water Reclamation Plant outfalls and to negotiate a contract with a qualified proposer; and

WHEREAS, on October 25, 2024, a total of four (4) proposals were received by the CITY in response to the RFP; and

WHEREAS, Phamarine Commercial Diving (CONTRACTOR) has demonstrated the necessary qualifications to perform said ocean outfall inspection services and underwater video recording; and

WHEREAS, CONTRACTOR was deemed to be the most qualified respondent as determined by CITY staff based on the evaluation criteria set forth in the RFP; and

WHEREAS, CONTRACTOR is in full compliance with applicable CalOSHA regulations, the USCG Regulations, USACE EM 385-1-1 and the ADCI Consensus for Commercial Diving and Underwater Operations; and

WHEREAS, the professional diving and undersea video recording services to be provided by the CONTRACTOR are of an expert and technical nature; and

WHEREAS, the CITY desires to retain CONTRACTOR for a period of five (5) years with one (1) five-year renewal option to provide the services as outlined herein;

NOW, THEREFORE, in consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the terms and conditions of this CONTRACT, it is understood and agreed by and between the parties hereto as follows:

ARTICLE 1 – CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this CONTRACT have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this CONTRACT. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or CONTRACTOR. The word "CONTRACTOR" includes the party or parties identified in this CONTRACT. The singular shall include the plural and if there is more than one CONTRACTOR, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

ARTICLE 2 – DEFINITIONS

It is understood that the following words and phrases are used herein; each shall have the meaning set forth opposite the same:

ADCI	Association of Diving Contractors International
AGREEMENT/CONTRACT	This contractual agreement between the CITY and Phamarine Commercial Diving for HWRP Annual Outfall Inspections .
BOARD	The Board of Public Works of the City of Los Angeles.
CALENDAR DAYS	Each day beginning at 12:01 a.m. and ending twenty-four (24) hours thereafter at 12:00 midnight.
CITY	The City of Los Angeles, Board of Public Works or its subordinate Bureaus. Depending on the context in which it is used, the term CITY may also refer to the geographic area known as the City of Los Angeles, the City Council, other Departments of the City of Los Angeles, or any person employed by the City of Los Angeles who is authorized to represent the City of Los Angeles in manners concerning this document.
CITY PROJECT MANAGER	The CITY'S designated representative for all issues related to this AGREEMENT
CONTRACTOR / CONSULTANT CONTRACTOR SERVICES	Phamarine Commercial Diving All services to be provided by the CONTRACTOR specified in this AGREEMENT
DIRECTOR	Director of LASAN or his/her designated representative
FSW HWRP	Feet of Seawater (or equivalent static pressure head) Hyperion Water Reclamation Plant owned and operated by the City of Los Angeles
LASAN	Bureau of Sanitation, Department of Public Works, City of Los Angeles
MBE/WBE/SBE/EBE/DVBE/ OBE	Minority/Women/Small/Emerging/Disabled Veteran/Other Business Enterprises

NPDES	National Pollutant Discharge Elimination System
OSHA	Occupational Safety and Health Administration
PROJECT	Hyperion Outfalls Annual Inspection and Diving Services
PROJECT MANAGER	A City designated representative who is responsible for administering and monitoring the CONTRACT.
RCP	Reinforced Concrete Pipe
ROV	Remotely operated vehicle
SUBCONTRACTOR	An individual or company having an agreement with the CONTRACTOR to provide services, equipment, or materials to the CONTRACTOR
USACE EM	US Army Corps of Engineers, Engineering Manual
USCG	United States Coast Guard
U.S. EPA	United States Environmental Protection Agency

ARTICLE 3 – PROJECT DESCRIPTION

The Bureau of Sanitation (LASAN), HWRP operates and maintains three (3) submarine outfalls in Santa Monica Bay for the disposal of treated wastewater: 1-Mile Outfall, 5-Mile Outfall, and 7-Mile Outfall.

The 1-Mile Outfall, twelve-foot internal diameter RCP, built in 1951, is currently only used for emergency discharge of treated wastewater in case of power failure and the plant discharge flow exceeds the 5-Mile Outfall gravity discharge capacity. The 5-Mile Outfall, which is also a twelve-foot internal diameter RCP, was constructed and put into operation in 1960, and is currently the principal means of disposal for the HWRP effluent.

Annual inspections of both the 1-Mile and 5-Mile Outfalls, including the 1-Mile Diversion Structure and the Surge Chamber, are required under the HWRP NPDES permit, issued and overseen by the U.S. EPA, Region IX, and California Regional Water Quality Control Board – Los Angeles Region.

The 7-Mile Outfall, a 20-inch diameter steel pipe, ceased discharging digested sludge and became inactive as of November 1987. Although the 7-Mile Outfall is not currently active and not required to be inspected annually per the NPDES permit, it is still listed in the Permit and is an irreplaceable asset for LASAN. LASAN shall reserve the option under this contract to have the CONTRACTOR inspect this outfall, should LASAN decide to put this outfall into operation in future years.

The CONTRACTOR shall provide professional divers and/or a remotely operated vehicle (ROV) to perform surveys and inspections of both the 1-Mile and the 5-Mile Outfalls annually, as described in Article 4.4, and any other diving services requested by the CITY, including surveys and inspection of the 7-Mile outfall, on an as-needed basis in accordance with the rate schedule set in this CONTRACT, such as verifying: (1) the structural integrities of the outfalls, (2) the treated wastewater flow distributions through the outfall diffuser ports are unimpeded, and (3) vent ports are not compromised by marine growth. These inspections and surveys of the outfalls will assist CITY engineering staff to determine structural integrities and/or flaws of the outfalls, flow distributions through the outfall diffuser ports, and plant discharge impact on marine life growth in the vicinities of the ports. These inspections will provide CITY staff with a comprehensive analysis of the current condition of each outfall, including all components and sections.

ARTICLE 4 – RESPONSIBILITIES OF AND SERVICES/TASKS TO BE PERFORMED BY THE CONTRACTOR

- 4.1 The CONTRACTOR shall perform the services described in [Article 4.4](#). The CONTRACTOR shall perform such work with a degree of skill and diligence normally employed by professional analysts or contractors performing the same or similar services.
- 4.2 The CONTRACTOR warrants that the services will be performed consistent with generally accepted industry standards.
- 4.3 Maintenance of Records

The CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this CONTRACT, in their original form or as otherwise approved by the CITY. These records shall be retained for a period of no less than four (4) years from the later of the following: (1) the final payment made by the CITY, (2) the expiration of this CONTRACT, or (3) termination of this CONTRACT. The records will be subject to examination and audit by authorized CITY personnel or the CITY'S representatives at any time. The CONTRACTOR shall provide any reports requested by the CITY regarding the performance of this CONTRACT. Any subcontract entered into by the

CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, the CONTRACTOR may, upon the CITY'S written approval, submit the required information to the CITY in an electronic format, e.g. USB flash drive, at the expiration or termination of this CONTRACT.

4.4 Scope of Services

Services shall include, but not be limited to, the following:

4.4.1 5-Mile Outfall Annual Inspection

The HWRP 5-Mile Outfall was designed in 1957, put into service in 1960, and is currently the principal means of discharging treated HWRP effluent to the ocean. The 5-Mile Outfall discharges effluent through a 12-foot diameter, five-mile reinforced concrete discharge pipe. Two systems, a gravity-flow system and a pumped-flow system, discharge effluent through the Effluent Pumping Plant (EPP) into the 5-Mile Outfall. The gravity and pumped-flow systems are arranged in parallel from the plant wet well so that both systems feed into the 5-Mile Outfall. The tide level, total plant flow, and other factors along the 5-Mile Outfall dictate which of these two systems will be used. The 5-Mile Outfall has a peak pumping capacity of 900 MGD, but the normal discharge flow rate is around 280 to 300 MGD. The main outfall section is constructed of 144-inch diameter, reinforced concrete pipe, ending at a depth of 190 feet. The 144-inch-diameter outfall begins at the junction of the gravity flow line and the effluent pump discharge line at the northwest corner of the EPP building. The inshore portion of the 5-Mile outfall is covered with sand, rocks and ballast. The mid and offshore section of the line is covered with underwater growth such as algae and Hydroids. The main pipe ends at the WYE, where it splits into two diffuser legs, extending into a Y-pattern from the end.

