



**CITY OF SAN DIEGO
PURCHASING & CONTRACTING DEPARTMENT
1200 Third Avenue, Suite 200
San Diego, CA 92101-4195**

REQUEST FOR PROPOSALS (RFP) (COVER SHEET)

Goods and Services: Lease for the Redevelopment, Operation and Maintenance of the City-owned Village Grill, 1770 Village Place, San Diego, CA 92101

Solicitation Number: RFP No. 1770

Solicitation Issue Date: April 19, 2017

Proposal Due Date and Time (Closing Date): 5:00 p.m. Pacific Time on June 26, 2017

City Contact: Roswitha Sanchez, roswithas@saniego.gov, phone (619) 236-6721

Recommended Site Inspection: Monday, May 8, 2017 at 10:00 a.m. at the Village Grill, 1770 Village Place, San Diego, CA 92101. Contact City Contact by May 3, 2017, if you are planning to attend.

Questions and Comments Due: No later than May 24, 2017 at 5:00 p.m. P.S.T

Duration of Offer: By submitting a proposal, the proposer guarantees that the offer is firm for ninety (90) calendar days commencing the day following the Closing Date. Proposer agrees to accept a resulting contract subject to the terms and conditions stated herein. If an award is not made during that period, proposer's offer shall automatically extend for another ninety (90) calendar days unless the proposer indicates otherwise in writing thirty (30) calendar days prior to the end of the first ninety (90) calendar day period to the City Contact.

Proposer _____

Street Address _____

City _____

Telephone No _____

E-Mail _____

PROPOSER'S AUTHORIZED REPRESENTATIVE. Proposer is required to sign this document and return three (3) originals and five (5) copies of their proposal in sealed envelopes or cartons to the City Contact. Proposer shall also include an electronic copy of their proposal. Proposer agrees to furnish and deliver all goods and/or provide all services set forth or otherwise identified above subject to the terms and conditions specified herein. An original signature below is required. By signing below, the signer declares under penalty of perjury that she/he is authorized to submit and sign this proposal.

Signature of Proposer's Authorized Representative

Print Name

Title

Signature

Date

The City of San Diego (City) is requesting proposals from qualified firms or individuals, hereafter referred to as “Proposer(s)”, to develop, operate, lease and maintain the Village Grill (“Property”), located at 1770 Village Place, San Diego, CA 92101 in Balboa Park, as further described in Section A below. The City is seeking proposals that reflect the City’s desire to have an operator who provides a high level of service to the local and regional community, while operating the Property in a fiscally responsible manner. The City is also seeking proposals that include innovative ideas to remodel or redevelop the Property to better incorporate the physical structures that comprise the Property into the overall architectural design of Balboa Park. Development, operation and maintenance of the Property shall be in accordance with the terms and conditions contained in this RFP and, if awarded, pursuant to the lease agreement (Lease) to be negotiated with the City, subject to approval by the City’s City Council.

A. BACKGROUND

1. Description of Balboa Park

Balboa Park is located north east of downtown San Diego and consists of approximately 1,200 acres. It is bounded by Upas Street on the North, Interstate 5 on the South, 28th Street on the East, and 6th Avenue on the West. Balboa Park is comprised of seventeen (17) museums and cultural institutions, the Old Globe Theatre and the world famous San Diego Zoo. In 2004, Balboa Park was recognized as the thirteenth best urban park in the world by the Project for Public Spaces in New York. In April 2008, Sunset Magazine rated Balboa Park as the number one park of the West.

Balboa Park is known for its botanical displays with 15,000 trees and fourteen (14) specialty gardens. Also within the park is Florida Canyon, with 150 acres of native landscape, Florida Canyon is the largest area of native open space in the downtown area of San Diego. There are currently fourteen (14) restaurants located within the various institutions of the Park. These include Panama 66, located at the Sculpture Garden at the San Diego Museum of Art, the Prado at Balboa Park, located at the House of Hospitality, and Albert’s Restaurant, located within the San Diego Zoo.

An estimated ten million people visit Balboa Park each year. Balboa Park sponsors “Free Tuesdays” each week, which features complimentary admission to alternating park museums. Various activities and special events occur within Balboa Park throughout the year. Proposers are encouraged to visit the City’s website for additional information about these activities and events. There are large scale annual events, such as December Nights which typically attracts over 200,000 people each year.

2. Description of Property

The City's Real Estate Assets Department, in cooperation with the City's Park and Recreation Department, manages the Property as depicted on **Exhibit "A"–Village Grill Lease Area and Vicinity**, attached hereto.

The Property was constructed in 1973 and has not undergone a major renovation since then. Repairs were done in 2012, which consisted of sewer line replacement and floor drain relining. The Property is comprised of an approximately 850 square foot building on a 8,250 square foot site that is currently outfitted with a kitchen service counter, roll-down window grills, and an exhaust hood system.

3. Type of Proposals Sought

The City is seeking proposals to develop, operate, lease and maintain the Property. Proposers are encouraged to propose innovative uses, services, and activities that would improve services and benefits to the public, which are consistent with the City's need to preserve and protect its park resources, thereby resulting in additional income to the Proposer and the City. The City is seeking a proposal that will include to remodel or redevelop the Property. The Proposer should offer a variety of high quality, nutritious food and drink options. The Proposer may apply for a beer and wine license, which would allow alcoholic beverages to be sold only within the Property.

Each proposal should reflect the City's desire to have a Lease in which the Selected Proposer serves the public, maintains the Property, and develops, manages and operates the Property and any related activities in a fiscally responsible manner.

The Property is located within Balboa Park's National Historic Landmark District. As such, any remodel or redevelopment will be subject to the United States Secretary of the Interior's Standards for Historic Properties. In preparing his/her proposal, each Proposer should consider all laws and available industry guidelines as applicable to historical resources, liability, public health standards, recreational operations, Americans with Disabilities Act (ADA) access, and the highest standards of maintenance of the Property and equipment. The Proposer shall also consider the review process for remodel or redevelopment of the Property, which may include review by the following:

- Balboa Park Committee
- Historical Resources Board's Design Assistance Committee
- Historical Resources Board
- Park and Recreation Board

B. REMODEL OR REDEVELOPMENT OF PROPERTY

If the proposal that is selected includes plans to remodel or redevelop the Property, it is anticipated that this RFP will result in exclusive negotiations with the Selected Proposer to further refine the remodel or redevelopment concept and to allow an opportunity for the

Selected Proposer to obtain any necessary funding, approvals, entitlements, and permits for the project and operations.

As the central core of Balboa Park is a designated National Historic Landmark District, any modification to the Property will be highly regulated. Any plans to remodel or redevelop the Property must closely adhere to the established historic design themes that exhibit the Spanish-Renaissance style of the Prado or Southwestern vernacular style of the Spanish Village. All proposed exterior modifications should be compatible with the surrounding historic architecture using similar materials and should follow surrounding historic design themes. It would be to each Proposer's advantage to inspect the Property prior to completing this RFP. A site inspection will be scheduled for this purpose with representatives of the City present to answer questions and tour the Property.

Depending on the scope of work/modifications proposed, a project to remodel or redevelop the Property may, at minimum, require permits from the City's Development Services Department and the County of San Diego's Department of Environmental Health. Exterior improvements to the Property will also require historic review and will need to be reviewed by the City's Historic Resources Board's Design Assistance Subcommittee.

If the proposal includes a major reconstruction of the Property, the proposal may be subject to review for consistency with the Balboa Park Master Plan and Central Mesa Precise Plan. Pursuant to the Central Mesa Precise Plan, the plans to redevelop the Property must include an area reserved or designated for a future visitor center. In addition, a plan to redevelop will be reviewed by the Balboa Park Committee, the Park and Recreation Board, and the Historic Resources Board.

Prevailing wage rates may apply to any remodel or redevelopment of the Property, which may include but not be limited to "public works," "alteration" activities, and "preconstruction" services under the California Labor Code.

Once a proposal has been selected it is anticipated that the Lease for the Property will be executed by the City and the Selected Proposer. The Lease term shall be contingent upon the Selected Proposer's commitment of capital investment required to remodel and redevelop the Property. Based on the estimated financial commitment required, the City may, if appropriate, issue rent credits to assist with the financial viability of the proposal. The Lease is subject to the approval of the Mayor and City Council.

Proposals shall consider all applicable laws and available industry guidelines as they apply to liability, public health standards, recreational operations, Americans with Disabilities Act (ADA) access, and the highest standards of maintenance of all Property and equipment. Proposals must address any required off-site improvements, including but not limited to, curbs, gutters, sidewalks, utilities, landscaping, and ADA compliance for the Property.

C. OPERATING PLAN

Proposals must include a conceptual plan for any proposed changes or additions to the Property. Proposals shall include, at a minimum, detailed responses for the following requirements:

1. A preliminary site and floor plan showing the general location of all of the existing and any proposed capital improvements and/or major equipment in or around the Property, including a development schedule, a description of any demolition proposed, and a projection of development and construction costs. Drawings do not need to be detailed construction drawings but should be drawings to a consistent scale in sufficient detail to clearly show the types, dimensions and locations of all proposed improvements and Property.
2. A program plan providing a description of hours of operation and the type of food and beverages to be served.
3. A proposed Lease term and a statement justifying the proposed Lease term, which shall include a statement of annual gross revenue projections for the proposed term of the Lease, and a financing plan.
4. A list of rent percentages by category for the proposed Lease term and the proposed initial minimum rent including any request for reduced rent (rent credits) during construction.

The Selected Proposer must provide the necessary trade fixtures and equipment needed to provide the level of service included within the proposal.

D. LEASE TERMS

The City anticipates entering into the Lease with the Selected Proposer, to memorialize in detail the elements of the selected proposal. The following terms and conditions shall be incorporated into the Lease to be negotiated and executed between the Selected Proposer and the City, subject to modification, deletion, and additional terms and conditions as determined by the City in the City's sole discretion:

1. Uses.

The use of the Property shall be limited to the operation and maintenance of food and beverage concession/restaurant and other related and incidental purposes as described within the proposal and approved by the City in the City's sole discretion.

2. Term.

The Lease term proposed by the Proposer must be justified on the basis of capital investment in improvements, equipment, and promoting the Property and services thereon to the general public.

3. Rent.

The Selected Proposer shall propose a base rent as a guaranteed minimum annual rent, in addition to a percentage rent derived from operation of the Property. Suggested minimum percentage rent of gross income for various types of business activities are as follows:

<u>Percentages</u>	<u>Business Activities</u>
Twelve percent (12%)	Sale of food and beverages, including alcoholic beverages; Service charges/banquets/gratuities.
Twenty percent (20%)	All other authorized operations.
Fifty percent (50%)	Of all revenue received from any wireless telecommunication equipment installed and operated from the Property.

