EVERPORT TERMINAL SERVICES
REQUEST FOR PROPOSALS (RFP) FOR ZERO-EMISSION BATTERY-ELECTRIC YARD TRACTORS AT THE PORT OF LOS ANGELES
ADDENDUM 1

May 29, 2026
To the Prospective Firms:

Everport Terminal Services (Everport) at the Port of Los Angeles is issuing a first addendum to its Request for Proposals (RFP) for Zero-Emission, Battery-Electric Yard Tractors at the Port of Los Angeles. Released on May 27, 2026, the RFP initially required proposals to be submitted to Everport no later than Friday, June 26, 2026, at 5:00pm Pacific Standard Time. The due date for proposal submission to Everport has been extended to **Tuesday, June 30, 2026, at 5:00pm Pacific Standard Time**. The time extension is the only material change to this RFP.

Everport has attempted to update all references to the proposal submission due date within this RFP. If any documents related to this RFP, including the RFP itself, still contain the old proposal submission due date, please disregard and consider the revised due date of **Tuesday, June 30, 2026, at 5:00pm Pacific Standard Time** the applicable deadline for proposal submission.

Further instructions and forms to be used in preparing the proposal are found within the RFP. Please direct any questions about this addendum to Grants@everport-terminals.com.

Sincerely,
Ron Neal, President
Everport Terminal Services

Everport Terminal Services
Request for Proposals (RFP)
For Zero-Emission Battery-Electric Yard Tractors at the Port of Los Angeles

Issue Date: May 27, 2026
PlanetBids ID: ETS-26-01

This RFP, supporting documents, including addenda and responses to questions will be available here: https://vendors.planetbids.com/portal/83809/portal-home

Proposals must be submitted electronically via the PlanetBids portal.

May 27, 2026

To the Prospective Original Equipment Manufacturers (OEMs) and/or Dealerships,

Everport Terminal Services (Everport) at the Port of Los Angeles invites the submittal of proposals to build and deliver one hundred thirty-seven (137) battery-electric yard tractors and provide warranty and maintenance services on a per equipment basis. More than one Proposer may be selected through this RFP process. Reservation of build slots and manufacturing of equipment shall commence after Everport issues a Notice of Award to the selected Proposer(s) and a fixed price contract is executed between the selected Proposer(s) and Everport. Any warranty or maintenance services will be available to Everport starting the date that each unique equipment is placed in revenue service at the terminal and no earlier.

Instructions to prepare a proposal are found within this Request for Proposals (RFP) in Section 6. Please note that Everport at its sole discretion reserves the right to issue addenda to this RFP at any time before the deadline for receipt of proposals (below).

The schedule for this RFP will be as follows:

Request for Proposals Release	Wednesday, May 27, 2026
Virtual Q&A Session	Wednesday, June 10, 2026, at 10:30am Pacific Time Register here: https://events.teams.microsoft.com/event/704f8b04-1d33-4211-8698-52ba054d5da9@a65ab90d-f6da-443a-8c64-088da73c65ba
Questions Due	Friday, June 12 2026, at 5:00pm Pacific Time
Responses Posted	Friday, June 19, 2026
Proposals Due	**~~Friday, June 26, 2026,~~ Tuesday, June 30, 2026** at 5:00pm Pacific Time

Proposals received after **5:00pm on ~~June 26, 2026~~June 30, 2026,** will be considered nonresponsive. Unsigned proposals or proposals signed by an individual not authorized to bind the OEM or dealership will be considered nonresponsive and rejected.

All City of Los Angeles and EPA grant related requirements will apply to this contract and must be adhered to by the selected firm. Proposers should review the Legal Terms and Conditions (Attachment A), which incorporate EPA requirements defined in Attachment B and Port of Los Angeles requirements. The Legal Terms and Conditions will be included within the contract with the selected firm. Proposers that firmly believe they cannot substantially comply with these Legal Terms and Conditions should not submit a proposal. Many of the terms and conditions are set by the funding agencies and are not subject to negotiation. Should the Proposer have unsubstantial deviations from the Legal Terms and Conditions, please describe and explain those deviations.

Please refer to Section 6 Proposal Requirements for submittal instructions and a checklist that describes all documents required for a proposal to be considered complete and responsive.

Questions pertaining to this RFP shall be placed on PlanetBids (https://vendors.planetbids.com/portal/83809/portal-home) by **5:00pm Pacific Time** on **June 12, 2026**. Responses will be posted on the PlanetBids by close of business on **June 19, 2026**. It is the Proposer's responsibility to check PlanetBids to obtain any addenda and a copy of the Questions and Answers that may be issued.

Attempts to contact any other Everport employee or Board member, either directly or through third parties acting for or on the Proposer's behalf, may be presumed to constitute efforts to bias or influence the competitive process with information not detailed in the RFP and not available on an equal basis to all Proposers. Accordingly, such attempts shall constitute grounds to disqualify the Proposer undertaking them. Any information provided by Everport to one Proposer in response to questions shall be provided to all Proposers.

Sincerely,

Ron Neal, President
Everport Terminal Services

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1. Project Overview & Background

The City of Los Angeles Harbor Department (City, Port of Los Angeles, or Port) has been awarded U.S. Environmental Protection Agency (EPA) funding for the Port of Los Angeles Clean Ports Program (CPP), a multi-faceted project that will focus on deployment of zero emission port equipment at the Port of Los Angeles. Everport Terminal Services (Everport) is an integral partner on the CPP project. EPA Clean Ports funding and Port of Los Angeles funding will be passed through to Everport and ultimately to any contractors that perform eligible work within the scope of this Everport RFP.

Everport's EPA funded project (referenced as "Project" throughout this RFP includes):

- Deployment of 137 battery-electric yard tractors
- Deployment of 31 battery-electric top handlers
- Deployment of 5 battery-electric, heavy-lifts
- Deployment of 8 battery-electric forklifts
- Installation, commissioning, and utilization of up to 168 chargers

The Project will take place at the Everport Terminal Services - Los Angeles, located at 389 Terminal Way, San Pedro, CA 90731.

This RFP is for the procurement of up to 137 zero-emission, battery-electric yard tractors, warranties for these 137 pieces of equipment, training and optional supplies for equipment maintenance.

Everport plans to put all zero-emission, battery-electric yard tractors into service by **July 31, 2028** in order to allow sufficient time for final reporting and invoicing by **December 31, 2028**. Data collection will begin at the time each unit is commissioned and will complete by **December 31, 2028.**

All City of Los Angeles and EPA grant related requirements will apply to this contract and must be adhered to by the selected firm(s). Proposers should review the Legal Terms and Conditions (Attachment A), which incorporate Port of Los Angeles and EPA requirements defined in Attachment B. The Legal Terms and Conditions will be included within the contract with the selected firm(s). Proposers that cannot substantially comply with the Legal Terms and Conditions should not submit a proposal. Many of the terms and conditions are set by the funding agencies and are not subject to negotiation. Should the Proposer have deviations from the Legal Terms and Conditions, please describe and explain those deviations and the reasoning for such deviations. Everport may reject any proposals that do not substantially comply.

This Project directly supports the San Pedro Bay Ports Clean Air Action Plan (CAAP) goal to transition cargo handling equipment to zero-emission by 2030. For more information on the CAAP, please visit https://cleanairactionplan.org.

2. Eligible Proposers

To be eligible for an award under this procurement, a Proposer must be an Original Equipment Manufacturer (OEM) or an authorized dealer/franchiser for the equipment offered and must be able to meet all EPA Clean Ports Program terms and conditions. Note that if a dealer/franchiser will ultimately execute a contract with Everport, the dealer/franchiser must be the Proposer. Additionally, Proposers must not be debarred or suspended in SAM.gov. For more information, refer to Section 6.4.10. Please note that "OEM", "dealership", "authorized dealer/franchiser", and "contractor" are used interchangeably throughout this RFP.

3. Scope of Equipment and Services Requested

Everport requests proposals from qualified OEMs or dealerships for the purchase of 137 zero-emission, battery-electric yard tractors. Zero-emission under the Clean Ports Program means equipment that:

(a) produces zero tailpipe emissions of any criteria pollutant, air toxics, or greenhouse gas other than water vapor;

(b) has an onboard powertrain and is

(i) self-propelled by the powertrain;

(ii) intended to be propelled while performing its function; or

(iii) portable or transportable, meaning designed to be and capable of being carried or moved from one location to another (e.g., has wheels, skids, carrying handles, dolly, trailer or platform) and is moved as part of normal operations (i.e., it does not stay in one location for more than 12 consecutive months or the full annual operating period of a seasonal operation); and

(c) is limited to electric technologies for which there is an equivalent model with an internal combustion engine available in the marketplace.

For this RFP, Everport is only requesting proposals from Proposers that can provide battery-electric technologies and will not accept proposals that include hydrogen fuel cell technologies.

The required specifications for the equipment and related services are described in greater detail in Sections 3.1 - 3.6. However, this list of equipment and services is not final; it is subject to change following the final selection of one or more Proposers.

Proposers are encouraged to subcontract a portion of the work if the prime contractor cannot fulfill all requested services. Proposers should consider partnering with Disadvantaged Business Enterprises (DBEs) for subcontracted work. For more information on DBEs and EPA requirements, see Section 7.6. Proposers should also include in their proposals additional scope items if, in their judgement, such additional scope items are necessary.

The contract term with the selected contractor(s) will conclude December 31, 2028, although any warranty purchased through this contract may extend beyond the contract end date.

3.1 Equipment Specifications

Below are the minimum equipment specifications Proposers must meet when submitting a proposal for the manufacturer, commissioning, and delivery of 137 zero-emission, battery-electric yard tractors. These specifications were designed to ensure equipment procured through this RFP meets the duty cycle and minimum operational requirements of Everport while ensuring an open and fair competition amongst equipment providers. **Please note in your proposal any deviations from these minimum equipment specifications and the reason(s) for each deviation.**

Up to four (4) zero-emission, battery-electric yard tractors in this order will be required to be U.S. Department of Transportation (USDOT)-ready on-road units.

<u>Performance Requirements:</u>

- 100% Battery powered
- Battery capacity (minimum): 280 kWh
- Traction: 4x2
- 12 Volt System
- GCVWR: minimum 125,000 lbs.
- Hour meter installed, visible from the exterior of vehicle, near/around driver side door at 5'6" to 6' height
- Maximum Speed (Unloaded) – 35 MPH, with the speed to be able to adjustable by ETS mechanics.
- Run Time- 16 + hours on a full charge
- Charging Time - Full charge in 2 hours @ 200 kW
- Tractor Peak charging rate (minimum): 150 kW hour
- State of Charge indicator light on top of cab

OPTIONS:

- Prewired for Yard Management System (TOS)

<u>Power System</u>

- Battery Type - Lithium-Iron-Phosphate, Nickel-Manganese-Cobalt, or equivalent, proven for heavy-duty industrial applications
- Battery Capacity - Sufficient to support 16 + hours of continuous operation under normal working conditions
- Charging Interface - Compatible with standard DC fast charging for industrial applications
- Charging Port Standard: CCS.1
- Charging Port located on front of the yard tractor

- Charging Time - Full charge in 2 hours @ 200 kW charger
- Braking System - Regenerative braking plus service and emergency braking features
- Braking System – Air brakes with color coded airlines
- 15 ft coiled trailer air hose; red/blue with double break away gladhands and "Moose Antler" hangers
- Push Button air hose valves inside cab
- Keyless start

Structural and Chassis Features

- Front Axle minimum capacity16,000 lbs
- Rigid rear axle, ratio minimum 12.28:1, 70,000 terminal rating
- 5th Wheel, minimum 80,000 lbs lift capacity,
- 5th Wheel minimum 16" lift height, 5" diameter lift cylinders, driver release button guard
- Rollover protection system
- High roof cab, minimum 72"
- Headache Rack W/Special Design Trailer Stop Plate W/ Moose Antlers welded to Headache Rack
- Container guards / Trailer Stops - full truck width and safety reflective tape as per PCMSC specifications.
- Red/White reflective tape on following locations:
    - 2" RIW reflective tape full length of front bumper, 2 rows, RIW reflective tape across the entire bottom back of cab, including the sliding door
    - 1" RIW reflective tape on upper rear corners (facing rearwards) on container guard
    - 2" RIW reflective tape on top of container guard (facing upwards) for the full width of the guard, 2" RIW reflective tape on rear mudflap brackets
- GPS Mounting Package w/ Backing Plate, Corner Channel, Antenna Mount etc. as per Everport specifications.
- Door Panel Cab tilt to expose drive train and hydraulics
- Standard, Steel, Removable Bumper, 50 Degree Taper Curb Side Deck
- Extended Front Bumper w/ minimum 1" Spacer W/Dock Bumpers (minimum 3 strips)
- Dock Bumpers, Platform Mounted, Both Sides of Taper
- Front and rear beavertail tow points
- Between Cab and Center 5th Wheel (up position) = 128" and 94"
- Cab color: White
- Wheels: White
- Steps, grates and handrails: Fluorescent Green – all high visibility paint
- Frame: Black
- Platform: White
- Bumper: Fluorescent Green
- 5th wheel rear skid plate – beaver tail

OPTIONS:

- Spare tire and wheel
- Standard Red & Blue Glad Hands

Operator Comfort & Safety

- Rollover protection structure (ROPS)
- Falling object protection structure (FOPS)
- Keyless toggle ignition
- Air ride cab
- Cushion Air Ride Driver's Vinyl Mid Back Seat, Black
- Operator restrain system with 3 pt seat bel, orange lap, adjustable shoulder and indicator LED lights
- Cab fan(s)
- Cab insulation
- Ergonomic and adjustable seating and controls
- Cab insulation for noise and weather abatement
- Windshield washer with electric intermittent windshield wipers (not obstructing driver's view while in rest position)
- Power steering with steering wheel knob
- LCD Display (minimum): State of Charge, Hour Meter, Odometer, Speedometer, Warning indicators
- Joystick operated lift system
- Dual USB charging ports
- Power socket, dash mounted
- Driver side door, roll down window, window guard
- Handrails for exit/entry
- Reflective conspicuity tape, two sides, platform only
- Quick release trailer system button
- AC and heater (provide BTU on proposal)
- High-visibility tinted windows
- Rear view adjustable mirror
- Convex mirrors on right and left side – minimum 8", non-electric / manual
- Marine terminal mirror post
- Translucent sunvisor
- Smart backup, low pressure, system fault alarms
- Overhead visibility window incorporated into roof panel – if available
- Back up alarm
- Dome light - interior
- Necessary safety lights and alarms for night operation, including spotlights for connecting the yard tractor to a chassis
- Full time flashers

- LED – Recessed rear/Stop lights and Back up lights
- LED strobe light
- Work Light, One Rear Facing Curb Side Roof Mounted - LED
- Work Light, One Rear Facing Driver Side Roof Mount – LED
- All lights wired through ignition
- 5 lbs. ABC Fire Extinguisher – if provided by OEM as standard
- All wiring color coded
- Five reflectors in lieu of top of cab clearance lights
- Cup holder
- Hard copies: Operator's guide, repair, mechanical, electrical, etc. per unit
- PDF or CD copy upon delivery of first unit
- Safety check manual and video
- Rear cab glass and door glass metal grate protector
- Roof mounted, key on beacon light
- Seat belt interlock system to prevent the yard tractor from moving unless the seat belt is engaged, and/or to activate a flashing warning light on top of the cab when the seat belt is engaged

OPTIONS:

- Operator presence system with auto shutdown
- Pedestrian Awareness System
- Touch screen display

Telematics

The system must support EPA Clean Ports Program, 2 CFR 200 data and reporting requirements in accordance with the approved Quality Assurance Project Plan (QAPP). The QAPP is still under development, but the Proposers can find the Draft Data Collection Requirements for the EPA Clean Ports Program at https://www.epa.gov/system/files/documents/2025-07/ports-program-guide-activity-data-collection-2025-06.pdf.

At a minimum, the telematics system shall capture and record:

- Hour Meter
- Equipment ID and GPS location
- Operating hours (total and by duty cycle)
- Energy consumption (kWh or diesel gallon equivalent avoided)
- Battery state of charge, depth of discharge, and charging cycles
- Load data (gross weight, lifting events if applicable)
- Idle time and utilization rates
- User friendly interface

- Cellular and/or WiFi enabled
- Emissions estimates (calculated via EPA-approved methodology for displaced diesel usage)

All Proposers must be able to provide these minimum data collection requirements remotely through a telematics system. Data must be provided at a minimum cadence of once per month and the telematics systems must incorporate cybersecurity protections consistent with industry best practices. Proposers must also be able to comply with the effective prohibition(s) on certain telecommunications and video surveillance service equipment or services, as described in the latest EPA general terms and conditions. (https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2024-or-later).

All telematics data must be stored in a secure, centralized system accessible to the Port (pass-through entity) and EPA representatives. Data shall be exportable in CSV or XML formats and aligned with EPA's Clean Ports Program reporting template. The system must retain data for a minimum of three (3) years beyond the final grant closeout date, consistent with 2 CFR 200.334. See Sections 7.2-7.3 for more information on reporting and record retention requirements.

Data collection services will commence after successful commissioning of equipment and will conclude December 31, 2028.

Software Integration Requirement

The Original Equipment Manufacturer (OEM) shall support installation of buyer-provided, customer-paid, and proprietary data acquisition or fleet management software on all zero-emission cargo handling equipment delivered under this contract. The OEM shall provide the necessary access, hardware interfaces, and integration support to ensure the proprietary software operates as intended without interfering with the vehicle's safety, warranty, or core control systems.

The installation, operation, or future updating of this proprietary software by the buyer or its designated vendor shall not void or diminish the OEM's standard equipment warranty, provided that such installation does not cause demonstrable physical damage to the vehicle or its systems. The OEM shall coordinate with the buyer's designated software provider to complete installation, testing, and commissioning prior to final acceptance. Compliance with this requirement is mandatory for alignment with EPA Clean Ports Program data collection and Quality Assurance Project Plan (QAPP) obligations, and no substitution of OEM-provided telematics shall be accepted in lieu of the specified proprietary system.

Regulatory Compliance

The vehicle shall meet the applicable design and performance criteria required for Powered Industrial Trucks in OSHA Safety and Health Standards, Title 29 CFR. Part 1910.178, and the applicable design and performance requirements in ANSI B56.1.

All equipment offered by Proposers must be "new," meaning the equipment will be used first by Everport after it is manufactured or produced.

OEMs that can demonstrate successful deployment of the battery-electric yard tractors offered in their proposal at one or more marine terminals operating at major container seaports in the United States will score more favorably.

3.2 Grant Reporting

The selected Proposer(s) will support Everport in their grant compliance by:

- Providing timely responses to questions from Everport, the Port of Los Angeles, or contractors working for Everport on the Project. Questions may pertain to, but are not limited to, equipment specifications and operations, safety standards, the proposed equipment delivery method, telematics and data collection, the Project budget, and the manufacturing, delivery, and commissioning schedule.
- Preparing monthly progress reports that indicate the status of manufacturing, delivery, commissioning, and any maintenance or warranty work conducted throughout the grant performance period.
- In addition, contracted Proposer(s) shall respond to information requests in support of EPA semi-annual reporting requirements per Section 7.3.

Grant reporting will commence upon execution of a contract between the selected Proposer(s) and Everport. Grant reporting will conclude December 31, 2028. Record retention requirements extend beyond the grant reporting deadline and are separately covered in Section 7.2.

3.3 Warranty Services

Proposers must address the warranty requirements below in their proposals and must note any deviation(s) and the reason(s) for the deviation(s):

<u>Warranty Requirements</u>

Bumper to bumper / Total Vehicle: (minimum): <u>three (3) years / 7,500 hours</u>

Electrical: <u>4-5 years</u>

Chassis/Frame (minimum): <u>5 years</u>

Battery capacity: Meet <u>two (2) 8-hour shifts per day at eight (8) years</u>

Paint (minimum):<u>1 year</u>

Warranty coverage will begin for each individual yard tractor once it has been commissioned and is operational at the Everport terminal.