The main components of the HWRP 5-Mile Outfall are as follows:

- *Main Barrel:* The main barrel is 144-inch RCP which is approximately five (5) miles long with one gas release vent port at the end. The wall thickness ranges from ten (10) to fifteen (15) inches, with two (2) layers of circumferential reinforcing steel.
- *WYE Structure:* The WYE structure with steel plates and cement lining and coating connects the main barrel with the two (2) diffuser legs. This structure has an access opening and a bulkhead gate.
- *Diffuser Legs:* Two (2) diffuser legs are approximately 4,000 ft. in length at a depth of approximately 200 feet. Approximately 2,400 ft. of the diffuser legs were constructed of the 102-inch inside diameter RCP. The remaining 1,600 ft. of

diffuser legs were constructed of the 72-inch inside diameter RCP. Each diffuser contains 83 small ports to optimize the mixing of the treated effluent with the seawater and two (2) gas release vent ports. One is near the transition structure from 102-inch I.D. to 72-inch I.D. and the other is near the end of the leg.

- *Diffuser Port:* There are 83 diffuser ports in each diffuser leg of the 5-Mile Outfall. There are 3 sizes of diffuser ports starting out at 6.75-inch diameter near the outlet of the WYE structure, graduating up to 7.75-inch diameter and then to 8.35-inch diameter closest to the end structures.

CONTRACTOR shall be responsible for performing the following tasks relative to the annual 5-Mile Outfall Inspection:

Task 4.4.1.1 The Northern Leg of the 4,000-foot diffuser of the 5-Mile outfall contains the 83 effluent ports. In the vicinity of the mid-point of this leg (station Z-1 in the NPDES Permit, 33°54'53"N, 118°31'30"W), the Contractor shall perform a visual inspection of the surrounding area to determine the thickness of any "cloud" of unsettled solids, and ocean bottom flora and fauna. These inspections shall include general observation and digital and/or film documentation of the outfall pipelines and surrounding ocean bottom. CONTRACTOR shall use either ROV or submersible submarine or team of scuba divers for this task.

Task 4.4.1.2 CONTRACTOR shall perform visual examination of all 166 diffuser ports (83 ports on each leg) on both the Northern and Southern Legs to detect any obstructions, leaks, and/or inadequate flow distribution. This examination, which includes inspecting both onshore and offshore sides of each diffuser leg, shall include digital and/or film documentation of each outfall effluent port. Each leg begins at the WYE connection. The depth of the WYE and legs vary from 195 to 200 feet below the surface. CONTRACTOR shall use an ROV, submersible, submarine, or team of scuba divers for this task.

Task 4.4.1.3 CONTRACTOR shall examine each of the diffuser legs, WYE, and main barrel sections denoted as the Offshore, Mid-Section and Inshore Sections. CONTRACTOR shall examine, photograph, and report on the marine growth, structural integrity of the pipeline, supports, ballast, re-ballasting, bulkhead ports, five (5) gas vents, manholes, four (4) special effluent ports, bell joint repairs, separations, and undercutting of the ballast and supports. CONTRACTOR shall use an ROV, submersible, submarine, or team of scuba divers for this task.

Task 4.4.1.4 Deliverables – Within two (2) months after inspecting the outfall, CONTRACTOR shall provide a one-hour briefing and video presentation to staff at the HWRP facility. The briefing shall include twenty (20) to forty (40) minutes digital video presentation with narrative, showing highlights and key issues and findings of the inspection.

CONTRACTOR should also deliver the following items to the CITY during the briefing and discussion:

1. Six (6) copies of the set of all videos, each set provided on DVD, flash drive or other acceptable storage mediums (for a total of 6 mediums with identical content);
2. Six (6) hard, printed copies of the written, annual inspection report
3. One (1) electronic copy of the annual inspection report, in Portable Document Format (PDF)

Deliverables will be mailed to 12000 Vista Del Mar, Playa Del Rey, CA 90293, and addressed to HWRP staff, as designated by LASAN. Electronic deliverables will be sent via email to HWRP staff, as designated by LASAN.

The inspection report shall incorporate clear, high quality pictures (minimum image resolution of 1920x1080i) and shall include the CONTRACTOR'S comprehensive findings, recommendations, and timelines, based upon their visual inspections of the following sections:

1. Major Findings
2. 5-Mile Outfall Characteristics
3. Port Identification and Location
4. Plugged and/or Puffing Ports
5. Typical Diffuser Effluent Ports
6. Status of Four (4) Special Effluent Ports
7. South Diffuser End Structure Area
8. North Diffuser End Structure Area
9. South Transition Structure
10. North Transition Structure
11. WYE Structure
12. Main Barrel
13. Offshore Bell Joint Repairs
14. Epoxy Bumper Joint Separation
15. Main Barrel Re-ballasting
16. Inshore Bell Joint Repairs

In addition, Contractor shall retain copies of any video records taken on this project that are not contained in the above six (6) flash drive for ten (10) years from the date the deliverables and presentation were given, in the event the City requests such records in the future

4.4.2 Annual 1-Mile Outfall Inspection

The original 1-Mile Outfall was put into operation in 1925 but after years of natural deterioration, it was replaced in 1951. The new 1-Mile Outfall is a 144-inch diameter RCP and is approximately 5,280 feet long. It has a wall thickness of 14 inches with two layers of circumferential reinforcing steel. The first section interfaces with the HWRP effluent channel and extends 1500 feet out from the shoreline. It is encased in concrete and supported by piles spaced, between 6 and 8 feet on-center, along the length of the outfall. The remainder of the outfall pipeline is constructed of RCP in 100-ft long sections and is supported by reinforced concrete cradles and pilings. The pipeline ends with a 300-foot long diffuser section containing six (6) side-ports and terminating with four ports on the end bulkhead. The maximum, net internal pressure of the 1-Mile Outfall pipeline is estimated at 14 psig. The 1-Mile Outfall system is now used only in the event of major malfunctions of the Effluent Pumping Plant, power outage or preventive maintenance, which would prevent complete discharge of plant effluent through the 5-Mile Outfall.

CONTRACTOR shall be responsible for performing the following tasks relative to the 1-Mile Outfall Inspection:

Task 4.4.2.1 CONTRACTOR shall inspect the four (4) bulkhead end-ports and six (6) side-ports. These inspections shall include general visual observation and digital and/or film documentation of the outfall pipelines and the surrounding ocean bottom. CONTRACTOR shall use an ROV, submersible vehicle, submarine, or team of scuba divers for this task.

Task 4.4.2.2 CONTRACTOR shall inspect, examine, photograph, and report on the marine growth, structural integrity of the pipeline, its supports, ballast, re-ballasting, bulkhead ports, gas vents, manholes, bell joint repairs, separations, and undercutting of the ballast and supports. CONTRACTOR shall use an ROV; submersible vehicle, submarine, or team of scuba divers may be used for this task.

Task 4.4.2.3 Deliverables – Within two (2) months after inspecting the outfall, CONTRACTOR shall provide a one- hour briefing to HWRP staff at HWRP facility. The briefing shall include twenty (20) to forty (40) minutes digital video presentation with narrative, showing highlights and key issues and findings of the inspection.

CONTRACTOR should also deliver the following items to the CITY during the briefing and discussion:

1. Six (6) copies of the set of all videos, each set provided on DVD, flash drive or other acceptable storage mediums (for a total of 6 mediums with identical content);
2. Six (6) hard, printed copies of the written, annual inspection report
3. One (1) electronic copy of the annual inspection report, in Portable Document Format (PDF)

Deliverables will be mailed to 12000 Vista Del Mar, Playa Del Rey, CA 90293, and addressed to HWRP staff, as designated by LASAN. Electronic deliverables will be sent via email to HWRP staff, as designated by LASAN.

