

## EXHIBIT 11

### SUBMITTALS REVIEW PROCESS

#### 1. Submittal Requirements

Each Submittal provided by Developer to LAWA for information, review and comment, review and acceptance or approval shall:

- (a) be accurate, complete and in conformity with the Contract Documents;
- (b) include a completed transmittal form in form agreed between LAWA and Developer; and
- (c) include all necessary information and documentation concerning the subject matter and any additional information reasonably requested by LAWA.

#### 2. Submittal Types and Time Periods

2.1 Submittals provided by Developer to LAWA will consist of the following types:

- (a) Submittals for information. Submittals for LAWA information do not include any deadline for LAWA to respond. LAWA may provide comments at any time or not at all.
- (b) Submittals for review and comment. For any Submittal subject to review and comment, LAWA may respond at any time or not all. Developer is only required to resubmit a Submittal if LAWA responds within 21 days. LAWA responses include: (i) reviewed with no comments; (ii) reviewed with comments, resubmittal not required; or (iii) reviewed with comments, resubmittal required. Submittals are subject to LAWA's review and comment unless either the Contract Documents or the LAWA-accepted Submittal Schedule contemplates a different type of review.
- (c) Submittals for review and acceptance. For any Submittal subject to LAWA review and acceptance, LAWA will have 21 days to respond. LAWA responses include: (i) reviewed and accepted; (ii) reviewed and accepted with comments, resubmittal not required; or (iii) reviewed and not accepted with comments, resubmittal required.
- (d) Submittals for approval. For any Submittal subject to LAWA approval, LAWA will have 21 days to respond. LAWA responses include: (i) approved; (ii) approved with comments, resubmittal not required; or (iii) not approved with comments, resubmittal required.

2.2 If any other provision of the Contract Documents expressly provides a longer or shorter period for LAWA to act in response to a Submittal, then such period shall prevail over the time periods set forth in Section 2.1.

2.3 The Parties shall agree in good faith upon any necessary extensions of the review period to accommodate particularly complex or comprehensive Submittals.

**2.4** If the number of Submittals delivered simultaneously to LAWA exceeds the limits specified in Part 2A, Section 6.4.3 (Simultaneous Reviews) of the Technical Provisions, then LAWA may extend the applicable period for it to act with respect to such Submittals to allow LAWA a reasonable period to respond, and no such extension shall constitute a LAWA-Caused Event or other basis for any Claim. Submittals are considered “delivered simultaneously” if the review time periods available to LAWA under this Section 2 for two or more Submittals entirely or partially overlap.

**2.5** Whenever LAWA is in receipt of Submittals delivered simultaneously, Developer may provide notice to LAWA including a requested order of priority for processing such Submittals. Upon receipt of such notice, LAWA will use reasonable efforts to accommodate the requested order of priority; provided, however, that LAWA will not be obligated to shorten the review times otherwise applicable under this Section 2.

**2.6** All time periods for LAWA to act under this Section 2 shall be extended by the period of any delay in LAWA’s review caused by any Relief Event (other than a LAWA-Caused Event) or any act, omission, breach, fault or negligence of any Developer-Related Entity.

**2.7** During any time that LAWA is entitled to increase the level of its Oversight under Section 15.5 (Increased Oversight of the Project and the Work; Warning Notice) of the Agreement, the applicable period for LAWA to act on any Submittals received during such time and not related to addressing events that instigated the Section 15.5 of the Agreement action shall be extended as reasonably needed due to the increased level of Oversight, but not to exceed an additional 10 Business Days per Submittal. No such extension shall constitute a LAWA-Caused Event or other basis for any Claim.

**2.8** Developer may, by notice to LAWA, request expedited action on a specific Submittal. LAWA has no obligation to expedite any Submittal but upon receipt of such a request will use reasonable efforts to accommodate such request within the practical limitations (a) on availability of LAWA personnel relevant to the request or (b) imposed by restrictions upon LAWA’s rights under agreements with Third Parties and Utility Owners. However, LAWA’s obligation to use reasonable efforts to accommodate such a request shall not apply with respect to the review periods described in Section 2.7.

### **3. LAWA Actions Relevant to Submittals**

If a Submittal is subject to LAWA’s acceptance or approval, Developer may not proceed without receiving LAWA’s acceptance or approval, as applicable.

### **4. LAWA Objection, Rejection Binding**

**4.1** Any exception, objection, rejection, non-acceptance or disapproval by LAWA shall be deemed reasonable if, among other reasons, the determination is based on any of the following grounds:

- (a) the Submittal or subject provision fails to comply, or is inconsistent, with any applicable Standards and Specifications or any covenant, condition, requirement, term or provision of the Contract Documents, Project Management Plan or O&M Management Plan;

- (b) the Submittal or subject provision does not at a minimum meet Good Industry Practice;
- (c) Developer has not provided all necessary information and documentation concerning the subject matter and any additional information reasonably requested relating to the Submittal (provided that Developer may subsequently resubmit the Submittal with the required or reasonably requested content or information); or
- (d) adoption of the Submittal or subject provision, or of any course of action proposed in the Submittal, would result in a conflict with or violation of any Law or Governmental Approval.

**4.2** Developer shall respond in writing to all of LAWA's comments (including any exceptions, objections, rejections and disapprovals) relating to a Submittal, and subject to Sections 2.1(a) and (b), shall make modifications to the Submittal as necessary to fully reflect and resolve all such comments in accordance with the review processes in this Exhibit 11, prior to executing the Work identified in the Submittal.

**4.3** If Developer does not accommodate or otherwise resolve any LAWA comment, Developer shall, within 10 Business Days after receipt of LAWA's comments, provide an explanation setting out:

- (a) why modifications based on LAWA's comments are not required;
- (b) the facts, analyses and reasons that support Developer's conclusion; and
- (c) the basis for any belief that incorporating LAWA's comments or resolving exceptions, objections, rejections or disapprovals that would render the Submittal erroneous, defective or reflective of less than Good Industry Practice.

**4.4** Promptly following delivery of Developer's explanation under Section 4.3, Developer shall meet with LAWA with the goal of reaching agreement regarding changes to be made to the Submittal. LAWA may at any time issue a Directive Letter, in which case Developer shall proceed in accordance with LAWA's Directive Letter with the right to seek resolution of the Dispute under the Dispute Resolution Procedures.

**4.5** If Developer fails to provide an explanation to LAWA in accordance with Section 4.3, LAWA may deliver to Developer a notice setting out comments that have not been addressed and relevant dates for Developer to respond. If Developer fails to address such comments within five Business Days after receipt of the notice, Developer shall make all changes necessary to accommodate and resolve the comment and will be fully responsible for such changes without right to assert a LAWA-Caused Event or other basis for a Claim that LAWA has assumed design or other liability.

**EXHIBIT 12**

**ADDITIONAL PROJECT REQUIREMENTS**

Exhibit 12A: Cooperation Agreements

Exhibit 12B: Modifications to Developer's Obligations regarding Cooperation Agreements

**EXHIBIT 12A**

**COOPERATION AGREEMENTS**

- Exhibit 12A-1      Master Cooperative Agreement for the Landside Access Modernization Project and the Airport Metro Connector Station by and between the City of Los Angeles, Department of Airports and the Los Angeles County Metropolitan Transportation Authority (the “**LACMTA Agreement**”)
- Exhibit 12A-2      Master Memorandum of Understanding for Project Delivery of the Los Angeles World Airports Landside Access Modernization Project by and between the City of Los Angeles, Department of Airports and the City of Los Angeles Departments (the “**City Agreement**”)

**EXHIBIT 12A-1**

**LACMTA AGREEMENT**

(See attached.)

**EXHIBIT 12A-2**  
**CITY AGREEMENT**

(See attached.)

**EXHIBIT 12B**

**MODIFICATIONS TO DEVELOPER'S OBLIGATIONS REGARDING COOPERATION  
AGREEMENTS**

(See attached.)