3.4 Maintenance Training & Tools

Everport will maintain equipment procured under the EPA Clean Ports Program on-site. To ensure appropriate maintenance is conducted throughout the life of each yard tractor, the selected Proposer(s) will provide training to Everport that describes the maintenance procedures and best practices required to maximize the life of the yard tractors and minimize equipment downtime. **The selected Proposer(s) must provide maintenance manuals (electronic and hard copy) and a list of all tools required for maintenance, and is encouraged to note any unique tools in the proposal submitted to Everport.**

3.5 Equipment Assembly and Delivery

Delivery of the yard tractors will be coordinated with Everport in advance. Delivery services are to include transportation, labor, unloading, tools and equipment. Everport strongly prefers assembly of the yard tractors to take place off-site.

4. Invoicing

Equipment will be reimbursed in accordance with an agreed upon schedule. Down payments are acceptable and encouraged under this contract. The warranty services procured through this RFP will be paid for after successful equipment commissioning.

Source documentation that the selected OEM(s) or dealership(s) has incurred eligible and allowable costs in accordance with EPA grant requirements must be provided to and approved by Everport for each invoice prior to Everport releasing EPA, Port of Los Angeles, and/or Everport funds to the contractor. **The Port of Los Angeles or Everport may require, and the selected OEM(s) or dealership(s) shall provide, all source documentation reasonably required to determine whether amounts on the invoice are allowable, necessary, reasonable, accurate, and allocable expenses under the EPA Clean Ports Program in accordance with 2 CFR Part 200 Subpart E.** All invoices and expenses are subject to audit.

Source documentation includes applicable invoices, receipts, check stubs, bank statements, payroll records, contractors, and purchase orders. Source documentation does not include general ledgers, journal vouchers, Excel spreadsheets, and other internally created files. For payroll costs, source documentation shall include rate of pay, verification of hours/time worked, allocation plan, and documents that track the amount of time each employee spent working on the EPA grant.

The selected contractor and any subcontractors will be required to produce invoices that clearly differentiates expenses by milestone. Key milestones may include a down payment to secure build slots, delivery, commissioning, and commencement of the warranty.

The selected contractor must have federally compliant accounting systems and internal controls.

The financial systems of the selected Proposer(s) must:

- Monitor the expenditure of funds against the approved budget,
- Maintain **source documentation** to support entries into the financial system, and
- Be able to provide source documents for all drawdowns, upon EPA request.

The selected Proposer or Proposers' Internal Controls for payroll systems must:

- Ensure total compensation paid to employees is reasonable according to the work performed on the assistance agreement,
- Ensure compensation is made in accordance with established policies of the organization,
- Ensure compensation policies are consistently applied to both government and non-government activities,
- Ensure staff attest their time at the end of each pay period, and
- Ensure supervisors verify the accuracy of the time and approve the hours for the staff that report to them.

All invoices shall be signed by the contractor and shall include the following certification:

"I certify under penalty of perjury that the above bill is just and correct according to the terms of Contract No. _____ and that payment has not been received. I further certify that I have complied with the provisions of the City of Los Angeles Living Wage Ordinance.

_____ "
(Signature of Contractor)

5. Marine Transportation Security Act (MTSA) of 2002

On November 25, 2002, Congress passed the Maritime Transportation Security Act (MTSA) of 2002, which directed the Department of Homeland Security to create regulations that require credentialed merchant mariners and transportation workers seeking unescorted access to secure areas of MTSA-regulated facilities, vessels, and Outer Continental Shelf facilities to undergo a security threat assessment and receive a Transportation Worker Identification Credential (TWIC). Today, TWIC enrollment is administered by the Transportation Security Administration (TSA) and the TWIC program is jointly managed with the U.S. Coast Guard. Employees of the selected OEM(s), dealership(s), or subcontractor(s) that work on the Project and regularly attend on-site meetings will be required to enroll in TWIC and carry a TWIC card on them at all times while on-site at the Everport terminal. For more information, please visit:
https://www.tsa.gov/twic

6. Proposal Requirements

6.1 Proposal Questions

All questions pertaining to this RFP must be submitted through PlanetBids (https://vendors.planetbids.com/portal/83809/bo/bo-search) no later than **5:00pm** on **June 12, 2026.**

It is the responsibility of the Proposer to review all responses to questions and any addenda posted to PlanetBids. Responses to submitted questions will be posted by close of business on **June 19, 2026.**

Attempts to contact any other Everport employee or Board member, either directly or through third parties acting for or on the Proposer's behalf, may be presumed to constitute efforts to bias or influence the competitive process with information not detailed in the RFP and not available on an equal basis to all Proposers. Accordingly, such attempts shall constitute grounds to disqualify the Proposer undertaking them. Any information provided by Everport to one Proposer in response to questions shall be provided to all Proposers.

6.2 Pre-Contractual Expense

Everport shall not, in any event, be liable for any pre-contractual expense incurred by the selected contractor(s) in the preparation of the proposal. Pre-contractual expenses are defined as expenses incurred by the selected contractor(s) in:

- Preparing its proposal in response to this RFP.
- Submitting its proposal to Everport.
- Negotiating with Everport on any matter related to its proposal.
- Travel expenses resulting from potential interviews for shortlisted candidates.
- Any other expenses incurred by Proposer prior to the date of award of an agreement resulting from this RFP.

6.3 Q&A Session

Contractors preparing to submit proposals should plan to attend the virtual question and answer (Q&A session). Attendance is not mandatory, although strongly encouraged. The Q&A session will be held on **June 10, 2026**, **at 10:30am Pacific Time**. To sign up for the Q&A session, please register by clicking **this link** and provide the requested information. A calendar invitation will be sent to the email you use for Q&A session registration. All questions and responses from the Q&A session will be published on PlanetBids by close of business on **June 19, 2026** (see Section 6.1).

Everport will record the Q&A session for the purpose of facilitating written responses to questions. By participating in the Q&A session, each participant acknowledges and consents to the recording, including audio and video/screen-sharing. If the participant does not consent to recording you must provide written notice to Everport at Grants@everport-terminals.com no later than forty-eight (48) hours prior to the meeting. If the participant does not consent and does not provide written notice, the participant should turn off the participant's camera and/or audio and not participate.

6.4 Proposal Content

Sections 6.4.1 through 6.4.12 specify the information and documentation that must be included in your proposal submission. **Failure to provide all required information, including any mandatory forms, may result in disqualification of the Proposer or may necessitate that Everport re-open the RFP to provide all Proposers an opportunity to submit any omitted**

materials.

6.4.1 Cover Transmittal Letter

In a letter addressed to the Evaluation Committee, please provide a brief description that introduces the proposing team, highlighting the special strengths of the Proposer and any subcontractors to deliver the equipment and perform the work requested in this RFP. The letter should be signed by an authorized principal of the proposing contractor.

6.4.2 Qualifications, Experience, and References

Please provide in your narrative a description of the contractor's qualifications to manufacture, deliver, and commission zero-emission, battery-electric yard tractors, including past (relevant) experience and at least three client references, with contact names and information. Contractors that can provide information on where they have deployed zero-emission battery-electric yard tractors, how many have been manufactured and delivered, and data informed results demonstrating successful deployments will score more favorably. If the contractor has experience with federal grants and administration, please describe that experience within this section of the narrative. Qualifications and experience for any proposed subcontractors should also be included.

Additionally, include a narrative of your company's expertise in the following areas:

☐ Federal Grant Project Management and Administration

☐ Advanced Technology Demonstration Projects at Seaports, including Electrification of Terminal Operations

☐ Port of Los Angeles and/or maritime experience

6.4.3 Project Personnel and Staffing

Please provide a brief description of all key personnel (including subcontractors) that will be supporting this procurement. **Resumes for all key personnel should be provided as part of an appendix to the proposal and will not count towards the proposal page limit.** Please include the following information in your proposal narrative:

☐ Include names, titles, licenses, certificates, fields of expertise, and relevant experience for all proposed personnel and staff.

☐ Identify the key point(s) of contact for the purchase, manufacture, delivery, and commissioning phases of the project.

Proposers are advised that it is a Proposer's obligation to determine whether any conflicts of interest exist for their team members and the extent to which those conflicts need to be resolved or disclosed prior to engaging in business with Everport. Include a disclosure statement with your proposal.

6.4.4 Build America, Buy America (BABA) Requirements

BABA requirements are described in greater detail in Section 7.5. Within the narrative, please describe whether your company can meet BABA requirements as they apply to the EPA Clean Ports Program today:

☐ Fully BABA compliant with more than 55% of the domestic content costs for materials made in America and the equipment is produced in America, or
☐ The equipment will require a project-specific waiver, or
☐ The equipment will require the use of the EPA Supplemental De Minimis Waiver and/or the pre-existing EPA De Minimis Waiver.

In the narrative, confirm your company has provided a self-certification letter that incorporates the content provided in the EPA template self-certification letter and include the letter in an appendix to the proposal. The selected contractor(s) will be required to provide an additional, updated self-certification letter at the time of equipment delivery.

6.4.5 Equipment Specifications, Warranty Coverage, Training and Telematics

Within your narrative or as part of an appendix, Proposers **must** provide a complete description of the zero-emission, battery-electric yard tractor specifications, complete warranty coverage, any training to be provided to Everport, and the telematics that will be included in the purchase order. If any of the specifications, warranty coverage, training, or telematics offered deviate from those required in Sections 3.1, 3.2, 3.4, and 3.5 of this RFP, please describe those deviations and the reasons for the deviations. Additionally, provide a list of any unique tools required for maintenance or note that maintenance does not require any unique tools.

6.4.6 Universal Connectors

Zero-emission, battery-electric yard tractors purchased under this contract must be capable of connecting to Combined Charging System (CCS) Type 1 chargers. Proprietary connectors are not allowable under this RFP. Given the significant size of the battery systems on board zero-emission, battery-electric yard tractors, Everport anticipates utilizing chargers that provide a minimum of 200-kW per charge port.

In the narrative, please describe:

☐ Interoperability of the yard tractors with a multitude of chargers

☐ A list of charger OEMs that have successfully demonstrated connection with your company's zero-emission, battery-electric yard tractors

☐ A commitment from your company to coordinate with the selected charging OEM to ensure the zero-emission, battery-electric yard tractors can consistently connect with the charger and a description of the support your company will provide, including, but not limited to, provision of software upgrades

6.4.7 Availability of Spare Parts and Warranty Services

Within the proposal narrative, please describe the availability of spare parts and warranty services that the contractor or subcontractor can provide to Everport. **Parts and services should be available within one business day** of when Everport notifies the contractor of an equipment related issue.

☐ Describe how the contractor plans to meet the one-day requirement for spare parts delivery and warranty services coverage.

6.4.8 Cost

Within your proposal narrative, please prepare a milestone payment table that clearly describes contract milestones, payment amount per milestone, and documentation for each milestone payment. An example table is provided below.

Table 1. Example Milestone Payment Table

Milestone	Payment	Documentation Required
Down payment	% of total contract value	Invoice from the Company, proof of payment, and Progress Report describing the status of manufacturing
Delivery	% of total contract value	Proof of delivery (bill of lading, photos, etc.)
Commissioning	% of total contract value	Commissioning report

Please also provide a complete description of the costs to manufacture, deliver, commission, and provide warranty coverage for the zero-emission battery-electric yard tractors. Training and subcontractor costs should also be included as line items within this table. Optionally, include any unique tools that may be required for maintenance. An example table is provided below to clarify the expected elements of the cost description. It is strongly recommended to provide all of the listed cost elements. Everport reserves the right to request further breakdown and documentation of cost elements before awarding a contract in support of their price or cost analysis. A price or cost analysis is required by the EPA to ensure a fair contract price before entering into a contract with the selected contractor.

Table 2. Example Cost Information Table

Cost Element	Price	Description
Vehicle price		
Taxes and duties		
Freight		
Warranty		
Telematics		
Training		
Unique tools for maintenance		
Optional services or materials		
Other identified costs		

Proposer's cost proposal must comply with 2 C.F.R. Part 200 Subpart E - Cost Principles and 48 C.F.R. Part 31 - Contractor Cost Principles and Procedures. EPA requires all costs to be allocable, necessary, reasonable, accurate, and allowable and it is the responsibility of the Proposer to ensure all costs submitted in your proposal meet these EPA requirements.

Proposers will not be entitled to reimbursement for costs that are not Allowable Costs pursuant to the applicable federal regulations and should fashion its cost proposal accordingly.

If any of the requested information is falsified, Everport reserves the right to reject the proposal as not responsible and/or cancel the contract award.

6.4.9 Project Schedule

Please provide a clear project schedule for manufacture, delivery, and commissioning of the zero-emission, battery-electric yard tractors within your proposal narrative. Zero-emission, battery-electric yard tractors must be commissioned and ready for operation by no later than **July 31, 2028**. Any deviations from this schedule and the reason(s) for each deviation must be included in your proposal. Please provide the following in your schedule:

☐ Month, day and year for completion of each critical milestone, including manufacture, delivery, and commissioning

6.4.10 Proposer Information and Certification Form

Proposers **must complete** the **Proposer Information and Certification Form (Attachment C)**. This form is used to confirm the appropriate point of contact for your proposal and to the legal name of the proposing company. The legal name will be used to confirm your company is not suspended or debarred in SAM.gov.

The **Proposer Information and Certification Form** also requires Proposers to confirm compliance with Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq.

Please also confirm in the Proposer Information and Certification Form that the indemnity and insurance requirements described in the Legal Terms and Conditions (**Attachment A**) are presently part of the proposer's insurance coverage or that the proposer will be able to obtain such coverage should they be selected for award.

6.4.11 Indemnity and Insurance Requirements

By submitting a proposal and completing the Proposer Information and Certification Form in **Attachment C**, a Proposer affirms that the indemnity and insurance requirements for this project, detailed within the Legal Terms and Conditions in **Attachment A**, are presently part of its coverage, or that your company will be able to obtain such coverage should you be elected for award. Proposers that cannot meet the project indemnity and insurance requirements must note any deviations within their proposal and the reasons for the deviations. Proposers are not required to purchase the necessary insurance in order to respond; however, all required insurance will need to be submitted at the time of contract award.

Please do not submit a quote from your insurance carrier or broker, a copy of your current insurance policy, or a copy of your policy renewal documents. Only the selected contractor will be required to submit proof of insurance documents. **Proposers must maintain the required insurance throughout the life of this contract and must provide proof of insurance at the time of project award.**

6.4.12 Contract Solicitations Charter Section 470(c)(12)

Proposers and their subcontractors who submit a response to this RFP are subject to the City of Los Angeles Charter section 470 (c) (12) and related ordinances. As a result, Proposers and their subcontractors may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit the response until either the contract is approved or, for the successful Proposer and any subcontractors, 12 months after the contract is signed. The Proposer's principals and subcontractors performing $100,000 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

Proposers must submit CEC Form 55 (Attachment D) to Everport with their proposal.

In addition, by submitting a proposal, the Proposer represents that it is familiar with Section 1090 and Section 87100 et seq. of the California Government Code, and that it does not know of any facts that constitute a violation of said sections in connection with its proposal. Proposer also represents that its proposal has completely disclosed to Everport all facts bearing upon any possible interests, direct or indirect, which Proposer believes any member of the Port, or other officer, agent or employee of the Port or any department presently has, or will have, in any

agreement arising from this RFP, or in the performance thereof, or in any portion of the profits there under. Willful failure to make such disclosure, if any, shall constitute ground for rejection of the proposals or termination of any agreement by the Port for cause. Proposer agrees that if it enters into a contract with the Port, it will comply with all applicable conflict of interest codes adopted by the City of Los Angeles and Port of Los Angeles and their reporting requirements.

The selected Proposer(s) shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties. The selected contractor shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.

6.5 Proposal Submission

One (1) digital copy of your proposal, as one complete file in .pdf format, must be electronically via the PlanetBids portal (https://vendors.planetbids.com/portal/83809/portal-home) by **5:00pm** on **~~June 26, 2026~~ June 30, 2026**.

Your proposal may not exceed ten (10) written pages and must be submitted in no less than 11-point font, with at least 0.5" margins on all sides. Resumes, equipment specifications, and warranty coverage description provided in appendices will not be counted towards the page limit. Appendices, the cover page, and a table of contents will also not be counted towards the 10-page limit.

Proposers are solely responsible for the timeliness of their submittals. **As such, Proposers are cautioned to budget adequate time to submit their proposals. PlanetBids technical support is available by phone at (818) 992-1771, subject to availability.**

By submitting a proposal, Proposers certify that such proposal constitutes their full and complete written response to the RFP and evidences their acknowledgement that additional written material outside of such proposal shall not be considered by Everport in connection with this RFP, unless Everport provides a written request that they submit additional written materials. Absent such written request, Proposers are instructed to not submit to Everport written or other materials outside of the proposal.

Proposers are advised that all documentation submitted in response to this RFP may be considered property of the Port of Los Angeles and may become available to the public as a public record and be released without further notification. Everport does not request or require confidential proprietary information or trade secrets to be included as part of the Proposer's submissions. **Any information that the Proposer considers confidential should not be submitted with the proposal. Please do not label proposal submissions as confidential or proprietary or trade secret protected.**

6.6 Evaluation Process and Selection

Scoring Guidelines

All proposals submitted to Everport for the procurement of zero-emission, battery-electric yard tractors that are deemed complete and responsive shall be reviewed and rated by an evaluation committee according to the following criteria:

1. Proposer qualifications and experience
2. References
3. Build America, Buy America
4. Warranty package and availability of parts
5. Cost
6. Schedule
7. Clarity and comprehensiveness of the proposal

These criteria were developed to identify the top proposal that demonstrates technical competency and cost competitiveness. Proposers can earn 5-20 points maximum dependent on the evaluation criterion. Scores will be calculated as a sum of all points. Proposers may receive a maximum score of 100 points. Proposers will be ranked based upon their final score and Everport will select the top ranked firm.

Criteria to Be Rated	Description	Rater's Score	Maximum Points of 100
A. Proposer qualifications and experience	Has the Proposer or its subcontractor produced and delivered zero-emission, battery-electric yard tractors for major container seaports in the United States? Has the Proposer provided the count of zero-emission, battery-electric yard tractors deployed and results that demonstrate successful deployment? Has the Proposer provided three references and do those references favorably review the equipment and services previously		20

	procured from the Proposer?		
B. Technical Compliance	How well do the proposed yard tractors meet the minimum equipment specifications outlined in the RFP?		20
C. Build America, Buy America Requirements and Other Legal Terms and Conditions	Did the Proposer and/or its subcontractor provide self-certification letter(s) demonstrating it can deliver the requested yard tractors in compliance with BABA requirements under the EPA Clean Ports Program? Can the Proposer agree to the Legal Terms and Conditions described in **Attachment A**, including the Termination for Convenience term in Section 11.03(a)?		20
D. Warranty Package, Available Parts, and Training	Does the Proposer's warranty coverage meet the minimum requirements defined in Section 3.4? Can the Proposer meet the requirement to provide warranty services or replacement parts within one business day of receipt of notice that any zero-emission, battery-electric yard tractors are not functioning properly? Has the Proposer offered training for maintenance of the zero-emission, battery-electric yard tractors and a list of unique tools for maintenance, if required?		10

E. Cost	Did the Proposer provide the requested cost details in this RFP, including a payment table and a cost information table? Are the proposed costs reasonable, allocable, and allowable under the EPA Clean Ports Program?		15
F. Schedule	Can the Proposer comply with the schedule defined in this RFP for delivery of zero-emission, battery-electric yard tractors?		10
G. Clarity and Comprehensiveness of the Proposal	Is the proposal clear, comprehensive, and understandable?		5
	Maximum Points Possible		**100**

Selection

This RFP does not commit Everport to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. Everport reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified contractor, or to modify or cancel in part or in its entirety the RFP if it is in the best interest of Everport to do so. Furthermore, a contract award may not be made based solely on price.

The selected contractor(s) are advised that should this RFP result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by Everport. The right to reject any and all proposals shall, in every case, be reserved, as shall the right to waive any informality in the proposal when to do so would be to the advantage of Everport.

6.7 Checklist for RFP Submittal

A checklist is provided to assist in verification that all elements of the RFP have been addressed. However, Proposers are encouraged to review the entirety of the RFP to ensure full compliance and not rely solely on this checklist.