- a. Minimum Rent. The annual minimum rent will be adjusted every five (5) years during the term of the Lease to eighty percent (80%) of the annual average rents paid by the Proposer during the previous five years.
- b. Unauthorized Use Charge. The Selected Proposer shall pay the City one-hundred percent (100%) of the gross receipts for any service or use that is not permitted by the Lease.
- c. Gross Income. Gross income (Gross Income) shall include all income resulting from the operation of the Property from whatever source derived whether received or to become due; provided, however, that Gross Income shall not include federal, state or municipal taxes collected from the consumer (regardless of whether the amount is stated to the consumer as a separate charge) and paid periodically by the Selected Proposer to a governmental agency accompanied by a tax return or statement as required by law. Possessory interest taxes or other property taxes shall not be deducted by the Selected Proposer in computing Gross Income. Gross Income shall not include refund of deposits.

- d. Delinquent Rent. If the Selected Proposer fails to pay all or any part of the rent when due, the Selected Proposer shall pay, in addition to the unpaid amount, five percent (5%) of the unpaid amount. If the rent is still unpaid at the end of fifteen (15) days, the Selected Proposer shall pay an additional five percent (5%) of the unpaid amount [for a total of ten percent (10%)], which is hereby mutually agreed by the parties to be appropriate to compensate the City for loss resulting from the delinquency, including lost interest, lost opportunities, legal costs, and the cost of servicing the delinquent account. Notwithstanding the foregoing, in no event shall the charge for late payment of rent be less than Twenty-Five Dollars (\$25) each time. In no event shall any penalties or default interest rates charged to the Selected Proposer exceed the amount permitted under applicable law. After thirty (30) days past due, unpaid amounts due to the City under the Lease may be referred to the City Treasurer for collection, and shall be subject to San Diego Municipal Code section 22.1707, as may be amended from time to time. The Selected Proposer shall pay to the City any collection-referral fee and all other fees and charges plus interest as may then be charged by the City Treasurer under authority of the San Diego Municipal Code. Acceptance of late charges and any portion of the late payment by the City shall neither constitute a waiver of the Selected Proposer's breach or default with respect to the late payment nor prevent the City from exercising any other rights and remedies available at law or in equity. As required by law, the Selected Proposer is hereby notified that a negative credit report may be submitted to a credit reporting agency if amounts due the City are not paid when due.
4. Time and Place of Payment. Payments are due on or before the last day of the calendar month following the calendar month in which the Gross Income subject to Percentage Rent was earned. All payments to be paid by the Selected Proposer under the Lease shall be made payable to the City Treasurer and be mailed to:
- San Diego City Treasurer
P.O. Box 129030
San Diego, California 92112-9030
- Or hand delivered to:
- The Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue, First Floor
San Diego, California 92101
5. The City may change the place of payment at any time upon thirty (30) days written notice to the Selected Proposer. Mailed payments shall be deemed paid upon the date the payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed received only upon actual receipt. Selected Proposer

assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

6. Records and Reports. The Selected Proposer shall keep complete and accurate accounting records, which shall be subject to City review at reasonable times to determine the nature and amounts of income from the activities on the Property. Records shall be kept for at least five (5) years following the expiration or earlier termination of the Lease. The records may be periodically audited by the City.
7. Audit Cost. The full cost of the City's audit will be borne by the City unless one or both of the following conditions exists, in which case the Selected Proposer agrees to pay the City's cost of audits:
 - a. The audit(s) reveal an underpayment of more than five percent (5%) or more than Ten Thousand Dollars (\$10,000), whichever is less, between the rent due as reported and the rent paid by the Selected Proposer.
 - b. The Selected Proposer has failed to maintain complete and true books, records, accounts and supporting documents in strict accordance with the conditions of the Lease.
8. Right to Assign and Sublet. The Selected Proposer may not assign the Lease or any interest therein and may not sublet any portion thereof without prior written consent from the City. The City's approval, however, may be conditioned upon the proposed assignee agreeing to revisions to the Lease to reflect market conditions or City requirements that are then in effect. In order for the City to consent to a proposed assignee, that assignee shall be acceptable to the City in terms of financial and professional capabilities to operate the Property services at Balboa Park, as determined by the City.
9. Equity Participation. The City may require the Selected Proposer to pay the City two percent (2%) of the gross amount paid for the leasehold in connection with approved assignment of the Lease; two percent (2%) of any amount paid to the selected operator in consideration of a sublease of all or a majority portion of leasehold; or two percent (2%) of the amount of any increased loan or encumbrance against the Property over and above the amount of the encumbrance needed to finance the improvements. The amount upon which the two percent (2%) shall be based shall be total consideration resulting from the transaction including total cash payments and the market value of non-cash consideration, including but not limited to stocks.
10. Compliance with Laws. The Selected Proposer shall secure and maintain full compliance with all applicable municipal, county, state, and federal laws and regulations at its own cost, regarding all aspects of the Lease and activities at the Property.

11. Encumbrance of Lease. The Selected Proposer shall not encumber the Lease, its interest in the Lease, or any improvements on the Property by deed of trust, mortgage, chattel mortgage, or other security instrument without the City's prior written consent.
12. Utilities. The Selected Proposer agrees to order, obtain and pay for all utilities and service and installation charges in connection with the operation of the Property, of which will be provided and installed by the City. All utilities shall be installed underground.
13. Restriction on Plastic Food Containers. The Selected Proposer shall not provide to its customers any prepared, takeout, or supplied/resale food in polystyrene foam packaging, nor shall the Selected Proposer obtain or keep any such customer food packaging at or on the Property. The Selected Proposer's food packaging for all foods shall be recyclable plastic or recyclable paper, and the Selected Proposer shall deliver to the City, upon request, evidence of such in the form of paid invoices for the purchase of recyclable plastic or recyclable paper containers in amounts sufficient to indicate compliance with this section. Post-consumer recycled plastic or recycled paper is preferred for all customer food packing related to the use and operation of the Property. No biodegradable or compostable packaging is to be used by the Selected Proposer in lieu of recyclable plastic or recyclable paper unless with the prior written approval of the City's Environmental Services Department. "Supplied/Resale food" means foods or beverages which are supplied by a third party to the Selected Proposer for either preparing food or beverages onsite or direct sell. "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are not intended for reuse, and on or in which any prepared food or takeout food is provided on or from the Property. The Selected Proposer should also limit its distribution of plastic bags to its customers.
14. Hazardous Substances. The Selected Proposer shall not allow the illegal installation, storage, utilization, generation, sale or release of a Hazardous Substance or otherwise regulated substance in, on, under or from the Property. The Selected Proposer and the Selected Proposer's agents and contractors shall not install, store, utilize, generate or sell any Hazardous Substance on the Property without City's prior written consent. The Selected Proposer shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

- a. Release. A “release” shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a hazardous substance.
- b. Hazardous Substance. “Hazardous Substance” shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.
- c. Remediation. If the Selected Proposer’s occupancy, use, development, maintenance or restoration of the Property results in a release of a Hazardous Substance, the Selected Proposer shall pay all costs of remediation and removal to the City’s satisfaction for unrestricted reuse of the Property, and in accordance with all applicable laws, rules and regulations of governmental authorities.
- d. Removal. If the Selected Proposer or the Selected Proposer’s contractor or agent has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances or hazardous wastes to the Property, the Selected Proposer and/or the Selected Proposer’s contractors or agents shall remove all Hazardous Substances and hazardous wastes in any type of container, equipment or device from the Property immediately upon or prior to the expiration or earlier termination of the Lease. Upon City’s request, the Selected Proposer shall deliver to City true copies of documentation demonstrating the legal removal and/or disposal of the Hazardous Substances and/or hazardous wastes, containers, equipment or devices from the Property. The Selected Proposer shall be responsible for any and all costs incurred by City to remove any container, equipment or device requiring disposal or removal as required by this provision.
- e. Indemnity. The Selected Proposer shall protect, defend, indemnify, and hold City harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from the Selected Proposer’s occupancy, use, development, maintenance, or restoration of the Property, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary City response costs; (v) all fines, penalties, or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, the selected Proposer’s officers, employees, invitees, guests, agents, or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- f. Notice of Release. If the Selected Proposer knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Property, the Selected Proposer shall immediately notify City and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. The Selected Proposer shall

deliver a written report thereof to City within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If the Selected Proposer knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, the Selected Proposer shall take all actions necessary to alleviate the danger. The Selected Proposer shall immediately notify City in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Property.

15. Nondiscrimination. The Selected Proposer shall not discriminate in any manner against any person by reason of race, color, religion, gender, gender expression, gender identity, sexual orientation, medical status, national origin, age, marital status, or disability in the use of the Property. The Selected Proposer shall comply with the City's programs for equal employment opportunities. This program includes requiring the Selected Proposer to submit a Work Force Report (see attached **Exhibit B**), and in some cases an Equal Opportunity Plan. The Selected Proposer shall comply with the San Diego Municipal Code sections 22.4301-22.4308, which requires such contractors of City-owned property to offer the same employment benefits to employees with spouses and employees with domestic partners. By entering into the Lease, the Selected Proposer shall certify that it will maintain such equal benefits throughout the term of the Lease.
16. Insurance. The Selected Proposer shall be required to carry the following, with all liability limits to be per site and not a cumulative limit:
 - a. General Commercial Liability. The Selected Proposer shall be required to carry commercial general liability and property damage insurance, naming the City as an additional insured, in the amount of not less than Two Million Dollars (\$2,000,000) per occurrence and subject to an annual aggregate of Four Million Dollars (\$4,000,000). The Selected Proposer is required to carry a policy of fire, extended and special form insurance with replacement cost coverage on all permanent property of an insurable nature located upon the Property in an amount equal to the full replacement of all improvements.
 - b. Automobile Liability. The Selected Proposer shall be required to carry automobile liability insurance, providing coverage to the City for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000).
 - c. Workers Compensation Liability. The Selected Proposer shall be required to carry a worker's compensation insurance with employer's liability coverage with a limit of at least One Million Dollars (\$1,000,000), and special form insurance with replacement cost coverage on all permanent property of an insurable nature located upon the Property in an amount equal to the full

replacement of all improvements. Liability limits are to be per site and not a cumulative limit.

- d. Cyber Liability Insurance. The Selected Proposer shall provide, at its sole cost and expense, evidence of Cyber Liability insurance with limits of not less than \$1,000,000 for each occurrence and an annual aggregate of \$2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. Such coverage is required only if any products and/or services related to information technology (including hardware and/or software) are provided to the Selected Proposer and for claims involving any professional services for which the Selected Proposer's contractor is engaged with the Selected Proposer for such length of time as necessary to cover any and all claims.
 - e. Crime Insurance. The Selected Proposer shall keep in full force and effect a crime insurance policy which shall include employee dishonesty/fidelity coverage for a minimum of twenty-five thousand dollars (\$25,000.00) per employee or one hundred thousand dollars (\$100,000.00) blanket limit. This coverage shall protect against loss by the theft or mysterious disappearance of property by any of Selected Proposer's employees or third parties while the Property are in the care, custody, or control of Selected Proposer resulting directly or indirectly from the performance or execution of the Lease, and a contract or subcontract thereunder.
- 17. Indemnity. The Selected Proposer shall agree to indemnify, defend, and hold the City harmless from liability in connection with any and all construction, operations and activities on the Property and Balboa Park.
 - 18. Taxes. The Selected Proposer must pay any and all taxes and assessments, including possessory interest taxes levied by reason of its possession, or use of the Property.
 - 19. Default. The City will reserve the right to terminate the Lease in the event of Selected Proposer's failure to pay any rent, fees or other amounts within five (5) days of notice thereof, or to cure any curable default or breach within thirty (30) days of notice thereof.
 - 20. Permits and Licenses. The Selected Proposer will be required to obtain all necessary permits and licenses for the operations and activities on the Property, at the Selected Proposer's sole cost and expense. By selecting a proposal or executing the Lease, neither the City nor the San Diego City Council is obligating itself to the Selected Proposer or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to any occupancy, use, maintenance or restoration of the Property. "Discretionary action" includes without limitation rezonings, variances, environmental clearances and all other required governmental

approvals. The Selected Proposer must maintain an “A” rating issued by the County Department of Environmental Health.