The inspection report shall incorporate clear, high quality pictures (minimum image resolution of 1920x1080i) and shall include the CONTRACTOR'S comprehensive findings, recommendations, and timelines, based upon their visual inspections of the following sections:

1. Major Findings
2. 1-Mile Outfall Characteristics
3. Diffuser End Structure Area
4. End Ports
5. Side Ports
6. Typical Pylon Support
7. Typical Manhole Cover
8. Encased Pipeline Section
9. Re-ballasted Area of the Pipeline Encasement
10. Undercut repaired area in the Pipe Encasement

In addition, CONTRACTOR shall retain copies of all the video records taken on this project that are not contained in the above six (6) flash drive for ten (10) years from the date the deliverables and presentation were given, in the event the City requests such records in the future.

4.4.3 7-Mile Outfall Inspection (As-needed basis)

Although the 20-inch diameter 7-Mile Outfall is not currently in use and was not required to be inspected annually per NPDES permit, it is listed in HWRP's existing NPDES Permit. The CITY would like to maintain the condition of this outfall should the CITY decide to use it in future years, however. Therefore, upon direction by the CITY, CONTRACTOR shall perform the following tasks based on the rate schedule set forth in this CONTRACT:

4.4.3.1 In the vicinity of the end-point of the 7-Mile Outfall (point E-6 as referenced in the NPDES permit, 33°55'33"N, 118°33'27"W), CONTRACTOR shall inspect this area to determine the thickness of any "cloud" of unsettled solids, and ocean bottom flora and fauna. These inspections include general observation and digital and/or film documentation of the outfall pipelines and the surrounding ocean bottom. CONTRACTOR shall use an ROV, submersible, submarine, or team of scuba divers for this task.

4.4.3.2 CONTRACTOR shall inspect all the discharge port. These inspections shall include general observation and digital and/or film documentation of the outfall port and the surrounding ocean bottom. CONTRACTOR shall use an ROV, submersible, submarine, or team of scuba divers for this task.

4.4.3.3 CONTRACTOR shall inspect, examine, photograph, and report on the marine growth, structural integrity of the pipeline, its supports, ballast, re-ballasting, bulkhead ports, manholes, joint repairs, separations, and undercutting of the ballast and supports. CONTRACTOR shall use an ROV, submersible, submarine, or team of scuba divers for this task.

4.4.3.4 Deliverables – Within two (2) months after inspecting the outfall, CONTRACTOR shall provide a one- hour briefing to HWRP staff at HWRP facility. The briefing shall include twenty (20) to forty (40) minutes digital video presentation with narrative, showing highlights and key issues of the inspection.

CONTRACTOR should also deliver the following items to the CITY during the briefing and discussion:

1. Six (6) copies of the set of all videos, each set provided on DVD, flash drive or other acceptable storage mediums (for a total of 6 mediums with identical content)
2. Six (6) hard, printed copies of the written, annual inspection report
3. One (1) electronic copy of the annual inspection report, in Portable Document Format (PDF)

Deliverables will be mailed to 12000 Vista Del Mar, Playa Del Rey, CA 90293, and addressed to HWRP staff, as designated by LASAN. Electronic deliverables will be sent via email to HWRP staff, as designated by LASAN.

The inspection report shall incorporate clear, high quality pictures (minimum image resolution of 1920x1080i) and shall include the CONTRACTOR'S comprehensive findings, recommendations, and timelines, based upon their visual inspections of the following sections:

1. Major Findings
2. 7-Mile Outfall Characteristics
3. The End Opening Area
4. The Bio-Marine Layer on the outfall pipe
5. The sediment around the outfall pipe
6. Heavy deposits area between 200' to 150'
7. Pipe undercutting at anchor block area (145' to 125')
8. Inshore pipe repair collar (95')
9. Inshore anchor blocks (95' to 60")

In addition, CONTRACTOR shall retain copies of all the video records taken on this project that are not contained in the above six (6) flash drive for ten (10) years from the date the deliverables and presentation were given, in the event the City requests such records in the future.

4.4.4 1-Mile Outfall Diversion Structure and Surge Chamber Inspection

HWRP uses the 1-Mile Outfall for emergency discharge of plant effluent to the ocean whenever the Effluent Pumping Plant and the 5-Mile Outfall are unable to handle all the flow in the case of unusual situations.

The 1-Mile outfall is directly connected to the bottom of a 29' (W) x 67' (L) x 54' (H) concrete structure, called the Surge Chamber. By opening any one of the three Diversion Structure gates, plant effluent will discharge into the sump area of the Diversion Structure, then discharge to the 1-Mile Outfall.

The 1-Mile Outfall Diversion Structure and Surge Chamber shall be internally inspected a minimum of once per year prior to the beginning of the rainy season (defined as between October 15th of each year to April 15th of the following year) and prior to any planned discharges from the 1-Mile Outfall during preventative maintenance or capital improvement projects. Inspections shall include general observation including any collection of debris within the diversion structure and surge chamber. The 1-Mile Outfall Diversion Structure and Surge Chamber shall be visually inspected by a diver, manned submarine, or ROV.

A summary report of the inspection findings shall be provided as further detailed below.. The inspection of the 1-Mile Outfall Diversion Structure and Surge Chamber shall consist of the following:

Task 4.4.4.1 Each year between September 15 to October 15, CONTRACTOR shall perform the cleaning and inspection of the 1-Mile Outfall Diversion Gate Structure and Surge Chamber. CONTRACTOR shall use an ROV, or certified dive team to inspect and remove (if any) visible and floating materials inside the 1-Mile Outfall Diversion Structure and 1-Mile Surge Chamber. Still photos and video recordings that cover the entire water surface areas shall be taken throughout the inspection and provided along with an inspection report. The CONTRACTOR shall provide its own Confined Space safety equipment, such as a Miller DuraHoist safety system, to lower and retrieve divers into the chambers without the need of using HWRP's safety equipment.

Task 4.4.4.2 In addition to the prior wet-season cleaning and inspection of the 1-Mile Outfall Diversion Structure and Surge Chamber, at the request of the Project Manager for HWRP, CONTRACTOR shall also perform the cleaning and inspection of the 1-Mile Outfall Diversion Gate Structure and Surge Chamber prior to any planned discharge, including 1-Mile Diversion Gates exercise.

Task 4.4.4.3 Provide Deliverables. Within 14 days after inspecting the 1-Mile Outfall Diversion Gate Structure and the Surge Chamber, the CONTRACTOR shall provide a written report, augmented with videographic and/or photographic images that cover the structure floor, walls, and gate area, providing a description of the observed condition of the diversion structure and surge chamber. The report shall be emailed to the Engineering Staff at HWRP as directed by LASAN.

4.4.5 Internal 1-Mile Outfall Inspection and Other Related Services

Task 4.4.5.1 Upon CITY request, the CONTRACTOR shall perform the 1-Mile Outfall Internal Inspection by using ROV equipped with both video and sonar device to inspect the entire length of the 12-ft diameter concrete reinforced 1-Mile Outfall, from the opening surge chamber hatch, which is located inside HWRP to the end of the 1-Mile Outfall. The CONTRACTOR shall check for marine growth, sand or sludge settlement, and any floatable or non-floatable debris.

Task 4.4.5.2 The CONTRACTOR shall perform other diving related services as requested by the CITY. Such services include, but are not limited to, the removal of marine growth on the four end ports and the marine growth on the six side ports, which can be removed from the outside of the 1-Mile Outfall without entering into the Outfall itself.

Task 4.4.5.3 Provide Deliverables. Within two (2) months after inspecting the internal structure of the 1-Mile Outfall, the CONTRACTOR shall provide a forty (40) minute briefing with a video and photo image presentation to the Engineering Staff at HWRP. The briefing shall include ten (10) to twenty (20) minutes of digital video and/or sonar image recording presentation with narrative, showing highlights and key issues of the inspection. At the same time, the CONTRACTOR shall also deliver the following items:

1. Six (6) copies of the set of all videos, each set provided on DVD, flash drive or other acceptable storage mediums (for a total of 6 mediums with identical content);
2. Six (6) hard, printed copies of the written, annual inspection report;
3. One (1) electronic copy of the annual inspection report, in Portable Document Format (PDF)

Deliverables will be mailed to 12000 Vista Del Mar, Playa Del Rey, CA 90293, and addressed to HWRP staff, as designated by LASAN. Electronic deliverables will be sent via email to HWRP staff, as designated by LASAN.