- ☐ Cover transmittal letter, signed by an authorized principal of the proposing contractor.
- ☐ Table of Contents, if included (not required)
- ☐ Proposal narrative with the following sections, in order:
    - ☐ Qualifications, Experience, and References
    - ☐ Project Personnel and Staffing

- ☐ Build America, Buy America (BABA) Requirements
- ☐ Equipment Specifications, Warranty Coverage, Training, and Telematics
- ☐ Universal Connectors
- ☐ Availability of Spare Parts and Warranty Services
- ☐ Cost
- ☐ Project Schedule

☐ Proposer Information and Certification Form
☐ Resumes for proposed key personnel
☐ BABA self-certification letter
☐ CEC Form 55

6.7.1 Withdrawal or Modification of Offers

Proposers may modify or withdraw an offer in writing at any time before the deadline to submit proposals.

6.7.2 Protest Procedures

Any party that has submitted a responsive proposal that contends or claims that Everport's proposed award of the subject contract fails to comply with local, state, and federal rules and regulations or with law must file a protest in accordance with the provisions set forth below:

1. Any protest must be submitted in writing to Grants@everport-terminals.com and received by Everport no later than 5:00 p.m. by the third (3rd) business day following receipt of a Non-Selection Notice from Everport.
2. The protest must include the name, address and telephone number of the person representing the protesting party.
3. The initial protest document must contain a complete statement of the basis for the protest, including in detail, all grounds for protest including referencing the specific portion of the solicitation document that forms the basis for the protest, and including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the protest. Any matters not set forth in the written protest shall be deemed waived. All factual contentions must be supported by competent, admissible and credible evidence.

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

7. EPA Grant Compliance

Below, is a list of key requirements in the EPA Grant awarded to the Port of Los Angeles. Proposers should review **Attachment B**, Port of Los Angeles EPA Clean Ports Agreement, to ensure Proposer can meet all terms and conditions of the EPA Grant.

7.1 Terms and Conditions

Proposers should have experience delivering the equipment and services described in Sections 3.1-3.6 in compliance with Federal grant requirements. The selected contractor(s) must agree to comply with the EPA general terms and conditions effective October 1, 2024 or later for work performed under this contract. (See https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2024-or-later for the latest terms and conditions). The selected contractor(s) must also flow down all EPA general terms and conditions to any subcontractors.

The selected contractor(s) must have staff dedicated to the Project that understand and will ensure contractor compliance with Subparts A through F of the Uniform Grant Guidance (2 CFR Part 200) as well as the Contract Cost Principles and Procedures as defined in 48 CFR Part 31.

If a selected contractor subcontracts to one or more companies, the prime contractor must comply with the requirements laid forth in 40 CFR Section 33.302 (a)-(d) and (i).

7.2 Financial Reporting and Records Retention

Federal financial reporting is required under this contract. The selected contractor(s) will provide any documentation required for Everport to successfully complete the EPA annual federal financial reporting requirements by either submitting a complete SF 425 to Everport or providing other documentation required for Everport or the Port of Los Angeles to complete SF 425. Financial reporting information will be provided to Everport by October 31 each year and shall cover any expenditures between "project/budget period start date" to September 30 of the current calendar year.

The selected contractor must keep and maintain all financial records, supporting documents, accounting books and other evidence of Project activities through December 31, 2031. If any litigation, claim, or audit is started before these record retention requirements expire, the selected contractor must maintain all appropriate records until three years after these actions are completed, and all issues resolved.

Everport and/or the Port of Los Angeles will be required to obtain a single audit or similar from an independent auditor if their organization expends $1,000,000 or more in total Federal funds in their fiscal year. The single audit report must be submitted within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from the independent auditor, whichever is earlier. The selected contractor must provide all requested documentation for the single audit to Everport no later than 14 calendar days after the request for audit related information is sent to the selected firm.

7.3 Semi-Annual Performance Reports

Semi-annual performance reporting to EPA is required under this contract. The selected contractor(s) will provide any documentation required for Everport to successfully complete

semi-annual performance reporting, either by completing EPA Form 5900-690 or future revisions, as applicable or by providing Everport with the necessary information by the date requested.

7.4 Grant Closeout

The selected contractor(s) must provide progress reports, financial information, and project related information to Everport in support of any grant closeout requirements identified in the EPA October 1, 2024 or later general terms and conditions (https://www.epa.gov/grants/grant-terms-and-conditions).

7.5 Build America, Buy America (BABA) Requirements

The Project is subject to the domestic sourcing requirements under the BABA provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§ 70911-70917) when using federal funds for the purchase of goods, products, and materials on any form of construction, alteration, maintenance, or repair of infrastructure in the United States.

BABA requirements apply to all iron and steel, manufactured products, and construction materials used for the infrastructure project under an award for identified EPA financial assistance funding programs as defined in P.L 117-58 § 70912(6). **The zero-emission, battery-electric yard tractors procured under this RFP are considered manufactured products and are subject to BABA requirements. All zero-emission, battery-electric yard tractors procured under this RFP must be produced in the United States and the cost of the components mined, produced, or manufactured in the United States must be greater than 55 percent (55%) of the total cost of all components of the manufactured product.** The EPA interprets "produced in the United States" to mean "manufactured in the United States."

The EPA adopted a targeted, time-limited, partial waiver for certain zero emission mobile port equipment to be funded by the EPA Clean Ports Program. The waiver specifies:

1) The 55% domestic content requirement is waived for certain types of "zero emission mobile port equipment. "This equipment must still be manufactured in the United States to be considered "produced in the United States" during the waiver period.
2) Clean Ports Program funding recipients may also apply a supplemental de minimis waiver, waiving BABA compliance on fifteen percent (15%) of material costs associated with the purchase of mobile equipment that may be used for recipients of the Clean Ports Program only on mobile port equipment, except for cranes.

The 55% domestic content requirement for zero-emission battery-electric yard tractors has been waived for a limited period. To utilize this waiver, OEMs or dealerships must contractually commit to delivering the battery-electric yard tractors to Everport by no later than December 31, 2026. However, because Everport will not have sufficient charging infrastructure to support the equipment within this timeframe, Everport does not intend to rely on the limited 55% domestic content waiver.

The EPA supplemental de minimus waiver and the EPA's existing public interest de minimis

waiver can be applied to assist with meeting BABA requirements for zero-emission, battery-electric under the EPA Clean Ports Program, subject to Port and EPA approval. For more information on BABA requirements as they apply to EPA funded projects, please refer to the following resources:

- EPA General Applicability Public Interest Waiver of BABA Provision
- EPA Clean Ports Program Website
- Questions and Answers: BABA General Applicability Public Interest Waiver for EPA's Clean Ports Program
- EPA October 1, 2024 and Later Grant Terms and Conditions

Proposers should not assume any waiver requests will be granted at this time and are responsible for submitting a BABA compliance self-certification letter with their proposal. A template self-certification letter can be found here (https://www.epa.gov/baba/build-america-buy-america-baba-resources)

Everport will require the selected contractor(s) to provide a second BABA self-certification letter at the time of equipment delivery.

Everport reserves the right to request and require documentation from the selected contractor(s) that describes the source and cost associated with each component or material utilized to build the zero-emission, battery-electric yard tractors. Proposers are reminded that by entering into a contract with Everport, which passes through all EPA terms and conditions, submission of any false, fictitious, or fraudulent information, or the omission of any material fact, may subject you or your company to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise.

7.6 Disadvantaged Business Enterprises (DBEs)

Everport, in accordance with the provisions of Title VI of the Civil rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Proposers that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Everport encourages Proposers to consider subcontracting with DBEs. Everport will also consider awarding the contract to a consortium of DBEs.

The selected contractor(s) must also comply with 40 CFR, Part 33, Subpart C when selecting subcontractors to perform work under this contract.

For DBEs interested in performing work contained within this RFP, please consider using services and assistance provided by the U.S. Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.

7.7 MBE/WBE Utilization

MBE/WBE Utilization Under Federal Grants and Cooperative Agreements reporting is required pursuant to the EPA grant. However, on April 7, 2025, EPA provided a Recipient/Applicant Information Notice (referenced as RAIN-2025-G02) that stated EPA will not be enforcing the MBE/WBE Utilization reporting requirements. Should EPA provide notice that it has reversed this decision, Everport will notify the selected firm(s) that the MBE/WBE Utilization requirement is in effect. If in effect, the selected firm(s) will provide any documentation required for Everport to successfully complete MBE/WBE Utilization Under Federal Grants and Cooperative Agreements reporting, either by completing EPA Form 5700-52A or future revisions, as applicable, or by providing Everport with the necessary information by the date requested.

7.8 Civil Rights

In carrying out this contract, the selected contractor(s) must comply with the following statutory requirements:

1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, by entities receiving Federal financial assistance.
2. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
3. The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

In carrying out this contract, the selected contractor(s) must comply with the following regulatory requirements:

1. For Title IX obligations, 40 C.F.R. Part 5; and
2. For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 C.F.R Part 7.
3. The statutory and national policy requirements at 2 CFR 200.300(a).
4. For Federal awards that are subject to a Federal statute prohibiting discrimination based on sex, the Federal agency or pass-through entity must ensure that the award is administered in accordance with 2 CFR 200.300.
5. These regulations establish specific requirements as applicable, including, but not limited to collecting, maintaining, and providing upon request compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination to the EPA.

7.9 Byrd Anti-Lobbying Amendment

In compliance with 31 U.S.C. 1352, the selected contractor(s) must file the required certification and submit it to Everport. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining

any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

8. City of Los Angeles Harbor Department Requirements

8.1 Contractor Rights

Everport acknowledges and agrees that this contract creates no rights in the selected contractor or its subconsultants with respect to the City of Los Angeles and that obligations that may be owed to the selected contractor(s), including, but not limited to, the obligation to pay the consultant for services performed, are those of Everport alone.

8.2 Service Contractor Worker Retention Policy and Living Wage Policy Requirements

The selected contractor(s) must comply with the provisions of the Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention (SCWR), Section 10.36 et seq. of the Los Angeles Administrative Code. Further, Charter Section 378 requires compliance with the City's Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. The selected contractor(s) and any subcontractor shall comply with the policy wherever applicable.

8.3 Wage and Earnings Assignment Order/Notices of Assignments

The selected contractor(s) and any subcontractor are obligated to fully comply with all applicable state and federal employment reporting requirements for the Subrecipient and/or subconsultant's employees.

The selected contractor(s) shall certify in the Proposer Information and Certification Form (Attachment C) that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Further, the selected contractor and its subconsultant will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. The selected contractor(s) and any subconsultant will maintain such compliance throughout the term of this contract.

8.4 Non-Discrimination and Affirmative Action Program

The selected contractor(s) and any subcontractor, during the performance of the contract, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code shall be incorporated and made a part of this contract. All subcontracts awarded shall contain a like nondiscrimination provision. See **Attachment E** for more information on the Affirmative Action Program.

8.5 Trademarks, Copyrights, and Patents

The selected contractor(s) agrees to save, keep, hold harmless, protect and indemnify the City and Everport, and any of their officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by City or Everport of any materials supplied by the selected contractor(s) in the performance of this contract.

8.6 Proprietary Information, Licenses, and Ownership of Submittals

If research or development is furnished in connection with this contract and if, in the course of such research or development, patentable work product is produced by the selected contractor(s), its officers, agents, employees, or subconsultants, the City of Los Angeles and Everport shall have, without cost or expense to them, an irrevocable, non-exclusive royalty-free license to make and use, such work product in connection with any activity now or hereafter engaged in or permitted by City or Everport. Upon City's or Everport's request, the selected contractor(s), at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to the City and Everport. It is expressly understood and agreed that, as between Everport and the selected contractor(s), the referenced license shall arise for the City and Everport's benefit immediately upon the production of the work product and is not dependent on the written license specified above.

8.7 Confidentiality

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in the awarded contract(s) and any recommendations made by the selected contractor(s) relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by the selected contractor or its subconsultants or their employees or agents in any manner except and only to the extent necessary in the performance of the work under this contract. In addition, the selected contractor(s) is required to safeguard such information from access by unauthorized personnel.

8.8 Conflict of Interest

It is hereby understood and agreed that the parties to a contract awarded under this RFP have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the Department. By entering into a contract with Everport, all parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of the City of Los Angeles related to the contract between the selected contractor(s) and Everport. Notwithstanding any other provision of the contract between the selected contractor(s) and Everport, it is further understood and agreed that if such financial interest does exist at the

inception of this contract, Everport may immediately terminate the contract by giving written notice thereof.

Proposers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.

The selected contractor(s) shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties. The selected contractor(s) shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.

9. Applicable Law

Contractor shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of the President at Everport.

10. Reservation of Rights

The following reservation of rights shall apply to this RFP, the evaluation process, selection, and to the contract executed between Everport and the selected contractor(s):

- Everport reserves the right to award none, some or all of the Work or Scope of Services identified in this RFP at its sole discretion. The issuance of this RFP is not a promise that Everport will move forward with all or any of the Work or Scope of Services discussed herein. Everport reserves the right to remove scope at any time prior to the issuance of a Notice of Award. Everport likewise reserves the right to award some of the Work or Scope of Services to one or more Proposers.
- Everport reserves the right to terminate the contract with the selected contractor(s) if it is determined that the selected contractor(s) failed to comply with EPA grant requirements and City of Los Angeles (including its Harbor Department) requirements as described within this RFP.
- In accordance with 2 CFR Part 180 Subpart C, Everport must check SAM.gov to ensure your business is not excluded or disqualified from performing work using EPA funding under this contract. Everport reserves the right to discontinue any negotiations with a selected contractor if Everport determines the contractor is debarred or suspended from participation in federal contracts.
- By entering into a contract with Everport, a selected contractor represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.
- By entering into a contract with Everport, a selected contractor represents that it disclosed unpaid Federal tax liability information and/or Federal felony conviction

information to the EPA. The recipient may accept this award if the EPA Suspension and Debarment Official has considered suspension or debarment of the corporation based on tax liabilities and/or Federal felony convictions and determined that suspension or debarment is not necessary to protect the Government's interests. Everport reserves the right to terminate the contract and recover any funds the contractor has spent in violation of the appropriations act(s) prohibition(s).

- Everport reserves the right to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted, and to award the contract according to the proposal which best serves the interests of Everport.
- Violation of the provisions of Charter Section 470(c)(12) shall entitle Everport to terminate the contract with the selected contractor.
- If any Proposer fails, refuses, or neglects to submit any requested information within the time stated in any request, the Proposer will fail to qualify as a responsible Proposer and its proposal shall be rejected as not responsible and/or is contract award will be rescinded.

Additionally, Section 11.03(a) of Everport's Legal Terms and Conditions (**Attachment A**) states, "Everport may terminate this Agreement, in whole or in part, for convenience, at any time and for any reason. Without limitation, Everport expressly reserves the right to terminate this Agreement if EPA Grant funds are no longer available; the EPA Grant Agreement by and between the Port of Los Angeles and the EPA is terminated; and/or the Subrecipient Agreement between Everport and the Port of Los Angeles is terminated. The OEM shall have no right to terminate this Agreement for convenience." Everport recognizes this may be a challenging term for OEMs or dealerships to accept. Proposers that are able to meet this term will be scored more favorably; therefore, it is in the Proposer's best interest to clearly indicate its ability to do so. Everport reserves the right to negotiate this material term with the selected OEM or dealership.

ATTACHMENTS
Attachment A – Legal Terms and Conditions

Article I. Definitions

Section 1.01 The **Agreement** shall mean the complete agreement by and between the OEM and Everport as reflected by the **Contract Documents**. See **Article II** , *infra*.

Section 1.02 The **Build America, Buy America (BABA) Requirements** is defined in **Section 12.04,** *infra*.

Section 1.03 **Change Order** is defined in **Section 10.1**, *infra*.

Section 1.04 **City** and/or **Port of Los Angeles** shall mean the City of Los Angeles, including the Port of Los Angeles acting by and through its Harbor Commission.

Section 1.05 The **Contract Documents** is defined in **Article II** , *infra*.

Section 1.06 "**Covered Telecommunications Equipment or Services**" is defined in 2 CFR 200.216, subparts (b) and (c) and includes the following: (a) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (b) for the purpose of public safety, security of government facilities, physical security of critical infrastructure, and other national security purpose, video surveillance and telecommunications equipment produced by Hytera Communications, Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (c) telecommunications or video surveillance services provided by such entities or using such equipment; (d) telecommunications or video surveillance equipment or services produced by or provided by an entity that the secretary of defense, in consultation with the director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a foreign country.

Section 1.07 The **EPA Grant** shall mean the award of funding from the U.S. Environmental Protection Agency (EPA) to the Port of Los Angeles from the Clean Ports Program.

Section 1.08 **EPA Grant Agreement** shall mean the U.S. Environmental Protection Agency Grant Agreement with the Harbor Department of the City of Los Angeles, Grant Number (FAIN): 5Y-97T27601.

Section 1.09 **EPA Grant Requirements** shall mean those requirements and specifications imposed by the EPA Grant, as conditions for the award of funding to the Port of Los Angeles and its subrecipients, including Everport.

Section 1.10 The **Equipment** shall mean one hundred thirty-seven (137) Zero Emission Battery-Electric yard tractors that comply with all specifications set forth in the RFP and the EPA Grant Requirements. Without limiting the foregoing, the Equipment shall comply with the specifications set forth in the RFP, including without limitation Sections 3.1, 3.2, 6.4, the EPA Grant Requirements, and those requirements set forth in the EPA Grant Agreement and Subrecipient Agreement.

Section 1.11 The **Final Price Proposal** shall be the agreed-to pricing as documented during the RFP process. The Final Price Proposal shall include the Fixed Unit Price for the Equipment, the Total Fixed Price for all Work performed under this Agreement, and the Payment Schedule.

Section 1.12 The **Fixed Unit Price** is defined in **Section 3.01**, *infra*.

Section 1.13 **Indemnified Parties** shall mean Everport, City of Los Angeles including its Harbor Department (also referred to as the Port of Los Angeles) and their respective affiliates, agents, directors, boards, Commissioners, officers, representatives, employees, assigns and successors.

Section 1.14 **Losses** is defined in Article IX , *infra*.

Section 1.15 **Milestones** is defined in **Article III** , *infra*.

Section 1.16 The **OEM** shall mean the Original Equipment Manufacturer or an authorized dealer/franchiser for the Equipment.

Section 1.17 **Payment Schedule** is defined in **Article III** , *infra*.

Section 1.18 The **Project** shall mean the total manufacture, delivery, and commissioning of the Equipment, and the training, Warranty services, and EPA Grant compliance associated therewith. The Project includes all other Work, labor, transportation, services, equipment, and materials necessary to accomplish the Project.

Section 1.19 The **Project Schedule** is defined in **Article VI** , *infra*.

Section 1.20 The **Project Site** shall be that area of the Terminal designated by Everport for the OEM's delivery, assembly, and commissioning of the Equipment, including ingress and egress routes thereto.

Section 1.21 The **RFP** shall mean the Everport Terminal Services Request for Proposals (RFP) for Zero-Emission Battery-Electric Yard Tractors at the Port of Los Angeles, including all appendices, exhibits, addenda, and responses to questions.

Section 1.22 **Source Documentation** is defined in **Section 3.03**, *infra*.

Section 1.23 The **Subrecipient Agreement** shall mean that Subrecipient Agreement by and between the Port of Los Angeles and Everport.

Section 1.24 **Terminal** shall mean Everport's terminal facility located at 389 Terminal Way, San Pedro, CA 90731

Section 1.25 **Total Fixed Price** is defined in **Section 3.02**, *infra*.

Section 1.26 **Unilateral Change Order** is defined in **Section 10.1**, *infra*

Section 1.27 The **Warranty** is defined in **Article VII** , *infra*.

Section 1.28 **Work** means all labor, materials, equipment, tools, and Services, whether completed or partially completed, provided or to be provided by OEM or its employees, agents, subcontractors, vendors, or any other third party, to fulfill OEM's obligations under this Agreement. The Work may constitute the whole or a part of the Project.