21. Payment Card Industry Data Security Standards. If Selected Proposer chooses to accept credit cards, Selected Proposer agrees to pay for all associated fees and to install a dedicated phone line for the acceptance of credit card payments.
 - a. Selected Proposer's Certification. The Selected Proposer shall certify that it will implement and at all times comply with the most current Payment Card Industry Data Security Standards (PCI DSS) regarding data security. The Selected Proposer will provide written annual confirmation of PCI DSS compliance from the credit card types used by the City (i.e. VISA, MasterCard, Discover, and American Express). The Selected Proposer will immediately notify the City if it undergoes, or has reason to believe that it will undergo, an adverse change resulting in the loss of compliance with the PCI DSS standards and/or other material payment card industry standards. In addition, the Selected Proposer shall provide payment card companies, acquiring financial institutions, and their respective designees required access to the Selected Proposer's Property and all pertinent records as deemed necessary by the City to verify the Selected Proposer's compliance with the PCI DSS requirements.
 - b. Data Security. The Selected Proposer shall acknowledge responsibility for the security of cardholder data as defined within PCI DSS standards. The Selected Proposer shall undergo independent third party quarterly system scans that audit for all known methods hackers use to access private information, in addition to vulnerabilities that would allow malicious software (i.e., viruses and worms) to gain access to or disrupt network devices. Upon request, the Selected Proposer will provide the City's Chief Information Security Officer with copies of the quarterly scans for verification. The Selected Proposer will provide reasonable care and efforts to detect fraudulent credit card activity in connection with credit card transactions processed during the performance of the Lease.
 - c. Use of Data. The Selected Proposer shall acknowledge and agree that it may only use cardholder data for completing the work as described in the Lease consistent with PCI DSS standards or applicable law. The Selected Proposer shall maintain and protect in accordance with all applicable laws and PCI DSS standards the security of all cardholder data when performing the services.
 - d. Indemnity. The Selected Proposer shall indemnify and hold harmless the City, its officers, and employees from and against any claims, loss, damages, or other harm related to a data security breach or the Selected Proposer's failure to maintain PCI DSS compliance standards.
 - e. Notification Requirements. The Selected Proposer shall immediately notify the City's Chief Information Security Officer of any breach, intrusion, or

unauthorized card access to allow the proper PCI DSS breach notification process to commence. The Selected Proposer shall agree to assume responsibility for informing all affected individuals in accordance with applicable law. All notifications and required compliance documents regarding PCI DSS shall be sent to:

Chief Information Security Officer
1010 2nd Avenue, Suite 500
San Diego, CA 92101
Cybersecurity@sandiego.gov
(619) 533-4840

22. Non-responsibility. The City hereby disclaims any responsibility, liability or obligation to issue any permits or licenses or to waive any legal requirement by reason of selecting a Proposer or executing the Lease with the Selected Proposer.
23. Improvements and Alterations. All improvements, demolition, or alterations to the Property shall be in accordance with plans and specifications approved in writing by the City in advance and shall be at the sole cost and expense of the Selected Proposer.
24. Construction Requirements. The Selected Proposer shall construct all improvements in accordance with all federal, state and local laws, rules and regulations, including, but not limited to the California Environmental Quality Act, ADA and the Lease.
25. Prevailing Wage and Living Wage. By signing the Lease, the Selected Proposer certifies that he or she is aware of the wage provisions described herein and shall comply with such provisions before commencing work or services.
 - a. Prevailing Wage. If a Proposer's proposal seeks the payment of money or the equivalent of money from the City directly to or on behalf of the Proposer; transfer from the City of an asset of value for less than fair market price; fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the Lease, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the City; money loaned by the City that is to be repaid on a contingent basis; or credits that are applied by the City against repayment obligations to the City, then pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Lease is subject to State prevailing wage laws. For construction work performed under the Lease cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under the Lease cumulatively exceeding \$15,000, the Selected Proposer and its contractors and subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.

- (i) Compliance with Prevailing Wage Requirements. Pursuant to sections 1720 through 1861 of the California Labor Code, the Selected Proposer and its contractors and subcontractors shall ensure that all workers who perform work under the Lease are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.
 - (a) Copies of such prevailing rate of per diem wages are on file at the City and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. The Selected Proposer and its contractors and subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.
 - (b) The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of the Lease. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to the Lease in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of the Lease, each successive predetermined wage rate shall apply to the Lease on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of the Lease, such wage rate shall apply to the balance of the Lease.
- (ii) Penalties for Violations. The Selected Proposer and its contractors and subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 - 1861.
- (iii) Payroll Records. The Selected Proposer and its contractors and subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and

certifying payroll records, and making them available for inspection. The Selected Proposer shall require its contractors and subcontractors to also comply with section 1776. The Selected Proposer and its contractors and subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. The Selected Proposer is responsible for ensuring its contractors and subcontractors submit certified payroll records to the City. The Selected Proposer, its contractors and subcontractor shall also furnish the records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required in Labor Code section 1771.4.

- (iv) Apprentices. The Selected Proposer and its contractors and subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. The Selected Proposer shall be held responsible for their compliance as well as the compliance of their contractors and subcontractors with sections 1777.5, 1777.6 and 1777.7.
- (v) Working Hours. The Selected Proposer and its contractors and subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.
- (vi) Required Provisions for Subcontracts. The Selected Proposer shall include at a minimum a copy of the following provisions in any contract they enter into with a contractor or subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.
- (vii) Labor Code Section 1861 Certification. The Selected Proposer in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing the Lease, the Selected Proposer will certify that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Lease."
- (viii) Labor Compliance Program. The City has its own Labor Compliance Program authorized in August 2011 by the DIR. The City will withhold

contract payments when payroll records are delinquent or deemed inadequate by the City or other governmental entity, or it has been established after an investigation by the City or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego's Equal Opportunity Contracting Department at 619-236-6000.

- (ix) Contractor and Subcontractor Registration Requirements. Any proposed remodel of the Property is subject to compliance monitoring and enforcement by the DIR. A contractor or subcontractor shall not be qualified to bid on, be listed in a proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter of the Labor Code unless currently registered and qualified to perform the work pursuant to Labor Code section 1725.5. In accordance with Labor Code section 1771.1(a), "[i]t is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 2103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."
- (a) A Proposer's inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in a response to a solicitation shall not be grounds for filing a protest or grounds for considering the proposal non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to issuing the RFP; (2) within twenty-four hours after the issuing of the RFP, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered contractor pursuant to Public Contract Code section 4107.
- (b) A contract entered into with any contractor or subcontractor in violation of Labor Code section 1771.1(a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of section 1725.5 of this section.
- (c) By submitting a proposal to the City, Proposer is certifying that he or she has verified that all subcontractors proposed to be used on any projects listed in its proposal are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Proposer shall provide proof of subcontractor registration to the City upon request.

- b. Living Wages. The Lease is subject to the City’s Living Wage Ordinance (“LWO”), codified at SDMC sections 22.4201 through 22.4245. The LWO requires payment of minimum hourly wage rates and other benefits unless an exemption applies. SDMC section 22.4225 requires each Proposer to fill out and file a living wage certification with the City Manager within thirty (30) days of award of the Lease. LWO wage and health benefit rates are adjusted annually in accordance with SDMC section 22.4220(b) to reflect the Consumer Price Index. Service contracts, financial assistance agreements, and City facilities agreements must include this upward adjustment of wage rates to covered employees on July 1 of each year. In addition, the Selected Proposer agrees to require all of its contractors, subcontractors, sublessees, and lessees subject to the LWO to comply with the LWO and all applicable regulations and rules.
 - (i) Exemption from Living Wage Ordinance. Pursuant to SDMC section 22.4215, the Lease may be exempt from the LWO. For a determination on this exemption, Selected Proposer must complete the Living Wage Ordinance Application for Exemption.
- c. Highest Wage Rate Applies. The Selected Proposer is required to pay the highest applicable wage rate where more than one wage rate applies.

25. Performance and Payment Bond.

- a. The Selected Proposer shall provide to City, prior to commencement of any construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated design and construction costs of the work to be performed. The bond shall be a corporate surety bond or other security satisfactory to City. The bond shall insure that the construction to be commenced by the Selected Proposer shall be completed in accordance with the plans approved by City or, at the option of City that the uncompleted construction shall be removed and the Property restored to a condition satisfactory to City. The bond or cash shall be held in trust by City for the purpose specified above, or at City’s option may be placed in an escrow approved by City. This requirement is not intended to be duplicative of a construction bond otherwise required of the Selected Proposer.
- b. Prior to the commencement of any work on the Property, Selected Proposer shall deliver to City a payment bond (materials and labor bond) in an amount not less than one hundred percent (100%) of the total amount payable under the contract(s) for construction on the Property to satisfy claims of material suppliers and of mechanics and laborers employed on the contract(s) for construction on the Property. The bond shall be provided in compliance with California Civil Code sections 9550-9566. The bond shall be executed by an admitted surety, consistent with California Code of Civil Procedure section 995.670, that is authorized by the State of California Department of Insurance to transact surety

insurance in the State. Selected Proposer shall maintain the bond in full force and effect until all improvements for the construction on the Property are accepted by City and until all claims for materials and labor are paid, and must otherwise comply with the Government Code. Should the bond become insufficient, Selected Proposer shall renew, or cause the renewal of, the bond within ten (10) calendar days after receiving notice from City.

