

January 12, 2007

Dr. Geraldine Knatz
Executive Director
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Dear Dr. Knatz:

As you requested, enclosed are three documents representing how the Direct Service Contract model for port trucking would become operational. These documents represent months of hard work by member organizations of the Coalition for Clean and Safe Ports, who strongly support not only the goals of the Clean Air Action Plan, but also comprehensive reforms to the port trucking industry. We also recognize the tremendous amount of effort you and your staff have put into figuring out how best to reform port trucking.

While the members of the Coalition are committed to the standards described in these documents, we also see these documents as a starting point for discussing how a Direct Service Contract model should be implemented. We are sure that as you review this set of documents, you and your staff will have additional questions and that further discussion will be appropriate. Please do not hesitate to call on us as such questions occur. The documents I have enclosed are:

- 1) **Executive Summary.** This is a brief narrative which explains the key elements of the Request For Proposals.
- 2) **Request For Proposals.** This is the core technical document which details how the standards would be implemented, enforced and transitioned into. The RFP also proposes a revenue structure that we think incentivizes private investment to exceed the goals.
- 3) **RFP Scoring.** This document presents an option for scoring submissions to the RFP by motor carriers.

The members of the Coalition want to make this work and will continue working with you to develop successful implementation, transition and oversight mechanisms.

We greatly appreciate the productive dialogue that we have developed over the past several weeks and look forward to ongoing engagement in order to achieve successful implementation of port trucking reforms.

Sincerely yours,

Rev. William Smart
Co-Director, Ports Campaign
Los Angeles Alliance for a New Economy

**REQUEST FOR PROPOSALS
PORT DRAYAGE SERVICE CONTRACT
PORT OF CLEAR BAY**

EXECUTIVE SUMMARY

PURPOSE AND STRUCTURE

This draft Request for Proposals (RFP) is intended to lead to a restructured drayage system at the Port with reduced pollution, enhanced security and improved efficiency. The RFP is designed to limit port drayage to those operators that have made enforceable commitments to the Port as to their ability and willingness to reduce pollution, improve security and provide other benefits to the Port and the public.

Unlike many RFPs issued by governmental agencies, this RFP is expected to yield multiple contracts executed by multiple successful Applicants. The Federal Maritime Commission (FMC) scrutinizes actions taken by Ports to restrict markets, and any Port activity must "be lawful, not excessive, and reasonably related, fit and appropriate to the ends in view." It is therefore anticipated that the RFP process will result in a drayage market with multiple actors, healthy competition, and a level playing field open to all. The number of drayage companies to ultimately be selected through the RFP process will depend on the determination of the Port, in its expertise, in balancing the need for, on the one hand, a reasonable number of companies over which the Port can exercise oversight and administrative duties against, on the other hand, a market large enough to ensure fair competition.

The RFP comprises several parts, including an overview (which provides the legal, financial and public policy basis for restructuring the market), the process by which interested Applicants will apply for contracts, the minimum requirements which must be met by all Applicants (these requirements will provide the framework for the resulting contracts), and the detailed list of questions and requests for documentation that must be supplied by all Applicants who wish to be considered for contracts.

THE VISION

The problems associated with the current model of port drayage are well known. Under the current model, safety and security are imperiled, in terms of threats to life and property and to national security. Additionally, drayage is responsible for significant amounts of pollution; not only does this impact the health of those who work at and live near the Port, but it spurs community opposition, negatively impacting the Port's ability to expand operations. Smooth, efficient and high-quality Port operations are further jeopardized by the current model, which is riddled both with inefficiencies and with the ever-present threat of labor unrest. Finally, under the current model the Port fails to maximize its own revenues from drayage operations.

It is anticipated that, through the RFP process, the Port can address all of these shortcomings. The RFP is a unique tool that allows the Port to implement two changes to the nature of the drayage market. First, by using the RFP to enter into contracts with motor carriers, the Port will achieve meaningful oversight — currently absent — regarding drayage. Second, the RFP will allow the Port to set relevant standards for all motor carriers; these standards will allow the Port to meet its fiduciary and policy goals.

The RFP process focuses on ensuring that the most responsible entities operate at the Port. Once a successful Applicant executes a contract with the Port, however, its operations will seem very familiar: motor carriers will continue (as they do now) to negotiate rates and contracts directly with shippers,

ocean carriers and others to provide drayage services in exchange for payment. The Port will not be involved in this aspect of operations.

THE STANDARDS

The proposed standards for Port drayage are based on input from academics, analysts and other experts in the field, as well as environmental and community organizations, and participants in the industry itself.

- *Responsible business standards* will ensure that the Port's customers can depend on all market participants to provide quality, reliable service and a smooth flow of goods. Such standards include a current business license, minimum insurance requirements, proof of contracts with Port customers, and Port oversight to ensure compliance.
- *Security standards* will assist with the implementation of TWIC by ensuring uniformity of protocols. Further requirements that motor carriers participate in any relevant Port-wide training program (concerning, e.g., national security, emergency preparedness, or health & safety) mean that TWIC will provide a floor for security standards, not a ceiling.
- *Environmental standards* provide the long-sought means for achieving the Port's goals for cleaning the air. This includes not only an incentivized phase-in of CAAP standards, but assurances that the new, clean fleet will be devoted to Port operations, and that the old, dirty fleet will be scrapped.
- *Labor standards* will end the industry's reliance on calling its drivers "independent contractors," which deprives drivers of almost all legal rights and protections, and thus has perpetuated the use of unsafe and polluting trucks and constant workforce turnover. Mandating employee status for drivers will build accountability into the industry, and a labor peace provision will ensure that Port revenues are not threatened by labor strife. A preference for the current workforce will guarantee a smooth transition as the industry changes.
- *Community standards* will foster an improved relationship between the Port and its neighbors, easing opposition and allowing growth. Such standards concern off-street parking, pedestrian safety, and a means for addressing other community concerns.
- *Efficiency standards* are intended to improve system-wide performance and throughput capacity. These include provisions for a reserve fleet and maintenance and repair protocols (to ensure uninterrupted operations) as well as allowing for sector-wide participation in any program designed to improve efficiency.