Section 1.29 **Zero Emission or "ZE"** shall mean equipment which

(a) produces zero tailpipe emissions of any criteria pollutant, air toxics, or greenhouse gas other than water vapor;

(b) has an onboard powertrain and is

(c) self-propelled by the powertrain;

(d) intended to be propelled while performing its function; or

(e) portable or transportable, meaning designed to be and capable of being carried or moved from one location to another (e.g., has wheels, skids, carrying handles, dolly, trailer or platform) and is moved as part of normal operations (i.e., it does not stay in one location for more than 12 consecutive months or the full annual operating period of a seasonal operation); and

(f) is limited to electric technologies for which there is an equivalent model with an internal combustion engine available in the marketplace.

Article II. Agreement

The Agreement shall include the following Contract Documents:

(a) these General Terms and Conditions

(b) fully executed Change Orders (if any)

(c) the Final Price Proposal

(d) the Manufacturer's Warranty

(e) the RFP

In the case of a conflict between the Contract Documents shall be given the order of preference above and the term that is more protective of Everport shall be preferred.

Article III. Price and Payment

In exchange for the manufacture, delivery, assembly, and commissioning of the Equipment, the training materials, warranty, and EPA Grant compliance, Everport shall pay the OEM the Fixed Unit Price per piece of Equipment, for a not to exceed Total Fixed Price as set forth herein and in the Final Price Proposal. Everport will pay the OEM for the Equipment based upon an agreed upon Payment Schedule and Milestones, incorporated in the Final Price Proposal.

Section 3.01 Fixed Unit Price. The Fixed Unit Price shall be set out in the final Price Proposal, as accepted by Everport and the winning OEM. The Fixed Unit Price shall be the total price for each unit of Equipment, inclusive of all costs associated with the manufacture, delivery, assembly and commission of each unit of Equipment, and the training materials, warranty services, and EPA Grant compliance associated with that unit of Equipment. The Fixed Unit Price shall be inclusive of any taxes, fees, or other charges associated with Everport's purchase of each unit of Equipment. The unit shall be each piece of Equipment, including all parts and components thereof.

Section 3.02 Total Fixed Price. The Total Fixed Price shall be the maximum, total price for all Work performed under this Agreement, including without limitation, the manufacture, delivery, assembly, and commissioning of the Equipment, training materials, warranty services, and EPA Grant compliance. The Total Fixed Price shall be inclusive of any taxes, fees, or other charges associated with Everport's purchase of the Equipment.

Section 3.03 Invoicing

OEM invoices must include Source Documentation demonstrating that OEM has incurred eligible and allowable costs in accordance with EPA Grant Requirements. This is a precondition to Everport's release of EPA, Port of Los Angeles, and/or Everport funds to the OEM.

The OEM shall produce invoices and source documentation that clearly differentiates hours and expenses by milestone. Key milestones may include a down payment to secure build slots, delivery, commissioning, and commencement of the warranty.

EPA requires all costs to be allocable, necessary, reasonable, accurate, and allowable. Please refer to 2 CFR Part 200 Subpart E when determining the overall allowability of costs. It is the responsibility of the OEM to ensure all costs submitted to Everport are allocable, necessary, reasonable, accurate, and allowable under the federal grant award. Everport shall not be obligated to compensate the OEM for any costs that do not meet the EPA requirements.

The OEM must have federally compliant accounting systems and internal controls.

Financial systems must:

- Monitor the expenditure of those funds against the approved budget
- Maintain source documentation to support entries into the financial system
- Be able to provide source documents for all drawdowns, upon EPA request

Internal Controls for payroll systems must:

- Ensure total compensation paid to employees is reasonable according to the Work performed on the assistance agreement
- Ensure compensation is made in accordance with established policies of the organization,
- Ensure compensation policies are consistently applied to both government and non-government activities
- Ensure staff attest their time at the end of each pay period

- Ensure supervisors verify the accuracy of the time and approve the hours for the staff that report to them

Source Documentation includes invoices, receipts, check stubs, bank statements, payroll records, contractors, and purchase orders. Source documentation does not include general ledgers, journal vouchers, Excel spreadsheets, and other internally created files. For payroll costs, Source Documentation shall include rate of pay, verification of hours/time worked, allocation plan, and documents that track the amount of time each employee spent working on the EPA grant. The OEM will cooperate and respond to requests from Everport for Source Documentation reasonably required to determine whether amounts on the invoice are allowable expenses under the EPA Clean Ports Program or as may be requested by the EPA. All invoices and expenses are subject to audit.

Invoices must include the Unique Entity ID from SAM.gov for the OEM and any subcontractors.

All invoices shall be signed by the OEM and shall include the following certification:

"I certify under penalty of perjury that the above bill is just and correct according to the terms of Contract No. and that payment has not been received. I further certify that I have complied with the provisions of the City of Los Angeles Living Wage Ordinance.

_____ "
(Signature of OEM)

Article IV. Equipment and Work

The OEM shall supply the Equipment –one hundred thirty-seven (137) Zero Emission Battery-Electric yard tractors – in compliance with the specifications set out in the RFP and EPA Grant Requirements. The OEM warrants that the Equipment will be merchantable, free from defect in materials and workmanship, and conform to the specifications set forth in RFP Sections 3.1, 3.2, 6.4, the EPA Grant Requirements, the terms and conditions of the EPA Grant agreement and Subrecipient Agreement, and all applicable laws, regulations, codes and ordinances, whether federal, state, regional or local. All Work performed pursuant to this Agreement shall be performed in a prompt, safe and workmanlike manner in conformance with industry standards, the specifications set forth in RFP Sections 3.1, 3.2, 6.4, the EPA Grant Requirements, the terms and conditions of the EPA Grant agreement and Subrecipient Agreement, and all applicable laws, regulations, codes and ordinances, whether federal, state, regional or local. Title to the Equipment shall pass to Everport upon final completion of the Work, including but not limited to, testing, assembly and commissioning.

Article V. Delivery and Assembly

Section 5.01 OEM Responsibility

The OEM shall deliver the Equipment to the Terminal and shall assemble and commission the Equipment. The OEM shall coordinate delivery and assembly of the Equipment with Everport. The OEM shall be responsible for all costs, risks of loss, and liabilities associated with delivery, assembly and commissioning of the Equipment. Title to the Equipment passes to Everport following full commissioning and upon acceptance by Everport for its commercial operations.

For all Work associated with the assembly and commissioning of the Equipment that will take place at the Everport Terminal, the OEM shall confine its Work at the Everport Terminal to areas permitted by law, ordinances, permits, and as designated by Everport (the Project site). The OEM shall not unreasonably encumber the Project site with materials or equipment and shall cooperate with Everport in coordinating its Work so as to limit the impact on ongoing Everport operations.

The OEM shall, during performance of the Work, keep the Project site and surrounding area free from the accumulation of excess dirt, waste materials, and rubbish caused by OEM. The OEM shall remove all excess dirt, waste material, and rubbish caused by the OEM; tools; equipment; machinery; and surplus materials from the Project site and surrounding area at the completion of the Work.

The agents, employees and/or invites of the OEM or its subcontractors shall not occupy, live upon, or otherwise make use of the Project site during any time that Work is not being performed at the Project site and shall not otherwise access areas of the Terminal that have not been designated by Everport as a part of the Project site.

Section 5.02 Everport Responsibility

Everport shall provide, as reasonably required for the Work, access to lands and facilities upon which the Work is to be performed at the Terminal. Everport shall exercise good faith effort to coordinate access to the Project site(s) with the OEM.

Section 5.03 Marine Transportation Security Act (MTSA) of 2002

All employees, agents or invitees of the OEM, or any subcontractor or vendor of the OEM, that will Work on the Project site and/or regularly attend on-site meetings shall have, maintain and carry a Transportation Worker Identification Credential (TWIC) on them at all times while on-site at the Everport terminal.

Section 5.04 Safety Precautions

(a) The OEM shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the OEMs access to the Terminal and Work performed at the Terminal. The OEM is solely responsible for the safety of all persons it invites onto the Terminal, as well as any property brought onto the Terminal, including the safe ingress and egress to and from the Project site.

(b) The OEM shall take adequate precautions for safety of and shall provide adequate protection to prevent damage, injury, or loss to the following:

- **i)** Employees involved in the Work and other persons who may be affected thereby.
- **ii)** The Equipment (including any components thereof), materials and other equipment used for assembly or commissioning of the Equipment, whether in storage on or off the Project site, under care, custody, or control of the OEM or its subcontractors.
- **iii)** Other property at the Project site and adjoining property.

(c) The OEM shall erect and maintain, as required by existing conditions and performance of the Work, adequate safeguards for safety and protection, including providing adequate lighting and ventilation, posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying Everport and users of adjacent sites and utilities.

(d) The OEM shall not load or permit any part of the Work or the Project site to endanger the safety of persons or property.

(e) The OEM acknowledges that the Terminal is used as a working marine terminal, and that the activities on the site may create a dangerous and hazardous environment. The OEM agrees that will exercise commercially reasonable efforts to avoid interference with any commercial operations being conducted at the Terminal and that it shall not create any danger or safety hazard on or at the Terminal.

(f) Everport does not provide any security for the materials, supplies, tools, equipment or personal property of the OEM or its subcontractors. OEM shall be solely responsible for the security of all such items.

(g) Everport has a facility security plan as required by the Marine Transportation Safety Act of 2002, to ensure the application for security measures designed to protect the terminal at the various marine security (MARSEC) levels. OEM and its subcontractors shall fully cooperate with all directives, requirements, or instructions whether issued by Everport, MARSEC, the Coast Guard and/or any law enforcement official at the Project site(s) designed to identify, protect against, alleviate and/or eliminate threats to security.

(h) In an emergency affecting the safety of persons or property, OEM shall act to prevent or minimize damage, injury, or loss. OEM shall promptly notify Everport, which notice may be oral followed by written confirmation, of the occurrence of such an emergency and OEM's action. In any event, OEM shall promptly notify Everport of any accidents, injuries or death of persons, and damage to property.

Article VI. Project Schedule

The OEM shall complete the Work in accordance with the Project Schedule provided in conjunction with the RFP. The Project Schedule, shall at a minimum, include all Project Milestones including the schedule for the manufacture, delivery and commissioning of the Equipment. The Equipment shall be delivered to the Terminal no later than July 31, 2028. **TIME IS OF THE ESSENCE**. Failure to complete the Milestones, specifically the delivery of the Equipment on or before July 31, 2028 could result in the loss of EPA Grant Funding, and would constitute a material breach of this Agreement.

Article VII. Warranty

The OEM shall warrant the condition of the Equipment in accordance with the written Warranty provided by the OEM to Everport as part of this Agreement. The Warranty is incorporated as if fully set forth herein. The Warranty shall at a minimum include the following:

(a) Overall equipment (minimum) Bumper to bumper / Total Vehicle: (minimum): three (3) years / 7,500 hours

(b) Electrical: 4-5 years

(c) Chassis/Frame (minimum): 5 years

(d) Battery capacity (minimum): Meet two (2) 8-hour shifts per day at eight (8) years

(e) Paint (minimum):1 year

Warranty services shall be available to Everport for individual units beginning the date the individual yard tractor is commissioned and will conclude no earlier than the minimum requirements specified above.

All spare parts and services identified within the OEM's RFP response and Warranty, shall be made available within one business day of when Everport notifies the OEM of an Equipment-related issue.

Article VIII. Maintenance Training and Tools

The OEM shall provide sufficient training to Everport to allow for its ongoing maintenance throughout the life of the Equipment. The training shall include, at a minimum, maintenance procedures and best practices to maximize the life of the Equipment and to minimize Equipment downtime. The OEM must provide all user and operating manuals, maintenance manuals (electronic and hard copies), as well as a list of all tools required for maintenance of the Equipment.

Article IX. Insurance and Indemnity

Section 9.01 Indemnification

To the fullest extent permitted by Applicable Laws, the OEM shall defend, indemnify, and hold harmless the Indemnified Parties from and against any and all liabilities, damages, losses, fines, penalties, incidental and consequential damages, and expenses, including reasonable attorney's fees and expenses of whatsoever kind and nature (including without limitation to the extent applicable, in-house attorneys' fees and staff costs

incurred in connection with the costs associated with the investigation and defense of any claimed Losses, and including the cost of repairing Defective Work and remedying the consequences of Defective Work) (collectively "Losses") arising out of or alleged to arise from or in connection, in whole or in part, with

(a) the Work, or any part thereof, including Work performed at the Terminal;

(b) a breach of this Agreement;

(c) a defective condition of the Equipment;

(d) the inaccuracy of any representation or warranty by the OEM given in accordance with or contained in this Agreement;

(e) any infringement (or alleged infringement) of any patent, copyright, trade secret, trade name, trademark or any other proprietary right pertaining to the Equipment or Work performed or materials provided by the OEM pursuant to this Agreement;

(f) any claim of damage or loss resulting from Hazardous Materials introduced, discharged, or disturbed by the OEM or its subcontractors, or as a result of any act or omission by the OEM or its subcontractors; and,

(g) any damage or loss of the Equipment, or any risk, loss or damage arising prior to the transfer of title from the OEM to Everport.

Such obligation of the OEM shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity or liability of any other Person.

The OEM shall defend, indemnify and hold harmless the Indemnified Parties from and against any Losses arising from or relating to damage to property, bodily injury or death, made by any third party against the Indemnified Parties arising out of any alleged acts or omissions of the OEM, any subcontractor, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable.

Nothing provided herein shall constitute a waiver or limitation of any rights which the Indemnified Parties may have under applicable law, including without limitation, the right to implied indemnity.

The OEM's obligations to defend, indemnify and hold harmless shall be treated independently.

The obligations in this Section will survive the survive the termination of the Agreement.

Section 9.02 Insurance

(a) General Requirements of all Insurance Policies

i) Carrier Requirements

Without limiting its obligations, OEM shall, for each piece of Equipment, cause to be carried and maintained on such Equipment, and on all components thereof, and covering all of the Work and other services and activities to be performed under the provisions of the Agreement, insurance in the amounts and with such terms and conditions as required and approved by Everport and with such insurance companies licensed and authorized

to do business in the State of California and which are rated A-, VII or better in the A.M Best Key Rating Guide. Approval for the insurance by Everport shall not relieve or decrease the liability of OEM under the Agreement. OEM agrees that none of its Subcontractors shall be allowed to commence any Work until either the subcontractor has obtained all similar applicable insurance, or OEM has provided coverage for the subcontractor.

ii) Primary Coverage

The coverages submitted must be primary with respect to any insurance or self-insurance of Everport and/or the Additional Insureds. Insurance held by Everport and/or the Additional Insureds will be in excess of OEM's insurance and non-contributing.

iii) Notice of Cancellation

For each insurance policy described below, the OEM shall give Everport a 10-days prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-days prior notice of cancellation or reduction in coverage for any other reason, by email to _____@_____.com.

iv) Renewal of Policies

At least thirty days prior to the expiration of any policy, the OEM shall submit by email to _____@_____.com a renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified below. If the OEM neglects or fails to secure or maintain the insurance required below, Everport may at its discretion but without any obligation obtain such insurance to protect its interests. The cost of such insurance will be deducted from the next payment due to the OEM.

v) Limits of Coverage

If the OEM maintains higher limits than the minimums shown below, Everport and the Additional Insureds shall be entitled to coverage for the higher limits maintained by the OEM. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Everport and Additional Insureds.

vi) Subcontractors

Subcontractors of every Tier shall also maintain all of the coverages with the limits as required of OEM under this agreement.

vii) Proof of Insurance

Contractor shall furnish or cause to be furnished to Everport, prior to the commencement of any of the Work and throughout the course of the Work, certificates of insurance or other such evidence that the required coverages are current and in place. Everport reserves the right to require certified copies of any policies of insurance.

viii) Other Requirements

If OEM fails to effect and keep in force any of the insurance required under the Agreement, or fails to provide satisfactory evidence, policies and receipts in accordance with this Section, Everport shall have the right but not the obligation, without prejudice to any other right or remedy, to effect insurance for the coverage relevant to such default and pay the premiums due. Such payments shall be recoverable from OEM by Everport and may be deducted by Everport from any monies due, or to become due, to OEM.

All insurance policies or certificates shall provide that losses thereunder will be payable to Everport's representative for distribution by it to Everport and/or the City of Los Angeles and their respective affiliates as their respective interests may appear.

If there is a loss to any piece of Equipment or parts thereof, OEM shall undertake the repair, salvage, and recovery thereunder, at its sole cost and expense, on a timetable reasonably acceptable to Everport and shall assume the sole responsibility, direction and control of such undertaking, keeping Everport advised in writing of all developments. However, OEM shall conduct such operations as expeditiously as possible and in a manner that shall not interfere with Everport's normal operations and will comply with Everport's reasonable requests in this regard.

OEM agrees that it shall not do any act or suffer or permit any act to be done whereby any insurance required hereunder will or may be suspended, impaired, or defeated.

The cost of insurance is included in the Contract Price for the Equipment.

Neither the providing of insurance by OEM in accordance with the requirements hereof nor the insolvency or bankruptcy of any insurance company, or failure of any insurance company to pay any claim accruing, shall be held to waive any provisions of the Agreement with respect to liability of OEM.

All insurance policies provided by OEM and its subcontractors or vendors shall be endorsed to provide that the insurers shall have no right of subrogation against Everport and the City of Los Angeles or any of their respective employees, directors, officers or agents.

No policies of insurance shall be on a "claims made" basis unless approved in advance in writing by Everport, nor shall OEM permit the insurers the right to deny claims because such claims were noticed after the period of the applicable policy ended. Claims shall be noticed within two years of date of occurrence.

All policies shall include waivers of any right of subrogation of the insurers against Everport (and against Everport's affiliates and any other parties reasonably requested by Everport (including the City of Los Angeles) as directed by Everport), unless expressly waived by Everport.

(b) Insurance Coverages and Limits

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by the Indemnification section above, OEM shall procure and maintain at its sole cost and expense and keep in forcing during the term of this agreement insurance with the following minimum limits:

i) All-Risks Policy

An All-Risks Erection and Installation Floater Policy including Debris Removal in an amount not less than 100% of the aggregate replacement value of all Equipment and all components thereof. This limit shall be dedicated to the Equipment being purchased under the Agreement and may only be eroded or reduced by claims to the Equipment being purchased under the Agreement. The coverage for each piece of Equipment is to apply at the Fabrication Site and Delivery Site until title, risk of loss and damage has passed to Everport and shall include all testing, erection and commissioning phases, whether hot or cold. This policy shall at least include coverage against damage or loss caused by earth movement, fire, lightning, extended coverage, theft, vandalism and

malicious mischief, earthquake, hurricane, collapse, water damage (including flood), demolition occasioned by enforcement of applicable law, equipment accidents, all operational and performance testing and other perils as may be required by Everport. Such insurance shall be on a completed value form, with no periodic reporting requirements, insuring for the full replacement cost and providing: coverage for insuring the Work, transit coverage with sub-limits sufficient to insure full replacement value of any Work, removal of debris with a per occurrence and an aggregate limit sufficient to cover each piece of Equipment and coverage for foundations and other property below the surface of the ground. The policy shall not contain an exclusion for resultant damage caused by faulty workmanship, design or materials. The policy shall contain a loss payable to Everport clause.

ii) All-Risks Cargo Insurance Policy

An All-Risks Cargo Insurance Policy including war, riot, strike and civil commotion coverage (or the nearest equivalent thereto which is commercially available) on all Equipment, but in no event covering for less than an "all risk" basis during loading, transit and unloading, and all components thereof while being transported between sites. Sites include, but are not limited to, the Fabrication Site and Delivery Site. The policy shall contain a loss payable to Everport clause.

iii) General Liability

OEM shall procure and maintain in effect throughout the term of this agreement, without requiring additional compensation from Everport, commercial general liability insurance covering personal and advertising injury, bodily injury including death, and property damage providing contractual liability (including, to the maximum extent possible, coverage for the indemnification obligations of OEM under this Agreement), independent contractors, products and completed operations, fire legal liability, explosion/collapse/underground property damage liability, broad form property damage liability, professional liability, stevedore's legal liability if applicable, and premises/operations coverage. Additionally, commercial general liability insurance shall include:

- $4 million per occurrence, which may be satisfied with a combination of General Liability and Umbrella/Excess Liability coverage. Umbrella/Excess Liability coverage should be follow form.
- Everport, the Port of Los Angeles and their respective affiliates, directors, officers, employees, representatives and agents shall be included as Additional Insured.
- Waiver of Subrogation shall be issued in favor of Everport and the Port of Los Angeles.
- Regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause.
- The insurance policy held by contractor shall provide that they are primary and shall not call upon any contribution by any insurance carried by Everport or the Port of Los Angeles.

iv) Auto Liability

OEM shall procure and maintain at its expense and keep in force at all times during the term of this agreement, automobile liability insurance that meets the following requirements:

- $2 million Combined Single Limit, which may be satisfied with a combination of Auto Liability and Umbrella/Excess Liability coverage, so long as the Umbrella Liability Policy(ies) follow the

form of the underlying insurance and comply with the requirements of this agreement relating to the underlying coverage.

- Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees.
- Everport, the Port of Los Angeles and their respective affiliates, directors, officers, employees, representatives and agents shall be included as Additional Insured.
- Waiver of Subrogation shall be issued in favor of Everport and the Port of Los Angeles
- Coverage shall contain a defense of suits provision.
- The insurance policy held by contractor shall provide that they are primary and shall not call upon any contribution by any insurance carried by Everport and the Port of Los Angeles.

v) Workers' Compensation (including occupational disease), Employer's Liability and Disability Insurance

Where applicable, OEM shall comply with the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation in accordance with the provisions of that Code, and that the OEM shall comply with such provisions before commencing the performance of the tasks under this Agreement, and including without limitation, the Project Site(s). Workers' Compensation insurance requirements also include:

- Coverage for all employees of OEM, and for all employees of any subcontractor or other vendor retained by OEM.
- Workers Compensation coverage shall carry minimum limits as required by applicable Law.
- Employer's liability insurance shall be in an amount not less than $2 million per accident and $2 million per employee for bodily injury and disease.
- If OEM's employees are subject to the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, or any other laws, regulations or statutes applicable to maritime employees, coverage shall be provided for such injuries or claims of those employees as required under applicable law.
- **Waiver of Subrogation shall be issued in favor of Everport and the Port of Los Angeles.**

Article X. Changes

Section 10.01 Definitions

(a) A Change Order is a Contract Document that has been signed by both Everport and the OEM, and states their agreement, as applicable, to any of the following: a change in the Work, an adjustment of the Fixed Unit Price, an Total Fixed Price, or Milestones, or a modification to any other term or condition of this Agreement.

(b) A Unilateral Change Order may also be issued by Everport, without the OEM's signature, where Everport determines that a change in the Work requires an adjustment of the Fixed Unit Price, Total Fixed Price, or Milestones, as Everport believes to be properly due the OEM, even though no agreement has been reached between Everport and the OEM with regard to such change in the Work.

Section 10.02 No change to any term and condition of this Agreement shall be effective unless made pursuant to a Unilateral Change Order issued by Everport or a Change Order executed by Everport and the OEM. The OEM agrees and understands that no oral approval, either express or implied, of any adjustment of the Fixed Unit Price, Total Fixed Price, or Milestones, by Everport or its agents shall be binding upon Everport unless and until such approval is ratified by execution of a written Change Order or Unilateral Change Order.

Section 10.03 Everport may, from time to time, order or authorize additions, deletions, and other changes in the Work by Unilateral Change Order without invalidating the Agreement. Deleted Work will be evidenced by a Unilateral Change Order and the Fixed Unit Price, Total Fixed Price, shall be equitably reduced accordingly. Everport shall have the right to delete Work (including by reduction of the number of units) at its sole discretion and may choose to move forward with some or all of the Work described in the RFP, or may elect to remove some or all of the Work from the Scope of Work at any point, for any reason at all.

Section 10.04 Any claim by the OEM for an adjustment under this Article X , shall be proposed in writing within twenty (20) days of the date of receipt of Everport's written notice directing a change.

Article XI. Term and Termination

Section 11.01 Term

The Term of this Agreement shall commence on the Effective Date, which is the date Everport notifies the OEM that it is awarding the Project to the OEM, and shall terminate upon the conclusion of the Warranty period.

Section 11.02 Termination for Cause

(a) Everport will have the right to terminate the Agreement for cause at any time after the occurrence of any of the following events:

- **i)** the OEM becomes insolvent or files for relief under the bankruptcy laws of the United States;
- **ii)** the OEM makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due;
- **iii)** a receiver is appointed to take charge of the OEM's property;
- **iv)** the anticipated date to complete any Milestone is more than 30 days behind the date set forth in the Project Schedule, and the OEM does not have a path for schedule recovery such that Everport reasonably believes that the Milestone will be met;
- **v)** for any other breach of this Agreement, the OEM fails to promptly commence to cure a default under this Agreement, and diligently prosecute such cure within 5 days after notice from Everport;
- **vi)** the OEM fails to make prompt payment of amounts properly due any subcontractors after receiving payment from Everport;
- **vii)** the OEM persistently or materially fails to execute the Work in accordance with the Agreement or otherwise persistently or materially engages in conduct that is in breach of the Agreement;
- **viii)** if it is determined that the OEM failed to comply with EPA Grant Requirements, including those conditions set forth in the EPA Grant Agreement and Subrecipient Agreement;
- **ix)** a violation of the provisions of Charter Section 470(c)(12) by the OEM or its subcontractors;
- **x)** the OEM is debarred or suspended from participation in federal contracts; and/or
- **xi)** if it is determined that the OEM has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, or that the OEM is convicted of a felony criminal violation under a federal law within the preceding 24 months of the Effective Date.

(b) The OEM will have the right to terminate the Agreement for cause at any time after the occurrence of any of the following events:

- **i)** Everport becomes insolvent or files for relief under the bankruptcy laws of the United States;
- **ii)** Everport makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due; and/or
- **iii)** a receiver is appointed to take charge of Everport's property.

Section 11.03 Termination for Convenience.

(a) Everport may terminate this Agreement, in whole or in part, for convenience, at any time and for any reason. Without limitation, Everport expressly reserves the right to terminate this Agreement if EPA Grant funds are no longer available; the EPA Grant Agreement by and between the Port of Los Angeles and the EPA is terminated; and/or the Subrecipient Agreement between Everport and the Port of Los Angeles is terminated. The OEM shall have no right to terminate this Agreement for convenience.

(b) If Everport terminates for convenience, Everport will forfeit all amounts paid to the OEM prior to the date of termination but will have no continuing payment obligations from the date of termination forward. In the case of a termination by Everport for convenience, the OEM expressly waives any claim for any payments after the date of termination, as well as any other remedies whether in law, contract, equity or otherwise, including without limitation, any claim for lost profits, lost revenues, consequential losses, business losses, or for any indirect or direct damages, costs or losses.

Article XII. Grant Requirements

Section 12.01 Grant Compliance

The OEM acknowledges receipt of the EPA Grant Agreement and Subrecipient Agreement, which are incorporated as if fully set forth herein, and warrants that it can and will meet all terms and conditions thereof. The OEM shall comply with the latest applicable EPA general terms and conditions for Work performed under this contract (see https://www.epa.gov/grants/grant-terms-and-conditions for the latest terms and conditions), which are likewise incorporated as if fully set forth herein. OEM shall incorporate the foregoing into any subcontract for Work performed pursuant to this Agreement. The OEM must have staff that understand and will ensure compliance with Subparts A through F of the Uniform Grant Guidance (2 CFR Part 200) as well as the Contract Cost Principles and Procedures as defined in 48 CFR Part 31.

Section 12.02 OEM Qualifications

(a) The OEM represents and warrants that it is currently capable of meeting, and at all material times shall meet, the EPA Grant Requirements.

(b) The OEM warrants that it is not debarred or suspended in SAM.gov.

Section 12.03 EPA Grant Reporting

From the date that the Agreement is awarded through December 31, 2028, the OEM shall support Everport in their grant compliance by:

(a) Providing timely responses to questions from Everport, the Port of Los Angeles, or contractors working for Everport on the Project. Questions may pertain to, but are not limited to, equipment specifications and operations, safety standards, the proposed equipment delivery method, telematics and data collection, the Project budget, and the manufacturing, delivery, and commissioning schedule.

(b) Preparing monthly progress reports that indicate the status of manufacturing, delivery, commissioning, and any maintenance or warranty Work conducted throughout the grant performance period.

(c) The OEM shall comply with the following financial reporting and records retention provisions:

i. The OEM will provide any documentation required for Everport to successfully complete the EPA annual federal financial reporting requirement by either submitting a complete SF 425 to Everport or providing other documentation required for Everport or the Port of Los Angeles to complete SF 425. Financial reporting information will be provided to Everport by October 31 each year and shall cover any expenditures between "project/budget period start date" to September 30 of the current calendar year.

ii. The OEM must keep and maintain all financial records, supporting documents, accounting books and other evidence of Project activities through December 31, 2031. If any litigation, claim, or audit is started before these record retention requirements expire, the OEM must maintain all appropriate records until three years after these actions are completed, and all issues resolved.

iii. Everport and/or the Port of Los Angeles will be required to obtain a single audit or equivalent from an independent auditor if their organization expends $1,000,000 or more in total Federal funds in their fiscal year. The single audit report must be submitted within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from the independent auditor, whichever is earlier. The OEM must provide all requested documentation for the single audit to Everport no later than 14 calendar days after the request for audit related information is sent to the selected firm.

(d) The OEM shall provide any documentation required for Everport to successfully complete Semi-Annual Performance Report reporting to the EPA and/or Port of Los Angeles, either by completing EPA Form 5900-690 or future revisions, as applicable or by providing Everport with the necessary information by the date requested.

(e) The OEM shall provide progress reports, financial information, and Project related information to Everport in support of any grant closeout requirements identified in the latest EPA general terms and conditions (https://www.epa.gov/grants/grant-terms-and-conditions).

Section 12.04 Build America, Buy America (BABA) Requirements

(a) The Equipment and all components thereof shall comply with the domestic sourcing requirements under the BABA provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§ 70911-70917). Without limiting the foregoing, all Equipment shall be produced in the United States and the cost of the components mined, produced, or manufactured in the Unites States must be greater than 55 percent (55%) of the total cost of all components of the manufactured product. The EPA interprets "produced in the United States" to mean "manufactured in the United States."

(b) The OEM shall provide a BABA self-certification letter at the time of Delivery.

(c) Everport reserves the right to request and require documentation from the OEM that describes the source and cost associated with each component or material utilized to build the Equipment.

(d) The submission of any false, fictitious, or fraudulent information, or the omission of any material fact, may subject the OEM and/or any responding individual to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise.

Section 12.05 Disadvantaged Business Enterprises (DBEs)

(a) The OEM shall comply with 40 CFR, Part 33, Subpart C when selecting subcontractors to perform Work under this contract.

Section 12.06 MBE/WBE Utilization

(a) The OEM shall provide any documentation required for Everport to successfully complete MBE/WBE Utilization Under Federal Grants and Cooperative Agreements reporting, either by completing EPA Form 5700-52A or future revisions, as applicable, or by providing Everport with the necessary information by the date requested.

Section 12.07 Civil Rights

(a) In carrying out this contract, the OEM shall comply with the following statutory requirements:

- **i)** Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, by entities receiving Federal financial assistance.
- **ii)** Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
- **iii)** The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

(b) In carrying out this contract, the OEM shall comply with the following regulatory requirements:

- **i)** Title IX and 40 C.F.R. Part 5;
- **ii)** Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 C.F.R Part 7.
- **iii)** The statutory and national policy requirements at 2 CFR 200.300(a).
- **iv)** 2 CFR 200.300.
- **v)** These regulations establish specific requirements as applicable, including, but not limited to collecting, maintaining, and providing upon request compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination to the EPA.

Section 12.08 Byrd Anti-Lobbying Amendment

In compliance with 31 U.S.C. 1352, the OEM certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each

tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier to any subcontractors.

Section 12.09 Everport's Right to Audit

Everport and entities and agencies designated by Everport (including the Port of Los Angeles and/or EPA) will have access to and the right to audit and the right to copy books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work. The OEM shall preserve all such records and other items during the performance of the Agreement and for a period of at least 3 years after termination.

Section 12.10 Prohibition on Certain Telecommunications and Video Surveillance Equipment or Services.

Pursuant to EPA regulations (2 CFR 200.216), this Agreement and all Work provided hereunder shall not include (i) the procurement of any Covered Telecommunications Equipment or Services; (ii) the extension or renewal of a contract to procure or obtained Covered Telecommunications Equipment or Services; or, (iii) a contract (or subcontract of any tier) or extension or renewal of a contract to procure Covered Telecommunications Equipment or Services. OEM shall not be entitled to reimbursement for any costs associated with Covered Telecommunications Equipment or Services, nor shall it receive any renumeration whatsoever pertaining to Covered Telecommunications Equipment or Services.

Section 12.11 National Defense Authorization Act.

As proscribed in Section 825 of the National Defense Authorization Act, no funds may be awarded to an entity that uses in part or in whole: the national transportation logistics public information platform (commonly known as LOGINK); any national transportation logistics information platform provided by or sponsored by the People's Republic of China, or a controlled commercial entity; or a similar system provided by Chinese state-affiliated entities.

Section 12.12 Foreign Entity of Concern

OEM agrees that it is not, and its vendors or subcontractors, if any, are not:

(a) an entity owned by, controlled by, or subject to the direction of a government of a "covered nation" as defined at 10 U.S.C. § 4872(d);

(b) an entity headquartered in a "covered nation" as defined at 10 U.S.C. § 4872(d); or

(c) a subsidiary of an entity described in (A) or (B).

Additionally, OEM acknowledges that Everport may not purchase a crane manufactured by (A) any entity owned by, controlled by, or subject to the direction of a government of a covered nation "covered nation" as defined at 10 U.S.C. § 4872(d); or (B) any entity headquartered in a covered nation "covered nation" as defined at 10 U.S.C. § 4872(d).

Section 12.13 Other Federal Requirements

(a) Endangered Species Act. Endangered Species Act, as specified in 50 CFR Part 402: Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies

have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

(b) Coastal Zone Management Act. Projects funded under federal financial assistance agreements must be consistent with a coastal State's approved management program for the coastal zone.

Section 12.14 Davis-Bacon and Related Acts

OEM agrees to comply with the applicable requirements of the Davis-Bacon and Related Acts (DBRA) (https://www.dol.gov/agencies/whd/governmentcontracts/construction). DBRA is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the:

- Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of $2,000 or more
- Copeland “Anti-Kickback” Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and
- Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of Work per week, under contracts in excess of $100,000.

Section 12.15 National Historic Preservation Act (NHPA)

Section 106 of the NHPA requires all federal agencies to consider the effects of their undertakings, including the act of awarding a grant or cooperative agreement, on historic properties, and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. The recipient must assist the EPA Project Officer in complying with NHPA if any activities funded under this grant impact a historic property. Historic properties include: (a) land or buildings listed in or eligible for listing on the National Register of Historic Places; (b) archaeologically sensitive areas or in an area where traditional cultural properties are located; and (c) properties that are associated with significant historic events, are associated with significant people, embody distinctive characteristics, and contain important precontact information. If Section 106 is at issue, Everport and OEM would be required to work with EPA on any required consultation process with the State or Tribal Historic Preservation Office prior to commencing the project to ensure compliance with Section 106 of the NHPA. If NHPA compliance is required, necessary Section 106 consultation activities, such as historic or architectural surveys, structural engineering analysis of buildings, public meetings, and archival photographs, can be considered allowable and allocable grant costs.

Section 12.16 Archeological and Historic Preservation Act (AHPA).

This law applies if archeologically significant artifacts or similar items are discovered after an EPA-funded construction project has begun, and compliance may be coordinated with the NHPA, discussed above. The AHPA requires federal agencies to identify relics, specimens, and other forms of scientific, prehistorical, historical, or archaeologic data that may be lost during the construction of federally sponsored projects to ensure that these resources are not inadvertently transferred, sold, demolished or substantially altered, or allowed to deteriorate significantly. Everport must be notified if the AHPA is triggered, so that it can timely notify the EPA.

Article XIII. City of Los Angeles Harbor Department Requirements

Section 13.01 Contractor Rights

Everport acknowledges and agrees that this contract creates no rights in the OEM or its subcontractors with respect to the City of Los Angeles and that obligations that may be owed to the OEM, including, but not limited to, the obligation to pay the OEM for services performed, are those of Everport alone.

Section 13.02 City Charter Section 470(c)(12)

The OEM shall comply with Los Angeles City Charter, section 470(c)(1)). The OEM shall not make campaign contributions to and or engage in fundraising for elected City officials or candidates for elected City office from the time they submit the response to the RFP until 12 months after the Effective Date of this Agreement. The OEM's principals and subcontractors performing $100,000 or more in work on the Agreement, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

Section 13.03 California Government Code Sections 1090 and 87100, et seq.

The OEM shall comply with California Government Code sections 1090, and 87100, et seq. The OEM's violation of said sections, whether direct or indirect, or failure to disclose all facts that bear upon the evaluation of a possible interest, direct or indirect, by any member of the Port, or other officer, agent or employee of the Port or any department presently has, or will have, in this Agreement, or in the performance of the work, shall constitute a breach of this Agreement and its immediate termination for cause. OEM agrees to comply with all applicable conflict of interest codes adopted by the City of Los Angeles and Port of Los Angeles and their reporting requirements. The OEM shall not accept compensation, financial or otherwise, from more than one party for services on this Project, or for services pertaining to this Project, unless the circumstances are fully disclosed and agreed to by all interested parties. The OEM shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible under this Agreement.

Section 13.04 Permit Terms and Conditions

Everport operates the terminal pursuant to Permit 888 with the City of Los Angeles, acting by and through its Board of Harbor Commissioners dated February which has been amended multiple times. Permit 888 is publicly available from the Port of Los Angeles, and a copy of which will be provided by Everport upon request.

Section 13.05 Service Contractor Worker Retention Policy and Living Wage Policy Requirements

The OEM shall comply with the provisions of the Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention (SCWR), Section 10.36 et seq. of the Los Angeles Administrative Code. Further, Charter Section 378 requires compliance with the City's Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. The OEM and any subcontractor shall comply with the policy wherever applicable.

Section 13.06 Wage and Earnings Assignment Order/Notices of Assignments

The OEM, and any subcontractor, shall comply with all applicable state and federal employment reporting requirements. The OEM certifies that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Further, the OEM and its subcontractors will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. The OEM and any subcontractor will maintain such compliance throughout the term of this contract.

Section 13.07 Non-Discrimination and Affirmative Action Program

The OEM and any subcontractor, during the performance of the contract, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code shall be incorporated and made a part of this contract. If the OEM subcontracts any portion of the Project, the subcontract(s) shall contain a like nondiscrimination provision. Any such subcontracts must comply with the Affirmative Action Program attached as Attachment B to the RFP.

Section 13.08 Equal Benefits Policy

The OEM and any subcontractor, during the performance of the contract, shall comply with Section 10.8.2.1, et seq, of the Los Angeles Administrative Code, wherever applicable. Violation of this policy shall entitle Everport to terminate this Agreement and to pursue any and all other legal remedies that may be available.

Section 13.09 Trademarks, Copyrights, and Patents

The OEM shall save, keep, hold harmless, protect and indemnify the City and Everport, and any of their officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by City or Everport of any materials supplied by the OEM in the performance of this contract.

Section 13.10 Proprietary Information, Licenses, and Ownership of Submittals

If research or development is furnished in connection with this contract and if, in the course of such research or development, patentable work product is produced by the OEM, its officers, agents, employees, or subcontractors, the City of Los Angeles and Everport shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, such work product in connection with any activity now or hereafter engaged in or permitted by City or Everport. Upon City's or Everport's request, the OEM, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to the City and Everport. It is expressly understood and agreed that, as between Everport and the OEM, the

referenced license shall arise for the City and Everport's benefit immediately upon the production of the work product and is not dependent on the written license specified above.