For the purposes of Developer's obligations under the Contract Documents, the following provisions of the agreements included in Exhibit 12A (Cooperation Agreements) shall be deemed to be modified as provided below:

1	<b>LACMTA Agreement</b>	
	Section 1.4 (Coordination Meetings)	Developer shall not be a member of, and unless requested by LAWA, shall not participate in the meetings of, the Technical Advisory Committee, the Oversight Committee or the Steering Committee.  Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA to support LAWA's participation in the Technical Advisory Committee, the Oversight Committee and the Steering Committee, to the extent that topics under review by these committees involve Developer.
	Section 1.5 (Key Reports)	Developer shall, if requested by LAWA, prepare the reports required under Section 1.5.1 and attend the meetings contemplated in Section 1.5.2. Developer shall provide LAWA with all additional information, analyses, reports and documentation requested by LAWA to support LAWA's participation in the meetings contemplated in Section 1.5.2.
	Section 2.0 (Engineering and Construction Coordination)	LAWA will review and approve any Significant Changes (as defined in the LACMTA Agreement). Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section.
	Section 2.1 (Design Criteria and Standards)	LAWA and LACMTA will make decisions relating to which design criteria and standards will apply to the interface aspects of the APM System and existing or future LACMTA facilities. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section, and shall, if requested by LAWA, attend the meetings contemplated in this section.
	Section 2.3.1 (LACMTA Design Review and Comment Period)	LAWA will exercise its discretion and make decisions relating to: (i) whether late comments from LACMTA will be accepted (Section 2.3.1(b)); (ii) resolution of outstanding design issues and the path forward (Section 2.3.1(c)); and (iii) whether an LACMTA requested change or Betterment shall be implemented (Section 2.3.1(d)).  Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section, and shall, if requested by LAWA, attend the meetings contemplated in this section.
	Section 2.3.2 (LAWA Design Review and Comment Period)	LAWA shall make requests for LACMTA acceptance of late LAWA comments under Section 2.3.2(b). Developer shall make all efforts to ensure timely review and comment on LACMTA submittals. LAWA's obligations under Section 2.3.2(d) do not apply to Developer.

	<p>Section 2.4 (Review and Approval of Significant Changes)</p>	<p>LAWA will review and approve or reject Significant Changes (as defined in the LACMTA Agreement) and provide notices relating to same as contemplated in this section. Developer shall not cease Work unless specifically instructed to do so by LAWA under the Agreement. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section.</p>
	<p>Section 2.5.1 (LAWA or LACMTA's Performance of Work Included in the Other Party's Project)</p>	<p>LAWA will make decisions regarding which party (LAWA or LACMTA) shall perform certain portions of work and shall coordinate any related Work Authorizations (as defined in the LACMTA Agreement). Any resulting change in Developer's scope of work will be implemented as a LAWA Change.</p>
	<p>Section 2.6 (Turnback Procedures)</p>	<p>LAWA will determine the required condition of any property to be turned back to LAWA as contemplated in the fourth bullet of Section 2.6.  LAWA will execute and deliver any certificates required confirming satisfaction of turnback requirements in respect of any Facilities (as defined in the LACMTA Agreement) or property turned back to LAWA as contemplated in the fifth bullet of Section 2.6.</p>
	<p>Section 2.7 (Construction Safety and Security Documents / Quality Control Documents)</p>	<p>The following sentence in this section does not apply to Developer: "Each Party shall provide the other with such Party's written confidentiality policy for incorporation into such Party's Contracts."</p>
	<p>Article 3 (Real Property Requirements and Operations and Maintenance Agreements)</p>	<p>LAWA's obligations under this article do not apply to Developer, with the exception of those obligations related to the "temporary right of entry and construction permit to construct permanent facilities" at the Southwest Yard and the "temporary right of entry and construction permit to construct permanent facilities and construction staging" at Hertz Property. In addition, Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this article.</p>
	<p>Article 4 (Operations and Maintenance)</p>	<p>LAWA will negotiate and finalize an Operations and Maintenance Agreement and a Security Agreement (each as defined in the LACMTA Agreement) with LACMTA. Any resulting change in Developer's scope of work will be implemented as a LAWA Change. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this article, and, if requested by LAWA, shall attend meetings relating to the development and negotiation of the Operations and Maintenance Agreement and the Security Agreement (each as defined in the LACMTA Agreement).</p>

	Article 5 (Dispute Resolution)	LAWA's obligations under this article do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this article.
	Article 6 (Betterments)	LAWA will make decisions, negotiate costs, coordinate any related Work Authorizations (as defined in the LACMTA Agreement) and pay LACMTA or receive payment from LACMTA, as applicable, in connection with any Betterments (as defined in the LACMTA Agreement). Any resulting change in Developer's scope of work will be implemented as a LAWA Change.
<b>2</b>	<b>City Agreement</b>	
	Article 2 (Coordination and Oversight Committees)	Developer shall not be a member of, and unless requested by LAWA, shall not participate in the meetings of, the Coordination Committee or the Oversight Committee.  Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA to support LAWA's participation in the Coordination Committee and the Oversight Committee, to the extent that topics under review by these committees involve Developer.  The obligations of the LAWA Representative do not apply to Developer. Developer shall propose agenda items to the LAWA Representative for Coordination Committee and Oversight Committee meetings.
	Section 3.1 (City Department Services During Planning and Preliminary Design Phase)	LAWA's obligations under Sections 3.1.1 and 3.1.2 do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under Section 3.1.
	Section 3.2 (City Department Design and Engineering Review Services)	LAWA's obligations under this section do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section, including, on or before October of each calendar year during the Construction Period, an annual look ahead plan identifying the work that Developer anticipates the City will be required to provide to the Project during the applicable year.
	Section 3.6 (Process for Engineering, Review and Comment)	LAWA will make decisions relating to extension of City submittal review periods.
	Section 3.9.2 (Design of Rearrangements Performed by City)	LAWA's obligations under this section do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section.

	Section 3.9.3 (Specific Design Requirements for Rearrangements; Identification of Replacement Property)	LAWA's obligations under this section do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section.
	Section 3.9.4 (Private Projections in Public Ways)	LAWA's obligations under this section do not apply to Developer, except that Developer shall promptly notify LAWA of Developer's discovery of any private projections in public ways not identified in the Utility Information. If LAWA requests that Developer remove any private projections not identified in the Utility Information, such work will be implemented as a LAWA Change.
	Section 3.10 (Betterments)	LAWA will determine whether a Betterment (as defined in the City Agreement) shall proceed. Any resulting change in Developer's scope of work will be implemented as a LAWA Change.
	Section 3.11 (Changes in Approved Plans)	LAWA will make decisions on City requested Design (as defined in the City Agreement) changes.
	Section 4.1 (Acquisition of Replacement Property for Relocation of Conflicting Facilities)	LAWA's obligations under this section do not apply to Developer.
	Section 5.6 (City Construction of Rearrangements)	LAWA's obligations under this section do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this section.

	<p>Section 6.1 (Inspection During Construction)</p>	<p>LAWA is responsible for the expenses described in the first sentence of Section 6.1.1, but only to the extent that the cost of City inspections are not included in the fees assessed for Governmental Approvals issued by the City.</p> <p>When LAWA inspects City's Construction of Rearrangements (as defined in the City Agreement) in accordance with Section 6.1.2, Developer shall participate in the inspection with LAWA and provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with such inspection. LAWA will provide notices to City as contemplated under Section 6.1.2.</p> <p>LAWA will provide to City daily inspection reports, and will coordinate with City in respect of removal or replacement of inspectors, each as contemplated in Section 6.1.3.</p> <p>Developer shall provide to LAWA, and LAWA will provide to City, the verbal and written notices of nonconformance contemplated in Section 6.1.4.</p> <p>Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under Section 6.1.</p>
	<p>Article 8 (Reimbursements to City)</p>	<p>LAWA's obligations under this article do not apply to Developer.</p>
	<p>Article 9 (Reimbursements and Credits to LAWA)</p>	<p>LAWA's obligations under this article do not apply to Developer.</p>
	<p>Article 10 (Annual Work Plans, Work Orders, Billings, Deadlines and Delays)</p>	<p>LAWA's obligations under this article do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this article.</p>
	<p>Article 11 (Resolution of Disputes)</p>	<p>LAWA's obligations under this article do not apply to Developer. Developer shall provide LAWA with all information, analyses, reports and documentation requested by LAWA in connection with LAWA's performance of its obligations and exercise of its rights under this article.</p>