26. Ownership of Improvements. All improvements except trade fixtures installed during the term of the Lease shall become the property of the City, at the City's option, upon termination of the Lease. If City elects, all improvements shall be removed from the Property and any other areas of Balboa Park at the termination or expiration of the Lease, at the Selected Proposer's sole cost and expense. If City elects, the Selected Proposer must remove all trade fixtures and personal property upon termination or expiration without cost to the City or damage to the Property.
27. Maintenance. The Property is offered to be leased "as is" and all maintenance and repairs shall be the responsibility of the Selected Proposer throughout the entire term of the Lease without expense to the City. The Selected Proposer shall maintain the Property and all improvements thereon in a clean, safe and well-maintained condition throughout the term of the Lease, to the satisfaction of the City and in compliance with all applicable laws. Selected Proposer shall keep the areas adjacent to the Property clean and clear of refuse.
28. Equipment. The Selected Proposer shall furnish all equipment necessary for the operation of the Property in conformity with this RFP and the Lease, and agrees to properly maintain such equipment.
29. Hours of Operation. A regular schedule of days and hours of operation shall be established by the Selected Proposer to best serve the public. The schedule shall be subject to prior written approval by the City.
30. Criminal Background Screenings. The City may require background investigations on all employees of the Selected Proposer assigned to the Lease, including when information becomes available that indicates a potential breach in safety or security.
31. Special Provisions.
 - a. Supervision. The Selected Proposer shall have qualified on-site personnel to conduct and operate activities at the Property at all times when open to the public. The Selected Proposer and the Selected Proposer's employees shall at all times conduct themselves in a professional, creditable and polite manner in the operations at the Property.
 - (i) The City may request that the Selected Proposer immediately remove from assignment to the City any employee, found unfit to perform duties at the

discretion of the City and the Selected Proposer shall comply with all such requests

32. General Contract Terms and Provisions. The General Contract Terms and Provisions Applicable to Goods, Services, and Consultant Contracts (“GCTP”), attached hereto as **Exhibit F**, shall be incorporated in to the Lease as if fully set forth in the Lease. For purposes of the Lease, the following terms used in the GCTP shall have the following meanings: (1) “Contractor” shall mean the Selected Proposer; (2) “Purchasing Agent” shall mean the Director of City’s Real Estate Assets Department; and (3) “Contract” shall mean the Lease. If the Lease conflicts with the GCTP, the Lease shall control. Varying degrees of stringency among the Lease, its exhibits and the GCTP are not deemed conflicts, and the most stringent requirement shall control.

E. **RESPONSIBILITY OF PROPOSERS**

1. Proposers are responsible for carefully examining this RFP and all documents incorporated into this RFP by reference before submitting a proposal. Selected Proposer shall be bound by same unless the City has accepted Selected Proposer’s exceptions, if any, in writing.
2. Each Proposer is responsible for making all investigations and examinations necessary for formulating proposals and developing and operating the Property. Submission of a proposal will be considered evidence that proposers have familiarized themselves with the nature and extent of the requirements and has made such investigations and examinations.
3. The Selected Proposer shall be responsible for obtaining all necessary approvals and permits to the satisfaction of the City.
4. Proposers may withdraw their proposals at any time prior to the selection of a Proposer, upon written notice to the City Contact.

F. **PROPOSAL CONTENTS**

All proposals must include at a minimum the information specified below. Failure to include the information shall be cause to deem a proposal non-responsive and result in its complete rejection. The inclusion of additional information that will assist the City in the evaluation is encouraged. The adequacy, depth and clarity of the proposal will influence, to a considerable degree, its evaluation, as further stated in Section K herein. Each proposal submitted must be complete, and evaluation and selection of proposals shall be strictly based on the material contained in the proposals alone. Proposers are advised to submit thorough, complete proposals, since there will be no auction or competitive negotiation, and the City reserves the right to make a selection based solely on the information contained in submitted proposals.

Each proposal **MUST** include the following items:

1. **Cover Sheet**. Each Proposer shall submit with its proposal the signed Request for Proposal (RFP) Cover Sheet.
2. **Experience**. A resume or summary of the Proposer's experience and qualifications for this type of enterprise. Proposer must have a minimum of 3 years' experience in the past 5 years operating facilities similar to the Property. If a Proposer is not going to be involved in the day-to-day operations of the Property, then the Proposer must include qualifications and verification that all persons to be employed in a management capacity at the Property are qualified sufficiently to all satisfy requirements contained in this RFP.
3. **Financial Statements**. Each Proposer must submit either: (a) financial statements for the preceding three years that were audited or prepared by a certified public accountant; or (b) tax returns for the preceding three years. Each Proposer shall submit a full and detailed statement of their true financial condition as of January 1, 2016, or as recent as possible if that date is not available. The statement shall include the Proposer's assets, liabilities and net worth, including the availability of operation capital and its source. If the Proposer plans to use borrowed capital, then the amount of borrowed capital proposed for the improvements and operation, and its source and terms of repayment, must be included in the financial statement.
4. **Proposed Term**. Proposed term of the Lease and the justification therefor in terms of the amount of investment in the Property.
5. **Rental Offer**. Proposed guaranteed minimum annual rent and annual percentage rent to be paid to the City through the term of the Lease.
6. **Development/Operating Plan**. Proposer must submit a Development/Operating Plan as set forth in Section C, above.
7. **Work Force Report**. Proposer must submit with its proposal a completed Work Force Report, attached as **Exhibit "B"**.
8. **Lessee Questionnaire**. Proposer must submit with its proposal a completed Lessee Questionnaire, attached as **Exhibit "C"**.
9. **Credit Information Request**. Proposer must submit a completed Credit Information Request, attached as **Exhibit "D"**.
10. **Certification**. By submission of a proposal, Proposer certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal, State or Local departments or agencies. Proposer shall submit with its

proposal a completed City of San Diego Contractor Standards Pledge of Compliance, attached as **Exhibit “E”**.

11. Business Tax Certificate. Proposer shall submit with its proposal a copy of its business tax certificate, or a copy of its application receipt. For more information visit the City of San Diego website at www.sandiego.gov/treasurer/ or call (619) 615-1500.
12. Miscellaneous Submittals. Required submittals as further set forth in Section D, above.

G. NONCONFORMING PROPOSALS

Proposers requesting deviations from the provisions of this RFP must specifically identify the requirements being deviated from and address the requested deviation(s) in their proposals. The City is not obligated to accept any proposal, whether conforming or nonconforming.

H. PRE-PROPOSAL INSPECTION

It is strongly suggested that all Proposers attend the pre-proposal inspections in order to give Proposers an opportunity to view the Property as set forth in Request for Proposals (RFP) Cover Sheet. Attendance is not mandatory. Failure to attend does not relieve Proposer of the responsibility to fulfill all RFP requirements. It is the sole responsibility of the Proposer to become familiar with the scope of the City's requirements prior to submitting a proposal.

I. QUESTIONS AND COMMENTS

Written questions and comments must be electronically mailed (e-mailed) to the City Contact no later than the date specified on the Request for Proposals (RFP) Cover Sheet. Only written communications relative to the RFP shall be considered. E-mail is the only acceptable method for submission of questions. It is incumbent upon Proposers to verify that the City has received their questions and/or comments. All responses to questions will be posted on the City's website at: <https://www.sandiego.gov/real-estate-assets/>. No oral communications can be relied upon for this RFP. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this RFP.

J. PROPOSAL SUBMISSION

1. Due Date

Proposals must be received at the address listed below no later than 5:00 p.m. on the date set forth in the Request for Proposals (RFP) Cover Sheet.

Proposals received after that time will not be considered.

2. Place of Delivery

All proposals should be delivered to:
City of San Diego
Real Estate Assets Department
1200 Third Avenue, Suite 1700
San Diego, CA 92101
Attn: Roswitha Sanchez

3. Faithful Performance Deposits

All proposals **MUST** include a cashier's check or certified check in the amount of Five Thousand Dollars (\$5,000), payable to City Treasurer, as a faithful performance deposit to assure that the Selected Proposer will enter, in good faith, into a Lease containing substantially the same terms and conditions as set out in this RFP and in the selected proposal. No personal checks will be accepted and no interest will be paid on deposits.

4. Number of Copies

Proposers are required to submit their proposals as set forth in the RFP Cover Sheet. All materials submitted by Proposers become the property of the City and may not be returned.

K. PROPOSAL EVALUATION AND SELECTION.

The City reserves the right to select the proposal that will provide the best value to the City given the requirements of this RFP. The City reserves the right, based upon its deliberations and in its opinion, to accept or reject any or all proposals at any time, including any proposals that have been scored or have been the subject of oral presentations and/or interviews. The City also reserves the right to waive minor irregularities or variations to the specifications stated herein and in the solicitation process, provided that such a waiver does not provide an unfair competitive advantage to a Proposer.

The City has the right to accept the proposal that serves the best interest of the City, as submitted, without discussion or negotiation. Proposers should, therefore, not rely on having a chance to discuss, negotiate, and adjust their proposals. The City may negotiate

the terms of the Lease with the Selected Proposer based on the RFP and the Selected Proposer's proposal, or award the Lease without further negotiation.

The City reserves the right to inspect the Proposer's equipment and facilities to determine if the Proposer is capable of fulfilling the Lease. Inspection will include, but not limited to, survey of Proposer's physical assets and financial capability. Proposer, by signing the RFP Cover Sheet and submitting a proposal agrees to the City's right of access to physical assets and financial records for the sole purpose of determining the Proposer's capability to perform pursuant to the Lease. Should the City conduct this inspection, the City reserves the right to disqualify a Proposer who does not, in the City's judgment, exhibit the sufficient physical and financial resources to perform pursuant to the Lease.

Proposals shall be evaluated in a two-step process by an evaluation committee of qualified City staff, and if necessary other persons selected by the City.

In Step One, the committee will evaluate all responsive proposals based upon the information and references contained in the proposals as submitted. The committee will then score and rank all responsive proposals based on the evaluation criteria indicated below.

If the score of the highest scoring proposal resulting from Step One is more than ten (10) points greater than any of the scores of the other proposals, and the committee is satisfied that the highest scoring proposal is sufficient for recommendation, the highest scoring proposal will be recommended to the City Council for award. The recommended Proposer may be required to appear before the City Council and any of its committees to answer questions.

If one or more proposals score within ten (10) points of the highest scoring proposal, the process will proceed to Step Two. Only the Proposer with the highest scoring proposal and the Proposer(s) scoring within ten (10) points or less of the highest scoring proposal (collectively the "finalists") will be asked to participate in Step Two. In Step Two, the finalists will be required to provide an oral presentation and/or participate in an interview of key personnel by appearing before the evaluation committee or by conference telephone call. The purpose of the oral presentation/interview is to provide the committee with an opportunity to further evaluate the finalists' proposals, which may include requesting clarification to the finalists' proposals and developing rapport. The finalists are required to make the oral presentation/interview within seven (7) workdays after request by the City. The committee may also inspect the finalists' facilities and perform other due diligence as it may determine. The committee may then, at the committee's sole discretion, add up to eleven (11) additional points to the score of any finalist.

If the committee is satisfied that the first-ranked proposal resulting from Step Two is sufficient for recommendation, it will be recommended to the City Council for award. The recommended Proposer may be required to appear before the City Council and any of its committees to answer questions and for award of the Lease.

Selection of the proposal to be recommended to the City Council for award of the Lease will be based on the evaluation criteria listed below:

1. **Responsiveness (Maximum 25 points):**

The extent to which a proposal clearly addresses the elements of this RFP, including: quality, attractiveness, and thoroughness of the proposal; responsiveness to the requirements described in the RFP; quality and extent of Property operations and understanding the needs, goals and objectives of the City while providing the highest and best use of the Property.

2. **Rental Offer and Financial Projections (Maximum 20 points):**

City will consider the amount of rent offered by the Proposer and the overall financial benefit of the proposal to the City. The proposal should provide a detailed description of the Proposer's break-even analysis, setting forth the point at which the business will generate enough income to cover its expenses and begin generating an income. The proposal will be evaluated on the attractiveness of, and demonstrated ability to achieve the revenue projection.