Section 13.11 Confidentiality

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the Work described in this Agreement and any recommendations made by the OEM relative thereto, shall be considered confidential and shall not be reproduced, altered, used or disseminated by the OEM or its subcontractors or their employees or agents in any manner except and only to the extent necessary in the performance of the Work under this contract. In addition, the OEM is required to safeguard such information from access by unauthorized personnel.

Section 13.12 Conflict of Interest

The OEM represents and warrants that it has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the Department. By entering into this Agreement, the OEM hereto agrees that it is unaware of any financial or economic interest of any public officer or employee of the City of Los Angeles related to the contract between the OEM and Everport. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this contract or thereafter, Everport may immediately terminate the contract by giving written notice thereof.

The OEM shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties. The OEM shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.

Section 13.13 Notice of Accidents.

OEM shall provide Everport with notice of any accident, occurrence, or other event involving the death or bodily injury to any persons, and/or for any property damage, within seven (7) days of the accident, occurrence of event. Upon request by Everport, OEM shall also provide written reports relating to any such accident, occurrence or other event covered by this Section. OEM acknowledges that Everport may be required to notify the Port of Los Angeles and provide written reports to the Port of Los Angeles.

Article XIV. Software Licenses

In addition to the licensing provisions set forth elsewhere in this Agreement, the OEM shall provide commercially standard, transferable, worldwide, licenses that allow Everport to utilize any software integrated into the Equipment and/or that is otherwise required for the commercial operation of the Equipment.

Article XV. Miscellaneous

Section 15.01 Applicable Law and Jurisdiction

This Agreement and all Work performed hereunder shall be governed by the laws of the State of California and the jurisdiction of the Superior Court for the State of California, County of Los Angeles or the United States District Court for the Central District of California (Los Angeles).

Section 15.02 Successors and Assigns

Everport and the OEM respectively bind themselves and their successors, permitted assigns, and legal representatives to the other party and to the successors, permitted assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Agreement shall assign the Agreement, in whole or in part, without prior written consent of the other party. Notwithstanding any such assignment, each of the original contracting parties shall remain legally responsible for all of its obligations under the Agreement.

Section 15.03 Survival

The provisions of the Agreement which by their nature survive termination of the Agreement, including all warranties, indemnities, payment obligations, and Everport's right to audit OEM's books and records, shall remain in full force and effect after termination of the Agreement.

Section 15.04 Complete Agreement

The Contract Documents constitute the full and complete understanding of the parties and supersede any previous agreements or understandings, oral or written, with respect to the subject matter hereof. The Agreement may be modified only by a written instrument signed by both parties or as provided in Article X of these General Conditions.

Section 15.05 Severability of Provisions

If any one or more of the provisions contained in the Contract Documents should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

Section 15.06 Independent Contractor

The OEM's relationship with Everport is that of an independent contractor, and nothing in this Agreement is intended to, or should be construed to, create a partnership, agency, joint venture or employment relationship. The OEM is not authorized to make any representation, contract, or commitment on behalf of the Everport without exception.

Attachment B – Port of Los Angeles EPA Clean Ports Agreement

U.S. ENVIRONMENTAL PROTECTION AGENCY

Grant Agreement

GRANT NUMBER (FAIN): 97T27601 **MODIFICATION NUMBER:** 0 **PROGRAM CODE:** 5Y	**DATE OF AWARD** 11/26/2024
TYPE OF ACTION New	**MAILING DATE** 12/02/2024
PAYMENT METHOD: ASAP	**ACH#** 90569

RECIPIENT TYPE:
Municipal

Send Payment Request to:
Contact EPA RTPFC at: rtpfc-grants@epa.gov

RECIPIENT:
Los Angeles, City of
425 S PALOS VERDES ST
SAN PEDRO, CA 90731-3309
EIN: 95-6000735

PAYEE:
Los Angeles, City of
425 S PALOS VERDES ST
SAN PEDRO, CA 90731-3309

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Jacob Goldberg 425 S PALOS VERDES ST SAN PEDRO, CA 90731-3309 **Email:** jgoldberg@portla.org **Phone:** 310-732-2675	Andrea Bennett 75 Hawthorne Street, AIR-1 San Francisco, CA 94501 **Email:** bennett.andrea@epa.gov **Phone:** 415-972-3849	Eric Tovar Grants Branch, MSD-6 75 Hawthorne Street San Francisco, CA 94105 **Email:** Tovar.Eric@epa.gov **Phone:** 415-972-3396

PROJECT TITLE AND DESCRIPTION

Inflation Reduction Act – Clean Ports Program

See Attachment 1 for project description.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
01/01/2025 - 12/31/2028	01/01/2025 - 12/31/2028	$ 644,212,160.00	$ 644,212,160.00

NOTICE OF AWARD

Based on your Application dated 05/24/2024 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards $ 411,688,296.00. EPA agrees to cost-share 63.91% of all approved budget period costs incurred, up to and not exceeding total federal funding of $ 411,688,296.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	**ORGANIZATION / ADDRESS**
U.S. EPA, Region 9, U.S. EPA, Region 9 Grants Branch, MSD-6 75 Hawthorne Street San Francisco, CA 94105	U.S. EPA, Region 9, Air and Radiation Division R9 - Region 9 75 Hawthorne Street San Francisco, CA 94105

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Digital signature applied by EPA Award Official for Carolyn Truong - Grants Management Officer **by** Angela Mendiola - Award Official Delegate	**DATE** 11/26/2024

TRANSMITTAL 1

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	$ 0	$ 411,688,296	$ 411,688,296
EPA In-Kind Amount	$ 0	$ 0	$ 0
Unexpended Prior Year Balance	$ 0	$ 0	$ 0
Other Federal Funds	$ 0	$ 0	$ 0
Recipient Contribution	$ 0	$ 128,442,432	$ 128,442,432
State Contribution	$ 0	$ 0	$ 0
Local Contribution	$ 0	$ 0	$ 0
Other Contribution	$ 0	$ 104,081,432	$ 104,081,432
Allowable Project Cost	$ 0	$ 644,212,160	$ 644,212,160

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.051 - Clean Ports Program	Inflation Reduction Act: Sec. 60102 Clean Air Act: Sec. 133	2 CFR 200, 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	2509M9S017	2227	E4SF6	09M2	000AVFXY4	4166	-	-	$ 411,688,296
									$ 411,688,296

Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	$ 1,270,118
2. Fringe Benefits	$ 0
3. Travel	$ 0
4. Equipment	$ 10,000,000
5. Supplies	$ 0
6. Contractual	$ 2,000,000
7. Construction	$ 5,714,882
8. Other	$ 625,227,160
9. Total Direct Charges	$ 644,212,160
10. Indirect Costs: 0.00 % Base	$ 0
11. Total (Share: Recipient 36.09 % Federal 63.91 %)	$ 644,212,160
12. Total Approved Assistance Amount	$ 411,688,296
13. Program Income	$ 0
14. Total EPA Amount Awarded This Action	$ 411,688,296
15. Total EPA Amount Awarded To Date	$ 411,688,296

Attachment 1 - Project Description

The purpose of this award is to provide funding under the Inflation Reduction Act (IRA), Clean Ports Program (CPP) Zero-Emission Technology Deployment (ZE TECH) to the City of Los Angeles Harbor Department. Specifically, the recipient will improve air quality and reduce pollution at the Port of Los Angeles and in the surrounding area through the deployment of zero-emission equipment and infrastructure at the port.

This assistance agreement provides Federal funding in the amount of $411,688,296.

The activities include the deployment of zero emission cargo handling equipment and vehicles, technologies, and related infrastructure, as well as community engagement and workforce development.

The anticipated deliverables include estimated deployment of 337 battery electric yard tractors, 250 zero-emission trucks, 56 battery electric top handlers, and 32 battery electric heavy lifts, as well as the installation of a vessel shore power system. Electrical infrastructure will be deployed, including estimated 143 MWh of battery capacity, 307 chargers, and 10 battery energy solar systems. Other deliverables include workforce development and capacity building training programs and the creation high-quality jobs. The expected outcomes include reduced CO2, PM2.5 and NOx emissions; increased renewable power output and distributed energy storage capacity; the delivery of new skills and workforce capabilities; and increased access to high-quality job opportunities for near-port communities. The intended beneficiaries include the Port of Los Angeles (grantee), Terminals APMT, Everport, Fenix, TraPac, and YTI (partners), which will support project development and implementation. The Harbor Community Benefit Foundation (partner) will support community outreach and workforce development projects. The Los Angeles Department of Water and Power (utility partner) will consult on energy capacity and infrastructure and support renewable energy integration. Indirect beneficiaries include near-port communities which will experience improved ambient air quality.There will be subawards to the 5 terminals (YTI, APMT, Everport, Fenix and TRAPAC), as well as the Port of Los Angeles,to ensure all new ZE Tech equipment purchased with EPA funding can be powered throughout the project period. The Short-Haul Battery Electric Drayage Trucks subaward will provide incentives through a subaward for licensed motor carriers operating short-haul trips to deploy ZE trucks into drayage service and develop the program. The Harbor Community Benefit Foundation (HCBF) subaward, proposes a multifaceted approach to reduce air pollution in a severe non-attainment area and advance the Port toward 100% ZE TTECH operations while fostering high-quality jobs and community-centered engagement.

Administrative Conditions

Administrative Conditions "A" thru "F" below apply. In addition please refer to the paragraph below for General Terms and Conditions.

General Terms and Conditions

The recipient agrees to comply with the current Environmental Protection Agency (EPA) general terms and conditions available at: https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2024-or-later

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: https://www.epa.gov/grants/grant-terms-and-conditions#general.

A. Federal Financial Reporting (FFR)

For awards with cumulative project and budget periods greater than 12 months, the recipient will submit an annual FFR (SF 425) covering the period from "project/budget period start date" to **September 30** of each calendar year to the EPA Finance Center in Research Triangle Park, NC. The annual FFR will be submitted electronically to rtpfc-grants@epa.gov no later than **December 30** of the same calendar year. Find additional information at https://www.epa.gov/financial/grants. (Per 2 CFR § 200.344(b), the recipient must submit the Final FFR to rtpfc-grants@epa.gov within 120 days after the end of the project period.)

B. Procurement

The recipient will ensure all procurement transactions will be conducted in a manner providing full and open competition consistent with 2 CFR § 200.319. In accordance with 2 CFR § 200.324, the recipient and subawardee(s) must perform a cost or price analysis in connection with applicable procurement actions, including contract modifications. *State and Tribal government entities must follow procurement standards as outlined in 2 CFR § 200.317.*

C. MBE/WBE Reporting, 40 CFR, Part 33, Subpart E (EPA Form 5700-52A)

The recipient agrees to submit a “MBE/WBE Utilization Under Federal Grants and Cooperative Agreements” report (EPA Form 5700-52A) annually for the duration of the project period. The current EPA Form 5700-52A with instructions is located at https://www.epa.gov/grants/epa-grantee-forms

This provision represents an approved exception from the MBE/WBE reporting requirements as described in 40 CFR Section 33.502.

Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category) with a cumulative total that exceed the

Simplified Acquisition Threshold (SAT) currently set at $250,000 (the dollar threshold will be automatically revised whenever the SAT is adjusted; See 2 CFR Section 200.1), including amendments and/or modifications. All procurement actions are reportable when reporting is required, not just the portion which exceeds the SAT.

Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 4A when completing the form.

When completing the annual report, recipients are instructed to check the box titled “annual” in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the “Final Report (project completed)” in section 1B of the form.

The annual reports are due by October 30th of each calendar year and the final report is due within 120 days after the end of the project period, whichever comes first. The recipient will submit the MBE/WBE report(s) and/or questions to GrantsRegion9@epa.gov and the EPA Grants Specialist identified on page 1 of the award document.

D. Indirect Costs

The Cost Principles under 2 CFR Part 200, Subpart E apply to this award. Since there are no indirect costs included in the assistance budget, they are not allowable under this Assistance Agreement.

E. Subaward(s)

The recipient's approved budget includes subaward(s). As applicable, the recipient will comply with the General Term and Condition on reporting of first tier subawards to www.fsrs.gov per “Reporting Subawards and Executive Compensation” requirement.

F. Cost-Share Requirement

The required minimum recipient cost share for this assistance agreement is 20% of total project costs. The assistance agreement may reflect a percentage shown under the "Notice of Award" section which is based on estimated costs requested in the recipient's application.

Programmatic Conditions

Clean Ports Zero-Emission Technology Deployment Competition Programmatic Terms and Conditions

a. Final Approved Workplan and Modifications

1. Recipient agrees to carry out the project in accordance with the final approved workplan.

2. Recipients are required to report deviations from budget or project scope or objective, and must request prior written approval from the EPA for:

> a. any change in the scope or objective of the project (even if there is no associated budget revision requiring prior written approval);
>
> b. any change in a key personnel (including employees and contractors) that are identified by name or position in the Federal award specified in the application or workplan; the disengagement from the project for more than three months, or a 25% reduction in time and effort devoted to the Federal award over the course of the period of performance, by the approved project director or project manager;
>
> c. The inclusion of costs that require prior approval in accordance with 2 CFR Part 200 Subpart E—Cost Principles or 48 CFR part 31, “Contract Cost Principles and Procedures,” as applicable;
>
> d. the transfer of funds budgeted for participant support costs to other budget categories as defined in 2 CFR Section 200.1 Definitions to other categories of expense;
>
> e. unless described in the final approved workplan and budget, the subawarding, transferring or contracting out of any work under the award;
>
> f. changes in the total approved cost-sharing provided by the recipient; or the need arises for additional Federal funds to complete the project.

Requests for proposed modifications to the approved workplan or budget, including additions, deletions, or changes in the schedule, must be submitted in a timely manner to the EPA Project Officer for approval, to minimize project delays. Depending on the type or scope of changes, a formal amendment to the award may be necessary. Major project modifications which include changes to the approved types and number of partners and equipment, or to the approved project partners and location(s) may not be allowed.

b. Performance Reporting and Final Performance Report

b1. Performance Reports – Content

In accordance with 2 CFR 200.329, the recipient agrees to complete and submit electronic performance reports using reporting template(s), including the approved Clean Ports Project Reporting Template (EPA Form Number: 5900-690 or future revisions, as applicable), which will be provided by the project officer. The purpose of performance reports is to provide updates on implementation of each project, including information on each of the following areas:

1. A comparison of accomplishments to the outputs/outcomes established in the assistance agreement work plan for the reporting period, including detailed technical information on new mobile equipment and electric charging and hydrogen fueling infrastructure deployed, and the retirement of older equipment, as appropriate;

2. The reasons why any established outputs/outcomes were not met;

3. Additional information, analysis and explanation of cost overruns or higher than-expected-unit costs; and

4. As applicable, information related to good jobs metrics and workforce training outcomes in accordance with information collection instrument through General Performance Reporting for Assistance Programs (EPA ICR Number 2802.01, OMB Control Number 2090-NEW).

Additionally, the recipient agrees to notify the EPA when a significant development occurs that could impact the award. Examples of significant developments can include:

- events that enable meeting milestones and objectives sooner or at less cost than anticipated;
- events that produce different beneficial results than originally planned; or
- problems, delays, or adverse conditions which will impact the ability to meet the milestones or objectives of the award, including outputs/outcomes specified in the assistance agreement work plan.

If a significant development negatively impacts the award, the recipient must include information on their plan for corrective action and any assistance needed to resolve the situation.

The final project report will include all categories of information required for semi-annual reporting, including a final, detailed description of all zero-emission technology deployment activities completed at each project location. The final project report will also include a narrative summary of the project and the successes and lessons learned for the entire project.

b2. Performance Reports - Frequency

Throughout the 4-year performance period, the recipient agrees to submit **semi-annual** performance reports electronically to the EPA Project Officer by the due date following the conclusion of each semi-annual reporting period. The semi-annual reporting periods are:

January 1 – June 30: Report due date July 30.

July 1 – December 31: Report due date January 30

Additional reporting may be required if the grant is extended or at the discretion of the EPA Project Officer. The recipient must submit the final performance report no later than 120 calendar days after the end date of the period of performance.

b3. Subaward Performance Reporting

The recipient must report on its subaward monitoring activities under 2 CFR 200.332(e). Examples of

items that must be reported are:

1. Summaries of results of reviews of financial and programmatic reports.

2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.

3. Environmental results the subrecipient achieved.

4. Summaries of audit findings and related pass-through entity management decisions.

5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.332(f), 2 CFR 200.208, and the 2 CFR Part 200.339 Remedies for Noncompliance.

If the recipient is unable to obtain this information, the recipient must report to EPA why the information is not available.

c. Cybersecurity Condition

Cybersecurity Grant Condition for Other Recipients, Including Intertribal Consortia

1. The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State or Tribal law cybersecurity requirements.

2.a. The EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or the EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by the EPA's regulatory programs for the submission of reporting and/or compliance data.

b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in 2.a if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or the EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.332(e), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and the EPA.

d. Project Transparency

The recipient agrees to engage with near-port communities about the project during the performance period. Examples of appropriate community engagement during the project period are outlined on pg. 45 of the Notice of Funding Opportunity. Community engagement activities conducted as part of the final approved workplan should be reported in performance reporting described in Programmatic Term and Condition B (Performance Reporting and Final Performance Report).

1. The recipient agrees to publicly share, such as on a webpage, a detailed written summary of the results of the emissions inventory and/or emission reduction plan included in the final workplan.

e. Automated Standard Application Payments (ASAP) and Proper Payment Draw Down

The recipient is subject to the Automated Standard Application Payments (ASAP) and Proper Payment Draw Down General Term and Condition. See the “Financial Information” section of the General Terms and Conditions.

The recipient is required to notify the EPA Project Officer of draws from ASAP in excess of 50% of the award within a 24-hour period. The recipient is required to provide such notification within 3 business days of the draw amount being surpassed.

The recipient is subject to the Management Fees General Term and Condition, which includes the following requirements that prohibit profit on the part of the recipient:

> 1. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable.
>
> 2. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work. See the “Selected Items of Cost” section of the General Terms and Conditions.

f. Public or Media Events

The recipient agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction projects as a result of this agreement and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.

g. Program Beneficiary

Program beneficiaries must abide by requirements to ensure that the funds are used only for authorized purposes.

h. Procurement Procedures

As provided in 2 CFR 200.317, with limited exceptions, states and Indian Tribes must follow the same policies and procedures they follow for procurements financed with non-Federal funds. If such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards in §§ 200.318 through 200.327. In addition to its own policies and procedures, a State or Indian Tribe must

also comply with the following procurement standards: §§ 200.321, 200.322, 200.323, and 200.327. All other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow the procurement standards in §§ 200.318 through 200.327.

The recipient must follow applicable procurement procedures. The EPA will not be a party to these transactions. If the EPA funds are used to purchase goods or services, recipient agrees to compete the contracts for those goods and services and conduct cost and price analyses to the extent required by the fair and open competition for procurement provisions of 2 CFR §§200.318 – 327. Approval of a funding application does not relieve recipients of their obligations to compete service contracts and conduct cost and price analyses.

i. Quality Assurance

Authority: Quality Assurance applies to all assistance agreements involving environmentally related data operations, including environmental data collection, production, or use as defined in 2 CFR. 1500.12 Quality Assurance.

The recipient shall ensure that tasks or subawards involving environmental information that are issued under this agreement include appropriate quality requirements for the work. The recipient shall ensure they or sub-award recipients develop and implement a Quality Assurance (QA) planning document in accordance with this term and condition; and/or ensure they or sub-award recipients implement all applicable approved QA planning documents.

1. Quality Management Plan (QMP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QMP,

ii. Prepare the QMP in accordance with the current version of the EPA's Quality Management Plan (QMP) Standard. Submit the document for EPA review, and

iii. Obtain the EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

OR

i. Submit a previously EPA-approved and current QMP,

ii. The EPA Quality Assurance Manager or designee (hereafter referred to as QAM) will notify the recipient and the EPA Project Officer (PO) in writing if the QMP is acceptable for this agreement.

c. The recipient must review their approved QMP at least annually. These documented reviews shall be made available to the sponsoring EPA organization if requested. When necessary, the recipient shall revise its QMP to incorporate minor changes and notify the EPA PO and QAM of the changes. If significant changes have been made to the Quality Program that affect the performance of environmental information operations, it may be necessary to re-submit the entire QMP for re-approval. In general, a copy of any QMP revision(s) made during the year should be submitted to the EPA PO and QAM in writing when such changes occur. Conditions requiring the revision and resubmittal of an approved QMP can be found in section 6 of the EPA's Quality Management Plan (QMP) Standard.