**EXHIBIT 13**

**BASE INCREMENTAL COSTS AND PERMITTED MARKUP**

**1.1 Base Incremental Costs**

“**Base Incremental Costs**” means the cumulative total, without duplication, of only the following amounts, as paid or actually incurred by Developer or Contractors, as applicable, in the performance of Extra Work specifically related to, and solely attributable to, a Compensation Event (unless otherwise indicated):

- (a) straight-time wages or salaries, employment insurance, customary benefits such as sick leave, medical and health benefits, holiday and vacation benefits, or benefits required by collective bargaining agreements, if any, and payroll taxes, for personnel of Developer and/or Contractors for the performance of the Extra Work at the Site or at fabrication sites off the Site;
- (b) overtime wages or salaries, employment insurance, customary benefits such as sick leave, medical and health benefits, holiday and vacation benefits, or benefits required by collective bargaining agreements, if any, and payroll taxes for overtime work, as specifically authorized in writing by LAWA’s Authorized Representative for personnel of Developer and/or Contractors for the performance of the Extra Work at the Site, or at fabrication sites off the Site;
- (c) costs of materials and consumable items which are furnished and incorporated into the Extra Work, including transportation and maintenance thereof, as approved by LAWA’s Authorized Representative. Such costs shall be charged at the lowest price available to Developer or Contractors, as applicable, but in no event shall such costs exceed competitive costs obtainable from other subcontractors, suppliers, manufacturers, and distributors in the Los Angeles area. All discounts, rebates, and refunds and all returns from sale of surplus materials and consumable items shall accrue to LAWA and Developer shall, or shall cause the applicable Contractors to, make provisions so that they may be obtained;
- (d) sales taxes on the costs of materials and consumable items which are incorporated into and used in the performance of the Extra Work pursuant to clause (c) above;
- (e) rental rates that do not exceed 80% of the Rental Blue Book for necessary temporary facilities, machinery and equipment, and hand tools not customarily owned by construction workers, and for costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof, where such items are used directly in the performance of the Extra Work and are owned by a Developer-Related Entity. The charges for any machinery and equipment shall cease when the use thereof is no longer necessary for the Extra Work. Rental rates shall be submitted to and approved in advance and in writing by LAWA’s Authorized Representative;
- (f) rental charges that do not exceed those prevailing in the City of Los Angeles area for necessary temporary facilities, machinery and equipment, and hand

tools not customarily owned by the construction workers, and for costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof, where such items are used directly in the performance of the Extra Work and are rented from Third Parties;

- (g) the actual cost of professional design/engineering services necessary to perform the Extra Work;
- (h) the cost of obtaining all permits, licenses and approvals required as a direct result of the Extra Work;
- (i) the cost of any additional insurance or performance security required as a direct result of the Extra Work or otherwise approved by LAWA in writing;
- (j) the actual cost of third party quality assurance services necessary to perform the Extra Work;
- (k) during the O&M Period only, reasonable travel and subsistence expenses of employees of Developer and Contractors incurred as a result of the performance of Extra Work;
- (l) the cost of competitively tendering any contract in relation to the Extra Work, to the extent such competitive tendering is required pursuant to the Agreement;
- (m) the reasonable costs associated with decommissioning, re-commissioning, or off-site storage of Vehicles in accordance with a LAWA Change, but only if LAWA had previously directed Developer to decommission, or store decommissioned Vehicles off-site; and
- (n) without duplication of amounts described in clauses (a) through (m) of this Section 1.1, the net increase or decrease in costs of performing the O&M Work, provided that with respect to any such net increase or decrease in costs due to a Relief Event Delay that delays Developer's receipt of Availability Payments, the provisions of Articles 12, 13 and 14 of the Agreement, as applicable, shall apply.

## 1.2 Not Included in Base Incremental Costs

The Base Incremental Costs shall not include costs or expenses of any kind or item not specifically included in Section 1.1 of this Exhibit 13.

## 1.3 Permitted Markup

The total markup for overhead and profit as a percentage of the Base Incremental Costs (the "**Markup**") shall comply with the limits set forth below:

- (a) for Developer, 10% of the cost of that portion of the Extra Work to be performed by Developer with its own forces;
- (b) for Developer, 3% of the cost of that portion of the Extra Work to be performed by Contractors;

- (c) for Contractors, 12% of the cost of that portion of the Extra Work to be performed by Contractors with their own forces;
- (d) subject to clause (e) below, for Contractors, 3% of the cost of that portion of the Extra Work to be performed by lower tier Contractors; and
- (e) the aggregate total markup shall not exceed 20% irrespective of the number of tiers of Contractors performing the Extra Work.



**EXHIBIT 14**

**KEY CONTRACT PROVISIONS**

Each Key Contract shall:

- (a) Include a covenant to maintain all licenses required by applicable Law;
- (b) Require the Key Contractor to carry out its scope of work in accordance with applicable requirements of the Contract Documents, the Governmental Approvals, applicable Law, and plans, systems and manuals developed and used by Developer under the Contract Documents;
- (c) Set forth representations, warranties, guaranties and liability provisions of the Key Contractor appropriate for work of a similar scope and scale;
- (d) Expressly state that all warranties and guaranties remaining in effect upon the expiration of the Term or earlier termination of the Agreement, whether express or implied, shall inure to the benefit of LAWA, its successors and assigns, and any Third Parties for whom Work is being performed;
- (e) Set forth a standard of professional responsibility or a standard for commercial practice (as applicable) equal to or better than the requirements of the Contract Documents and in accordance with Good Industry Practice for work of similar scope and scale;
- (f) To the extent applicable, if not obtained by Developer, require the Key Contractor to provide Payment Bond(s) and Performance Bond(s) as required under Section 10.2 (Payment and Performance Security) of the Agreement before commencement of any work by or on behalf of the Key Contractor, and expressly require such Key Contractor to provide any surety notices of loss or potential loss to Developer and LAWA;
- (g) Preclude suspension of performance or demobilization by the Key Contractor unless and until it delivers to LAWA notice of the other contracting party's breach or default under such Key Contract and allows LAWA the reasonable opportunity to cure such breach or default;
- (h) Not be assignable by the Key Contractor without Developer's and LAWA's prior consent, provided that this provision shall not prohibit subcontracting of portions of the Work to qualified Subcontractors;
- (i) Include the requirements and provisions in the Agreement applicable to Contractors regarding title to and other Intellectual Property rights and licenses;
- (j) Require the Key Contractor to participate in meetings between Developer and LAWA concerning matters pertaining to such Key Contractor, its work or the coordination of its work with other Contractors in accordance with direction to such Key Contractor provided by Developer or other party to the Key Contract, provided that LAWA retains authority to give such direction or take such action as in its opinion is necessary to remove an immediate and present threat to the safety of life or property;

- (k) Require the Key Contractor to participate in, be subject to and give evidence in any dispute resolution proceeding under Article 18 (Dispute Resolution Procedures) of the Agreement, if such participation is requested by either LAWA or Developer;
- (l) Without cost to Developer or LAWA, and subject to the rights of the Collateral Agent under any Direct Agreement, permit assignment to LAWA or its successors, assigns or designees of all Developer's or other contracting party's rights under the Key Contract (with such assignment to include the benefit of all Key Contractor warranties, indemnities, guarantees and professional responsibility), contingent only upon delivery of notice from LAWA following the Termination Date, allowing LAWA or its successor, assign or designee to obtain the benefit of Developer's or other contracting party's rights with liability only for those remaining obligations of Developer or the other contracting party accruing after the date of delivery of said notice from LAWA, without extinguishing existing claims of the Key Contractor against Developer or the corresponding Claims of Developer against LAWA;
- (m) Expressly state that any acceptance of assignment of the Key Contract by LAWA, the Collateral Agent or either or their respective successors, assigns or designees shall not operate to make the assignee responsible or liable for any breach of the Key Contract by Developer or for any amounts due and owing under the Key Contract for work or services rendered before acceptance of the assignment;
- (n) Expressly include the Indemnified Parties as indemnitees, with direct right of enforcement, in any indemnity given by the Key Contractor under the Key Contract;
- (o) Expressly include an acknowledgement that the Key Contractor has no right or claim to any lien or encumbrance upon the Project and Site for failure of the other contracting party to pay amounts due the Key Contractor, and a waiver of any such right or claim that may exist at Law or in equity;
- (p) Expressly include the right of Developer to terminate the Key Contract in whole or in part upon any termination of the Agreement without liability of Developer or LAWA for the Key Contractor's lost profits or business opportunity;
- (q) Not contain any terms that do not comply or are inconsistent with the terms of the Contract Documents;
- (r) Include:
  - (i) a covenant acknowledging that, subject to the rights of the Collateral Agent under any Direct Agreement, upon receipt of written notice from LAWA, LAWA is entitled to exercise step-in rights with respect to the Key Contract (where LAWA is also exercising its step-in rights under Section 16.2.4 (LAWA Step-in Rights) of the Agreement), without any necessity for a consent or approval from Developer or the making of a determination whether LAWA validly exercised its step-in rights, and
  - (ii) a waiver and release by Developer of any claim or cause of action against the Key Contractor arising out of, relating to or resulting from its recognition of LAWA's step-in rights in reliance on any such written notice from LAWA;