3. **Qualifications (Maximum 20 points):**

The extent to which a proposal demonstrates, among other things, the following: the Proposer's experience and qualifications in successfully managing an operation of the type of enterprise proposed for the Property; experience with concession/restaurant operations; and ability to implement the components of the proposal. The Proposer should include verification that his/her employees are well qualified to conduct the business. The Proposer should have at a minimum three (3) years of experience in the past five (5) years in conducting similar operations.

4. **Financial Capability (Maximum 25 points):**

The extent to which a Proposer demonstrates, among other things, the following: the necessary financial capability and strength to successfully develop and operate the Property in accordance with the proposal and the Lease, including the possibility of obtaining bonding; ability to adequately staff the proposed operation on the Property; and possession of, or ability to obtain, additional financing to address unexpected or emergency circumstances at the Property.

5. **Community/Public Service (Maximum 10 points):**

The Proposal will be evaluated based on the Proposer's overall ability to best serve the needs of the public by providing the most benefits which are accessible to all community members and the general public.

Total Points: 100

6. Oral Presentation/Interview (If Necessary)-Maximum 11 points)

L. ANNOUNCEMENT OF AWARD

1. Intent to Award of Lease. The City will inform all proposers in writing of its intent to award a Lease, subject to approval by City Council.
2. Obtaining Proposal Results. No proposal results can be obtained until the City announces the proposal best meeting the City's requirements. Proposal results may be obtained by: (1) e-mailing a request to the City Contact identified on the RFP Cover Sheet or (2) visiting the READ e-procurement system to review the proposal results. To ensure an accurate response, requests should reference the Solicitation Number set forth in the RFP Cover Sheet. Proposal results will not be released over the phone.

M. ADDITIONAL INFORMATION FROM PROPOSERS

The City reserves the right to request information from Proposers to clarify information pursuant to this RFP.

N. INCURRED COSTS

Each Proposer is solely and fully responsible for any and all costs associated with submitting a proposal in response to this RFP. The City will not be responsible for any costs, expense or burden incurred by Proposers in the preparation and submission of proposals.

O. CONTACT WITH CITY STAFF

Unless otherwise authorized herein, Proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are prohibited from communicating with City staff or evaluation committee members about this RFP from the date this RFP is issued until the date of final passage of City Council approval of the Lease to the Selected Proposer.

P. ADDENDA

The City may issue addenda to this RFP as necessary. All addenda are incorporated into the RFP. The Proposer is responsible for determining whether any addenda were issued prior to submitting a proposal. Failure to respond to or properly address addenda may result in rejection of a proposal.

Q. PUBLIC RECORDS

All proposals and all contents thereof received shall be considered confidential until the City's Real Estate Assets Department recommends a proposal to the City Council. By signing this RFP and submitting a proposal, the Proposer acknowledges that any information submitted in response to this RFP is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If the Proposer submits information clearly marked confidential or proprietary, the City may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of the Proposer to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, the Proposer must provide a specific and detailed legal basis, including applicable case law that clearly establishes the requested information is exempt from the disclosure under the CPRA. If the Proposer does not provide a specific and detailed legal basis for requesting the City to withhold Proposer's confidential or proprietary information at the time of proposal submittal, City will release the information as required by the CPRA and Proposer will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the Proposer's obligation to defend, at Proposer's expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the Proposer's request. Furthermore, Selected Proposer shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City's refusal to release Lease information requested under the CPRA which was withheld at Selected Proposer's request. Nothing in the Lease creates any obligation on the part of the City to notify the Selected Proposer or obtain the Selected Proposer's approval or consent before releasing information subject to disclosure under the CPRA.

R. CITY RIGHT TO REJECT ALL PROPOSALS

Notwithstanding any other provision of this RFP, the City reserves the right to reject all offers and proposals regarding this RFP and the Property, including those submitted by the Proposers who have any outstanding debt with the City. The City reserves the right to determine which proposal it deems in the best interest of the City to accept. The City also reserves the right to waive any informality not material to cost or performance in any proposal provided that any such waiver is deemed to be inconsequential and does not provide an unfair competitive advantage to any Proposer.

S. QUALIFICATION OF PROPOSAL

This is not a bid solicitation and the City is not obligated to accept any proposal or to negotiate with any Proposer. The City Council reserves the right to reject any or all proposals without cause or liability. All transactions discussed, referenced, or implied herein are subject to final approval by the City Council.

T. NON-DISCRIMINATION NOTICE

It is the policy of the City not to discriminate against the disabled in employment or provision of services. The information contained in this RFP will be made available in alternative formats to disabled persons upon request. It is the policy of the City to encourage equal opportunity in its contracts and agreements. The City endeavors to do business with firms sharing the City's commitment to equal opportunity and will not do business with any firm that discriminates on the basis of race, religion, color, ancestry, age, gender, gender expression, gender identity, sexual orientation, disability, medical condition or place of birth.

U. COMPLIANCE WITH CITY'S EQUAL OPPORTUNITY CONTRACTING PROGRAM

Proposer understands that failure to comply with the following requirements and/or submitting false information in response to these requirements may result in rejection of the proposal by the City and debarment of the Proposer from participating in City contracts for a period of not less than one (1) year:

1. Equal Opportunity Contracting. Proposer acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. Proposer and all of its subcontractors are individually responsible to abide by its contents.
2. Civil Rights Act. Proposer shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. Proposer will not discriminate against any employee or applicant for employment on any basis prohibited by law.
3. Equal Employment Opportunity. Proposer shall submit a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan, as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that Proposer will take to achieve the City's commitment to equal employment opportunities. A copy of the Work Force Report is attached as **Exhibit "B"**.

Proposer shall insert the foregoing provisions in all contracts and subcontracts for any work covered by the proposal so that such provisions will be binding upon each contractor and subcontractor. Proposer agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by the City's Equal Opportunity Contracting Program staff.

4. Equal Benefits. Proposer shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require lessees of City-owned property to offer the same employment benefits to employees with spouses and employees with domestic partners. Proposer shall certify that it will maintain such equal benefits throughout the term of the Lease.
5. Local Business and Employment. Proposer acknowledges that the City seeks to promote employment and business opportunities for local residents and firms in all City contracts. Proposer shall, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with the proposal from local residents and firms as opportunities occur. Proposer shall hire qualified local residents and firms whenever feasible.

V. RETURN OF FAITHFUL PERFORMANCE DEPOSIT

All good faith deposits will be returned to unsuccessful Proposer(s) within thirty (30) days of final passage of City Council approval of the Lease to the Selected Proposer. For the Selected Proposer, the deposit will be applied to the Lease deposit upon completion of negotiations and execution of the Lease between the Selected Proposer and the City. Should the Selected Proposer unilaterally withdraw from Lease negotiations, the deposit shall be forfeited to the City.

W. PROTESTS

The City's protest procedures are codified in Chapter 2, Article 2, Division 30 of the San Diego Municipal Code and San Diego Council Policy 000-29, as amended from time to time. These procedures shall apply to this RFP and provide unsuccessful Proposers with the opportunity to challenge the City's determination on legal and factual grounds. The City will not consider or otherwise act upon an untimely protest.

X. ASBESTOS DISCLOSURE

Portions of certain structures on the Property may contain asbestos. By virtue of its submission of a proposal, Proposer acknowledges having received notice from City of the presence of such asbestos in accordance with Health and Safety Code Section 25915. Proposer shall indemnify and hold City harmless from any loss or claim which may result from existence of asbestos on the Property.

Y. REAL ESTATE BROKER'S COMMISSION

The City will not pay a brokerage commission in this RFP.

Z. SCHEDULE OF EXHIBITS

1. Exhibit A: Property Location Map (Village Grill Lease Area & Vicinity)
2. Exhibit B: Work Force Report
3. Exhibit C: Lessee Questionnaire
4. Exhibit D: Credit Information Request
5. Exhibit E: City of San Diego Contractor Standards Pledge of Compliance

The foregoing forms listed as Exhibit “B” through Exhibit “E” are required to be completed and submitted with the proposal. Failure to submit any of the forms listed as Exhibit “B” through Exhibit “E” will result in the City deeming the proposal incomplete and non-responsive.

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EXHIBIT “A”

**PROPERTY LOCATION MAP
Village Grill Lease Area & Village Grill and Vicinity**

BALBOA PARK

VILLAGE GRILL LEASE AREA

2017



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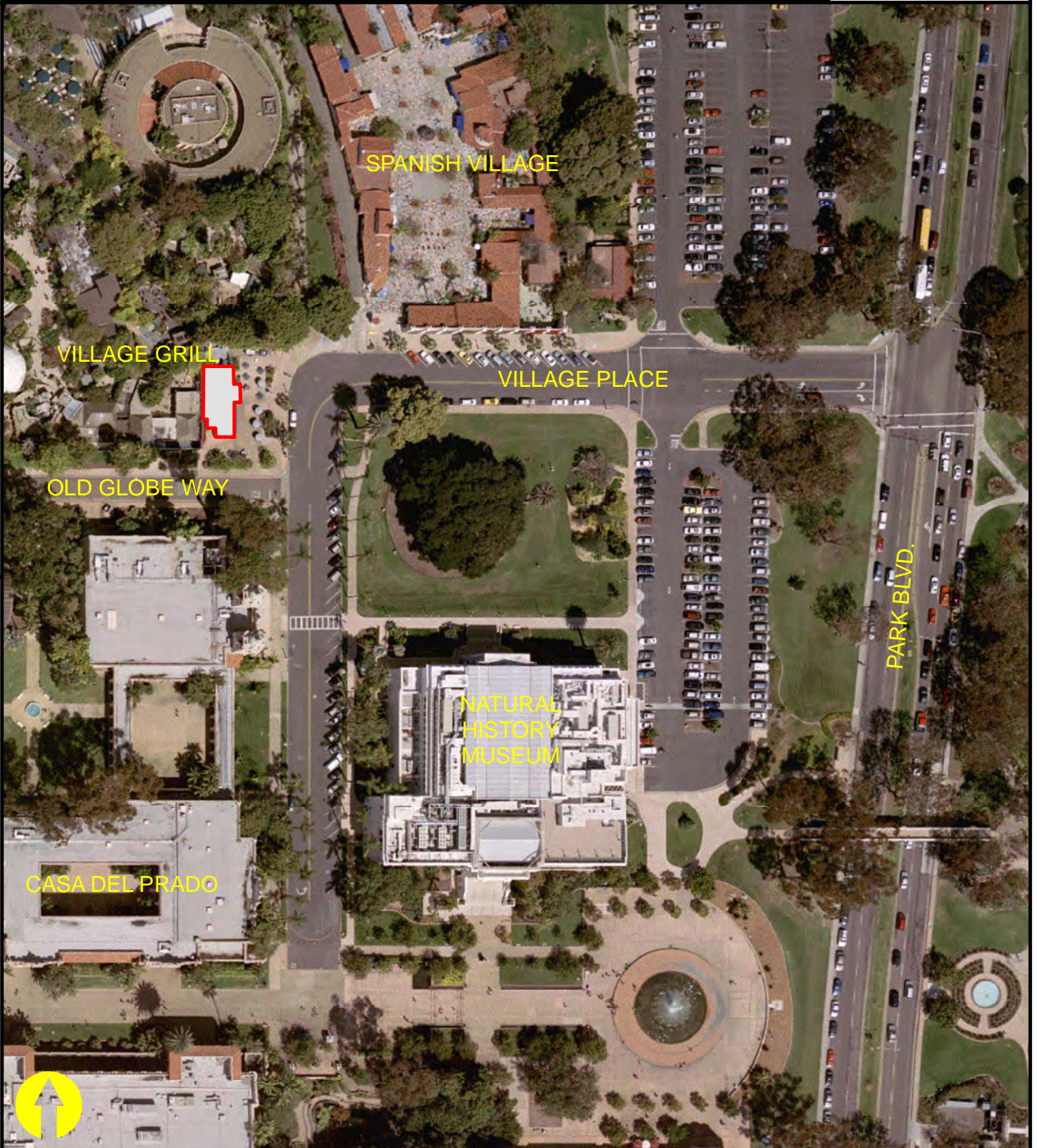
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BALBOA PARK VILLAGE GRILL AND VICINITY