The inspection report shall incorporate clear, high quality pictures (minimum image resolution of 1920x1080i) and shall include the CONTRACTOR'S

comprehensive findings, recommendations, and timelines, based upon their visual inspection.

In addition, CONTRACTOR shall retain copies of any the video records taken on this project that are not contained in the above six (6) flash drive for ten (10) years from the date the deliverables and presentation were given, in the event the City requests such records in the future

4.5 CONTRACTOR Schedule of Services and Costs

When CITY desires CONTRACT services, the PROJECT MANAGER or his authorized representative shall issue task orders to the CONTRACTOR detailing the tasks and deliverables. Task Orders for 1-Mile and 5-Mile Outfall annual inspections shall be issued each year before the end of May. Once the task order is issued, within two (2) months, the CONTRACTOR shall provide the PROJECT MANAGER, at the PROJECT MANAGER's discretion, a statement of services specifying details of the work to be performed, and time schedule for the completion of each task, based on favorable weather conditions as determined by the CONTRACTOR (normally during summer). CONTRACTOR shall ensure that each annual inspection is scheduled at least ten (10) months after the preceding annual inspection for that outfall. Within two (2) months after the inspections, CONTRACTOR shall complete, deliver and present the final inspection reports and the video recording, specified in Article 4.4 to the CITY.

If work in addition to the annual 1-Mile and 5-Mile Outfall inspections is required by the CITY, CITY shall issue a task order for each such work, and the CONTRACTOR shall provide cost estimates for the completion of each task, which shall be included in the statement of services.

Once the statement of services is approved, the PROJECT MANAGER shall issue a written notice to proceed. If it appears that the actual cost or schedule will exceed the estimate on the statement of services, the CONTRACTOR shall revise the statement of services, subject to approval of the PROJECT MANAGER and the CONTRACTOR will be reissued a notice to proceed by the PROJECT MANAGER. No work shall be performed under this AGREEMENT without a written notice to proceed.

Rate Schedules for Annual Outfall Inspection

<i>Outfall Inspection Rate Schedule</i>			
Item	Description	Unit Cost	Units
1	5-Mile Outfall Annual Inspection (as outlined in Article 4.4.1)	\$58,800.00	Each
2	1-Mile Outfall Annual Inspection (as outlined in Article 4.4.2)	\$29,400.00	Each
3	7-Mile Outfall Inspection (as outlined in Article 4.4.3)	\$50,581.00	Each

<i>Internal Inspection, Surge Chamber Inspection and Other Services</i>			
Item	Description	Unit Cost	Units
4	1-Mile Internal Inspection (as outlined in Article 4.4.5)	\$190,000	Each
5	1-Mile diffuser port cleaning (as outlined in Article 4.4.5)	\$21,915.00	Each
6	Surge Chamber Inspection, via ROV or Dive Team (as outlined in Article 4.4.4)	\$6000.00	Each
7	Support Vessel per (#) of hours	\$1,000.00	Hour
8	Submersible per (#) of hours	\$838.00	Hour
9	Support Crew member per (#) of hours	\$160.00	Hour
10	Each Diver per (#) of hours at fifty (50) FSW and under	\$226.00	Hour
11	Each Diver per (#) of hours between fifty (50) FSW to eighty (80) FSW	\$314.00	Hour
12	Each Diver per (#) of hours at depths greater than eighty (80) FSW and may require equipment support	\$327.00	Hour

ARTICLE 5 – KEY CONTRACTOR PERSONNEL

5.1 The CONTRACTOR designates the following person to represent the CONTRACTOR in all matters pertaining to this AGREEMENT:

Name, Title: ROBERT FALLON, CEO
 Address: 4440 Vistameadow Court Moorpark California 93021
 Telephone: 805-825-6035
 E-mail: info@phamarine.com

Additional technical specialists shall be assigned subject to the CITY PROJECT MANAGER'S approval.

- 5.2 The CONTRACTOR agrees that personnel assigned to these positions at the commencement of services under this AGREEMENT shall serve in these positions as long as required by the CONTRACT, and the CONTRACTOR shall not change personnel assigned to these positions without the prior written consent and approval of the CITY'S PROJECT MANAGER, whose consent shall not be withheld unreasonably.
- 5.3 Unless otherwise approved by the CITY, the CONTRACTOR shall use its own employees to perform the services described in this CONTRACT. The CITY has the right to review and approve any personnel who are assigned to work under this CONTRACT. The CONTRACTOR shall remove personnel from performing work under this CONTRACT if requested to do so by the CITY.
- 5.4 The CONTRACTOR shall not use SUBCONTRACTORS to assist in the performance of this CONTRACT without the prior written approval of the CITY. If the CITY permits the use of SUBCONTRACTORS, the CONTRACTOR shall remain responsible for performing all aspects of this CONTRACT and paying all SUBCONTRACTORS. The CITY has the right to approve the CONTRACTOR'S SUBCONTRACTORS, and the CITY reserves the right to request replacement of any SUBCONTRACTOR. The CITY does not have any obligation to pay the CONTRACTOR'S SUBCONTRACTORS, and nothing herein creates any privity of contract between the CITY and any SUBCONTRACTOR.

ARTICLE 6 – RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY

The CITY designates [STEPHEN OPOT](#) as its CITY PROJECT MANAGER to represent the CITY in all matters within the scope of this AGREEMENT relating to the conduct and approval of the work to be performed. Whenever the term "approval of CITY," "consult with CITY," "confer with CITY," or similar terms are used, they shall refer to the CITY PROJECT MANAGER. The CITY PROJECT MANAGER may designate an assistant to act in his/her stead. The CITY may designate another CITY employee to succeed [STEPHEN OPOT](#) as the CITY PROJECT MANAGER. The CONTRACTOR will be notified in writing in such event.

The CITY shall furnish, without charge, facilities and resources available to the CONTRACTOR as deemed reasonably necessary and appropriate by the CITY.

ARTICLE 7 – TERM OF AGREEMENT AND TIME OF EFFECTIVENESS

The term of this AGREEMENT shall be for five (5) years with one (1) five-year renewal option at the CITY's sole discretion, from the date of full execution unless terminated as provided under [Article 9](#) or extended by a duly approved amendment to this AGREEMENT and signed by the parties.

Unless otherwise provided, this CONTRACT shall take effect when all of the following events have occurred:

- A. This CONTRACT has been signed on behalf of the CONTRACTOR by the person or persons authorized to bind the CONTRACTOR;
- B. This CONTRACT has been approved by the City Council or by the BOARD, officer, or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this CONTRACT as to form; and
- D. This CONTRACT has been signed on behalf of the CITY by the person designated by the City Council, or by the BOARD, officer, or employee authorized to enter into this CONTRACT.

ARTICLE 8 – SUSPENSION

At the CITY'S sole discretion, the CITY may suspend any or all services provided under this CONTRACT by providing the CONTRACTOR with a written notice of suspension. Upon receipt of the notice of suspension, the CONTRACTOR shall immediately cease the services suspended and shall not incur any additional obligations, costs, or expenses to the CITY until the CITY gives written notice to recommence the services.