- (s) Other than with respect to the APM Operating System Contract, include a covenant that will survive termination of the Key Contract obligating the Key Contractor to promptly execute and deliver to LAWA or its successor, assign or designee a new contract between the Key Contractor and LAWA or its successor, assign or designee on the same terms as the Key Contract, if (i) the Key Contract is rejected by Developer in bankruptcy or is wrongfully terminated by Developer and (ii) LAWA delivers a request for such new contract within 60 days following termination or expiration of the Agreement;
- (t) With respect to the APM Operating System Contract, include a covenant that will survive termination of the Key Contract obligating the APM Operating System Supplier to execute and deliver a new contract with Developer if the Agreement remains in effect, or obligating the APM Operating System Supplier to execute and deliver a new contract with LAWA if the Agreement is no longer in effect, if (i) either the APM Fixed Facilities Contractor, the APM Fixed Facilities Designer or the APM Operating System O&M Provider rejects the APM Operating System Contract in bankruptcy or wrongfully terminates the APM Operating System Contract, and (ii) LAWA delivers a request for such new contract within 60 days following LAWA's receipt of notification that the APM Operating System Contract has been terminated or expired;
- (u) Include a covenant that will survive termination of the Key Contract to the effect that if the Key Contractor was a party to an escrow agreement for an IP Escrow and Developer terminates it, then the Key Contractor also shall execute and deliver to LAWA, concurrently with such new contract, a new escrow agreement on the same terms as the terminated escrow agreement, and shall concurrently make the same deposits to the new IP Escrow as made or provided under the terminated escrow agreement. The obligation to include the same terms in each such new contract (including new IP Escrows) is subject to the following exceptions: (i) terms of a Key Contract or IP Escrow agreement rendered moot or inapplicable solely due to change in the identity of the contracting party; and (ii) terms of a Key Contract that must be adjusted due to schedule delay caused solely by Developer's rejection in bankruptcy or wrongful termination;
- (v) Require the Key Contractor to (i) maintain usual and customary Books and Records for the type and scope of operations of business in which it is engaged and retain such Books and Records for the period stated in Section 21.1.1(e) of the Agreement or other applicable period specified in the Contract Documents, (ii) permit audit of Books and Records by LAWA and (iii) provide progress reports to Developer appropriate for the type of work it is performing sufficient to enable Developer to furnish reports required under the Agreement;
- (w) Include a right of inspection for LAWA, or LAWA's designee(s), consistent with LAWA's inspection rights under the Contract Documents; and
- (x) Provide that any purported amendment contrary to the requirements of this Exhibit 14, without the prior written consent of LAWA, shall be null and void.

**EXHIBIT 15**

**CONDITIONS PRECEDENT**

- Exhibit 15A: Conditions to NTP 1
- Exhibit 15B: Conditions to NTP 2
- Exhibit 15C: Conditions to Non-O&M Facility Occupancy Readiness
- Exhibit 15D: Conditions to Non-O&M Facility Final Acceptance
- Exhibit 15E: Conditions to Passenger Service Availability
- Exhibit 15F: Conditions to Final Completion

**EXHIBIT 15A**

**CONDITIONS TO NTP 1**

The conditions to NTP1 are:

- (a) Financial Close has occurred;
- (b) LAWA has accepted the first update to the Initial Project Schedule as specified in Part 2A, Section 3.1.2 (Updated Initial Project Schedule) of the Technical Provisions;
- (c) all Insurance Policies required to be in effect at NTP 1 pursuant to Exhibit 7 (Insurance Requirements) have been obtained and are in full force and effect and Developer has delivered to LAWA verification thereof as required under Section 10.1.2.4(a) of the Agreement;
- (d) Developer has certified to LAWA that all personnel who will perform D&C Work either hold all licenses, certifications, registrations, permits or approvals necessary for performance of the D&C Work or will obtain them before starting work;
- (e) Developer is not then in receipt of any Notice of Developer Default from LAWA unless any such default has been cured or waived in writing by LAWA;
- (f) Developer is not then in receipt of any notice of default delivered pursuant to the Financing Documents unless any such default has been cured, and no Lender has otherwise indicated that it is unwilling or unable to presently fund Developer's costs of the Work; and
- (g) All representations and warranties of Developer in Section 19.1 (Developer Representations and Warranties) of the Agreement shall be and remain true and correct in all material respects, and Developer has delivered to LAWA a certificate certifying to the same.

**EXHIBIT 15B**

**CONDITIONS TO NTP 2**

The conditions to NTP 2 are:

- (a) LAWA has issued NTP 1;
- (b) LAWA has accepted the Project Schedule as specified in Part 2A, Section 3.1.4 (Project Schedule) of the Technical Provisions;
- (c) all Insurance Policies required to be in effect at NTP 2 pursuant to Exhibit 7 (Insurance Requirements) have been obtained and are in full force and effect, and Developer has delivered to LAWA verification thereof as required under Section 10.1.2.4(a) of the Agreement;
- (d) all Governmental Approvals necessary to begin the applicable portions of the Construction Work have been obtained and Developer has furnished to LAWA fully executed copies of such Governmental Approvals other than the LAWA-Provided Approvals;
- (e) all rights of access necessary for commencement of Construction Work on the applicable portion of the Site have been obtained;
- (f) all applicable pre-construction requirements contained in (i) the FAA record of decision for LAMP under NEPA, and (ii) other Governmental Approvals for the applicable portion of the Construction Work have been satisfied;
- (g) Developer has obtained approvals from Authorities Having Jurisdiction required for, as well as LAWA approval of, any proposed lane closures, and has taken other appropriate measures to ensure maintenance of traffic in the area affected by the Work;
- (h) Developer has delivered to LAWA, and LAWA has accepted or approved (as applicable), all Submittals relating to the applicable portion of the Construction Work required by the Project Management Plan and the Contract Documents to be accepted or approved, in the form and content required by the Project Management Plan or Contract Documents;
- (i) Developer has obtained LAWA approval of the Release for Construction Documents for the affected Construction Work in accordance with Part 2A, Section 5.7 (Release for Construction Documents) of the Technical Provisions;
- (j) the guarantees in favor of LAWA, if any, required under Section 10.4 (Guarantees) of the Agreement have been executed, obtained and delivered to, and received by, LAWA and are in full force and effect; and
- (k) All representations and warranties of Developer in Section 19.1 (Developer Representations and Warranties) of the Agreement shall be and remain true and correct in all material respects, and Developer has delivered to LAWA a certificate certifying to the same.