THE RFP AND CAAP GOALS

The CAAP provides a framework for the essential goal of cleaning the air at the Port, but it is the RFP that provides the means for achieving this goal in a structured way. Successful Applicants will enter into a contract with the Port mandating a turnover of the entire truck fleet over five years. The RFP phases in the fleet upgrade at a minimum of 20% annually — an achievable benchmark — with Port oversight. The RFP also creates a financial incentive for motor carriers to upgrade their fleets at the front end. Through its scoring system, the RFP also allows the Port to implement its preference for LNG or other alternative fuels. A Port-led scrappage program for old, dirty trucks will prevent the displacement of these polluters to other areas, and the contract will provide guarantees that the new, clean trucks will remain in service at the Port rather than be diverted to non-Port trucking uses. By building the true cost of clean operations into the drayage industry itself, the RFP provides sustainability for the long term. There may be a role for public money during the transition of the industry and the

initial fleet upgrade (e.g., loans, grants and incentives), but the RFP forces industry to pay the true cost of goods movement, ensuring that taxpayers do not shoulder the entire burden of the CAAP.

LABOR STANDARDS

There are two significant labor standards contained in the RFP. First is the requirement that Applicants use only employee drivers (as opposed to independent contractors) to provide drayage services.¹ Using employees builds accountability into the drayage industry across the board, a vital need for many of the Port's goals. Without the motor carrier having clear and direct responsibility for its drivers, there is a breakdown in security with no entity able to fully account for the drivers coming onto Port property. Additionally, environmental goals cannot be met under a system using independent contractors, as motor carriers cannot ensure the timely upgrade of a fleet they do not control; nor is it reasonable for the burden of truck upgrade and maintenance to fall on a workforce of impoverished independent contractors. Under the current system, such poverty is inevitable because the use of independent contractor status results in an entire workforce being deprived of its rights (e.g., to organize and bargain collectively) and its protections (e.g., workers compensation, unemployment, Social Security, etc.). The use of independent contractors also prevents the industry from operating efficiently, as there is no disincentive for motor carriers to allow drivers to sit in long queues, simply waiting to pick up or drop off a load; an employee-based workforce incentivizes efficiency immediately. Finally, requiring employee status provides greater stability in an industry currently characterized by an instability that blocks the accomplishment of all other public policy goals at the Port.

The second key labor standard in the RFP is a requirement of labor peace, a common provision in public contracts. Ports around the country have seen demonstrations, strikes, job actions and other disruptions to drayage operations on a regular basis for many years. A motor carrier should be able to provide an assurance that operations will be free from such disruptions, thus protecting the Port's revenues. The RFP would not dictate employer behavior other than requiring an agreement with any union which organizes port drivers. In practice, unions readily commit to providing labor peace if employers agree to fair procedures for employees to choose whether or not to have union representation. Such agreements do not place the Port in the role of dealing with employment disputes; under labor peace agreements they are instead typically resolved through arbitration.

REVENUE TO THE PORT

One of the key features of the RFP (and the resulting contracts with motor carriers) is that it opens up a new revenue stream for the Port. This is important for two reasons: first, the revenue can be used for many vital programs, such as the implementation and oversight of the drayage contracts, providing incentives for environmental goals, initiating new programs to improve security or efficiency, or any other (related or unrelated) use. Second, an ongoing revenue stream confirms the Port's proprietary relationship (rather than regulatory relationship) with this sector.

¹ Because of widespread confusion around this topic, it is worth distinguishing "independent contractors" from "owner-operators." The former refers to the type of working relationship; the latter refers to the relationship between the driver and truck. Owner-operators can be either employees or independent contractors, and vice versa. Though the current system is dominated by owner-operators who are independent contractors, it is helpful to think of a truck like any other tool required for a job: just as an electrician may own his own tools but still be an employee, so may a driver own his own truck (which is leased to the motor carrier) but still be an employee. When talking about employees, the RFP is silent on whether the vehicles driven by the employees will belong to the drivers themselves (making them "owner-operator employees" or "lessor-drivers") or to the motor carrier.

There are two distinct types of revenue to the Port. First is the Fleet Fee; this is a one-time fee to be paid by the successful Applicant at the start of the contract. The base Fleet Fee is proposed at \$5,000 per truck, assuming a commitment to achieve 20% CAAP-compliance in the first year of the contract (the minimum compliance). If the Applicant commits to achieving greater compliance in the first year, however, the Fleet Fee would be reduced, according to the following schedule.

| Percent of overall fleet in compliance during the first year of the contract | Percent of Fleet Fee paid | Amount of Fleet Fee paid (per HDV) |
|--|---------------------------|------------------------------------|
| 0% - 19% | | Ineligible |
| 20% - 39% | 100% | \$5,000 |
| 40% - 59% | 50% | \$2,500 |
| 60% - 79% | 30% | \$1,500 |
| 80% - 99% | 10% | \$500 |
| 100% | 5% | \$250 |

The Fleet Fee (a) provides an infusion of capital to the Port to fund its new truck compliance program; (b) creates a large financial incentive for motor carriers to upgrade their fleets on an expedited timeline; (c) allows Applicants to bid in accordance with their financial capacity; and (d) provides a tangible yardstick for the Port to guarantee that Applicants will have access to capital.

The second type of revenue to the Port is simply the Revenue Fee, an ongoing stream of revenue from the motor carriers to the Port. The Revenue Fee will simply be a monthly payment to the Port of a percentage of gross revenues earned from drayage services. The base Revenue Fee is proposed at 10%, but will be reduced by one percentage point for every year ahead of schedule (for full CAAP compliance) a motor carrier's fleet is.

IMPLEMENTATION

The Port will require a small, dedicated staff to oversee and implement the RFP and resulting contracts. This staff will oversee the transition of truck fleets, coordinate a scrappage program for old trucks, account for all drayage revenue, lead any sector-wide initiatives (concerning, e.g., efficiency or technology improvements, safety or security trainings, community concerns, etc.), perform any needed audits or inspections, or any other relevant tasks. Such a staff will be funded out of the revenue generated by the drayage contracts. It is worth noting that while this staff is larger than under the current model (which requires no staff), the current model provides none of the benefits associated with the contractual model. The Ports have repeatedly noted that the strongest means for achieving any goals is through a contractual relationship, and contracts are only strong to the extent that they are overseen and enforced. In any event, the staff required under the contractual model is tiny compared to the sort of bureaucracy that would be needed were the Port to attempt to directly regulate thousands of individual owner-operators.

TRANSITION

The transition from the current model to a contractual model is one of the strengths of the RFP. The RFP outlines how the new fleet must be rolled out, and the various benchmarks involved. Applicants will be successful only by being clear about what is expected of them and by explicitly committing to certain timelines. With a five-year phase-in, motor carriers will be able to reasonably locate and contract with truck manufacturers and mechanics on a schedule that will work not only for the individual motor carrier, but for the entire drayage sector. (Absent the RFP, this was a question on

which the CAAP goals were silent.) This model also provides clear financial incentives for a faster phase-in, in a manner that is fair and accessible to all.