2. Quality Assurance Project Plan (QAPP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QAPP,

ii. Prepare QAPP in accordance with the current version of the EPA's Quality Assurance Project Plan (QAPP) Standard,

iii. Submit the document for EPA review, and

iv. Obtain the EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

OR

i. Submit a previously EPA-approved QAPP proposed to ensure the collected, produced, evaluated, or used environmental information is of known and documented quality for the intended use(s).

ii. The EPA Quality Assurance Manager or designee (hereafter referred to as QAM) will notify the recipient and the EPA Project Officer (PO) in writing if the previously EPA-approved QAPP is acceptable for this agreement.

OR

i. Provide the EPA a copy of the recipient-approved QAPP if the recipient has an EPA-approved Quality Management Plan and (b) holds a current EPA delegation to review and approve QAPPs.

a. The recipient shall notify the PO and QAM when substantive changes are needed to the QAPP. The EPA may require the QAPP be updated and re-submitted for approval.

b. The recipient must review their approved QAPP at least annually. The results of the QAPP review and any revisions must be submitted to the PO and the QAM at least annually and may also be submitted when changes occur.

For Reference:

• Quality Management Plan (QMP) Standard and EPA's Quality Assurance Project Plan (QAPP) Standard; contain quality specifications for the EPA and non-EPA organizations and definitions applicable to these terms and conditions.

• EPA QA/G-5: *Guidance for Quality Assurance Project Plans*: https://www.epa.gov/sites/default/files/2015-06/documents/g5-final.pdf

• (QAM and/or PO may insert QA references that inform or assist the recipient here).

• The EPA's Quality Program website has a list of QA managers, and specifications for EPA and Non-EPA Organizations.

• The Office of Grants and Debarment Implementation of Quality Assurance Requirements for

Organizations Receiving EPA Financial Assistance.

j. Climate Resilience

To the extent practicable, the recipient agrees to incorporate current and future climate change risk in planning, siting, design, and operation of the project. Approaches for incorporating climate change risk may make use of climate change data and information (e.g., projections and emission scenarios) that are reflective of the project's anticipated lifespan. This includes consideration of the climate change risks posed to the individuals, communities, local governments, organizations, or other entities served by the project over its anticipated lifespan.

k. Use of Logos

If the EPA logo is appearing along with logos from other participating entities on websites, outreach materials, or reports, the EPA logo must **not** be prominently displayed in a way that may imply that any of the recipient or subrecipient's activities are being conducted by the EPA. Instead, the EPA logo should be accompanied with a statement indicating that the City of Los Angeles Port Department received financial support from the EPA under an Assistance Agreement. More information is available at: https://www.epa.gov/stylebook/using-epa-seal-and-logo#policy

l. Build America, Buy America (BABA) Requirements

All projects under this competition are subject to the domestic sourcing requirements under the Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§ 70911-70917) when using federal funds for the purchase of goods, products, and materials on any form of construction, alteration, maintenance, or repair of infrastructure in the United States. The Buy America preference requirement applies to all of the iron and steel, manufactured products, and construction materials used for the infrastructure project under an award for identified EPA financial assistance funding programs.

These sourcing requirements require that all iron, steel, manufactured products, and construction materials used in Federally funded infrastructure projects must be produced in the United States, as defined in P.L 117-58 § 70912(6). The recipient must implement these requirements in its procurements, and this article must flow down to all subawards and contracts. For legal definitions and sourcing requirements, the recipient must consult EPA's Build America, Buy America website.

Clean Ports Program grants are subject to the requirements of BABA, which requires applicants to comply with Buy America preference requirements or apply for a waiver for each infrastructure project. The following potentially eligible projects under this competition meet the definition of “infrastructure” and are subject to Buy America preference requirements under BABA:

- Structures, facilities, and equipment that generate, transport, and distribute energy - including electric vehicle (EV) charging equipment.

- Any other permanent public structure that meets the qualifies as “infrastructure” as addressed in OMB Memorandum M-24-02 and 2 C.F.R. section 184.4(c).

Questions regarding BABA applicability to specific Clean Ports Program projects should be submitted to BABA-OTAQ@epa.gov.

When necessary and supported by rationale provided in P.L 117-58 § 70914, the recipient may submit a project-specific waiver request to EPA or notify EPA when using an existing waiver. The recipient should request guidance on submitting a BABA waiver request from the EPA Project Officer. A list of existing approved EPA waivers is available on the EPA Build America, Buy America website. Please continue to monitor this website for further BABA guidance or any future EPA waivers that may impact the Clean Ports grants program.

See EPA's “Build America, Buy America” general term and condition for additional requirements: https://www.epa.gov/grants/grant-terms-and-conditions.

m. Eligible and Ineligible Project Costs

1. Project Implementation Costs: Eligible project costs include those costs directly related to the implementation, management, and oversight of the project, including the proportion of recipient and subrecipient personnel and benefit costs expended in relation to the award, equipment, contractual, travel, supplies, subgrants and rebates, and indirect costs. See 2 C.F.R. Part 200, Sections 200.412-200.415.

2. Zero-Emissions (ZE) Mobile Equipment Costs.

a. Recipient shall only use assistance funding to purchase ZE mobile equipment that will directly serve at least one port for a minimum of three years.

b. For purposes of this assistance program, a port is either a water port or a dry port, as defined below:

> i. Water port: places on land alongside navigable water (e.g., oceans, rivers, or lakes) with one or more facilities in close proximity for the loading and unloading of passengers or cargo from ships, ferries, and other commercial vessels. This includes facilities that support non-commercial Tribal fishing operations.
>
> ii. Dry port: an intermodal truck-rail facility that is included in the 2024 Federal Highway Administration's (FHWA) Intermodal Connector Database based on meeting the criteria set in 23 C.F.R. Part 470. These criteria include having more than 50,000 TEUs (20-foot equivalent units) per year or other units measured that would convert to more than 100 trucks per day, or comprising more than 20 percent of freight volumes handled by any mode within a State.

c. For purposes of this assistance program, zero emission mobile equipment is that which can move to a different location by means of an onboard powertrain as part of normal operations and produces zero tailpipe emissions of any criteria pollutant, air toxics, or greenhouse gas other than water vapor. Eligible zero emission mobile equipment is limited to electric and hydrogen fuel cell technologies.

d. Eligible project costs include the purchase and deployment of new eligible battery-electric or hydrogen fuel cell vehicles, vessels, powertrains, and other mobile equipment that directly serve at least one port for a minimum of three years according to the following minimum parameters for each mobile equipment category.

> i. Cargo handling equipment (terminal tractors, forklifts, top handlers, side picks, straddle carriers, etc.): at least 90% of annual usage (hours) will take place at the port(s) identified in the award.

ii. Drayage Trucks: at least 100 visits/year will take place at the port(s) identified in the award.

iii. Locomotives (switchers, railcar movers): (1) at least 75% of its annual usage (hours) will take place at the port(s) identified in the application, (2) shall visit the port(s) identified in the award on a minimum of 200 days per year, and (3) must exclusively perform short-haul runs between the port(s) identified in the award and a second point of rest, e.g., a terminal, interchange, or yard.

iv. Harbor craft and other vessels (commercial and Tribal fishing vessels, tugs, ferries, patrol boats, workboats, dredges, pilot boats, barges, etc.): at least 60% of its annual usage (hours and port visits) will take place at the port(s) identified in the award.

v. Other eligible mobile source equipment: at least 90% of annual usage (hours and operating days) must take place at the port(s) identified in the award.

e. Mobile equipment must be human-operated and human-maintained.

f. Recipient shall not use assistance funding for any of the following types of equipment or activities.

i. Equipment which uses a non-ZE powertrain, including hybrid technologies powered in part by internal combustion engines, unless the non-ZE power source is mandated by safety regulations, and functions solely as a source of emergency backup power.

ii. First-of-a-kind demonstration and pilot projects designed to determine the technical feasibility and economic potential of technologies at either a pilot or prototype stage.

iii. Research and development projects. Research is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. Development is defined as the systematic use of knowledge and understanding gained from research, and directed toward the production of technologies, devices, systems, or methods, including design and development of prototypes and processes.

iv. Ship modifications to allow vessels to accept shore-based electrical power, unless the modification is part of a project to replace the internal combustion engine(s) of a marine vessel with a ZE powertrain.

v. Light-duty vehicles.

vi. Expenses related to repowering and/or replacing engines for existing onroad vehicles.

vii. Expenses related to replacing internal combustion engines in existing nonroad equipment, locomotives, and marine vessels with ZE powertrains where the updated nonroad equipment, locomotive, or marine vessel includes a non-ZE powertrain, unless the non-ZE power source is mandated by safety regulations, and functions solely as a source of emergency backup power.

viii. Expenses related to replacing cabs, axles, paint, brakes, mufflers, or any other parts or materials that are not required to ensure the effective installation and functioning of the replacement of an internal combustion engine in existing nonroad equipment, locomotives, or marine vessels with a ZE powertrain.

3. Fueling Infrastructure Costs:

a. Recipient agrees that any infrastructure purchased or installed using EPA assistance funding may only be used to purchase or install infrastructure which will directly serve at least one port, as defined above in M.2.b. for a minimum of three years and according to the following parameters:

i. All infrastructure (except for vessel shore power) must directly serve eligible ZE mobile equipment purchased as part of the award. However, equipment not purchased as part of the grant may also utilize the fueling infrastructure.

ii. Infrastructure serving any mobile equipment (besides drayage trucks and locomotives) must be located on-site or in close proximity to port facilities identified in the award.

iii. Infrastructure serving drayage trucks or locomotives must be located on-site or in close proximity to port facilities identified in the applications, or at the first point of rest from the port facilities identified in the award (i.e., a terminal, depot, interchange, or yard where an eligible ZE mobile equipment purchased as part of the grant will fuel).

b. Infrastructure must be human-operated and human maintained.

c. For shore power projects, shore power-capable vessels docked at a berth where shore power is available must be required to turn off the vessel's engines and use the shore power system, with limited exceptions for extreme circumstances.

d. Electric charging infrastructure must be located at or behind the meter (on the customer side) except for minor grid upgrades in front of the meter (utility side) if the work is necessary to connect an eligible charging station to the electric distribution network.

e. Alternating Current (AC) Level 2 charging infrastructure must be EPA ENERGY STAR certified at the time of purchase.

f. Electric charging infrastructure must meet the following installation requirements: Electricians installing, operating, or maintaining electric charging infrastructure purchased through this program are required to be certified under the Electric Vehicle Infrastructure Training Program or another program approved by the EPA in consultation with the Department of Labor and Department of Transportation, as will be reflected in the terms of this grant award. For projects requiring more than one electrician, at least one of the electricians performing each phase of the infrastructure work should meet the requirements above.

g. Recipient agrees not to use EPA assistance funding for any of the following ineligible infrastructure costs:

i. Front of the meter costs related to purchase or installation of electric infrastructure. This includes but is not limited to: major grid upgrades to utility-owned power distribution equipment (such as longer power line extensions, improvements to offsite power generation, bulk power transmission, or substations); transformers located on the utility side of the meter and their installation; and operation and maintenance performed on utility systems.

ii. Infrastructure which relies on air polluting components (e.g., backup generators or auxiliary power units), unless the non-ZE component is mandated by safety regulations, and functions

solely as an emergency backup power source.

iii. Power generation systems (including non-renewable powered backup generators), except for solar and wind power generation systems that primarily power mobile equipment and which are located on land.

iv. Hydrogen production systems (e.g., electrolyzers, conversion facilities), associated infrastructure, and their installation.

v. Transmission (e.g., piping and pipelines) and/or transportation of hydrogen outside of the port.

h. Marine shore power projects must meet applicable international shore power design standards (IEC/ISO/IEEE 80005-1:2019/AMD 2:2023 High Voltage Shore Connection Systems or the IEC/PAS 80005-3:2014 Low Voltage Shore Connection Systems).

i. Solar or wind power generation systems must be located on land in close proximity to the port facilities identified in the award; or at the first point of rest from the port facilities for infrastructure serving drayage trucks or locomotives. Offshore wind and floating solar/wind infrastructure purchases and installation are not permitted.

4. Ineligible Technology Deployment Support Costs: The recipient may not use EPA assistance funding for the following purposes:

a. Feasibility assessment of ZE technology. Technology feasibility assessment is a preliminary exploration of a candidate technology to determine its merits and viability for successful deployment in regular service. A feasibility assessment can include the evaluation of key technical, operational, labor, economic, legal/regulatory, and deployment (timeline/schedule) issues. Feasibility assessment results are used to create a realistic project plan, schedule, and budget. [These activities are eligible for funding in the separate NOFO for Climate and Air Quality Planning projects under Funding Opportunity Number EPA-R-OAR-CPP-24-05. However, please note that applicants requesting funding for technology deployment under this ZE Technology Deployment Competition are expected to have conducted necessary feasibility assessments prior to applying and should not be planning to conduct further feasibility assessments prior to deployment.]

b. Costs for resiliency measures not directly related to protecting equipment purchased as part of the grant award from extreme weather events.

c. Leasing vehicles or equipment. If financing is necessary, the purchase should be financed with a conventional purchase loan.

d. Fuel and electricity expenses.

5. Other Ineligible Costs: As proscribed in Section 825 of the National Defense Authorization Act, no funds may be awarded to an entity that uses in part or in whole: the national transportation logistics public information platform (commonly referred to as ‘LOGINK'); any national transportation logistics information platform provided by or sponsored by the People's Republic of China, or a controlled commercial entity; or a similar system provided by Chinese state-affiliated entities.

n. Program Audit

In addition to the provisions of EPA's General Terms and Conditions which relate to audits and access to records, the recipient agrees to comply with random EPA reviews of the recipient to protect against waste, fraud, and abuse. As part of this process, EPA, or its authorized representatives, may request copies of grant documents from prior recipients who have received grants, or may request documentation from current recipients and sub-awardees, to verify statements made on the application and reporting documents. Recipients may be selected for advanced monitoring, including a potential site visit to confirm project details. EPA, or its authorized representatives, may also conduct site visits to confirm documentation is on hand and that purchased equipment and infrastructure is in service at the ports named in the award, as well as confirm applicable infrastructure adheres to Build America, Buy America (BABA) requirements (see BABA Programmatic Term and Condition for more details). Recipients are expected to comply with site visit requests and recordkeeping requirements and must supply EPA with any requested documents for as long as the records are retained, or risk cancellation of an active grant application or other enforcement action.

o. Record Retention

Recipients must keep all financial records, supporting documents, accounting books and other evidence of Grant Program activities for three years from the date of submission of the final financial report. If any litigation, claim, or audit is started before the expiration of the three-year period, the recipient must maintain all appropriate records until these actions are completed and all issues resolved.

p. Operation and Maintenance

The recipient will ensure the continued proper operation and maintenance of equipment and devices funded under this agreement. Such equipment and infrastructure shall be operated and maintained for the expected lifespan of the specific measure and in accordance with commonly accepted design standards and specifications. The recipient shall include a provision in every applicable sub-agreement (subgrant or contract) awarded under this grant requiring that the equipment and devices funded under this agreement be properly operated and maintained. Likewise, the sub-agreement will assure that similar provisions are included in any sub-agreements that are awarded by the sub-recipient.

q. Foreign Entity of Concern

1. As part of carrying out this award, recipient agrees that they are not:

    a. an entity owned by, controlled by, or subject to the direction of a government of a “covered nation” as defined at 10 U.S.C. § 4872(d);

    b. an entity headquartered in a “covered nation” as defined at 10 U.S.C. § 4872(d); or

    c. a subsidiary of an entity described in (A) or (B).

Note: Paragraph 1 applies to the recipient of this award only and not subrecipients.

2. Additionally, awarded funds may not be used by the recipient or subrecipients for the purchase of a crane manufactured by (A) any entity owned by, controlled by, or subject to the direction of a government of a covered nation “covered nation” as defined at 10 U.S.C. § 4872(d); or (B) any entity headquartered in a covered nation “covered nation” as defined at 10 U.S.C. § 4872(d).

As of the date these terms and conditions become effective, covered nations under 10 U.S.C. § 4872(d) are the Democratic People's Republic of North Korea; the People's Republic of China; the Russian Federation; and the Islamic Republic of Iran.

r. Competency Policy

Competency of Organizations Generating Environmental Measurement Data

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, Recipient agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the policy is available online at https://www.epa.gov/sites/default/files/2017-05/documents/policy_to_assure_the_competency_of_organizations.pdf or a copy may also be requested by contacting the EPA Project Officer for this award.

Reference: https://www.epa.gov/sites/default/files/2017-05/documents/policy_to_assure_the_competency_of_organizations.pdf

s. Geospatial Data Standards

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at https://www.fgdc.gov/.

t. Mandatory Cost Share Requirement

This award and the resulting federal funding share (as shown under “Notice of Award” in the award document) is based on estimated costs requested in the recipient's final approved workplan. While actual total costs may differ than those estimates, the recipient is required to provide no less than the cost-share percentages outlined below, as applicable, of the final Zero-Emission (ZE) Technology Deployment Grant Competition costs. The EPA's participation shall not exceed the total amount of federal funds awarded or the maximum federal cost-share percentages outlined below, as applicable, of the final equipment costs. Recipients must satisfy any applicable cost share requirements with allowable costs as set forth in 2 CFR § 200.306. The cost share requirement is as follows:

Tier A (Water Ports Only): EPA Share of Total Project Cost (Maximum) = 80%, Mandatory Cost Share of Total Project Costs = 20%

Total Project cost refers to total allowable costs incurred under a Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

u. Voluntary Cost Share

This award and the resulting federal funding of $411,688,296 is based on estimated costs requested in the recipient's application at the later of (a) the time this funding opportunity closed on May 28, 2024, or (b) when negotiations concluded. Included in these costs is a voluntary cost-share contribution

of 150,186,205 by the recipient in the form of a voluntary cost-share or overmatch (providing more than any minimum mandatory cost-share) that the recipient included in its proposal dated 5/24/2024. The recipient must provide this voluntary cost-share contribution during performance of this award unless the EPA agrees otherwise in a modification to this agreement. While actual total costs may differ from the estimates in the recipient's application, the EPA's participation shall not exceed the total amount of federal funds awarded.

If the recipient fails to provide the voluntary cost-share contribution during the period of award performance, and the EPA does not agree to modify the agreement to reduce the cost share, the recipient is in violation of the terms of the agreement. In addition to other remedies available under 2 CFR Part 200, the Agency may consider this factor in evaluating future proposals from the recipient. In addition, if the voluntary cost-share contribution does not materialize during the period of award performance then the EPA may reconsider the legitimacy of the award; if the EPA determines that the recipient knowingly or recklessly provided inaccurate information regarding the voluntary cost-share or overmatch the recipient described in its proposal dated 5/24/2024. The EPA may take action as authorized by 2 CFR Part 200 and/or 2 CFR Part 180 as applicable.

v. Equipment Disposition

In accordance with 2 CFR 200.313, when original or replacement equipment acquired under this agreement is no longer needed for the original project or program or for other activities currently or previously supported by the EPA, the recipient must request disposition instructions from the EPA Project Officer. Disposition instructions will be one of the following:

1. Equipment with a current fair market value of $10,000 or less (per unit) may be retained, sold, or otherwise disposed of with no further obligation to the EPA or pass-through entity.

2. Except as provided in 2 CFR 200.312(b), or if EPA or the pass-through entity fails to provide requested disposition instructions within 120 days, items of equipment with a current fair market value in excess of $10,000 (per unit) may be retained or sold by the recipient or subrecipient. EPA is entitled to an amount calculated by multiplying the percentage of the EPA's contribution towards the original purchase by the current market value or proceeds from the sale. If the equipment is sold, EPA or the pass-through entity may permit the recipient or subrecipient to retain, from the Federal share $1,000 of the proceeds, to cover expenses associated with the selling and handling of the equipment.