**EXHIBIT 15C**

**CONDITIONS TO NON-O&M FACILITY OCCUPANCY READINESS**

The conditions to Non-O&M Facility Occupancy Readiness are:

- (a) Developer has completed all D&C Work required for the safe use of the Non-O&M Facility including (i) full access to all points of entry and exit and (ii) completion of all Construction Work other than Non-O&M Facilities Punch List items approved by LAWA;
- (b) each Authority Having Jurisdiction has issued a Certificate of Occupancy or a Temporary Certificate of Occupancy, to the extent such certificate is required by applicable Law, or has accepted the Non-O&M Facility, as applicable;
- (c) the relevant systems and equipment have passed all required tests and Developer has delivered to LAWA all reports, data, and documentation relating to such tests;
- (d) Developer has made all deposits to the IP Escrow required with respect to the D&C Work;
- (e) Developer has prepared and submitted a Non-O&M Facilities Punch List in accordance with the Contract Documents and LAWA has accepted such list;
- (f) there exists no uncured Developer Default (except any Developer Default for which Non-O&M Facility Final Acceptance will effect its cure) that would directly or indirectly impact the operation of the Non-O&M Facility;
- (g) Developer has delivered to LAWA (i) all manufacturers' warranties required under, and in the form and content specified by the Technical Provisions and (ii) all documents and other evidence of warranties under Sections 7.9 (Non-O&M Facility Occupancy Readiness and Final Acceptance) and 6.13 (Warranties) of the Agreement; and
- (h) all Submittals required by the Project Management Plan or Contract Documents to be submitted, accepted and/or approved by LAWA have been submitted to and accepted or approved by LAWA, as applicable.

**EXHIBIT 15D**

**CONDITIONS TO NON-O&M FACILITY FINAL ACCEPTANCE**

The conditions to Non-O&M Facility Final Acceptance are:

- (a) LAWA has issued a Certificate of Non-O&M Facility Occupancy Readiness for the Non-O&M Facility;
- (b) all Non-O&M Facilities Punch List items have been completed to the reasonable satisfaction of LAWA;
- (c) Developer demonstrates to LAWA's reasonable satisfaction that Developer has acquired and properly stored, or arranged for immediate availability, a reasonable inventory of all spare parts, spare components, spare equipment, special tools, materials, expendables and consumables necessary for the operation and maintenance of the Non-O&M Facility;
- (d) all Submittals that Developer is required by the Contract Documents to submit upon Non-O&M Facility Final Acceptance have been submitted to LAWA;
- (e) each Authority Having Jurisdiction has issued a Certificate of Occupancy, to the extent such certificate is required by applicable Law, and/or has provided other approvals required for operation of the Non-O&M Facility, as applicable;
- (f) LAWA has received a complete set of the As-Built Record Plans and documentation for the Non-O&M Facility;
- (g) Developer has made all deposits to the IP Escrow required at or prior to Non-O&M Facility Final Acceptance; and
- (h) there exists no uncured Developer Default (except for any Developer Default for which Non-O&M Facility Final Acceptance will effect its cure) that would directly or indirectly impact the operation of the Non-O&M Facility.



**EXHIBIT 15E**

**CONDITIONS TO PASSENGER SERVICE AVAILABILITY**

The conditions to Passenger Service Availability are as follows:

- (a) Developer has completed all D&C Work required for running normal and safe passenger service on the APM System, including (i) full access to all points of entry and exit and (ii) completion of all Construction Work other than items included on the APM System Punch List accepted by LAWA;
- (b) Developer has repaired or replaced any finishes impacted by the installation of the Pedestrian Walkway, as required in Exhibit 10C (Interface Obligations – Automated People Mover and Terminal Vertical Cores);
- (c) Developer has successfully completed the APM Operating System Acceptance Plan;
- (d) all systems and equipment installed by or on behalf of Developer comply, in all respects, with applicable Laws and are operational and functional;
- (e) D&C Work remaining to be performed is limited to (i) items included on the APM System Punch List accepted by LAWA, and (ii) any other D&C Work that the Contract Documents contemplate will be performed after the Passenger Service Availability Date. No D&C Work scheduled for performance after the Passenger Service Availability Date shall require closure of any portion of the APM System except during regularly scheduled maintenance;
- (f) Developer has achieved Non-O&M Facility Occupancy Readiness for each Non-O&M Facility;
- (g) all Submittals required by the Project Management Plan or Contract Documents to be submitted, accepted and/or approved by LAWA before Passenger Service Availability have been submitted to and accepted or approved by LAWA (as applicable);
- (h) there exists no uncured Developer Default that is the subject of a notice, unless:
  - (i) Passenger Service Availability will effect its full and complete cure, or
  - (ii) with respect to a non-monetary Developer Default relating to an obligation that does not constitute a condition to Passenger Service Availability under other provisions of this Exhibit 15E, (A) Developer has a right to cure and is diligently pursuing cure within the applicable cure period or (B) Collateral Agent has a right to cure and is diligently pursuing cure within the applicable cure period specified in any Direct Agreement; provided, however, that the Collateral Agent's and Developer's respective cure periods shall be deemed to run concurrently, and not serially, for purposes of this condition to Passenger Service Availability;
- (i) Developer has delivered to LAWA all documents and other evidence of warranties under Section 6.13 (Warranties) of the Agreement;

- (j) Developer demonstrates to LAWA's reasonable satisfaction that Developer has acquired and properly stored, or arranged for immediate availability, or incorporated into its Asset Management Plan, service vehicles, a reasonable inventory of all spare parts, spare components, spare equipment, tools, materials, expendables and consumables necessary for operation and maintenance of the Project during the O&M Period as identified in the Operating Plan, Asset Management Plan, Maintenance Plan and Maintenance Manuals;
- (k) Developer has:
  - (i) completed training of operations and maintenance personnel in accordance with Part 2C, Section 3.1.8 (APM System Training Program) of the Technical Provisions,
  - (ii) delivered to LAWA a certificate, in form acceptable to LAWA, executed by Developer that it and its Contractors are fully staffed with such trained personnel and are ready, willing and able to operate and maintain the Project in accordance with the terms of the Contract Documents including the approved Staff Management Policies and Procedures Manual,
  - (iii) delivered to LAWA training records evidencing compliance with training requirements including copies of course completion certificates issued to each of the subject personnel,
  - (iv) completed and documented completion of all training required to allow full access to the Site to those individuals designated by LAWA in accordance with Part 2C, Section 3.1.3.1 (APM System Training Prior to Passenger Service Availability) of the Technical Provisions, and
  - (v) satisfactorily demonstrated integrated operational readiness through "live" coordinated responses (in conjunction with LAWA staff including but not limited to emergency response personnel) to failure management and other emergency events during the operations of the APM Operating System in accordance with Part 2C, Section 3.1.3.1 (APM System Training Prior to Passenger Service Availability) of the Technical Provisions;
- (l) Developer has received, and paid all associated fees for, all applicable Governmental Approvals (excluding LAWA-Provided Approvals) and other third party approvals required for use and operation of the Project; such Governmental Approvals and other third party approvals are in full force and effect; there exists no uncured material violation of the terms of any such Governmental Approval or other third party approvals; and all such Governmental Approvals are in final form and are not subject to appeal;
- (m) all Insurance Policies required under the Agreement to be in effect during the O&M Period pursuant to Exhibit 7 (Insurance Requirements) (excluding insurance for capital asset replacement work) have been obtained and are in full force and effect and Developer has delivered to LAWA verification thereof as required under Section 10.1.2.4(a) of the Agreement;

- (n) any performance security required under Section 10.2.2 (Operations and Maintenance Security) of the Agreement for the O&M Period has been obtained, has been delivered to LAWA and is in full force and effect;
- (o) Developer has provided evidence that (i) all IP Materials required at or prior to Passenger Service Availability have been delivered to LAWA or deposited into IP Escrow(s) in accordance with Section 21.5 (Intellectual Property Escrows) of the Agreement and (ii) all Cost and Pricing Data required to be provided at or before Passenger Service Availability under Section 4.8 (Escrow of Financial Model and Cost and Pricing Data) of the Agreement has been delivered to LAWA;
- (p) APM OS Availability, computed in accordance with Part 2B, Section 11.3.6.5 (APM OS Availability Determination) of the Technical Provisions, has been at least 98.5% for 30 consecutive days;
- (q) the APM Operating System has not exceeded the service mode downtime limits set forth in Part 2B, Section 11.3.6.6.2 (Mode Downtime Limits) of the Technical Provisions for 30 consecutive days;
- (r) Developer has demonstrated Operational Readiness for Fixed Facilities in accordance with Part 2C, Section 4.5.1.3 (General Summary) of the Technical Provisions;
- (s) Developer has demonstrated compliance with all verification requirements in accordance with Part 2C, Section 4 (APM Operating System Review, Verification, and Acceptance) of the Technical Provisions;
- (t) Developer has demonstrated that the prerequisites for passenger operation have been met during APM Operating System Demonstration under Part 2C, Section 4.5.1.1 (APM System Demonstration) of the Technical Provisions, including LAWA acceptance of Developer's APM Operating System Demonstration Report;
- (u) Developer has provided to LAWA the certification required in Part 2A, Section 8.0 (APM System Safety Certification) of the Technical Provisions;
- (v) Developer has submitted the final Certificates of Occupancy and/or other approvals, as applicable, to LAWA, from each applicable Authority Having Jurisdiction;
- (w) LAWA has accepted all applicable plans required to be provided by Developer under the Technical Provisions;
- (x) Developer has satisfied any other requirements for commencement of O&M Work in the Contract Documents; and
- (y) Developer has demonstrated that it is fully mobilized and ready to perform the O&M Work.