Other standards in the RFP will be even easier to transition into. Several key features of the contractual model (such as employee status) involve mere accounting changes, and can be implemented literally overnight.

APPLICATION SCORING

In general, the application under the RFP consists of two parts: first is a list of criteria that must be met by all Applicants. These are "minimum requirements" and are scored as simply "qualify" or "does not qualify" (e.g., "Are you licensed to do business in California?" "Do you use exclusively employee drivers?" "Will you provide off-street parking?") If an Applicant does not qualify under each and every minimum requirement, the Applicant will not be allowed to perform drayage services at the Port.

If the Applicant meets all minimum requirements, the Port will then evaluate the dozens of standard questions to which all Applicants must provide responses. These questions fall into various categories to evaluate Applicant's (a) experience, responsibility and integrity (b) operational and staffing plan, (c) participation by disadvantaged (e.g., small- and locally-owned) businesses, (d) plan for the environmental and community impact and (e) financial capacity and stability. Each of these areas ((a) – (e)) has its own scoring system, and minimum scores are required for each area. Port staff will apply its own business and legal acumen and expertise in scoring the applications.

IMPACT ON SMALL BUSINESS

Under the current model of drayage, responsible small businesses are virtually shut out of the market. Standard industry practices of underbidding, cutting corners and disclaiming responsibility for workers makes impossible any real participation by high-road small businesses. While there are responsible actors in the market, they are greatly outnumbered and they are not competing on a level playing field. By setting meaningful standards, this contractual model actually protects small motor carriers from the unfair competition that characterizes the current model.

It is essential, again, to be clear that individual owner-operators are not considered to be "small businesses." Some stakeholders may attempt to capitalize on the ambiguity around these terms to claim that small business is threatened under the contractual model. This is not the case. In fact, the RFP makes clear that all current drivers (whether currently classified as employees or independent contractors) should be given preference in hiring under the new system. The only entities threatened under the contractual model are those unscrupulous motor carriers that cannot meet the standards set under the RFP, standards that are reasonable for any responsible motor carrier.

While there are economies of scale to be taken advantage of under the RFP, there remains a vital role for small business. The particular level of small business participation should be left to the Port to decide, but every Applicant should meet a designated level of small business participation. Indeed, such participation is a scored section of the application, and no Applicant can achieve a passing score without this participation.

The RFP also recognizes that existing small businesses, on their own, may have difficulty meeting some of the mandatory terms under the RFP. In these cases, the RFP encourages such Applicants to develop joint ventures, partnerships, associations or other arrangements with other potential Applicants in order to develop a stronger application.

FOR DISCUSSION PURPOSES ONLY
January 12, 2007 draft

**REQUEST FOR PROPOSALS
PORT DRAYAGE SERVICE CONTRACT
PORT OF CLEAR BAY**

| | | |
|------|----------------------------|-------|
| I. | Introduction and Overview | p. 2 |
| II. | Application Procedure | p. 4 |
| III. | Definitions | p. 9 |
| IV. | Minimum Requirements | p. 10 |
| V. | Required Proposal Contents | p. 16 |
| VI. | Evaluation Criteria | p. 27 |

SECTION I. INTRODUCTION AND OVERVIEW

The Port of Clear Bay is charged, under the laws of the State of California and the Charter of the City of Clear Bay, with the control, management and operation of the port facilities located in Clear Bay. This charge includes the authority and obligation to manage the business of the Port, to make provision for the needs of commerce and shipping, including the loading and unloading of vessels and fixing of all rates and charges for the use of Port facilities and to generally adopt such ordinances and regulations and perform all acts as are necessary to accomplish these purposes.

Port drayage is a critical element of the business of the Port. By hauling loaded containers out of the Port and delivering empty containers back to the Port, drayage companies perform a vital service for terminal operators, shipping lines, shippers and, ultimately, the public, all of whom rely on the Port for the delivery of goods and material. Absent drayage service, commerce in and out of the Port would cease. By the same token, the efficiency of drayage operations directly impacts both the operations of the Port and the local economy.

Port drayage also has direct implications for the security of the Port. The Port has a direct interest in the training and conditions of the drivers, as well as the condition of the trucks, performing port drayage. Driver training and truck conditions bear a direct relation to avoiding accidents and injuries to other employees working at the Port. Such accidents cause needless pain and suffering, as well as lost production time. Moreover, post-9/11, all ports must be vigilant about maintaining security. Once on Port property, trucks generally have access to all areas of the Port and represent a very real security risk that must be addressed.

Finally, port drayage dramatically impacts the communities along goods movement corridors. Thousands of trucks service the Port each day, and these numbers are expected to increase as the volume of trade increases. The current volume of truck traffic, as well as the projected increase in truck traffic not only puts a strain on local streets and highways through wear and tear, but also significantly adds to air pollution in communities along goods movement corridors. Failure to ameliorate these environmental effects makes it impossible for the Port to expand operations, reducing the Port's economic contribution to the community and putting the Port at a competitive disadvantage vis-à-vis port facilities located in other cities and states. Further, the region has great incentive to reach attainment of federal air quality standards because of the potential to lose billions of federal transportation dollars, which would further hamper the ability of the Port to operate.

Current conditions heighten both the security risk and environmental impact of port drayage. Port drivers are almost exclusively independent contractors. This complicates the enforcement of security because, unlike other port workers, there is no employing entity that can be held responsible for seeing to it that drivers receive the proper training and background checks. Experts have labeled this aspect of port drayage a significant security risk. Moreover, the reliance on independent contractors complicates efforts to reduce the environmental degradation caused by port trucking because there is no employing entity to assure that equipment meets Port standards and is properly maintained.

These aspects of port trucking have generated a significant financial burden to the Port and diminished the value of this important public asset. While the Port captures revenue from leases with terminal operators, the Port has little formal relationship with the trucking industry, and has failed to maximize the economic potential to the Port from trucking operations.

For all these reasons, the Port of Clear Bay has decided to engage in direct service contracting of drayage services at the Port. Under this system, drayage companies will compete for business the same as under the current system. The difference is that, in order to gain access to Port property for the purpose of offering drayage services at the Port, companies will directly contract with the Port to provide drayage services meeting certain criteria outlined below. The goals of direct service contracting are to: (1) provide effective and efficient drayage service to Port users and clients; (2) provide enhanced quality and value to Port users; (3) increase Port security against potential terrorist threats; (4) reduce air pollution produced by trucks performing drayage services; (5) control truck parking in neighborhoods surrounding the Port; (6) optimize contract revenues to the Port.