ARTICLE 9 – TERMINATION

9.1 Termination for Convenience

The CITY may terminate this CONTRACT, **in whole or in part**, for the CITY'S convenience at any time by providing the CONTRACTOR thirty days (30) written notice. Upon receipt of the notice of termination, the CONTRACTOR shall immediately take action not to incur any additional obligations, costs, or expenses, except as may be necessary to terminate its activities. The CITY shall pay the CONTRACTOR its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by the CONTRACTOR to effect the termination. Thereafter, the CONTRACTOR shall have no further claims against the CITY under this CONTRACT. All finished and unfinished documents and materials procured for or produced under this CONTRACT, including all intellectual property rights the CITY is entitled to, shall become CITY property upon the date of the termination. The CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

9.2 Termination for Breach of Contract

9.2.1 Except as provided in [Article 21](#), if the CONTRACTOR fails to perform any of the provisions of this CONTRACT or so fails to make progress as to

endanger timely performance of this CONTRACT, the CITY may give the CONTRACTOR written notice of the default. The CITY'S default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of the CITY. Additionally, the CITY'S default notice may offer the CONTRACTOR an opportunity to provide the CITY with a plan to cure the default, which shall be submitted to the CITY within the time period allowed by the CITY. At the CITY'S sole discretion, the CITY may accept or reject the CONTRACTOR'S plan. If the default cannot be cured or if the CONTRACTOR fails to cure within the period allowed by the CITY, then the CITY may terminate this CONTRACT due to the CONTRACTOR'S breach of this CONTRACT.

9.2.2 If the default under this CONTRACT is due to the CONTRACTOR'S failure to maintain the insurance required under this CONTRACT, the CONTRACTOR shall immediately: (1) suspend performance of any services under this CONTRACT for which insurance was required; and (2) notify its employees and SUBCONTRACTORS of the loss of insurance coverage and the CONTRACTOR'S obligation to suspend performance of services. The CONTRACTOR shall not recommence performance until the CONTRACTOR is fully insured and in compliance with the CITY'S requirements.

9.2.3 If a federal or state proceeding for relief of debtors is undertaken by or against the CONTRACTOR, or if the CONTRACTOR makes an assignment for the benefit of creditors, then the CITY may immediately terminate this CONTRACT.

9.2.4 If the CONTRACTOR engages in any dishonest conduct related to the performance or administration of this CONTRACT or violates the CITY'S laws, regulations, or policies relating to lobbying, then the CITY may immediately terminate this CONTRACT.

9.2.5 Acts of Moral Turpitude

a) The CONTRACTOR shall immediately notify the CITY if the CONTRACTOR or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").

b) If the CONTRACTOR or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to an Act of Moral Turpitude, the CITY may immediately terminate this CONTRACT.

- c) If the CONTRACTOR or a Key Person is charged with or indicted for an Act of Moral Turpitude, the CITY may terminate this CONTRACT after providing the CONTRACTOR an opportunity to present evidence of the CONTRACTOR'S ability to perform under the terms of this CONTRACT.
- d) Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in the California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elder abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.
- e) For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this CONTRACT, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of the CONTRACTOR.

9.2.6 In the event the CITY terminates this CONTRACT as provided in this section, the CITY may procure, upon such terms and in the manner as the CITY may deem appropriate, services similar in scope and level of effort to those so terminated and the CONTRACTOR shall be liable to the CITY for all of its costs and damages, including, but not limited to, any excess costs for such services.

9.2.7 If, after notice of termination of this CONTRACT under the provisions of this section, it is determined for any reason that the CONTRACTOR was not in default under the provisions of this section or that the default was excusable under the terms of this CONTRACT, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.

9.2.8 The rights and remedies of the CITY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT.

9.3 In the event that this CONTRACT is terminated, the CONTRACTOR shall immediately notify all employees and SUBCONTRACTORS and shall notify in

writing all other parties contracted with under the terms of this CONTRACT within five (5) working days of the termination.

ARTICLE 10 – SUBCONTRACT APPROVAL

All subcontracts that are one half of one percent (0.5%) of the total CONTRACT amount or \$10,000, whichever is greater, shall require the prior approval of the CITY. A copy of all subcontracts shall be submitted to the CITY PROJECT MANAGER showing the SUBCONTRACTOR'S name and dollar amount of each subcontract. Wholly-owned subsidiaries of the CONTRACTOR shall not be considered SUBCONTRACTORS/SUBCONSULTANTS. The CONTRACTOR shall not substitute SUBCONTRACTORS listed in this AGREEMENT ([Exhibit XX, Schedule A](#)) without the prior written approval of the CITY. The CONTRACTOR shall not add SUBCONTRACTORS to assist in the performance of this AGREEMENT without the prior written approval of the CITY. If the CITY permits the use of SUBCONTRACTORS, the CONTRACTOR shall remain responsible for performing all aspects of this CONTRACT. The CITY has the right to approve the CONTRACTOR'S SUBCONTRACTORS, and the CITY reserves the right to request replacement of SUBCONTRACTORS. The CITY does not have any obligation to pay the CONTRACTOR'S SUBCONTRACTORS, and nothing herein creates any privity of contract between the CITY and the SUBCONTRACTORS.

ARTICLE 11 - COMPENSATION, INVOICING, AND PAYMENT

11.1 Definitions

11.1.1 "Cost" as used herein is defined as the sum of: (1) Billing Salary Rates; (2) Indirect Expenses; (3) Other Direct Cost with no markup; and (4) Profit of as defined below. "Billing Salary Rates" shall be at the rates approved by the CITY PROJECT MANAGER, to be charged by the CONTRACTOR for employees' time directly chargeable to their performance of the project work. Any adjustments to the CONTRACTOR'S direct salary rate shall be in accordance with established BUREAU policies existing at the time the adjustment is approved. Billing Salary Rate increases are limited to once per year, per employee, on the anniversary date of the CONTRACTOR'S AGREEMENT execution and are subject to the approval of the CITY. In no case shall the "Billing Salary Rates" exceed the actual salary rate paid to the employee.

Any adjustment to the SUBCONTRACTORS' salaries and Hourly Billing Rates shall be reviewed and approved by the CITY PROJECT MANAGER prior to invoicing. Adjustments to the SUBCONTRACTORS' salaries and Hourly Billing Rates may be increased one time per year, per employee, on the anniversary date of the CONTRACTOR'S AGREEMENT execution.

Any such increases shall be in accordance with established BUREAU policy at the time the adjustment is approved.

- 11.1.2 "Indirect Expenses" (including payroll burden, overhead, and general and administrative expenses) shall be at the rate applied to Billing Salary Rate. Indirect Expenses for this Contractor Services Agreement is fixed at a rate of ten percent (10%) for CONTRACTOR personnel located in the Home Office and fixed at a rate of ten percent (10%) for CONTRACTOR personnel located in the Field Office for the duration of the AGREEMENT.
- 11.1.3 "Other Direct Cost" includes those costs of the CONTRACTOR directly identifiable to or incurred in the performance of services hereunder, including but not limited to reproduction, freight, messenger service, travel (in accordance with established CITY policies), equipment owned or rented by the CONTRACTOR (any equipment purchased and paid for under this project shall become the property of the CITY), auto mileage charges (based on IRS allowable amounts), and supplies used in the work. Communication expenses, cost of office space, equipment, and supplies furnished to CITY personnel at the CONTRACTOR'S location shall be paid by the CITY. The CITY shall receive the full benefit of any free travel, frequent flyer mileage, discounts and/or any other advantages which are acquired by the CONTRACTOR as a result of CITY-sponsored travel.
- 11.1.4 "Subcontract Expenses" shall be the actual amount paid by the CONTRACTOR to the SUBCONTRACTOR for their services to the CITY plus an administrative fee of five percent (5%).
- 11.1.5 Costs incurred by the CONTRACTOR prior to the actual date of full execution of this AGREEMENT shall only be payable to the CONTRACTOR if said costs were incurred in completing any task specifically authorized by this AGREEMENT and said costs are reviewed and approved by the CITY in writing and said approval for payment occurs after this AGREEMENT is fully executed.
- 11.1.6 [Exhibit 14](#), Project Rate Schedule, attached hereto and incorporated herein by this reference, shall be the format used for the estimated total

cost by task for each Task Order. For Task Orders specifying a Lump Sum compensation method, the Project Services Cost Estimate shall set forth the total project cost and the appropriate payment milestones.

11.1.7 Hourly Billing Rate is a method of compensation whereby the CONTRACTOR is compensated on an hourly basis pursuant to established Hourly Billing Rates set forth in [Exhibit 14](#). The hourly billing rates shall be approved by the CITY PROJECT MANAGER for the CONTRACTOR employees' time directly chargeable to their performance of the project work and includes salary, fringe benefits, overhead, profit, and all other expenses incurred by the CONTRACTOR. Payments shall be made upon the satisfactory completion of the tasks or milestones as set forth in the Project Task Order.