3. The recipient or subrecipient may transfer title to the property to the Federal Government or to an eligible third party provided that the recipient or subrecipient must be entitled to compensation for its attributable percentage of the current fair market value of the property.

4. In cases where a recipient or subrecipient fails to take appropriate disposition actions, EPA or the pass-through entity may direct the recipient to take disposition actions.

w. Signage Required

1. Investing in America Emblem: The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a “project funded by President Biden's Inflation Reduction Act” as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

The recipient will ensure compliance with the guidelines and design specifications provided by the EPA for using the official Investing in America emblem available at: https://www.epa.gov/invest/investing-america-signage.

2. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or the EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

x. National Programmatic Term and Condition for Fellowship, Internship Programs and Similar Programs Supported by EPA Financial Assistance

1. The EPA funds for this program may only be used for participant support cost payments, scholarships, tuition remission and other forms of student aid for citizens of the United States, its territories, or possessions, or for individuals lawfully admitted to the United States for permanent residence.

2. The recipient and program participants are responsible for taxes, if any, on payments made to or on behalf of individuals participating in this program that are allowable as participant support costs under 2 CFR 200.1 or 2 CFR 200.456 and scholarships and other forms of student aid such as tuition remission under 2 CFR 200.466. The EPA encourages recipients and program participants to consult their tax advisers, the U.S. Internal Revenue Service, or state and local tax authorities regarding the taxability of stipends, tuition remission and other payments. However, the EPA does not provide advice on tax issues relating to these payments.

3. Participant support cost payments, scholarships, and other forms of student aid such as tuition remission are lower tiered covered Nonprocurement transactions for the purposes of 2 CFR 180.300 and the EPA's Suspension and Debarment Term and Condition. Recipients, therefore, may not make participant support cost payments to individuals who are excluded from participation in Federal Nonprocurement programs under 2 CFR Part 180. Recipients are responsible for checking the eligibility of program participants in the System for Award Management (SAM) or obtaining eligibility certifications from the program participants.

See the EPA Guidance on Participant Support Costs.

y. Davis-Bacon and Related Acts (DBRA) Term and Condition

1. Program Applicability

a. Program Name – Clean Ports Program

b. Statute requiring compliance with Davis-Bacon – Clean Air Act Section 314

c. Activities subject to Davis-Bacon – any construction activities funded by this grant.

d. The recipient must work with the appropriate authorities to determine wage classifications for the specific project(s) or activities subject to Davis Bacon under this grant (or cooperative agreement).

2. Davis-Bacon and Related Acts

Davis-Bacon and Related Acts (DBRA) (https://www.dol.gov/agencies/whd/government-contracts/construction) is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the:

- Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of $2,000 or more

- Copeland "Anti-Kickback" Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and

- Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of $100,000.

3. Recipient Responsibilities When Entering Into and Managing Contracts:

a. Solicitation and Contract Requirements:

i. Include the Correct Wage Determinations in Bid Solicitations and Contracts: Recipients are responsible for complying with the procedures provided in 29 CFR 1.6 when soliciting bids and awarding contracts.

ii. Include DBRA Requirements in All Contracts: Include the following text on all contracts under this grant:

> "By accepting this contract, the contractor acknowledges and agrees to the terms provided in the DBRA Requirements for Contractors and Subcontractors Under EPA Grants."

b. After Award of Contract:

i. Approve and Submit Requests for Additional Wages Rates: Work with contractors to request additional wage rates if required for contracts under this grant, as provided in 29 CFR 5.5(a)(1)(iii).

ii. Provide Oversight of Contractors to Ensure Compliance with DBRA Provisions: Ensure contractor compliance with the terms of the contract, as required by 29 CFR 5.6.

4. Recipient Responsibilities When Establishing and Managing Additional Subawards: a. Include DBRA Requirements in All Subawards (including Loans):

Include the following text on all subawards under this grant:

> "By accepting this award, the EPA subrecipient acknowledges and agrees to the terms and conditions provided in the DBRA Requirements for EPA Subrecipients."

Provide Oversight to Ensure Compliance with DBRA Provisions: Recipients are responsible for oversight of subrecipients and must ensure subrecipients comply with the requirements in 29 CFR 5.6.

5. Consideration as Part of Every Prime Contract Covered by DBRA

The contract clauses set forth in this Term & Condition, along with the correct wage determinations, will be considered to be a part of every prime contract covered by Davis-Bacon and Related Acts (see 29 CFR 5.1), and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Department of Labor grants a variance, tolerance, or exemption. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

z. Subawards to For-Profit Entities

1. In addition to the EPA General Term and Condition “Establishing and Managing Subawards”, the recipient (i.e. “pass-through entity”) agrees to require that for-profit subrecipients comply with Subparts A through F of the Uniform Grant Guidance (2 CFR Part 200) and the Federal cost principles applicable to for-profit entities located at 48 CFR Part 31, with the exception of the method of payment to for-profit subrecipients must be “reimbursement” rather than “advance”. Pass-through entities must obtain documentation that the for-profit subrecipient has incurred eligible and allowable costs prior to releasing EPA funds to the subrecipient.

2. The recipient is authorized to provide subawards to for-profit entities as included in the EPA-approved Workplan. The recipient agrees to require that for-profit entities that receive such subawards:

a. Can only recover their eligible and allowable direct and indirect costs from EPA-funded activities, including recovering the portion of their overhead costs attributable to the activities by applying either a Federally approved indirect cost rate, as authorized by 2 CFR 200.414(f), or the de-minimis rate if the subrecipient does not have a Federally approved rate;

b. Comply with the Management Fees General Term and Condition, which is incorporated by reference into the Establishing and Managing Subawards General Term and Condition;

c. Account for and use program income under the rules for program income pursuant to 2 CFR § 300.307 and 2 CFR § 1500.8(b) and the terms and conditions of the award agreement;

d. Be subject to the same requirements as non-profit subrecipients under 2 CFR Part 200 Subparts A through E; and

e. Select an independent auditor consistent with the criteria set forth in 2 CFR 200.509 and obtain an independent audit substantially similar in scope and quality to that of the Single Audit (see 2 CFR 200.500 et. seq.); the subrecipient must submit the audit to the recipient within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from an independent auditor, whichever is earlier; as provided in 2 CFR 200.337(a) the recipient must provide EPA, the EPA Office of Inspector General, and the Comptroller General with access to the subrecipient's independent auditor reports.

aa. Voluntary Scrappage

1. Recipient must provide, in the semi-annual and final reports, evidence of appropriate scrappage and evidence of appropriate disposal for all internal combustion engine equipment or vehicles identified for

scrappage in the final workplan, and in accordance with scrappage plans described in the proposal dated May 28, 2024.

2. Participating fleet owners must attest to the appropriate disposal in a signed scrappage statement. A sample scrappage statement (EPA Form 5900-684) may be found at https://www.epa.gov/system/files/documents/2024-02/2024-clean-ports-sample-scrappage-stmt-2024-02.pdf. The scrappage statement must include: vehicle owner's name and address; vehicle make, vehicle model, vehicle model year, VIN, odometer/usage meter reading, engine make, engine model, engine model year, engine horsepower, engine ID or serial number, as applicable; Name, address, and signature of dismantler; Date engine and/or vehicle/equipment was scrapped. Recipients must include or attach the following photos with the scrappage statement according to guidance provided by Project Officer, to demonstrate compliance with scrappage requirements: side profile of the vehicle, prior to disabling; VIN tag or equipment serial number; Engine label (showing serial number, engine family number, and engine model year); Engine block, prior to hole; Engine block, after hole; and Cut frame rails.

a. If the recipient for any reason does not scrap the vehicle/piece of equipment described in the application project narrative dated May 28, 2024, or listed on the Supplemental Application Template (“4b. Scrappage Information” tab), an equivalent vehicle/piece of equipment or must be scrapped instead, with approval of the project officer.

b. Equipment identified for scrappage may not be resold or donated instead of being scrapped.

3. The existing vehicle/equipment must be scrapped or rendered permanently disabled within two years of delivery of the equivalent new zero-emissions vehicle/equipment, or before the end of the project performance period, whichever comes first.

a. Cutting a three-inch-by-three-inch hole in the engine block (the part of the engine containing the cylinders) is the preferred method for scrappage. Other acceptable scrappage methods may be considered and will require prior EPA approval.

b. Disabling the chassis may be completed by cutting through the frame or frame rails on each side at a point located between the front and rear axles.

c. Recipients seeking approval for alternate scrappage methods must submit an alternative scrappage plan to the EPA project officer detailing how the method will destroy and/or disable the engine and must, if approved, comply with the evidence requirements listed below, including digital photographs.

4. Equipment and vehicle components that are not part of the engine or chassis may be salvaged from the unit being scrapped (e.g., seats, tires, etc.).

a. If disabled engines, disabled vehicles, disabled equipment, or parts are to be sold, program income requirements apply.

5. Equipment to be scrapped must meet ownership, usage, and remaining life criteria defined in 5.a. through 5.f.:

a. The existing equipment being scrapped must be fully operational. Operational equipment must be able to start, move, and have all necessary parts to perform its function.

b. The participating fleet owner must currently own and operate the existing equipment and have owned and operated it during the two years prior to upgrade.

c. The existing equipment bing scrapped must have at least three years of remaining life at the time of scrappage. Remaining life is the owner's estimate of the number of years until the unit would have been retired from service if the unit were not being scrapped because of the grant funding. The remaining life estimate includes years of service expected after being rebuilt or sold to another fleet. Remaining life depends on the current age and condition of the vehicle at the time of upgrade, as well as factors like usage, maintenance, and climate.

d. Equivalent Replacement: The existing engine/equipment being scrapped must have similar horsepower as the new engine/equipment being purchased (within 40%).

e. Highway Usage:

> i. To be eligible, the existing certified highway vehicle must have accumulated at least 7,000 miles/year during the two years prior to scrappage.
>
> ii. Exception: If an applicant can demonstrate that a certified highway vehicle is being used in a predominately nonroad application (e.g., those that idle for long periods to power an auxiliary apparatus), the definition below under “Nonroad Usage” of engine operating hours may be used if approved by the project officer. The EPA will review and approve this exception on a case-by-case basis.
>
> iii. The mileage of two or more units may be combined to reach the thresholds above, where two or more units will be scrapped and replaced with a single unit.

f. Nonroad Usage:

> i. To be eligible, nonroad engines should operate at least 500 hours/year during the two years prior to scrappage.
>
> ii. The engine operating hours of two or more units may be combined to reach the thresholds above where two or more units will be scrapped and replaced with a single unit.

6. Locomotive and Marine Usage:

a. Existing locomotive and marine engines to be scrapped must operate at least 1,000 hours/year during the two years prior to scrappage.

b. The engine operating hours of two or more units may be combined to reach the thresholds above where two or more units will be scrapped and replaced with a single unit.

c. Participating fleet owners must attest to each of the above criterion in a signed eligibility statement which includes each equipment make, model, year, vehicle or other unique identification number, odometer/usage meter reading, engine make, model, year, horsepower, engine ID or serial number, and vehicle/equipment/vessel registration/licensing number and state.

7. This documentation must be submitted as part of the grantee's programmatic reporting to the EPA.

bb. Program Income

In accordance with 2 CFR Part 200.307 and 2 CFR 1500.8(b), the recipient is hereby authorized to retain program income earned during the project period, subject to the following. Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. Program income includes but is not limited to income from fees for services performed, the use or rental or real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds.

Any program income shall be used to finance the non-Federal share of the project or program eligible project activities.

The recipient must provide as part of its semi-annual and final performance reports, a description of how program income is being used. Further, a report on the amount of program income earned during the award period must be submitted with the annual Federal Financial Report, Standard Form SF-425.

In accordance with 2 CFR 200.307(d) costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the EPA award. The recipient must retain adequate accounting records to document that any costs deducted from program income comply with regulatory requirements.

cc. Historic Preservation

National Historic Preservation Act (NHPA)

Section 106 of the NHPA requires all federal agencies to consider the effects of their undertakings, including the act of awarding a grant or cooperative agreement, on historic properties, and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. The recipient must assist the EPA Project Officer in complying with NHPA if any activities funded under this grant impact a historic property. Historic properties include: (a) land or buildings listed in or eligible for listing on the National Register of Historic Places; (b) archaeologically sensitive areas or in an area where traditional cultural properties are located; and (c) properties that are associated with significant historic events, are associated with significant people, embody distinctive characteristics, and contain important precontact information.

The recipient should work with their Project Officer to ensure that subrecipients are available to work with EPA on any required consultation process with the State or Tribal Historic Preservation Office prior to commencing the project to ensure compliance with Section 106 of the NHPA.

If NHPA compliance is required, necessary Section 106 consultation activities, such as historic or architectural surveys, structural engineering analysis of buildings, public meetings, and archival photographs, can be considered allowable and allocable grant costs.

Archeological and Historic Preservation Act (AHPA)

This law applies if archeologically significant artifacts or similar items are discovered after an EPA-funded construction project has begun, and compliance may be coordinated with the NHPA, discussed above. The AHPA requires federal agencies to identify relics, specimens, and other forms of scientific,

prehistorical, historical, or archaeologic data that may be lost during the construction of federally-sponsored projects to ensure that these resources are not inadvertently transferred, sold, demolished or substantially altered, or allowed to deteriorate significantly. The recipient must ensure that subrecipients performing construction projects are aware of this requirement, and the recipient must notify EPA if the AHPA is triggered.

dd. Other Federal Requirements

In addition to other statutes outlined in these programmatic terms and conditions, the recipient must comply with all federal cross-cutting requirements. These requirements include, but are not limited to:

- **Endangered Species Act, as specified in 50 CFR Part 402:** Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

- **Federal Funding Accountability and Transparency Act:** Recipients of financial assistance awards must comply with the requirements outlined in 2 CFR Part 170*, Reporting Subaward and Executive Compensation* and in the General Term and Condition “Reporting Subawards and Executive Compensation.”

- **Farmland Protection Policy Act:** This statute requires EPA to use criteria developed by the Natural Resources Conservation Service (NRCS) to identify the potential adverse effects of Federal programs on farmland and its conversion to nonagricultural uses, to mitigate these effects, and to ensure that programs are carried out in a manner that is compatible with the farmland preservation policies of state and local governments, and private organizations. Recipients may need to work with EPA or NRCS, as appropriate, to ensure compliance.

- **Coastal Zone Management Act:** Projects funded under federal financial assistance agreements must be consistent with a coastal State's approved management program for the coastal zone.

**** END OF ASSISTANCE AGREEMENT ****

Attachment C – Proposer Information and Certification Form

Proposer Information and Certification Form

All proposers must complete this form in order to be eligible for a contract award under this Request for Proposals (RFP).

Legal Business Name	
Business Address (City, State, Zip)	
Name of the Key Point of Contact	
Phone Number for the Key Point of Contact	
Email for the Key Point of Contact	

, as an authorized representative of my firm, certify the principal owner(s) of , are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. If selected under this Request for Proposals, my firm and/or its subconsultant will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. My firm and any subconsultant will maintain such compliance throughout the term of this contract.

Signature Full Name

, as an authorized representative of my firm, certify the principal owner(s) of agree to the indemnity and insurance requirements described in the Legal terms and Conditions of the Everport Terminal Services Request for Proposals for Zero-Emission Battery-Electric Yard Tractors at the Port of Los Angeles. I also certify that the insurance requirements described in the Legal Terms and Conditions are presently part of existing insurance held by my company today, or will be obtained prior to entering into a contract with Everport Terminal Services.

Signature Full Name

Date

Attachment D – CEC Form 55

FORM 55

Prohibited Contributors
(Bidders)

Los Angeles City ETHICS COMMISSION

This form must be completed in its entirety and submitted with your bid or proposal to the City department that is awarding the contract. Failure to submit a completed form may affect your bid or proposal. If you have questions about this form, please contact the Ethics Commission at (213) 978-1960.

☐ **Original Filing** ☐ **Amendment:** Date of Signed Original _____ Date of Last Amendment _____

Reference Number (Bid, Contract, or BAVN): _____ Date Bid Submitted: _____

Contract Description (Title of the RFP or City contract solicitation and description of the services to be provided):

_____

Awarding Authority (Department awarding the contract): **Everport Terminal Services/Harbor Department**

Bidder Name: _____

Bidder Address: _____

Bidder Email Address: _____ Bidder Phone Number: _____

Schedule Summary

Please complete all three of the following:

1. **SCHEDULE A — Bidder's Principals** *(check one)*
   The bidder has one or more **PRINCIPALS,** as defined in LAMC § 49.7.35(A)(6).
   At least one principal is required for entities. *(If you check "Yes", Schedule A is required.)*
   Yes ☐ No ☐

2. **SCHEDULE B — Subcontractors and Their Principals** *(check one)*
   The bidder has one or more **SUBCONTRACTORS** on this bid or proposal with subcontracts worth $100,000 or more. *(If you check "Yes", Schedule B is required.)*
   Yes ☐ No ☐

3. **TOTAL NUMBER OF PAGES SUBMITTED** (including this cover page): _____

Certification

I certify the following under penalty of perjury under the laws of the City of Los Angeles and the state of California:
A) I understand, will comply with, and have notified my principals and subcontractors of the requirements and restrictions in Los Angeles City Charter § 470(c)(12) and any related ordinances; B) I understand that I must amend this form within ten business days if any information changes; C) I am the bidder named above or I am authorized to represent the bidder named above, and my name appears below; and D) The information provided in this form is true and complete to the best of my knowledge and belief.

_____ Name

_____ Signature

_____ Title

_____ Date

FORM 55

Prohibited Contributors
(Bidders)

Los Angeles City ETHICS COMMISSION

Schedule A – Bidder's Principals

Please identify the names and titles of all the bidder's principals (attach additional sheets if necessary). Principals include a bidder's board chair, president, chief executive officer, chief operating officer, and individuals who serve in the functional equivalent of one or more of those positions. Principals also include individuals who hold an ownership interest in the bidder of at least 20 percent and employees of the bidder who are authorized by the bid or proposal to represent the bidder before the City.

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

☐ Check this box if additional Schedule A pages are attached.

FORM 55

Prohibited Contributors
(Bidders)

Los Angeles City ETHICS COMMISSION

Schedule B - Subcontractors and Their Principals

Please identify all subcontractors whose subcontracts are worth $100,000 or more. Separate Schedule B pages are required for each subcontractor who meets the threshold.

Subcontractor's Name
Subcontractor's Address

Please check one of the following options:

This subcontractor has one or more principals. ☐ **Yes*** ☐ **No**

* *Each principal's name and title must be identified below. Attach additional sheets if necessary. Principals include a subcontractor's board chair, president, chief executive officer, chief operating officer, and individuals who serve in the functional equivalent of one or more of those positions. Principals also include individuals who hold an ownership interest in the subcontractor of at least 20 percent and employees of the subcontractor who are authorized by the bid or proposal to represent the subcontractor before the City.*

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

☐ **Check this box if additional Schedule B pages are attached.**

Attachment E – Affirmative Action Program

AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is $25,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Contract:

A. During the performance of a City Contract, the Contractor certifies and represents that the Contractor and each Subcontractor hereunder 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, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section 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. The Contractor shall post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor 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, domestic partner status or medical condition.

D. The Contractor 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 DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Contracts and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The 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 DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Contract, the Contract 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 the City of Los Angeles. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City of Los Angeles 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 the Contractor has been guilty of a 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 the Contractor by the City of Los Angeles under the contract, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Contract.

H. Notwithstanding any other provisions of a City Contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

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. By affixing its signature to a Contract that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Contract. 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 Program.

1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

(ii) Notifying minority, women and other community organizations of employment opportunities.

(iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.

(iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.

(v) Promoting after school and vacation employment opportunities for minority, women and other youth.

(vi) Validating all job specifications, selection requirements, tests, etc.

(vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.

(viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

(b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.

(d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.

(e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.

(f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.

(g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Contracts. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Contracts.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:

(i) What steps were taken, how and on what date.

(ii) To whom those efforts were directed.

(iii) The responses received, from whom and when.

(iv) What other steps were taken or will be taken to comply and when.

(v) Why the Contractor has been or will be unable to comply.

2. Every contract of $25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by 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, Subcontractor'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.

M. Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action 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.

N. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.

O. All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City 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 the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.