SECTION II. APPLICATION PROCEDURE

All entities wishing to offer port drayage services at the Port of Clear Bay are invited to submit an application. Application packages are available _____. Applications must be returned no later than _____ in order to be considered.

A. Application Instructions

A complete application shall consist of written answers to the questions set forth in Sections IV and V.

Answers shall be submitted in affidavit form, signed and sworn to by the

- owner (if Applicant is a sole proprietorship),
- managing partner (if Applicant is a partnership or joint venture), or
- chief executive officer (if Applicant is a corporation)

affirming, under penalty of perjury, that the information set forth in and attached to the affidavit is true and correct.

Each answer shall be numbered to correspond to the number of the question being answered. If the question requests the Applicant attach documents or if the Applicant wishes to attach documents in complete or partial response to any question, the document shall be referenced in the answer by description or title.

Each page of the affidavit shall be numbered and identified, at the top, with the name of the Applicant and date of the submission. A set of tabs to identify each section shall be inserted to facilitate quick reference. Each section of the Proposal shall be clearly labeled as set forth below and shall be presented in the same order as set forth below.

A completed application shall be accompanied by a letter, of no more than two pages, signed by the by the owner, managing partner or chief executive officer, setting forth:

- The name in which the Applicant would enter into a direct service contract with the Port;
- The name, address, telephone and fax number, as well as email address of the person that Port staff should contact if they have any questions regarding the information submitted by the Applicant or wish to schedule an interview with the Applicant;
- Any other information, not provided in Applicant's response to the questions set forth below, that the Applicant desires to include as an introduction to the Proposal.

If an Applicant has questions about the Application Procedure or any of the information required by the Application, such questions should be submitted in writing, via letter or email, to _____. A written response will be provided. Questions regarding the application will not be answered over the telephone.

Proposals may be withdrawn by written request prior to the proposal due date and time stated above. Such withdrawal does not preclude the submission of another proposal. Proposals withdrawn after the due date and time will not be considered and cannot be resubmitted.

All costs incurred in preparation of the application will be borne by the Applicant. The Port is not responsible for any costs associated with the application.

The attention of all prospective Applicants is directed to Item #9 in Section IV (set forth below), and all prospective Applicants are advised to ascertain whether any union currently represents or intends to organize employees engaged in any aspect of port drayage operations at the Port.

B. Application Review

The Port's determination of whether an Applicant meets the conditions outlined below will be based on information provided by the Applicant in response to the questions and requests for information outlined below, requests by the Port for additional information, interviews and other sources deemed valid by the Port. A direct service contract will not be granted until all investigations of the Applicant's business history and experience, financial responsibility, security measures, environmental standards and character that the Port deems necessary are completed. By submitting this application, the Applicant agrees to permit and cooperate in these investigations.

Applicants may be required to respond to one or more letter, telephone or email inquiries from Port staff regarding specific issues related to their application. Applicants may be required to attend one or more personal interviews with Port staff to discuss specific issues related to their Application. Port staff will determine the appropriate method for making further inquiry. Inquires via letter, telephone or email will be directed to the contact person listed in Applicant's cover letter. With regard to interviews, Port staff will determine whom they wish to interview and then request that the contact person make this person available at a mutually convenient time and place.

In addition to the information provided in this application or through a personal interview with the Applicant, the Port may acquire and utilize, to the extent deemed necessary, information obtained from sources such as:

- Publications, including credit ratings and trade and financial journals;
- Other parties operating at the Port with whom the Applicant has contracts or does business;
- Other ports at which the Applicant conducts business;
- Other sources, such as banks, other financial companies, shippers, Federal, state and local governmental agencies

The Port reserves the right to reject any and all proposals and to reissue this RFP or take such other action as the Port deems appropriate at the Port's sole and absolute discretion.

In addition to all other causes identified in this RFP or allowed by law, any one or more of the following, among others, may be considered sufficient for the disqualification of an Applicant and the rejection of the application. This list is not intended to be exhaustive:

- Lack of responsibility as shown by past work, references or other factors;
- Submission of an application that is incomplete, conditional, ambiguous or that contains alterations or irregularities of any kind;
- Applicant is in arrears or in default to the Port or the City of Clear Bay on any debt or agreement or is a defaulter, as surety or otherwise, upon any obligation to the Port or the City of Clear Bay, or has failed to perform any previous agreement with the Port or City of Clear Bay, in the City's sole determination.
- Evidence of improper lobbying efforts towards members of the City Council of Clear Bay, the Clear Bay Port Authority and/or City or Port staff.
- Submission of false or misleading information or documents in connection with this application.

Providing false information (or any material omissions) in connection with an application, if discovered after an agreement has been executed, will result in the immediate cancellation of the agreement and the Applicant being barred, at the Port's discretion, from providing drayage services on the premises of the Port. If discovered during the application process, the Application will not be processed and the Applicant will be barred from providing drayage services on the premises of the Port.

C. Minimum Requirements

An Applicant will be required to meet certain minimum requirements in order to be entitled to provide drayage services. These requirements are set forth in Section IV. These requirements include but are not necessarily limited to:

- 1) possession of license to do business in the State of California;
- 2) utilization of employee-drivers who possess a valid commercial drivers license and TWIC card;
- 3) current contracts or commitments from customers;
- 4) liability and workers compensation insurance;
- 5) compliance with Port environmental standards;
- 6) labor peace;
- 7) certain record-keeping requirements;
- 8) provision of off-street parking for port drayage vehicles when not in service;
- 9) a commitment to work with the Port to develop programs related to security, environmental mediation and pedestrian safety; and
- 10) payment of a contract service fee.

These terms will be incorporated into the final direct service contract between the Port and any successful Applicant. Successful Applicants will be required to agree to these terms and, where appropriate, demonstrate and/or document compliance.

D. Evaluation Criteria

Applicants will be evaluated using two sets of criteria. One set of criteria relates to compliance with minimum requirements and will be assessed through a series of “qualify” and “don’t qualify” questions, set forth in Section IV. If an Applicant is unable to correctly answer each of the questions set forth in Section IV or commit to any of these requirements, Applicant will be disqualified regardless of the results of the scored questions.

After qualifying under the Section IV requirements, Applicants will be ranked according to scores obtained from Applicant’s responses to the set of questions outlined in Section V. In order to qualify, an Applicant must obtain a passing score overall, as well as achieve a minimum passing score for each subsection. —

The Port strongly encourages potential Applicants to examine the mandatory terms of agreement and evaluate their capacity to meet these terms. Potential Applicants that may not meet the terms of agreement (under Section IV), and potential Applicants that may not score highly according to the evaluation criteria (under Section V), are strongly encouraged to develop joint ventures, partnerships, associations or other arrangements with other potential Applicants in order to develop a stronger application.