**EXHIBIT 15F**

**CONDITIONS TO FINAL COMPLETION**

The conditions to Final Completion are:

- (a) the Independent Engineer has issued a Certificate of Passenger Service Availability;
- (b) all remaining D&C Work has been completed, including completion of all approved APM System Punch List items;
- (c) the D&C Limits and any Temporary Areas shall be cleaned of all surplus and discarded materials, spilled materials, excess materials left deposited on the permanent Work as a result of the D&C Work, falsework, and rubbish and temporary structures and buildings, placed thereon by Developer-Related Entities, and shall be restored in accordance with Part 2A, Section 20.2 (ROW Management, Maintenance and Demolition ) of the Technical Provisions;
- (d) Developer has delivered, and LAWA has accepted, all Submittals required as conditions precedent to Final Completion in accordance with the Contract Documents;
- (e) if any Authority Having Jurisdiction requires any form of certification of design, engineering or construction with respect to the Project or any portion thereof, including any certifications from the Engineer of Record and architect of record for the Project, Developer has caused such certificates to be executed and delivered and has concurrently issued identical certificates to LAWA;
- (f) all D&C Work that Developer is obligated to perform for, or on behalf of, Third Parties and Utility Owners has been accepted by such Third Parties and Utility Owners (or by LAWA for, or on behalf of, such Third Parties and Utility Owners), as provided under the Contract Documents, and Developer has paid for all work performed by Third Parties that Developer is obligated to pay for, other than disputed amounts;
- (g) Developer has provided evidence that (i) all IP Materials required at or prior to Final Completion have been delivered to LAWA or deposited into IP Escrow(s) in accordance with Section 21.5 (Intellectual Property Escrows) of the Agreement and (ii) all Cost and Pricing Data required to be provided at or before Final Completion under Section 4.8 (Escrow of Financial Model and Cost and Pricing Data) of the Agreement has been delivered to LAWA;
- (h) there exist no uncured Developer Defaults that are the subject of a notice, or with the giving of notice or passage of time, or both, could give LAWA the immediate right to terminate under Section 17.3.1 (Developer Defaults Triggering LAWA Termination Rights) of the Agreement except for (i) any Developer Default for which Final Completion will effect full and complete cure or for which corrective work is proceeding under the warranty provisions of the Agreement or (ii) any Developer Default relating to the O&M Work if Developer has a right to cure and is diligently prosecuting such cure;
- (i) APM Operating System expendable parts, spare equipment and special tools have been stocked to the levels specified in Part 2B, Sections 11.3.13.4 (Maintenance Tools and

Equipment) and 11.3.13.5 (Spare Parts, Expendables, and Consumables) of the Technical Provisions;

- (j) APM OS Availability, computed in accordance with Part 2B, Section 11.3.6.5 (APM OS Availability Determination) of the Technical Provisions, has been at least 99.5% for 60 consecutive days;
- (k) during each month after the Passenger Service Availability Date, the APM Operating System has not exceeded the service mode downtime limits set forth in Part 2B, Section 11.3.6.6.2 (Mode Downtime Limits) of the Technical Provisions;
- (l) Developer has submitted and LAWA has accepted a complete set of the As-Built Documents for the Project;
- (m) Developer has submitted satisfactory evidence to LAWA that all Contractors, payrolls, bills for materials and equipment and other indebtedness connected with the Construction Work have been paid or otherwise satisfied; and
- (n) Developer has submitted to LAWA the Final Subcontracting Report.

**EXHIBIT 16**

**FEDERAL, STATE, AND CITY REQUIREMENTS**

Exhibit 16A: Federal Requirements

Exhibit 16B: State Requirements

Exhibit 16C: City Requirements

**EXHIBIT 16A**

**FEDERAL REQUIREMENTS**

Developer shall perform its obligations under the Contract Documents in accordance with the following requirements.

**1. AMERICANS WITH DISABILITIES ACT**

Developer hereby certifies that it will comply with the Americans with Disabilities Act 42 U.S.C. Section 12101 et seq. and its implementing regulations. Developer will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. Developer will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any Contract entered into by Developer or any Contractor relating to the Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

## **EXHIBIT 16B**

### **STATE REQUIREMENTS**

Developer shall perform its obligations under the Contract Documents in accordance with the following requirements.

#### **1. LABOR CODE REQUIREMENTS**

##### **1.1 Worker's Compensation**

Developer shall comply with the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code.

##### **1.2 Prevailing Wages**

Pursuant to the provisions of Section 1773 of the State Labor Code, LAWA has obtained the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided for in Section 1773.8 of said Code, apprenticeship or other training programs authorized by Section 3093 of said Code, and similar purposes) applicable to the Work to be done, for straight time, overtime, Saturday, Sunday, and holiday work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification or type of worker concerned. Said prevailing wage rates are incorporated herein by reference. These prevailing rates of wages will be furnished to Developer and other interested parties on request and are on file at LAWA's offices. These wage rates are also available through the California State Department of Industrial Relations at <http://www.dir.ca.gov>. For crafts or classifications not shown on the prevailing wage determinations, Developer may be required to pay the wage rate of the most closely related craft or classification shown in such determinations for the Work. Developer shall post a copy of the prevailing wage rates at the jobsite or material staging area. Workers employed in the Work must be paid at the rates at least equal to the prevailing wage rates as adopted.

##### **1.3 Hours of Work/Overtime Requirements**

Eight hours labor constitutes a legal day's work. Neither Developer nor any Contractor shall require or permit any worker to work in excess of eight hours in any one calendar day or in excess of 40 hours in any one calendar week (defined as seven sequential calendar days) unless such worker receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any one calendar day or in excess of 40 hours in any one calendar week, whichever is greater. Failure to comply with the preceding requirements shall subject Developer to the penalties specified in Labor Code Section 1813.

##### **1.4 Payroll Records**

- (a) Developer and each Contractor performing any portion of the Work under the Agreement shall keep an accurate record, showing the name, address, social security number, work classification, straight time and overtime hours for each day and week, and the actual per diem wages paid to each journeyman,



- apprentice, worker, professional, salaried, or other employee employed by him or her in connection with the Work.
- (b) The payroll records of Developer and each Contractor (including payroll records for professional or salaried employees) shall be certified and shall be available for inspection at the principal office of Developer.
  - (c) Developer shall file a certified copy of the payroll records (including those applicable to professional and salaried employees) with LAWA within 10 days after receipt of a written request from LAWA.
  - (d) Developer shall inform LAWA of the location of said payroll records, including the street address, City and County, and shall, within five days, provide a notice of change of location and address of said payroll records.
  - (e) It shall be the responsibility of Developer to ensure compliance for itself and the Contractors with the provisions of this section.
  - (f) In the event of noncompliance with the requirements of this section, Developer shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respect it must comply. Should noncompliance exist after said 10 day period, Developer shall be subject to a fee of \$50.00 for each day, or portion thereof, for each worker to whom the noncompliance pertains, until strict compliance is effectuated. Developer acknowledges that, without limitation as to other remedies of enforcement available to LAWA, upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the California Department of Industrial Relations, such penalties shall be withheld from payments due Developer.
  - (g) Certified payroll records shall be submitted to the City's Office of Contract Compliance by Developer and all Contractors performing work on the Project regardless of dollar amount or type of contract. These payroll records shall be submitted to the Office of Contract Compliance, through the Department of Public Works, Bureau of Contract Administration, Online Certified Payroll System (OCPS).
  - (h) The period covered shall be from the time Work starts until all Work is completed on the Project. Failure to submit said certified payrolls on time may result in the withholding of payments to Developer and the assessment of penalties as set forth in the California Labor Code.
  - (i) OCPS is a web based program that will allow Contractors to submit certified payrolls electronically. Contractors will be required to submit their certified payrolls through the OCPS. Contractors shall be responsible for maintaining certified copies of payroll records as required by Law (California Labor Code Section 1776). Developer shall be responsible for ensuring that all Contractors regardless of tier submit certified payrolls through OCPS. Training for OCPS will be provided by the Bureau of Contract Administration during the second and fourth Wednesday of each month. For further questions, please send an email to [ocps.help@lacity.org](mailto:ocps.help@lacity.org).