2017



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WORK FORCE REPORT – Page 2

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial														
Professional														
A&E, Science, Computer														
Technical														
Sales														
Administrative Support														
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														
Totals Each Column														
Grand Total All Employees														
Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:														
Disabled														



CITY OF SAN DIEGO WORK FORCE REPORT

HISTORY

The Work Force Report (WFR) is the document that allows the City of San Diego to analyze the work forces of all firms wishing to do business with the City. We are able to compare the firm's work force data to County Labor Force Availability (CLFA) data derived from the United States Census. CLFA data is a compilation of lists of occupations and includes the percentage of each ethnicity we track (Black, Hispanic, Asian, American Indian, Filipino) for each occupation. Currently, our CLFA data is taken from the 2010 Census. In order to compare one firm to another, it is important that the data we receive from the consultant firm is accurate and organized in the manner that allows for this fair comparison.

WORK FORCE & BRANCH WORK FORCE REPORTS

When submitting a WFR, especially if the WFR is for a specific project or activity, we would like to have information about the firm's work force that is actually participating in the project or activity. That is, if the project is in San Diego and the work force is from San Diego, we want a San Diego County Work Force Report.¹ By the same token, if the project is in San Diego, but the work force is from another county, such as Orange or Riverside County, we want a Work Force Report from that county.² If participation in a San Diego project is by work forces from San Diego County and, for example, from Los Angeles County and from

Sacramento County, we ask for separate Work Force Reports representing your firm from each of the three counties.

MANAGING OFFICE WORK FORCE

Equal Opportunity Contracting may occasionally ask for a Managing Office Work Force (MOWF) Report. This may occur in an instance where the firm involved is a large national or international firm but the San Diego or other local work force is very small. In this case, we may ask for both a local and a MOWF Report.^{1,3} In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.³

TYPES OF WORK FORCE REPORTS:

Please note, throughout the preceding text of this page, the superscript numbers one ¹, two ² & three ³. These numbers coincide with the types of work force report required in the example. See below:

- ¹ One San Diego County (or Most Local County) Work Force – Mandatory in most cases
- ² Branch Work Force *
- ³ Managing Office Work Force

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

Exhibit A: Work Force Report Job categories-Administration

Refer to this table when completing your firm's Work Force Report form(s).

Management & Financial

Advertising, Marketing, Promotions, Public Relations, and Sales Managers
Business Operations Specialists
Financial Specialists
Operations Specialties Managers
Other Management Occupations
Top Executives

Professional

Art and Design Workers
Counselors, Social Workers, and Other Community and

Social Service Specialists
Entertainers and Performers, Sports and Related Workers
Health Diagnosing and Treating Practitioners
Lawyers, Judges, and Related Workers
Librarians, Curators, and Archivists
Life Scientists
Media and Communication Workers
Other Teachers and Instructors
Postsecondary Teachers
Primary, Secondary, and Special Education School Teachers
Religious Workers
Social Scientists and Related Workers

Architecture & Engineering, Science, Computer

Architects, Surveyors, and Cartographers
Computer Specialists
Engineers
Mathematical Science Occupations
Physical Scientists

Technical

Drafters, Engineering, and Mapping Technicians
Health Technologists and Technicians
Life, Physical, and Social Science Technicians
Media and Communication Equipment Workers

Sales

Other Sales and Related Workers
Retail Sales Workers
Sales Representatives, Services
Sales Representatives, Wholesale and Manufacturing
Supervisors, Sales Workers

Administrative Support

Financial Clerks
Information and Record Clerks
Legal Support Workers
Material Recording, Scheduling, Dispatching, and Distributing Workers
Other Education, Training, and Library Occupations
Other Office and Administrative Support Workers
Secretaries and Administrative Assistants
Supervisors, Office and Administrative Support Workers

Services

Building Cleaning and Pest Control Workers
Cooks and Food Preparation Workers
Entertainment Attendants and Related Workers
Fire Fighting and Prevention Workers
First-Line Supervisors/Managers, Protective Service Workers
Food and Beverage Serving Workers
Funeral Service Workers
Law Enforcement Workers
Nursing, Psychiatric, and Home Health Aides
Occupational and Physical Therapist Assistants and Aides
Other Food Preparation and Serving Related Workers
Other Healthcare Support Occupations
Other Personal Care and Service Workers
Other Protective Service Workers
Personal Appearance Workers
Supervisors, Food Preparation and Serving Workers
Supervisors, Personal Care and Service Workers
Transportation, Tourism, and Lodging Attendants

Crafts

Construction Trades Workers
Electrical and Electronic Equipment Mechanics, Installers, and Repairers
Extraction Workers
Material Moving Workers
Other Construction and Related Workers
Other Installation, Maintenance, and Repair Occupations
Plant and System Operators
Supervisors of Installation, Maintenance, and Repair Workers
Supervisors, Construction and Extraction Workers
Vehicle and Mobile Equipment Mechanics, Installers, and Repairers
Woodworkers

Operative Workers

Assemblers and Fabricators
Communications Equipment Operators
Food Processing Workers
Metal Workers and Plastic Workers
Motor Vehicle Operators
Other Production Occupations
Printing Workers
Supervisors, Production Workers
Textile, Apparel, and Furnishings Workers

Transportation

Air Transportation Workers
Other Transportation Workers
Rail Transportation Workers
Supervisors, Transportation and Material Moving Workers
Water Transportation Workers

Laborers

Agricultural Workers
Animal Care and Service Workers
Fishing and Hunting Workers
Forest, Conservation, and Logging Workers
Grounds Maintenance Workers
Helpers, Construction Trades
Supervisors, Building and Grounds Cleaning and Maintenance Workers
Supervisors, Farming, Fishing, and Forestry Workers

Exhibit B: Work Force Report Job categories-Trade

Brick, Block or Stone Masons

Brickmasons and Blockmasons
Stonemasons

Carpenters

Carpet, floor and Tile Installers and Finishers

Carpet Installers
Floor Layers, except Carpet, Wood and Hard Tiles
Floor Sanders and Finishers
Tile and Marble Setters

Cement Masons, Concrete Finishers

Cement Masons and Concrete Finishers
Terrazzo Workers and Finishers

Construction Laborers

Drywall Installers, Ceiling Tile Inst

Drywall and Ceiling Tile Installers
Tapers

Electricians

Elevator Installers and Repairers

First-Line Supervisors/Managers

First-line Supervisors/Managers of Construction Trades and Extraction Workers

Glaziers

Helpers, Construction Trade

Brickmasons, Blockmasons, and Tile and Marble Setters
Carpenters
Electricians
Painters, Paperhangers, Plasterers and Stucco
Pipelayers, Plumbers, Pipefitters and Steamfitters
Roofers
All other Construction Trades

Millwrights

Heating, Air Conditioning and Refrigeration Mechanics and Installers
Mechanical Door Repairers
Control and Valve Installers and Repairers
Other Installation, Maintenance and Repair Occupations

Misc. Const. Equipment Operators

Paving, Surfacing and Tamping Equipment Operators
Pile-Driver Operators
Operating Engineers and Other Construction Equipment Operators

Painters, Const. Maintenance

Painters, Construction and Maintenance
Paperhangers

Pipelayers and Plumbers

Pipelayers
Plumbers, Pipefitters and Steamfitters

Plasterers and Stucco Masons

Roofers

Security Guards & Surveillance Officers

Sheet Metal Workers

Structural Iron and Steel Workers

Welding, Soldering and Brazing Workers

Welders, Cutter, Solderers and Brazers
Welding, Soldering and Brazing Machine Setter, Operators and Tenders

Workers, Extractive Crafts, Miners

EXHIBIT "C"
LESSEE QUESTIONNAIRE

CITY OF SAN DIEGO

**LESSEE'S AND SUBLESSEE'S QUESTIONNAIRE
FOR ALL LEASES, ASSIGNMENTS AND SUBLEASES OF MORE THAN FIVE YEARS**

Before the City of San Diego will process requests to (Sub)Lease, all information requested in this Questionnaire must be completed by the proposed (Sub)Lessee. Even though a proposed Sublessee may complete the Questionnaire, the Questionnaire must be delivered or mailed to the City with a cover letter signed by the City Lessee or proposed Lessee. **THE CITY WILL NOT ACCEPT THE QUESTIONNAIRE, DOCUMENTS, OR OTHER INFORMATION DIRECTLY FROM A SUBLESSEE.**

All information furnished in this Questionnaire must be complete and accurate. Omissions, inaccuracies, or misstatements may cause the rejection and/or subsequent revocation of the City's Lease, consent to Sublease, or consent to Assignment of (Sub)Lease.

In submitting this Questionnaire, the proposed (Sub)Lessee completing the Questionnaire authorizes the City to make any inquiry or investigation it believes necessary to substantiate or supplement the information furnished in the Questionnaire, and authorizes others to release such information to the City.

Exact name of existing Lessee (always complete):

Exact name of proposed Lessee (complete only if applicable):

Exact name of existing Sublessee (complete only if applicable):

Exact name of proposed Sublessee (complete only if applicable):

Date this Questionnaire completed: _____, ____.

The information furnished in and with this Questionnaire is true, complete, and correct to the best of my knowledge.