Successful Applicants will be awarded a direct service contract with the Port to provide drayage services for five (5) years. If the Applicant fails to execute the contract within 30 days after the award, the Port reserves the right to cancel the award and reject the proposal and the Applicant will have no claim of any kind, including any right of recovery of costs, against the Port.

E. Materials Will Become City Property

All applications, as well as any materials attached to the application and any other materials submitted in support of the application will become the property of the Port.

The information contained in this application, as well as any attachments or supplementary material, is provided to assist prospective Applicants in responding to the information requested. The Port assumes no responsibility for the use of this information by any other person or entity and does not guarantee the accuracy of the information.

All proposals submitted in response to this RFP shall become the property of the City of Clear Bay and subject to the State of California Public Records Act. Applicants must identify all copyrighted material, trade secrets or other proprietary information that Applicants claim are exempt from the California Public Records Act (California Government Code Section 6250 et seq.).

In the event an Applicant claims such an exemption, the Applicant is required to state in the proposal the following: "The Applicant will indemnify the City and its officers, employees and agents, and hold them harmless from any claim or liability and defend any action brought against them for their refusal to disclose copyrighted material, trade secrets or other proprietary information to any person making a request therefore."

Failure to include such a statement shall constitute a waiver of an Applicant's right to exemption from this disclosure. If a public records request is made for any portion of the documents that you have submitted and you have NOT clearly marked specific information contained in such documents as confidential financial or proprietary information, and therefore potentially constituting an exception to California's Public Records Act, the Port may release all of the requested information immediately.

If a public records request is made for such information and you HAVE clearly marked portions of your response as confidential financial or proprietary information, potentially constituting an exception to California Public Records Act, the Port will attempt to release the information to the requestor, after redacting the specific information identified as confidential financial and proprietary, and notify the Applicant that a request was made and that a redacted version of your response was released. Should the requestor challenge the classification of redacted information as confidential financial or proprietary information, the Port will notify you that further explanation of the information's designation as confidential has been demanded by the requestor and the request for public information has been restated. The Applicant will be IMMEDIATELY responsible for obtaining an order from a Court of competent jurisdiction enjoining release of your clearly marked information constituting an exception to California's Public Records Act.

DO NOT mark your entire response/submittal as information constituting an exception to California's Public Records Act. If your entire response/submittal is so marked, the Port may consider your offer non-responsive.

SECTION III. DEFINITIONS

1. As used herein, the term "Applicant" refers to the company or entity desiring to provide drayage services at the Port of Clear Bay.
2. As used herein, the term "port drayage" refers to the act of retrieving or delivering a container to or from the Port of Clear Bay.
2. As used herein, the term "venture" refers collectively to both a joint venture and a partnership.
3. As used herein, the term "list" means to provide full, complete and accurate information in response to the request, attaching additional sheets as necessary.
4. As used herein, the term "common carrier" has the same meaning as that set forth in 46 U.S.C. App. §1702 (6).
5. As used herein, the term "controlled carrier" has the same meaning as that set forth in 46 U.S.C. App. §1702 (8).
6. As used herein, the term "marine terminal operator" has the same meaning as that set forth in 46 U.S.C. App. §1702 (14).
7. As used herein, "labor peace agreement" shall mean a valid agreement by and between the Applicant and a labor organization that represents or seeks to represent the Applicant's employees which contains a provision prohibiting the labor organization and its members from engaging in, causing or encouraging any picketing, work stoppages, boycotts by or involving workers employed by the Applicant that interferes with the provision of drayage services at the Port.
8. As used herein, the term "subcontractor" refers to a company or other entity providing port drayage services utilizing at least one employee-driver, as that term is defined in Paragraph 9 below.
9. As used herein, the term "employee-driver" refers to a person, including a person who owns, leases and drives their own vehicle in the performance of drayage work, who would be considered an employee for all purposes under Federal and state law, including the law of any subdivision thereunder.

SECTION IV. MINIMUM REQUIREMENTS

Applicant must provide detailed responses to every question in this section

All Applicants must meet all of the criteria listed below. All of the items listed below will be included in the direct service contract between the Port and the Applicant.

1. Is the Applicant licensed to do business in the State of California? If yes, provide a copy of the license.
2. Does the Applicant have a liability insurance policy with a policy limit of at least \$5,000,000 per occurrence and \$10,000,000 aggregate from an insurance company licensed to do business in California?

If yes, provide the following information:

- a) Insurance Company
 - b) Policy Number
 - c) Policy Limit per Occurrence
 - d) Aggregate Policy Limit
 - e) Copy of policy
3. Does Applicant have existing contracts with customers to provide port drayage services at the Port? If yes, provide the name, address, telephone number and contact person for each such customer.
 4. Does Applicant have letters of commitment from potential customers pledging to utilize Applicant to provide port drayage services at the Port, pending approval of this Application? If yes, provide the name, address, telephone number and contact person for each potential customer, as well as a copy of the letter of commitment.
 5. Does the Applicant utilize only employee drivers to perform drayage services? If yes, provide a list of drivers by name and provide a copy of each driver's commercial driver's license and Transportation Worker Identification Credential (TWIC).
 6. If the Applicant utilizes employee drivers who are also owner operators, any equipment lease utilized by Applicant must comply with the Federal Truth-in-Leasing regulations, 49 C.F.R. § 376.11 and 49 C.F.R. § 376.12.

If the Applicant intends to utilize employee drivers who are also owner operators, please provide a list of such drivers by name and a copy of the lease utilized by Applicant.
 7. Applicant is required to give preference to drivers who are currently providing drayage services at the Port of Clear Bay.
 - a) Describe Applicant's procedure for giving preference to drivers who are currently providing drayage services at the Port of Clear Bay.

- b) Identify by name, years of experience and former employers (if any) those employee drivers who have previous experience providing drayage service.

- 8. Does the Applicant have a workers' compensation policy covering its employees or self insurance as required by the California Labor Code?

If "yes", provide the following information regarding Applicant's workers' compensation policy (Attach a separate page if more than one policy):

- a) Insurance Company
- b) Policy Number

If "yes" and Applicant is self-insured, provide a copy of a current certificate of consent to self-insure issued by the Director of the California Department of Industrial Relations, pursuant to California Labor Code Section 3700(b).