## 1.5 Specific Labor Code Provisions

Developer's attention is directed to the following requirements of the Labor Code. Developer shall cause Contractors to insert in any Contracts a copy of each such Code section and shall also cause Subcontractors to include these clauses in any lower tier Subcontracts. Developer shall be responsible for the compliance by any Contractor or Subcontractor with the clauses set forth in this Section 1.5.

### Labor Code Section 1725.5

1725.5. A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the

work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

#### Labor Code Section 1771

1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

#### Labor Code Section 1775

1775. (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had

knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

#### Labor Code Section 1777.5

1777.5. (a) This chapter does not prevent the employment of properly registered apprentices upon public works.

(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for

apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and

apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship,



exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

- (1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.
  - (2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.
  - (3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.
  - (4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.
- (l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.
- (m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.
- (2) At the conclusion of the 2002–03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:
- (A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship standards and requirements under this code.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

#### Labor Code Section 1813

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

**Labor Code Section 1815**

1815. Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

**1.6 Excavation Safety**

Developer shall comply with Labor Code Section 6705 while excavating. For an excavation 5 feet or more in depth, submit shop drawings for a protective system.

The drawings must show the design and details for providing worker protection from caving ground during excavation.

Shop drawings of protective systems for which the Construction Safety Orders issued by Cal/OSHA require design by a registered professional engineer must be sealed and signed by an engineer who is registered as a civil engineer in the State.

The submittal must allow review time and include the contents shown in the following table except the review time is 65 days for an excavation on or affecting railroad property.

Drawing Review Time and Contents

Topic	Plan not requiring a signature	Plan requiring a signature
Review time	5 business days before excavating	20 days before excavating
Contents	Drawings Calculations Material information Proprietary system information	Drawings Calculations Material information Proprietary system information Soil classification Soil properties Soil design calculations

**2. PUBLIC CONTRACT CODE REQUIREMENTS**

**2.1 Assignment of Causes of Action**

Developer’s attention is directed to the following requirements in Public Contract Code Section 7103.5:

(b) In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding

body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

## 2.2 Public Contracts: Claim Resolution

Developer's attention is directed to the following requirements of Public Contract Code Section 9204:

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter

county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time

following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

### **2.3 Specifications by Brand or Trade Names**

With reference to Part 2A, Section 3.2.2 (Software) of the Technical Provisions, LAWA makes the finding pursuant to Public Contract Code section 3400(c)(2) that Primavera Project Management, P6 or later, is required to be used by Developer in order to be compatible with LAWA's scheduling software.

### **3. REMOVAL, RELOCATION OR PROTECTION OF EXISTING UTILITIES**

Developer acknowledges and agrees that the provisions of Article 14 (Compensation and Other Relief for Relief Events) of the Agreement satisfy LAWA's obligations pursuant to Government Code Section 4215. Developer agrees that to the extent that Government Code Section 4215 may be construed to the contrary, Developer hereby waives the benefit of such statute.



## **EXHIBIT 16C**

### **CITY REQUIREMENTS**

Developer shall perform its obligations under the Contract Documents in accordance with the following requirements.

#### **1. NON-DISCRIMINATION/EQUAL EMPLOYMENT PRACTICES/AFFIRMATIVE ACTION**

##### **1.1 Non-Discrimination**

- (a) Unless otherwise exempt, the Agreement is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. Developer 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 the Agreement, Developer shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any Contract entered into by Developer or Contractor, to the extent allowed hereunder, shall include a like provision for work to be performed under the Agreement.
- (b) Failure of Developer to comply with this requirement or to obtain the compliance of Contractors/Subcontractors with such obligations shall subject Developer to the imposition of any and all sanctions allowed by law, including but not limited to termination of Developer's Agreement with LAWA.

##### **1.2 Equal Employment Practices**

Unless otherwise exempt, the Agreement is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- (a) During the performance of the Agreement, Developer agrees and represents that it will provide equal employment practices and Developer and each Contractor/Subcontractor will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, color, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - (1) This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - (2) Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - (3) Developer agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

- (b) Developer will, in all solicitations or advertisements for employees placed by or on behalf of Developer, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- (c) As part of the City's supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, Developer shall certify in the specified format that he or she has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- (d) Developer shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City contracts. On their or either of their request Developer shall provide evidence that he or she has or will comply therewith.
- (e) The failure of Developer to comply with the Equal Employment Practices provisions of the Agreement may be deemed to be a material breach of City contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to Developer.
- (f) Upon a finding duly made that Developer has failed to comply with the Equal Employment Practices provisions of a City contract, the Agreement may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by LAWA. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the Developer is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, Developer shall be disqualified from being awarded a contract with the City for a period of two years, or until Developer shall establish and carry out a program in conformance with the provisions hereof.
- (g) Notwithstanding any other provision of the Agreement, LAWA shall have any and all other remedies at law or in equity for any breach hereof.
- (h) Intentionally blank.
- (i) Nothing contained in the Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.
- (j) At the time a supplier registers to do business with the City, or when an individual bid or proposal is submitted, Developer shall agree to adhere to the Equal

Employment Practices specified herein during the performance or conduct of City contracts.

- (k) Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
  - (1) Hiring practices;
  - (2) Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  - (3) Training and promotional opportunities; and
  - (4) Reasonable accommodations for persons with disabilities.
- (l) Any Contract entered into by Developer or Contractor, to the extent allowed hereunder, shall include a like provision for work to be performed under the Agreement. Failure of Developer to comply with this requirement or to obtain the compliance of its Contractors with all such obligations shall subject Developer to the imposition of any and all sanctions allowed by law, including but not limited to termination of the Developer's Agreement with LAWA.

### **1.3 Affirmative Action Program**

Unless otherwise exempt, the Agreement is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- (a) During the performance of a City contract, Developer certifies and represents that Developer and each Contractor will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
  - (1) This provision applies to work or services performed or materials manufactured or assembled in the United States.
  - (2) Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - (3) Developer shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- (b) Developer will, in all solicitations or advertisements for employees placed by or on behalf of Developer, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

- (c) As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, Developer shall certify on an electronic or hard copy form to be supplied, that Developer has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, color, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
- (d) Developer shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- (e) The failure of Developer to comply with the Affirmative Action Program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to Developer.
- (f) Upon a finding duly made that Developer has breached the Affirmative Action Program provisions of a City contract, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by LAWA. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said Developer is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such Developer shall be disqualified from being awarded a contract with the City for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- (g) In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that Developer has been guilty of willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to Developer by LAWA under the contract, a penalty of ten dollars (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.
- (h) Notwithstanding any other provisions of a City contract, LAWA shall have any and all other remedies at law or in equity for any breach hereof.
- (i) Intentionally blank.
- (j) Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

- (k) Developer shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the Agreement. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, Developer may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, Developer must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the Agreement is awarded.
- (1) Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
- (2) Developer may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- (l) The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and Developers.
- (m) The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
- (1) Apprenticeship where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
- (2) Classroom preparation for the job when not apprenticeable;
- (3) Pre-apprenticeship education and preparation;
- (4) Upgrading training and opportunities;
- (5) Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to

this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's or supplier's geographical area for such work;

- (6) The entry of qualified women, minority and all other journeymen into the industry; and
- (7) The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- (n) Any adjustments which may be made in the contractor's or supplier's work force to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- (o) Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of LAWA and may be used at the discretion of LAWA in its Contract Compliance Affirmative Action Program.
- (p) Intentionally blank.
- (q) Developer shall include a like provision in all Contracts awarded for work to be performed under the Agreement with LAWA and shall impose the same obligations, including but not limited to filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Failure of Developer to comply with this requirement or to obtain the compliance of its Contractors with all such obligations shall subject Developer to the imposition of any and all sanctions allowed by law, including but not limited to termination of Developer's Agreement with LAWA.