Signature: _____

Title: _____

Thank you for taking the time to complete the Questionnaire. Lessees may contact Real Estate if they have any questions. Please return the completed Questionnaire, with any additional information or documents to:

REAL ESTATE ASSETS DEPARTMENT
1200 THIRD AVENUE STE. 1700
SAN DIEGO, CA 92101
TEL.: (619) 236-6020 FAX: (619) 236-6706

PROPOSED (SUB)LESSEE

1. Name of proposed (Sub)Lessee exactly as it will appear on the actual tenancy document:

2. Mailing Address of proposed (Sub)Lessee for purposes of notice or other communication relating to the proposed tenancy:

Telephone No.: _____ Fax. No.: _____
E-mail Address: _____

3. Billing Address (***only if different from Mailing Address***);

Telephone No.: _____ Fax. No.: _____

4. Proposed (Sub)Lessee intends to operate as a:

Sole Proprietorship (); Partnership (); Corporation ();
Limited Liability Company (); Other _____

Explain if necessary:

5. Effective date of assignment (complete only if applicable): _____

PARTNERSHIP STATEMENT

If proposed (Sub)Lessee is a partnership, please answer the following:

1. Date of Organization: _____
2. General Partnership ()
 Limited Partnership ()
 Other () Explain _____

3. Statement of Partnership recorded: Yes () No ()
- | Date | Book | Page | County |
|------|------|------|--------|
| | | | |

4. Has the partnership conducted business in San Diego County?
 Yes () No () If so, when? _____
 If so, where? _____

5. Name, address, and partnership share of each general and limited partner. If a general partner is another partnership, a corporation, or a limited liability company (LLC), please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page for identification purposes). If a limited partner holding a 10% or greater interest is another partnership, a corporation, or an LLC, pages 3; or 4 and 5; or 6 must also be completed for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page).

General/Limited	Name	Address	Share %

6. Attach a complete copy of the Partnership Agreement. If a Partnership Agreement has been previously submitted, a new Partnership Agreement need be submitted only if the

Partnership Agreement on file with the City is no longer current.

CORPORATION STATEMENT

If proposed (Sub)Lessee is a corporation, please answer the following:

1. Type of corporation: C () Subchapter S ()
2. When incorporated? _____
3. Where incorporated? _____
4. Is the corporation authorized to do business in California? Yes () No ()
If so, as of what date? _____
5. The corporation is held:
a. Publicly () Privately ()
b. If publicly held, how and where is the stock traded?

6. Please list the following:	<u>Authorized</u>	<u>Issued</u>	<u>Outstanding</u>
a. Number of voting shares:	_____	_____	_____
b. Number of nonvoting shares:	_____	_____	_____
c. Number of shareholders:			_____
d. Value per share of Common Stock:		Par	\$ _____
		Book	\$ _____
		Market	\$ _____

7. Please furnish the name, title, address, and the number of voting and nonvoting shares of stock owned by each officer and, in addition, the same information for each stockholder owning more than 10% of any class of stock.

Name: _____
Title: _____
Address: _____

No. of Shares: _____

Name: _____

Title: _____

Address: _____

No. of Shares: _____

Name: _____

Title: _____

Address: _____

No. of Shares: _____

Name: _____

Title: _____

Address: _____

No. of Shares: _____

Name: _____

Title: _____

Address: _____

No. of Shares: _____

(Additional page(s) may be added if needed to complete list of stockholders [type proposed (Sub)Lessee name (from page 2) on the top of each page].)

Any partnership, corporation, or LLC owning more than a 10% ownership interest must also complete separate pages 3; or 4 and 5; or 6, as appropriate for each entity (type proposed [Sub]Lessee name [from page 2] on the top of each page for identification purposes). Also, furnish the financial data for such partnership, corporation, or LLC, as required on page 7. If there is an ownership chain of additional partnerships, corporations, or LLCs, the above requirements extend to each such entity having either: (1) a 10% or greater direct, indirect, beneficial ownership, or membership interest in the proposed (Sub)Lessee; or (2) effective control of the proposed (Sub)Lessee, regardless of the percentage of ownership or membership interest.

LIMITED LIABILITY COMPANY STATEMENT

If the proposed (Sub)Lessee is an LLC, please answer the following:

1. Date of Organization: _____
2. Where Organized: _____
3. Is the Company authorized to do business in California?
 - a. Yes () No ()
 - b. If so, as of what date? _____
4. Has the Company conducted business in San Diego County?
 - a. Yes () No ()
 - b. If so, when? _____
 - c. If so, where? _____
5. Please furnish the name, address, and membership share held by each manager and officer, and each member owning more than a 10% membership interest. If a member is a partnership, corporation, or another LLC, please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page).

Manager/Officer/ Member	Name	Address	Share %

6. Attach a complete copy of the Operating Agreement. If an Operating Agreement has been previously submitted, a new Operating Agreement need be submitted only if the Operating Agreement on file with the City is no longer current.

FINANCIAL AND OTHER BACKGROUND INFORMATION

FINANCIAL STATEMENT

(Sub)Lessee, general partners of (Sub)Lessee, owner-corporations of (Sub)Lessee, members of (Sub)Lessee owning more than a 10% membership interest, and any person or business entity guaranteeing the performance of (Sub)Lessee **must attach a complete report, prepared in accordance with good accounting practice, reflecting current financial condition.** The report **must** include a balance sheet **and** annual income statement. The person or entity covered by the report must be prepared to substantiate all information provided.

OTHER INFORMATION

Each (Sub)Lessee, each general partner of (Sub)Lessee, each owner-corporation of (Sub)Lessee, each member of (Sub)Lessee owning more than a 10% membership interest, any person or business entity guaranteeing the performance of (Sub)Lessee, any person or entity owning more than a 10% interest of (Sub)Lessee, and any guarantor of (Sub)Lessee must answer the following questions:

1. **Surety Information** - Has a surety or bonding company ever been required to perform on the default of any of the individuals or entities?
 - a. Yes () No ()
 - b. If yes, please attach a statement naming the surety or bonding company, date, amount of bond, and the circumstances surrounding said default and performance.

2. **Bankruptcy Information** - Have any of the individuals or entities ever been adjudicated bankrupt or are any presently a debtor in a pending bankruptcy action?
 - a. Yes () No ()
 - b. If yes, please give dates, court jurisdiction, and amount of liabilities and assets.

3. **Pending Litigation** - Are any of the individuals or entities presently a party to ANY pending litigation?
 - a. Yes () No ()
 - b. If yes, please provide detailed information for each action.

4. **Claims, Liens, or Judgments** - Are any of the individuals or entities now subject to any outstanding claims, liens, or judgments?
 - a. Yes () No ()
 - b. If yes, please provide detailed information for each claim, lien, or judgment.

REFERENCES FOR PROPOSED (SUB)LESSEE

Please list four persons or firms with whom you have conducted business transactions during the past three years. Two of the references must have knowledge of your debt payment history, with at least one being a financial institution. Two of the references must have knowledge of your business experience.

REFERENCE NO. 1

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature and magnitude of purchase, sale, loan, business, association, etc.:

REFERENCE NO. 2

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature and magnitude of purchase, sale, loan, business, association, etc.:

REFERENCE NO. 3

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature and magnitude of purchase, sale, loan, business, association, etc.:

REFERENCE NO. 4

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature and magnitude of purchase, sale, loan, business, association, etc.:

CITY OF SAN DIEGO PERSONAL DESCRIPTION AND RELEASE

PLEASE NOTE: All partners, both general and limited; all stockholders owning more than 10% of any class of stock of corporations; all members of a limited liability company; and sole proprietors requesting to (sub)lease, must each complete this page before the tenancy request can be processed. (You may reproduce and use copies of this page, if necessary.)

The following personal information is required to initiate a credit investigation. The business and personal reputation of principals, partners, and members will be considered in qualifying Lessees or in consenting to Sublessees.

First, Middle, & Last Name _____
Date of Birth _____
Place of Birth _____
Social Security Number _____
Driver's License Number/State _____
Home Address _____

Previous Address _____

Home Telephone No. _____
Employer _____
Occupation _____
Business Address _____
Business Telephone No. _____
Business Fax No. _____

The City is hereby authorized to request a credit report and other information covering my financial and business history.

Date _____ Signed _____

Print or type exact name of proposed (Sub)Lessee from page 2 of Questionnaire:

METHOD OF OPERATION

Please describe your proposed business operation on the property to be (Sub)Leased. Discuss any optional services and uses which you propose to provide.

**PROPOSED METHOD OF FINANCING
DEVELOPMENT OR LEASEHOLD PURCHASE**

Describe the method of financing for the Leasehold purchase or any new or additional development on tidelands in excess of \$100,000. Include a schedule of approximate dates when construction of each significant improvement is expected to be commenced and completed.

ESTIMATE OF GROSS RECEIPTS

If this Questionnaire is being completed by a prospective Lessee, please show the best estimate of the average annual gross sales for each significant use or service, and for each significant optional use or service which the Lessee and its Sublessees (if any) plan to conduct on or from the property. (If the Questionnaire is being completed by a Sublessee, only the estimate of the Sublessee's gross sales is required.) This data will be used by the City to analyze the proposed Lease or Sublease Consent application. The time periods shown should not be assumed to necessarily represent the term of a (Sub)Lease that may be granted or consented to by the City.

Average annual gross sales for each proposed significant use during each of the first five operating years:

Year of Operation	Uses (Identify Each Use)				
1	\$	\$	\$	\$	\$
2					
3					
4					
5					

EXPERIENCE STATEMENT

Please describe in detail the duration and extent of your business experience, with special emphasis upon experience with the type of business which you propose to conduct on City property. Also state in detail the pertinent experience of the persons who will be directly involved in development and management of the business.

**TERMS AND CONDITIONS OF PURCHASE, SALE,
OR TRANSFER OF (SUB)LEASEHOLD INTEREST**

(NOTE: Complete this page only if the transaction involves a Lease transfer, or the transfer of a Sublease having a remaining term of more than five years.)

Please summarize the terms and conditions of the purchase, sale, or transfer of (Sub)Leasehold interest(s) which requires City consent, as specified in the Assignment-Sublease provisions of the City Lease. Please attach copies of the applicable sales agreement(s), escrow instructions, assignment agreement(s), or other documents in conjunction with the sale, purchase, or transfer of the (Sub)Leasehold interest(s).

EXHIBIT "D"
CREDIT INFORMATION REQUEST

CREDIT INFORMATION REQUEST

I/We hereby request and authorize you to release to the City of San Diego for verification purposes, personal and business credit reports and information concerning the company/corporation/partnership and/or the officers and individuals listed below. That information may include but is not limited to:

- 1) Employment history dates, titles, income, hours worked.
- 2) Banking (checking and savings) accounts of record.
- 3) Mortgage loan rating (open date, high credit, payment amount, loan balance, and payment).
- 4) Any information deemed necessary concerning a consumer credit report for my loan application.
- 5) This information is for the confidential use in compiling a credit report.
- 6) A facsimile, photographic or carbon copy of this authorization (being a facsimile, photographic or carbon copy of the signature(s) of the undersigned), may be deemed to be equivalent of the original and may be used as a duplicate original.

1. Name of Applicant:
(Please print or type)
Name of Business:
(If different from "applicant")
Telephone:
Name of Affiliated Business:
Telephone:
2. Name of Officer/Owner:
Address for the last two years:
Social Security Number:
Signature:
3. Name of Officer/Owner:
Address for the last two years:
Social Security Number:
Signature:

EXHIBIT “E”
CONTRACTORS STANDARDS PLEDGE OF COMPLIANCE

City of San Diego
CONTRACTOR STANDARDS
Pledge of Compliance

The City of San Diego has adopted a Contractor Standards Ordinance (CSO) codified in section 22.3004 of the San Diego Municipal Code (SDMC). The City of San Diego uses the criteria set forth in the CSO to determine whether a bidder or proposer has the capacity to fully perform the contract requirements and the business integrity to justify the award of public funds. This completed Pledge of Compliance signed under penalty of perjury must be submitted with each bid and proposal. If an informal solicitation process is used, the bidder must submit this completed Pledge of Compliance to the City prior to execution of the contract. All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, Respondents must provide responses on Attachment A to the Pledge of Compliance and sign each page. Failure to submit a signed and completed Pledge of Compliance may render the bid or proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed Pledge of Compliance is submitted. A submitted Pledge of Compliance is a public record and information contained within will be available for public review except to the extent that such information is exempt from disclosure pursuant to applicable law.