- 9. The Applicant must provide an assurance of labor peace, as defined in Section III herein. Any acceptance by the Port of an Applicant's application to enter into a contract for port drayage shall be conditioned and contingent upon the Applicant having entered into a labor peace agreement prior to any deadline established at the sole discretion of the Port for the execution of the direct service contract.

Has the Applicant entered into a labor peace agreement with any labor organization that represents or seeks to represent the Applicant's employees? If so, list the name of the labor organization and attach a copy of the labor peace agreement.

- 10. Applicant must comply with the requirements of the Clear Bay Clean Air Action Plan (CAAP) regarding the reduction of pollution from diesel trucks. The Applicant may achieve compliance through any combination of new or retrofitted diesel trucks that meet the specifications set forth below or through use of natural gas (NG) vehicles. The Applicant may determine the schedule of introduction of compliant (new or retrofitted) vehicles, but must, at a minimum, replace one-fifth of its fleet each year. After five years all vehicles in Applicant's fleet must comply with the following standards:
 - a) Heavy duty vehicles (HDVs) must meet or exceed EPA 2007 on-road emissions standards;
 - b) A minimum of 25% of Applicant's fleet must be composed of natural gas trucks.
 - c) All trucks within the fleet must have a digital odometer (also called automatic vehicle locator or AVL).

Does Applicant agree to these terms of CAAP compliance?

- 11. Are all proposed vehicles in compliance with all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state, and local jurisdictions, including air quality regulations?

12. Does Applicant agree to maintain all HDVs servicing the Port in good working order? Does Applicant agree not to tamper with the emission control equipment or the engine calibration software that controls the engine's emissions performance?
13. Does Applicant agree to keep such records of all HDVs in the fleet servicing the Port as may be required by the Port, including, the make, model, and year of the HDV? In addition, the records must contain documentation of any maintenance the HDV has undergone and service records.

Successful Applicants will also be required to participate in the development of CAAP monitoring and compliance programs. This may require the acquisition, maintenance and operation of any equipment deemed necessary to participate in such programs. Does Applicant agree to participate in any such monitoring and compliance programs?

14. Does Applicant agree to work jointly with the Port to develop a scrappage program to ensure that older model year trucks that once serviced the Port are not displaced to other parts of the air basin?
15. Does Applicant agree to work jointly with the Port, the Air Quality Management District, and other entities in developing and demonstrating new technologies that could result in reduced emissions at the Port?
16. To the extent that the Applicant receives any grants or loans to retrofit or purchase environmentally friendly equipment required by the Port using bond funding, money from the Gateway Cities Program, or any other state or local sponsored incentive program, does Applicant agree that such equipment shall be used exclusively to perform port drayage activities in the basin 85% of the miles driven for the duration of the loan or for five years, at the discretion of the Port or the agency administering the grants or loans?
17. To the extent that the Applicant receives any grants or loans to retrofit or purchase environmentally friendly equipment required by the Port using bond funding, money from the Gateway Cities Program, or any other state or local sponsored incentive program, will Applicant post a bond guaranteeing against Applicant's default on (i) obligations to repay any loans advanced for the purchase of environmentally friendly equipment required by this Application; and (ii) the requirement that such equipment be utilized exclusively to provide drayage services at the Port for the period specified in the loan or direct service contract?
18. Does Applicant agree to make arrangements to provide off-street parking for port drayage vehicles when not in service? Further, will Applicant comply with all local ordinances and regulations, including zoning regulations, regarding the operation and parking of HDVs in residential neighborhoods?
19. Does Applicant agree to cooperate with the Port and local law enforcement in developing an effective means for port-adjacent communities (and communities around port drayage

corridors and routes) to file complaints about trucks violating local laws or causing a nuisance in their neighborhoods?

20. Does Applicant agree to work with the Port (or any entity designated by the Port) to develop a plan to minimize the impact of HDVs on port-adjacent communities (and communities around port drayage corridors and routes)?
21. Does Applicant agree to work with the Port (or any entity designated by the Port) to ensure that pedestrians are safe in and around the Port (and port drayage corridors and routes)?
22. Does Applicant commit to participation in any Port-led plan concerning Port security and/or the development of contingency plans in the event of a disaster at the Port?
23. The direct service contract will allow the Applicant access to Port property and the benefit of Port services in exchange for a contract service fee. The contract service fee paid by Applicant to the Port will *have two parts*:
 - a) At the start of the term of the Agreement, successful Applicants will pay the Port a Fleet Fee equal to \$5,000 per HDV.
 - i) In the first year, 20% of Applicant's fleet must meet or exceed EPA 2007 on-road emissions standards. If Applicant achieves greater compliance, the Fleet Fee will be reduced according to the following schedule.

| Percent of overall fleet in compliance during the first year of the contract | Percent of Fleet Fee paid | Amount of Fleet Fee paid (per HDV) |
|--|---------------------------|------------------------------------|
| 0% - 19% | ineligible | |
| 20% - 39% | 100% | \$5,000 |
| 40% - 59% | 50% | \$2,500 |
| 60% - 79% | 30% | \$1,500 |
| 80% - 99% | 10% | \$500 |
| 100% | 5% | \$250 |

- ii) If the Applicant adds HDVs to its fleet during the term of the agreement, the added vehicles must maintain the percentage of clean HDVs required under the terms of contract. For example, if the Applicant adds HDVs during the second year of the Agreement, when the minimum percentage of clean trucks is 40%, then number of clean HDVs added must be sufficient to assure that the percentage of clean HDVs in the Applicant's fleet remains at 40%. If the overall impact of the additional HDVs is simply to maintain the minimum required by the contract, then the Applicant will pay a Fleet Fee equal to \$5,000 per HDV. If the additional HDVs result in accelerating the Applicant's CAAP compliance, then the Fleet Fee will be reduced in accordance with the schedule outlined in #23(a)(i) above.

- b) Successful Applicants will pay the Port a monthly Revenue Fee equal to 10% of the gross revenues they earn from providing drayage services at the Port.
- i) If Applicant achieves compliance with CAAP requirements ahead of schedule, the Revenue Fee will be reduced by one percentage point for every year ahead of schedule a motor carrier's fleet is, according to the following schedule.

| Year of Term | Compliance | Revenue Fee |
|--------------|------------|-------------|
| Year One | 20% | 10% |
| | 40% | 9% |
| | 60% | 8% |
| | 80% | 7% |
| | 100% | 6% |
| Year Two | 40% | 10% |
| | 60% | 9% |
| | 80% | 8% |
| | 100% | 7% |
| Year Three | 60% | 10% |
| | 80% | 9% |
| | 100% | 8% |
| Year Four | 80% | 10% |
| | 100% | 9% |
| Year Five | 100% | 10% |

Does Applicant agree to these financial terms?