11.1.9 The CITY will not pay for the CONTRACTOR'S nor SUBCONTRACTOR'S personnel for invoice preparation. The CITY will not pay for the CONTRACTOR'S nor SUBCONTRACTOR'S communication expenses and computer time charges.

11.2 Compensation

The CONTRACTOR agrees to perform the work specified in [Article 4.4](#), and the CITY shall compensate the CONTRACTOR either on a Lump Sum basis, or an Hourly Billing Rate basis upon mutual written agreement. The CITY shall designate the compensation method in the Task Orders to be issued under this AGREEMENT. If the Task Order specifies the compensation as being on a Hourly Billing Rate basis, payment shall be made in accordance with the Task Cost Estimates to be provided for CITY approval prior to issuance of Notice to Proceed for any task under this AGREEMENT. Hourly rates, SUBCONTRACTOR fees, and other direct/indirect charges shall be in accordance with rates set herein. Individuals who the CONTRACTOR wishes to add to the project must have their compensation rate approved by the CITY'S PROJECT MANAGER, and a revised Scope of Services must be prepared as evidence of this addition. The total cost ceiling shall be stated in the Task Order.

If the Task Order specifies the compensation as being on a Lump Sum basis, payment shall be made upon the satisfactory completion of the tasks or milestones as set forth in the Task Order. The total cost ceiling shall be stated in the Task Order.

The total cost ceiling for this AGREEMENT is \$ 1,829,000.

11.3 Invoicing and Payment

- 11.3.1 Invoices shall be prepared in such form and supported by such copies of invoices, payrolls, time sheets, and other documents of proof as may be reasonably required by the CITY to establish the amount of such invoices as allowable expenses. The CONTRACTOR shall submit a Subcontractor Utilization Form, [Exhibit 2 \[Schedule B, MBE/WBE/SBE/EBE/DVBE/OBE UTILIZATION PROFILE\]](#), as part of the monthly invoice, listing current MBE/WBE/SBE/EBE/ DVBE/OBE amounts invoiced as part of the invoicing procedures. The CONTRACTOR must provide an explanation for any item that falls short of the planned utilization with specific plans and recommendations for recovering any shortfalls in utilization. No such invoices shall be paid without the Subcontractor Utilization Form attachment. All invoices shall be subject to audit for a period of four (4) years from the termination of this AGREEMENT.
- 11.3.2 The CITY shall not be obligated to reimburse the CONTRACTOR for costs incurred in excess of the Project Services Cost Estimate set forth. The CONTRACTOR shall not be obligated to continue performance (including actions under the temporary stop work or termination clauses) or otherwise incur costs in excess of the Project Services Cost Estimate unless and until the CITY shall have notified the CONTRACTOR in writing that such Project Services Cost Estimate has been increased and shall have specified in such notice an estimated Project Services Cost Estimate, which shall thereupon constitute the cost performance of this AGREEMENT. In the absence of the specified notice, the CITY shall not be obligated to reimburse the CONTRACTOR for any costs in excess of the Project Services Cost Estimate set forth, whether those costs were incurred during the course of the AGREEMENT or as a result of termination.
- 11.3.3 When and to the extent that the Project Services Cost Estimate has been increased, any costs incurred by the CONTRACTOR in excess of the Project Services Cost Estimate for any Task Order, prior to such increase, shall be allowable to the same extent as if such costs had been incurred after the increase.
- 11.3.4 Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for the CITY to comply with its governing legal requirements, the CITY shall have no obligation to make any payments to the CONTRACTOR unless the CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. The CONTRACTOR agrees that any services provided by the CONTRACTOR, purchases made by the CONTRACTOR, or expenses incurred by the CONTRACTOR in excess of the appropriation(s) shall be free and without

charge to the CITY and the CITY shall have no obligation to pay for the services, purchases, or expenses. The CONTRACTOR shall have no obligation to provide any services, provide any equipment, or incur any expenses in excess of the appropriated amount(s) until the CITY appropriates additional funds for this CONTRACT.

11.3.5 For Task Orders specifying a Lump Sum method of payment or the Hourly Billing Rate method, the CONTRACTOR shall submit to the CITY, upon the satisfactory completion of each task/milestone, an original and three (3) copies of an invoice in a format acceptable to the CITY. The CITY shall review the CONTRACTOR'S invoice and notify the CONTRACTOR of exceptions or disputed items and their dollar amount. The total invoice amount, less any exceptions or disputed items shall be considered approved by the CITY. The CITY shall pay any undisputed portion of the amount due within the 30 business day's period required for such payment, and any required payment of the disputed amount in accordance with existing CITY practices.

11.4 False Claims Act

The CONTRACTOR acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the CITY under the California False Claims Act (Cal. Gov. Code 12650 et seq.), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

ARTICLE 12 – AMENDMENTS, CHANGES, OR MODIFICATIONS

All amendments, changes, or modifications to this CONTRACT shall be in writing and signed and approved pursuant to the provisions of [Article 7](#).

ARTICLE 13 – INDEMNIFICATION AND INSURANCE

13.1 INDEMNIFICATION

Except for the active negligence or willful misconduct of the CITY, or any of its boards, officers, agents, employees, assigns and successors in interest, the CONTRACTOR shall defend, indemnify, and hold harmless the CITY and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or

liability of any nature whatsoever, for death or injury to any person, including the CONTRACTOR'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by the CONTRACTOR, SUBCONTRACTORS, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of the CITY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT. This provision will survive expiration or termination of this CONTRACT.

13.2 INSURANCE

During the term of this CONTRACT and without limiting the CONTRACTOR'S obligation to indemnify, hold harmless, and defend the CITY, the CONTRACTOR shall provide and maintain at its own expense a program of insurance having the coverage and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in [Exhibit 1](#) hereto). The insurance must: (1) conform to the CITY'S requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in [Exhibit 1](#) hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. The CONTRACTOR shall comply with all Insurance Contractual Requirements shown on [Exhibit 1](#) hereto. [Exhibit 1](#) is hereby incorporated by reference and made a part of this CONTRACT.

13.3 BONDS

All bonds required by the CITY shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 et seq., as amended from time to time.

ARTICLE 14 – INDEPENDENT CONTRACTORS

The CONTRACTOR is an independent contractor and not as an agent or employee of the CITY. The CONTRACTOR shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the CITY.

ARTICLE 15 – WARRANTIES AND RESPONSIBILITY OF CONTRACTOR

15.1 The CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within the CONTRACTOR'S profession, doing the same or similar work under the same or similar circumstances.

- 15.2 The CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the CONTRACTOR under this AGREEMENT. The CONTRACTOR shall, at no additional cost to the CITY, correct or revise any errors, omissions, or other deficiencies in its designs, drawings, specifications, reports, calculations, and other services.
- 15.3 The CONTRACTOR shall exhibit proper professional judgment in the use of information furnished by the CITY in [Article 6](#). In the event that said information is not delivered timely or that it is discovered to be incorrect or misleading, the CONTRACTOR will notify the CITY in a reasonable manner within three (3) business days after the discovery of such tardiness or incorrect or misleading information and promptly make a determination of its costs and schedule impact on this AGREEMENT, as well as recommendations for the correction of such incorrect or misleading information.
- 15.4 The CONTRACTOR shall perform such professional services as may be necessary to accomplish the work required to be performed under this AGREEMENT in accordance with this AGREEMENT.
- 15.5 Except as specified in [Article 13](#) and as otherwise provided in this AGREEMENT, the CONTRACTOR shall be and shall remain liable, in accordance with applicable law, for all damages to the CITY caused by the CONTRACTOR'S negligent performance of any of the services furnished under this AGREEMENT, except for errors, omissions, or other deficiencies to the extent attributable to the CITY, CITY-furnished data, or any third party (excepting any CONTRACTOR or SUBCONTRACTOR of any tier).