## **2. LIVING WAGE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCES**

### **2.1 Living Wage Ordinance**

Unless otherwise exempt, the Agreement is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 et seq. of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et seq., of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:

- (a) Developer assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.

- (b) Developer further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. Developer shall require each Contractor within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Developer shall receive and retain on file the executed pledges from each Contractor within ninety (90) days of the execution of the Contract. Developer's evidence of executed pledges from each such Contractor shall fully discharge the obligation of Developer with respect to such pledges and fully discharge the obligation of Developer to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
- (c) Developer, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. Developer shall post the Notice of Prohibition Against Retaliation provided by the City.
- (d) Any Contract entered into by Developer or Contractor relating to the Agreement, to the extent allowed hereunder, shall be subject to the provisions of LWO and shall incorporate the provisions of the LWO and the SCWRO.
- (e) Developer shall comply with all rules, regulations and policies promulgated by the City's Designated Administrative Agency which may be amended from time to time.

## 2.2 Authority to Terminate Agreement

Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, LAWA shall have the authority, under appropriate circumstances, to terminate the Agreement and otherwise pursue legal remedies that may be available if LAWA determines that Developer has violated provisions of either the LWO or the SCWRO, or both (see Section 2.1).

## 2.3 Deduction

Where under the LWO Section 10.37.6(d), the City's Designated Administrative Agency has determined (a) that Developer is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, LAWA in such circumstances may impound monies otherwise due Developer in accordance with the following procedures. Impoundment shall mean that from monies due Developer, LAWA may deduct the amount determined to be due and owing by Developer to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether Developer is to continue work following an impoundment shall remain in the sole discretion of LAWA. Developer may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

## 2.4 Earned Income Credit

Developer shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). Developer shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from Developer.

The LWO requirements in this section apply only if prevailing wage requirements are not applicable.

## 3. EQUAL BENEFITS ORDINANCE

### 3.1 In General

Unless otherwise exempt, the Agreement is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- (a) During the performance of the Agreement, Developer certifies and represents that Developer will comply with the EBO.
- (b) The failure of Developer to comply with the EBO will be deemed to be a material breach of the Agreement by LAWA.
- (c) If Developer fails to comply with the EBO, LAWA may cancel, terminate or suspend the Agreement, in whole or in part, and all monies due or to become due under the Agreement may be retained by LAWA. LAWA may also pursue any and all other remedies at law or in equity for any breach.
- (d) Failure to comply with the EBO may be used as evidence against Developer in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
- (e) If City's Designated Administrative Agency determines that a Developer has set up or used its contracting entity for the purpose of evading the intent of the EBO, LAWA may terminate the Agreement. Violation of this provision may be used as evidence against Developer in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

### 3.2 Public Notice

Developer shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

During the performance of a contract with the City of Los Angeles, the Developer/Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-2625.



## **4. CHILD SUPPORT OBLIGATION**

### **4.1 Employees**

The Agreement is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, Developer will fully comply with all applicable State and Federal employment reporting requirements for Developer/Contractor's employees. Developer shall also certify (1) that the principal owner(s) of Developer are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that Developer will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, et seq. of the California Family Code; and (3) that Developer will maintain such compliance throughout the term of the Agreement.

### **4.2 Failure to Comply**

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of Developer to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any principal owner(s) of Developer to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by Developer under the Agreement, subjecting the Agreement to termination if such default shall continue for more than ninety (90) days after notice of such default to Developer by LAWA.

### **4.3 Contracts**

Any Contract entered into by Developer or any Contractor, to the extent allowed hereunder, shall include a like provision for Work to be performed under the Agreement. Failure of Developer to obtain compliance of its Contractors shall constitute a default by Developer under the Agreement, subjecting the Agreement to termination where such default shall continue for more than ninety (90) days after notice of such default to Developer by LAWA.

### **4.4 Certification**

Developer certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

## **5. CONTRACTOR PERFORMANCE EVALUATION ORDINANCE**

At the end of the Agreement, LAWA will conduct an evaluation of Developer's performance. LAWA may also conduct evaluations of Developer'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 Developer assigns to the Agreement. A Developer who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final LAWA evaluation and allowed fourteen (14) calendar days to respond. LAWA will use the final LAWA evaluation, and any

response from Developer, to evaluate proposals and to conduct reference checks when awarding other service contracts.

## **6. BUSINESS TAX REGISTRATION**

If applicable, Developer represents that it has obtained and presently holds the Business Tax Registration Certification(s) required by the City's Business Tax Ordinance, Section 21.00 et seq. of the Los Angeles Municipal Code. For the term covered by the Agreement, Developer shall maintain, or obtain as necessary, all such Certificates required of it under Business Tax Ordinance and shall not allow any such Certificate to be revoked or suspended. Should any such certificate(s) become suspended or revoked, it is Developer's responsibility to report the matter immediately to LAWA.

## **7. FIRST SOURCE HIRING ORDINANCE**

Unless otherwise exempt in accordance with the provisions of the First Source Hiring Ordinance, Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time (FSHO), the Agreement is subject to the applicable provisions of the FSHO.

Developer shall, prior to the execution of the Agreement, provide to the Designated Administrative Agency (DAA) a list of anticipated employment opportunities that Developer estimates they will need to fill in order to perform the services under the Agreement. The Department of Public Works Office of Contract Compliance is the DAA.

Developer further pledges that it will, during the term of the Contract, (a) At least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; (b) Interview qualified individuals referred by CDD; and (c) Prior to filling any employment opportunity, inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who Developer interviewed and the reasons why referred individuals were not hired.

Any Contract entered into by Developer or any Contractor relating to the Agreement, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.

Developer shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the Designated Administrative Agency has determined that Developer intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in LAWA's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the Developer's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit LAWA's authority to act under this section.

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, LAWA may, under appropriate circumstances, terminate the Agreement and otherwise pursue legal remedies that may be available if the Designated Administrative Agency determines that the Developer has violated provisions of the FSHO.

**EXHIBIT 17**

**PROJECT NEUTRAL LIST**

***[TO BE PROVIDED]***

**EXHIBIT 18**

**SECTION 3.6 INVOICE**

Reference is made to that certain Design-Build-Finance-Operate-Maintain Agreement dated as of [\_\_\_\_], 2018 (the “**DBFOM Agreement**”), by and between the City and [\_\_\_\_] (“**Developer**”).

Capitalized terms used but not defined herein have the meaning given to them in the DBFOM Agreement.

Pursuant to Section 3.6 of the DBFOM Agreement, Developer hereby requests payment of two million, five hundred thousand U.S. dollars (\$2,500,000), based on the following: (i) the DBFOM Agreement has been terminated under Section 3.6.1 or Section 3.6.2 of the DBFOM Agreement; (ii) this invoice is submitted within 30 days of the termination; and (iii) Developer has submitted to LAWA all work product produced by Developer related to the Project, as required in Section 3.6.5 of the DBFOM Agreement.

Developer represents and warrants to LAWA that: (i) Developer is eligible for payment pursuant to Section 3.6 of the DBFOM Agreement; and (ii) Developer has attached documentation reasonably required by LAWA sufficient to support such statement.

Developer acknowledges that: (i) such payment is the exclusive compensation payable by LAWA to Developer under the DBFOM Agreement for a termination under Section 3.6.1 or Section 3.6.2 of the DBFOM Agreement; and (ii) submission of this invoice, and payment by LAWA of any amount in response to this invoice, is in all respects subject to the terms and conditions of the DBFOM Agreement.

**CERTIFICATION**

The undersigned Developer hereby certifies that: (a) Developer is entitled to payment pursuant to the terms of Section 3.6 of the DBFOM Agreement; and (b) this entire invoice and all other supporting documentation are, each and collectively, true, correct, and complete.

DEVELOPER: \_\_\_\_\_

By: \_\_\_\_\_

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

Title: \_\_\_\_\_