24. The direct service contract will have duration of five (5) years, at which point a renewal application will be required. Failure to abide by the terms of the agreement may result in the cancellation of the Applicant's contract and the Applicant being barred from providing drayage services on the premises of the Port.

Does Applicant agree to these terms?

25. In entering into a direct service contract with qualified Applicants, the Port may conduct periodic reviews and/or audits of drayage operations to ensure compliance with the contract.
- Does the Applicant consent to allow the Port (or any agent designated by the Port) the right to inspect any property, offices or equipment utilized by the Applicant to perform drayage services?
 - Does the Applicant agree to allow the Port, in its discretion and at its expense, to audit Applicant's books for the purpose of determining the accuracy of the fee paid by Applicant to the Port?
 - Does Applicant agree to submit periodic reports as reasonably requested and to the specifications of the Port, regarding revenue, drayage operations, fleet

information, or other requested information to demonstrate compliance with the standards of the contract? (These reports will be the property of the Port and available for inspection at the Port office by the public under the California Public Records Act.)

26. If, during the term of the direct service contract, the Applicant chooses to subcontract drayage services, it may only do so to a company or entity meeting the definition of "subcontractor" set forth in Paragraph # 8 of Section III above and any subcontractor must either already have or obtain a direct service contract with the Port prior to conducting drayage operations at the Port. No entity may provide drayage services on Port property without first submitting to this application process and obtaining a direct service contract from the Port. Does Applicant agree to limit any subcontracting to such entities?
27. If any of the terms of the agreement are violated by Applicant, the agreement may be cancelled and the Applicant may be barred from providing drayage services at the Port

Members of the public may file a complaint with the Port Drayage Contract Department if they have information that Applicant is not in compliance. The Port Drayage Contract Department will conduct an investigation to determine whether Applicant is in compliance with the contract.

If Applicant is found to be out of compliance with any of the minimum requirements, Applicant will have a grace period of 30 days to address the issue and return to compliance. Applicant will pay a fine of \$5,000 a day for each day Applicant is not in compliance with the standards in the contract. If the Applicant is still found to be out of compliance after the grace period, the Port reserves the right to cancel the contract and bar Applicant from the Port for two years or the remainder of the term of the contract, whichever is longer.

The Port reserves the right to cancel the contract.

Does Applicant agree to these terms?

SECTION V. REQUIRED PROPOSAL CONTENTS

Applicant must provide detailed responses to every question in this section.

Background Information

1. Name under which Applicant will enter into a direct service contract with the Port.
2. List the street address, telephone and fax number of each and every office at which the Applicant conducts business.
3. List all mailing addresses utilized by the Applicant to conduct business.
4. List all telephone or fax numbers, other than the numbers listed above, utilized by the Applicant to conduct business.
5. If Applicant is a corporation, provide the following:
 - a) Date and state of incorporation
 - b) Copy of the articles of incorporation
 - c) Whether the corporation is publicly or privately held
 - d) If publicly held:
 - i) How and where the stock is traded
 - ii) Name, address and shares of stock held by the following officers: President, Vice President(s), Secretary, Treasurer, and Chief Executive Officer
 - iii) Name, address and shares of stock held by each member of the Board of Directors or Management Committee
 - iv) Name, address and shares of stock held by other principle stockholders (those holding 10% or more of outstanding stock or membership interests of the corporation or limited liability company)
 - v) Name and address of statutory agent for service of process in California
 - vi) Copy of corporate resolution identifying party or parties authorized to contract on behalf of the corporation
 - e) If privately held, provide the following:
 - i) Name, address and shares of stock held by the following officers: President, Vice President(s), Secretary, Treasurer, and Chief Executive Officer
 - ii) Name, address and shares of stock held by each member of the Board of Directors or Management Committee
 - iii) Name, address and shares of stock held by other principle stockholders (those holding 10% or more of outstanding stock or membership interests of the corporation or limited liability company)
 - iv) Name and address of statutory agent for service of process in California
 - v) Copy of corporate resolution identifying party or parties authorized to contract on behalf of the corporation

6. If Applicant is a sole proprietorship, provide the following:
 - a) Proprietor's name (include maiden name, if applicable)
 - b) Business name in full, including all registered trade names
 - c) Residence address
 - d) Business address
 - e) Length of time and locations that business has operated in California
 - f) Name of full-time managing officer(s) or managing employee(s)
 - g) Attach resumes of owners and full-time managing officer(s) or managing employee(s)

7. If Applicant is a joint venture or partnership, provide the following:
 - a) Date of organization
 - b) Length of time and locations that business has operated in California
 - c) Name and address of each joint venture or partner
 - d) Name of full time managing officer(s) or managing employee(s)
 - e) Complete copy of fully executed Joint Venture Agreement or Partnership Agreement
 - f) Name and address of statutory agent for service of process in California

8. If Applicant is a limited liability company, provide the following:
 - a) Date and location of formation
 - b) A copy of company's Certificate of Incorporation or Articles of Organization and any amendments thereto
 - c) Length of time and locations that company has operated in California
 - d) Name and address of each member
 - e) Complete copy of fully executed Operating Agreement and any amendments thereto
 - f) Name and address of managing officers(s) or managing employees(s)
 - g) Name and address of statutory agent for service of process in California

9. Is the Applicant a subsidiary, of another corporation, joint venture, partnership or sole proprietorship?
 - a) if so, provide the following
 - i) Name and address of parent company
 - ii) Name and address of following officers of the parent company: President, Vice President(s), Secretary, Treasurer, and Chief Executive Officer
 - iii) Name and address of each member of the Board of Directors or Management Committee of the parent company
 - iv) State and date of incorporation of parent company
 - v) A brief narrative, no longer than one page, describing the business engaged in by the parent company, both directly and through other subsidiaries, joint ventures or partnerships
 - iv) A brief narrative, no longer than one page, describing the ownership and operational relationship between the parent and Applicant

10. Is the Applicant a holding company or parent or affiliate of any other corporation, partnership, joint venture, limited liability company or sole proprietorship that does business as a port drayage company or a logistics company or as a common carrier, controlled carrier or marine terminal operator? If so, please provide the following information for each such entity:
 - a) Name and address of the other corporation, partnership, joint venture or limited liability company or companies;
 - b) A brief narrative describing the nature of the relationship between the Applicant and the other corporation, partnership, joint venture or limited liability company or companies;
 - c) All port(s) at where the other corporation, partnership, joint venture or limited liability company or companies currently conducts business.