ARTICLE 16 - INTELLECTUAL PROPERTY INDEMNIFICATION

The CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the CITY, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands, and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the CITY, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the CONTRACTOR, or its SUBCONTRACTORS, in performing the work under this CONTRACT; or (2) as a result of the CITY'S actual or intended use of any Work Product (as defined in [Article 18](#)) furnished by the CONTRACTOR, or its SUBCONTRACTORS, under this CONTRACT. The

rights and remedies of the CITY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT. This provision will survive expiration or termination of this CONTRACT.

ARTICLE 17 – INTELLECTUAL PROPERTY WARRANTY

The CONTRACTOR represents and warrants that its performance of all obligations under this CONTRACT does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, right of publicity, and/or proprietary information.

ARTICLE 18 – OWNERSHIP AND LICENSE

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this CONTRACT including, without limitation, documents, materials, data, reports, manuals, specifications, artworks, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by the CONTRACTOR or its SUBCONTRACTORS under this CONTRACT (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of the CITY for its use in any manner the CITY deems appropriate. The CONTRACTOR hereby assigns to the CITY all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this CONTRACT. The CONTRACTOR further agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY'S ownership of rights provided herein.

The CONTRACTOR agrees that a monetary remedy for breach of this CONTRACT may be inadequate, impracticable, or difficult to prove and that a breach may cause the CITY irreparable harm. The CITY may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude the CITY from seeking or obtaining any other relief to which the CITY may be entitled.

For all Work Products delivered to the CITY that are not originated or prepared by the CONTRACTOR or its SUBCONTRACTORS under this CONTRACT, the CONTRACTOR shall secure a grant, at no cost to the CITY, for a non-exclusive perpetual license to use such Work Products for any CITY purpose(s).

The CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of the CITY.

Any subcontract entered into by the CONTRACTOR relating to this CONTRACT shall include this provision to contractually bind its SUBCONTRACTORS performing work under this CONTRACT such that the CITY'S ownership and license rights of all Work Products are preserved and protected as intended herein.

Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its SUBCONTRACTORS with such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including but not limited to termination of the CONTRACTOR'S CONTRACT with the CITY.

ARTICLE 19 – SUCCESSORS AND ASSIGNS

All of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns provided, however, that no assignment of the AGREEMENT shall be made without written consent of the parties to this AGREEMENT as required under [Article 28](#).

ARTICLE 20 – CONTACT PERSONS - PROPER ADDRESSES - NOTIFICATION

All notices shall be made in writing and may be given by personal delivery, regular mail, or electronic mail. Notices sent by regular mail should be registered or certified and sent to the designated contact person for each party and addressed as follows:

To the CITY:

Contact Person: [Stephen Opot](#)
Address: [12000 Vista Del Mar Playa Del Rey CA 90293](#).
Telephone: [\(310\) 648-5323](#)
E-mail: Stephen.opot@lacity.org

To the CONTRACTOR:

Contact Person: ROBERT FALLON, CEO
Address: 4440 Vistameadow Court Moorpark California 93021
Telephone: 805-825-6035
E-mail: info@phamarine.com

ARTICLE 21 – FORCE MAJEURE (EXCUSABLE DELAYS)

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this CONTRACT, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar

events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a SUBCONTRACTOR of the CONTRACTOR shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both the CONTRACTOR and SUBCONTRACTOR, and without any fault or negligence of either of them. In such case, the CONTRACTOR shall not be liable for the delay or 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 perform timely. As used in this CONTRACT, the term "SUBCONTRACTOR" means a subcontractor at any tier.

In the event the CONTRACTOR'S delay or failure to perform arises out of a Force Majeure Event, the CONTRACTOR agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

ARTICLE 22 – SEVERABILITY

Should any portion of this AGREEMENT be determined to be void or unenforceable, such shall be severed from the whole and the AGREEMENT will continue as modified.

ARTICLE 23 – DISPUTES

Should a dispute or controversy arise concerning provisions of this AGREEMENT or the performance of work hereunder, the parties may elect to submit such to a court of competent jurisdiction.

ARTICLE 24 – ENTIRE AGREEMENT

This AGREEMENT contains all of the agreements, representations, and understandings of the parties hereto and supersedes and/or incorporates any previous understandings, proposals, commitments, or agreements, whether oral or written, and may be modified or amended only as herein provided.

ARTICLE 25 – APPLICABLE LAW, INTERPRETATION, AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the CITY, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing. This CONTRACT and its performance shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. The CONTRACTOR shall comply with new, amended, or revised laws, regulations, or

procedures that apply to the performance of this CONTRACT with no additional compensation paid to the CONTRACTOR.

In any action arising out of this CONTRACT, the CONTRACTOR consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term, or provision of this CONTRACT is held void, illegal, unenforceable, or in conflict with any federal, state, or local law or regulation having jurisdiction over this AGREEMENT, the validity of the remaining parts, terms, or provisions of this CONTRACT shall not be affected thereby.

ARTICLE 26 – CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED

For the duration of this CONTRACT, the CONTRACTOR shall maintain valid Business Tax Registration Certificate(s) as required by the CITY'S Business Tax Ordinance, Section 21.00 et seq. of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

Should any such certificate(s) become suspended or revoked, it is the CONTRACTOR'S responsibility to report the matter immediately to the CITY PROJECT MANAGER.

ARTICLE 27 – WAIVER

A waiver of a default of any part, term, or provision of this CONTRACT shall not be construed as a waiver of any succeeding default or as a waiver of the part, term, or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

ARTICLE 28 – PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

The CONTRACTOR may not, unless it has first obtained the written permission of the CITY:

- A. Assign or otherwise alienate any of its rights under this CONTRACT, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this CONTRACT.

ARTICLE 29 – PERMITS

The CONTRACTOR and its directors, officers, partners, agents, employees, and SUBCONTRACTORS, to the extent allowed hereunder, shall obtain and maintain all

licenses, permits, certifications, and other documents necessary for the CONTRACTOR'S performance of this CONTRACT and shall pay any fees required therefore. The CONTRACTOR certifies to immediately notify the CITY of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to the CONTRACTOR'S performance of this CONTRACT.

ARTICLE 30 – BEST TERMS

Throughout the term of this CONTRACT, the CONTRACTOR shall offer the CITY the best terms, prices, and discounts that are offered to any of the CONTRACTOR'S customers for similar goods and services provided under this CONTRACT.

ARTICLE 31 – CLAIMS FOR LABOR AND MATERIALS

The CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this CONTRACT so as to prevent any lien or other claim under any provision of law from arising against any CITY property (including reports, documents, and other tangible or intangible matter produced by the CONTRACTOR hereunder) and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this CONTRACT.

ARTICLE 32 – BREACH

Except for Force Majeure, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

ARTICLE 33 – MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

A. The CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the CITY. In performing this CONTRACT, the CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or

applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status, or medical condition.

- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 34 – CHILD SUPPORT OBLIGATIONS ASSIGNMENT ORDERS

The CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, the CONTRACTOR shall fully comply with all applicable State and Federal employment reporting requirements. Failure of the CONTRACTOR to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of the CONTRACTOR to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the CONTRACTOR under this CONTRACT. Failure of the CONTRACTOR or principal owner to cure the default within ninety (90) days of the notice of default will subject this CONTRACT to termination for breach. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 35 – LIVING WAGE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

35.1 LIVING WAGE ORDINANCE

The CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 et seq., as amended from time to time. The CONTRACTOR further agrees that it shall comply with federal law proscribing retaliation for union organizing.

Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision. ([Exhibit 1](#))

35.2 SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

The CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 et seq., as amended from time to time. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 36 – ACCESS AND ACCOMMODATIONS

The CONTRACTOR represents and certifies that:

- A. the CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq., the Fair Housing Act, and its implementing regulations and any subsequent amendments, and the California Government Code Section 11135;
- B. The CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. The CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services, and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this CONTRACT are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

The CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this CONTRACT. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 37 – CONTRACTOR RESPONSIBILITY ORDINANCE

The CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 et seq., as amended from time to time.