A. BID/PROPOSAL/SOLICITATION TITLE:

B. BIDDER/PROPOSER INFORMATION:

Legal Name	DBA		
Street Address	City	State	Zip
Contact Person, Title	Phone	Fax	

C. OWNERSHIP AND NAME CHANGES:

1. In the past five (5) years, has your firm changed its name?
Yes No

If **Yes**, use Attachment "A" to list all prior legal and DBA names, addresses, and dates each firm name was used. Explain the specific reasons for each name change.
2. In the past five (5) years, has a firm owner, partner, or officer operated a similar business?
Yes No

If **Yes**, use Attachment "A" to list names and addresses of all businesses and the person who operated the business. Include information about a similar business only if an owner, partner, or officer of your firm holds or has held a similar position in another firm.

D. BUSINESS ORGANIZATION/STRUCTURE:

Indicate the organizational structure of your firm. Fill in only one section on this page. Use Attachment "A" if more space is required.

Corporation Date incorporated: ___/___/___ State of incorporation: _____

List corporation's current officers: President: _____
Vice Pres: _____
Secretary: _____
Treasurer: _____

Is your firm a publicly traded corporation? **Yes** **No**

If **Yes**, name those who own ten percent (10 %) or more of the corporation's stocks:

Limited Liability Company Date formed: ____/____/____ State of formation: _____

List names of members who own ten percent (10%) or more of the company:

Partnership Date formed: ____/____/____ State of formation: _____

List names of all firm partners:

Sole Proprietorship Date started: ____/____/____

List all firms you have been an owner, partner or officer with during the past five (5) years. Do not include ownership of stock in a publicly traded company:

Joint Venture Date formed: ____/____/____

List each firm in the joint venture and its percentage of ownership:

Note: To be responsive, each member of a Joint Venture must complete a separate *Pledge of Compliance*.

E. FINANCIAL RESOURCES AND RESPONSIBILITY:

1. Is your firm preparing to be sold, in the process of being sold, or in negotiations to be sold?
Yes **No**

If **Yes**, use Attachment "A" to explain the circumstances, including the buyer's name and principal contact information.

2. In the past five (5) years, has your firm been denied bonding?
Yes **No**

If **Yes**, use Attachment "A" to explain specific circumstances; include bonding company name.

3. In the past five (5) years, has a bonding company made any payments to satisfy claims made against a bond issued on your firm's behalf or a firm where you were the principal?
Yes **No**

If **Yes**, use Attachment "A" to explain specific circumstances.

4. In the past five (5) years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?
Yes **No**

If **Yes**, use Attachment "A" to explain specific circumstances.

5. Within the last five years, has your firm filed a voluntary petition in bankruptcy, been adjudicated bankrupt, or made a general assignment for the benefit of creditors?

6. Please provide the name of your principal financial institution for financial reference. By submitting a response to this Solicitation Contractor authorizes a release of credit information for verification of financial responsibility.

Name of Bank: _____

Point of Contact: _____

Address: _____

Phone Number: _____

7. By submitting a response to a City solicitation, Contractor certifies that he or she has sufficient operating capital and/or financial reserves to properly fund the requirements identified in the solicitation. At City's request, Contractor will promptly provide to City a copy of Contractor's most recent balance sheet and/or other necessary financial statements to substantiate financial ability to perform.

F. PERFORMANCE HISTORY:

1. In the past five (5) years, has your firm been found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for defaulting or breaching a contract with a government agency?
Yes **No**

If **Yes**, use Attachment "A" to explain specific circumstances.

2. In the past five (5) years, has a public entity terminated your firm's contract for cause prior to contract completion?
Yes **No**

If **Yes**, use Attachment "A" to explain specific circumstances and provide principal contact information.

3. In the past five (5) years, has your firm entered into any settlement agreement for any lawsuit that alleged contract default, breach of contract, or fraud with or against a public entity?
Yes **No**

If **Yes**, use Attachment "A" to explain specific circumstances.

4. Is your firm currently involved in any lawsuit with a government agency in which it is alleged that your firm has defaulted on a contract, breached a contract, or committed fraud?

Yes No

If Yes, use Attachment "A" to explain specific circumstances.

5. In the past five (5) years, has your firm, or any firm with which any of your firm's owners, partners, or officers is or was associated, been debarred, disqualified, removed, or otherwise prevented from bidding on or completing any government or public agency contract for any reason?

Yes No

If Yes, use Pledge of Compliance Attachment "A" to explain specific circumstances.

6. In the past five (5) years, has your firm received a notice to cure or a notice of default on a contract with any public agency?

Yes No

If Yes, use Attachment "A" to explain specific circumstances and how the matter resolved.

7. Performance References:

Please provide a minimum of three (3) references familiar with work performed by your firm which was of a similar size and nature to the subject solicitation within the last five (5) years.

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date: _____

Contract Amount: _____

Requirements of Contract: _____

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date: _____

Contract Amount: _____

Requirements of Contract: _____

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date: _____

Contract Amount: _____

Requirements of Contract: _____

G. COMPLIANCE:

1. In the past five (5) years, has your firm or any firm owner, partner, officer, executive, or manager been criminally penalized or found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for violating any federal, state, or local law in performance of a contract, including but not limited to, laws regarding health and safety, labor and employment, permitting, and licensing laws?

Yes No

If **Yes**, use Attachment "A" to explain specific circumstances surrounding each instance. Include the name of the entity involved, the specific infraction(s) or violation(s), dates of instances, and outcome with current status.

2. In the past five (5) years, has your firm been determined to be non-responsible by a public entity?

Yes No

If **Yes**, use Attachment "A" to explain specific circumstances of each instance. Include the name of the entity involved, the specific infraction, dates, and outcome.

H. BUSINESS INTEGRITY:

1. In the past five (5) years, has your firm been convicted of or found liable in a civil suit for making a false claim or material misrepresentation to a private or public entity?

Yes No

If **Yes**, use Attachment "A" to explain specific circumstances of each instance. Include the entity involved, specific violation(s), dates, outcome and current status.

2. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a crime, including misdemeanors, or been found liable in a civil suit involving the bidding, awarding, or performance of a government contract?

Yes No

If **Yes**, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

3. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a federal, state, or local crime of fraud, theft, or any other act of dishonesty?

Yes No

If **Yes**, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

I. WAGE COMPLIANCE:

In the past five (5) years, has your firm been required to pay back wages or penalties for failure to comply with the federal, state or local prevailing, minimum, or living wage laws? **Yes No** If **Yes**, use Attachment "A" to explain the specific circumstances of each instance. Include the entity involved, the specific infraction(s), dates, outcome, and current status.

J. STATEMENT OF SUBCONTRACTORS:

Please provide the names and information for all subcontractors used in the performance of the proposed contract, and what portion of work will be assigned to each subcontractor. Subcontractors may not be substituted without the written consent of the City. Use Attachment "A" if additional pages are necessary. If no subcontractors will be used, please write "Not Applicable."

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date _____

Sub-Contract Dollar Amount: _____

Requirements of Contract: _____

What portion of work will be assigned to this subcontractor: _____

Is the Subcontractor a certified SLBE, ELBE, MBE, DBE, DVBE, or OBE? (Circle One) **YES NO**

If YES, Contractor must provide valid proof of certification with the response to the bid or proposal.

Company Name: _____

Contact Name and Phone Number: _____

Contact Email: _____

Address: _____

Contract Date _____

Sub-Contract Dollar Amount: _____

Requirements of Contract: _____

What portion of work will be assigned to this subcontractor: _____

Is the Subcontractor a certified SLBE, ELBE, MBE, DBE, DVBE, or OBE? (Circle One) **YES NO**

If YES, Contractor must provide valid proof of certification with the response to the bid or proposal.

K. STATEMENT OF AVAILABLE EQUIPMENT:

List all necessary equipment to complete the work specified. Use *Pledge of Compliance Attachment "A"* if additional pages are necessary. In instances where the required equipment is not owned by the Contractor, Contractor shall explain how the equipment will be made available before the commencement of work. The City of San Diego reserves the right to reject any response when, in its opinion, the Contractor has not demonstrated he or she will be properly equipped to perform the work in an efficient, effective manner for the duration of the contract period.

If no equipment is necessary to complete the work specified, please write "Not Applicable."

Equipment Description: _____

Owned Rented Other (explain below)

If Owned, Quantity Available: _____

Year, Make & Model: _____

Explanation: _____

Equipment Description: _____

Owned Rented Other (explain below)

If Owned, Quantity Available: _____

Year, Make & Model: _____

Explanation: _____

Equipment Description: _____

Owned Rented Other (explain below)

If Owned, Quantity Available: _____

Year, Make & Model: _____

Explanation: _____

L. TYPE OF SUBMISSION: This document is submitted as:

Initial submission of *Contractor Standards Pledge of Compliance*.

Update of prior *Contractor Standards Pledge of Compliance* dated ____/____/____.

Complete all questions and sign below.

Under penalty of perjury under the laws of the State of California, I certify that I have read and understand the questions contained in this Pledge of Compliance, that I am responsible for completeness and accuracy of the responses contained herein, and that all information provided is true to the best of my knowledge and belief. I agree to provide written notice to the Purchasing Agent within five (5) business days if, at any time, I learn that any portion of this Pledge of Compliance is inaccurate. Failure to timely provide the Purchasing Agent with written notice is grounds for Contract termination.

I, on behalf of the firm, further certify that I and my firm will comply with the following provisions of SDMC section 22.3004:

- (a) I and my firm will comply with all applicable local, State and Federal laws, including health and safety, labor and employment, and licensing laws that affect the employees, worksite or performance of the contract.
- (b) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of receiving notice that a government agency has begun an investigation of me or my firm that may result in a finding that I or my firm is or was not in compliance with laws stated in paragraph (a).
- (c) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).
- (d) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of becoming aware of an investigation or finding by a government agency or court of competent jurisdiction of a violation by a subcontractor of laws stated in paragraph (a).
- (e) I and my firm will cooperate fully with the City during any investigation and to respond to a request for information within ten (10) working days.

Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed *Pledge of Compliance* is submitted.

Name and Title

Signature

Date

City of San Diego
CONTRACTOR STANDARDS
Pledge of Compliance Attachment "A"

Provide additional information in space below. Use additional Attachment "A" pages as needed. Each page must be signed.
Print in ink or type responses and indicate question being answered.

I have read the matters and statements made in this Contractor Standards Pledge of Compliance and attachments thereto and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Print Name, Title

Signature

Date