ARTICLE 38 – LOS ANGELES BUSINESS INCLUSION PROGRAM

The policy of the City of Los Angeles is to provide Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Small Business Enterprise (SBE), Emerging Business Enterprise (EBE), Disabled Veteran Business Enterprise (DVBE), and all Other Business Enterprise (OBE) firms an equal opportunity to participate in the performance of CITY contracts. Due to the scope of work involved for this CONTRACT, the CITY does not anticipate any subcontracting opportunities and consequently the BIP Outreach requirements were waived by the Mayor’s Office on October 25, 2023. However, CONTRACTOR is encouraged to solicit and utilize subcontractors in the event that any subcontracting opportunities do arise.

ARTICLE 39 – DISCLOSURE ORDINANCES

Unless otherwise exempt in accordance with the provisions of this Ordinance, this CONTRACT is subject to the Slavery Disclosure Ordinance, Section 10.41 et seq., of the Los Angeles Administrative Code, as may be amended from time to time. The CONTRACTOR certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this CONTRACT. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision. [Exhibit 4](#) is attached hereto and incorporated herein by this reference.

The CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 et seq., 'Disclosure of Border Wall Contracting.' The City may terminate this CONTRACT at any time if the City determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

ARTICLE 40 – CONTRACTOR PERFORMANCE EVALUATION ORDINANCE

At the end of this AGREEMENT, the CITY will conduct an evaluation of the CONTRACTOR’S performance. The CITY may also conduct evaluations of the CONTRACTOR’S performance during the term of the AGREEMENT. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, financial issues, and the expertise of personnel that the CONTRACTOR assigns to the AGREEMENT. A contractor who receives a “Marginal” or “Unsatisfactory” rating will be provided with a copy of the final CITY evaluation and allowed fourteen (14) CALENDAR DAYS to respond. The CITY will use the final CITY

evaluation, and any response from the CONTRACTOR, to evaluate proposals and to conduct reference checks when awarding other service contracts.

ARTICLE 41 – MUNICIPAL LOBBYING ORDINANCE

The CONTRACTOR for the CITY shall submit a certification, on a form prescribed by the City Ethics Commission, that the CONTRACTOR acknowledges and agrees to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance, [Exhibit 11](#), if the CONTRACTOR qualifies as a lobbying entity under the Ordinance. The exemptions contained in Los Angeles Administrative Code Section 10.40.4 shall not apply to this subsection.

ARTICLE 42 – FIRST SOURCE HIRING ORDINANCE

The CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 et seq., as amended from time to time. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 43 – COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) FOR MEASURE H/CONTRACTOR CONTRIBUTIONS/FUNDRAISING

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, the CONTRACTOR, CONTRACTOR'S principals, and the CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under this CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles the CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any CONTRACTOR subject to Charter Section 470(c)(12) shall include the following notice in any contract with any SUBCONTRACTOR expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY Contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve-month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

ARTICLE 44 – COMPLIANCE WITH THE IRAN CONTRACTING ACT OF 2010

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with the CITY for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit." (Exhibit 13)

ARTICLE 45 – INTEGRATED CONTRACT

This CONTRACT sets forth all of the rights and duties of the parties with respect to the subject matter of this CONTRACT and replaces any and all previous contracts or understandings, whether written or oral, relating thereto. This CONTRACT may be amended only as provided for in the provisions of [Article 12](#) hereof.

ARTICLE 46 – DATA PROTECTION

A. The CONTRACTOR shall protect, using the most secure means and technology that is commercially available, CITY-provided data or consumer-provided data acquired in the course and scope of this CONTRACT, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). The CONTRACTOR shall notify the CITY in writing as soon as reasonably feasible, and in any event within twenty-four (24) hours, of the CONTRACTOR'S discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. The CONTRACTOR shall begin remediation immediately. The CONTRACTOR shall provide daily updates, or more frequently if required by the CITY, regarding findings and actions performed by the CONTRACTOR until the Data Breach or Security Incident has been effectively resolved to the CITY'S satisfaction. The CONTRACTOR shall

conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with the CITY. At the CITY'S sole discretion, the CITY and its authorized agents shall have the right to lead or participate in the investigation. The CONTRACTOR shall cooperate fully with the CITY, its agents, and law enforcement.

- B. If the CITY is subject to liability for any Data Breach or Security Incident, then the CONTRACTOR shall fully indemnify and hold harmless the CITY and defend against any resulting actions.

ARTICLE 47 – LOCAL BUSINESS PREFERENCE ORDINANCE

The CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 et seq., as amended from time to time. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 48 – CITY CONTRACTOR'S USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS

The CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 et seq., as amended from time to time. Any subcontract entered into by the CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

ARTICLE 49 – COMPLIANCE WITH IDENTITY THEFT LAWS AND PAYMENT CARD DATA SECURITY STANDARDS

The CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act ("FACTA"), including its requirement relating to the content of transaction receipts provided to customers. The CONTRACTOR also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards ("PCI DSS"). During the performance of any service to install, program, or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, the CONTRACTOR shall verify proper truncation of receipts in compliance with FACTA.

ARTICLE 50 – COMPLIANCE WITH CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground,

or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor if the person has been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, the CONTRACTOR shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by the CITY. The CONTRACTOR is required to have all employees, volunteers, and SUBCONTRACTORS (including all employees and volunteers of any SUBCONTRACTOR) of the CONTRACTOR working on the premises to pass a fingerprint and background check through the California Department of Justice at the CONTRACTOR'S sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

ARTICLE 51 – POSSESSORY INTERESTS TAX

Rights granted to the CONTRACTOR by the CITY may create a possessory interest. The CONTRACTOR agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, the CONTRACTOR shall pay the property tax. The CONTRACTOR acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

ARTICLE 52 – CONFIDENTIALITY

All documents, information, City Data (as that term is defined in PSC-22), and materials provided to CONTRACTOR by CITY or developed by CONTRACTOR pursuant to this Contract (collectively "Confidential Information") are confidential. CONTRACTOR shall not provide, and shall prohibit its employees and subcontractors from providing or disclosing, any Confidential Information or their contents or any information therein either orally or in writing, to any person or entity, except as authorized by CITY or as required by law. CONTRACTOR shall immediately notify CITY of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

ARTICLE 53 – COUNTERPARTS

This AGREEMENT may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by the CITY) and sent by e-mail shall

be deemed original signatures.

ARTICLE 54 – CONTRACTOR DATA REPORTING

If CONTRACTOR is a for-profit, privately owned business, CONTRACTOR shall, within 30 days of the effective date of the CONTRACT and on an annual basis thereafter (i.e., within 30 days of the annual anniversary of the effective date of the CONTRACT), report the following information to CITY via the Regional Alliance Marketplace for Procurement ("RAMP") or via another method specified by CITY: Contractor's and any Subcontractor's annual revenue, number of employees, location, industry, race/ethnicity and gender of majority owner ("Contractor/Subcontractor Information"). CONTRACTOR shall further request, on an annual basis, that any Subcontractor input or update its business profile, including the Contractor/Subcontractor Information, on RAMP or via another method prescribed by CITY.

SIGNATURE PAGE

IN WITNESS WHEREOF, the City of Los Angeles and the Contractor have caused this Agreement to be executed by their duly authorized representatives.

For: THE CITY OF LOS ANGELES,
a Municipal Corporation

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this contract.

By: _____
[Name]
[Title]
[Department Name]

Date: [mm/dd/yyyy]

APPROVED AS TO FORM:

HYDEE FELDSTEIN SOTO, City Attorney

By: _____
VIRGINIA CHOI
Deputy City Attorney

Date: [mm/dd/yyyy]

[Contractor Name]

**Approved Signature Methods:*

1) *Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.*

2) *One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign*

By: _____
[Name]
[Title]

By: _____
[Name]
[Title]

Date: [mm/dd/yyyy]

ATTEST:

PETTY F. SANTOS, Interim City Clerk

By: _____
[Name]
Deputy City Clerk

Date: [mm/dd/yyyy]

City Business License Number: [BTRC Number]
Internal Revenue Service Taxpayer Identification Number: [Number]
Said Agreement is Number [Contract Number] of City Contracts