11. List the following information for any owner, partner or officer of the Applicant who holds a similar position in or owns 10% or more of another corporation, joint venture, partnership, limited liability company or sole proprietorship that is engaged in port drayage, or operates as a common carrier, controlled carrier or marine terminal operator:
 - a) Name of the owner, partner or officer
 - b) Position with Applicant
 - c) Name of other entity
 - d) Position with other entity
 - e) Percentage of ownership of other entity held by the owner, partner or officer

12. List the information requested in Question #11 for any employee of the Applicant who is employed by or holds a position as an owner of 10% or more, partner or officer in another corporation, joint venture, partnership or sole proprietorship that is engaged in port drayage, or operates as a common carrier, controlled carrier or marine terminal operator.

13. Provide a resume for each corporate officer, managing officer or director or local managing employee, indicating their background and experience in the port drayage business, including any experience with companies or employers other than the Applicant.

14. If any owner of 10% or more of the Applicant or any partner or officer of the Applicant has previously engaged in port drayage as an owner, partner or officer of different corporation, joint venture, partnership or sole proprietorship, please list the name(s) utilized by the different corporation, joint venture, partnership or sole proprietorship, the dates of operation and a narrative description of how and why the different corporation, joint venture, partnership or sole proprietorship dissolved or ceased performing port drayage.

Applicant's Experience & Operational Plan

15. Provide a brief history of the Applicant, including the number of years that Applicant has engaged in the commercial trucking business. Please indicate how many of those years have been spent providing port drayage or intermodal services and how many years the Applicant has provided port drayage services at the Port of Clear Bay. Note any changes in company names(s) and ownership and any other names (including "doing business as" operations) under which the Applicant has been doing business (a corporation whose shares are publicly traded is not required to answer this question with regard to public trades except where the buyer obtained or the seller relinquished ownership of 10% or more of the Applicant's stock). Describe current operations as they exist today.
16. Provide a brief narrative statement as to how Applicant plans to provide drayage services at the Port, including how drivers will be dispatched, physical plant, security procedures and what procedures will be followed if a truck breaks down.
17. Describe the extent of Applicant's capacity to handle hazmat cargo, including the amount of Applicant's workforce currently with a hazmat endorsement and the amount of Applicant's workforce that is expected to acquire a hazmat endorsement in the next six months. For each driver with a hazmat endorsement, provide a copy of such endorsement.
18. List all corporations, partnerships, joint ventures or sole proprietors to whom the Applicant subcontracts or intends to subcontract port drayage services.
19. List the name and address of all governmental or private entities or individuals for whom the Applicant has performed port drayage services within the last five years.
20. Provide a staffing plan including the following:
 - a) Organizational chart for Applicants Port of Clear Bay operations, identifying personnel and reporting structure
 - b) Number of employee-drivers Applicant intends to utilize at its Port of Clear Bay operations
 - c) Number and classification of other non-management personnel (dispatchers, clerical, mechanics) Applicant intends to utilize at its Port of Clear Bay operations.
21. Provide a list of the names of each employee driver utilized by the Applicant to perform drayage services and indicate the number of years commercial driving experience possessed by each driver. Please indicate how much of this time has been spent working in port drayage or hauling intermodal containers and how much time has been spent doing other types of commercial driving, such as long-haul trucking, etc. With regard to hauling intermodal containers, please indicate how long each employee driver has provided drayage services at the Port of Clear Bay.

22. State how Applicant intends to give preference to drivers who are currently providing drayage services at the Port of Clear Bay in filling any openings for drivers.
23. Describe all safety training programs (a) currently in place, (b) which the Applicant intends to put into place within the next six months, and/or (c) on which the Applicant may propose to work jointly with the Port (or any entity designated by the Port) in the following areas:
 - a) Driving skills and safety
 - b) Hazmat training
 - c) Identification of terrorist activity or threats
 - d) Any other program Applicant believes is relevant to efficient, safe and secure port drayage

For each program describe generally the content and duration of the program and the number of students to be taught; whether the program is self-taught or involves classroom instruction; if self-taught, describe the material utilized and the grading method; if classroom instruction indicate the background and qualifications of the instructor and the nature of any written materials to be utilized in conjunction with classroom instruction.

24. Describe any employee assistance programs currently in place or which the Applicant intends to put into place within the next six months in the following areas:
 - a) English as a Second Language
 - b) Substance abuse
 - c) General health and stress relief
 - d) Credit and financial counseling
 - e) Any other program Applicant believes relevant

For each program describe generally the content and duration of the program and the number of students to be taught; whether the program is self-taught or involves classroom instruction; if self-taught, describe the material utilized and the grading method; if classroom instruction indicate the background and qualifications of the instructor and the nature of any written materials to be utilized in conjunction with classroom instruction.

25. Describe Applicant's plan, solely, or working in conjunction with Port staff, other motor carriers, or other Port entities, to improve system-wide performance and increase efficiencies. This may include plans concerning chassis pools, on-board communication and navigational devices, or other proposals.

DBE Participation

26. Describe Applicant's current involvement with small/locally-owned/disadvantaged business enterprises.

27. If Applicant has no current involvement, describe Applicant's plan for future participation by small/locally-owned/disadvantaged business enterprises.

Environmental & Community Impact

28. List the following information regarding each vehicle utilized by Applicant to provide drayage services at the Port:
- a) Manufacturer
 - b) Model
 - c) Model year
 - d) Vehicle identification number
 - e) Type of pollution reduction equipment installed
 - f) If subject to a lien, name and address of lien holder
29. Provide a narrative demonstrating how the Applicant will, within five years from the date the application is approved, comply with the requirements of the Clear Bay Clean Air Action Plan (CAAP) regarding the reduction of pollution from diesel trucks. The Applicant may achieve compliance through any combination of new or retrofitted diesel trucks that meet the specifications set forth in Section IV above or through use of LNG vehicles. (Preference for Applicants will be given to fleets that contain the highest percentage of trucks that run on natural gas. However, at a minimum, fleets must be composed of 25% natural gas trucks.) The Applicant may determine the schedule of introduction of new or retrofitted vehicles, but must, at a minimum, have one-fifth of its fleet each year meet or exceed the EPA 2007 on-road emissions standard. Applicants who achieve compliance sooner than five years earn points as detailed under Section VI. After five years all vehicles added to Applicant's fleet must meet or exceed the then-current model year's EPA on-road emission standard.
30. Describe how vehicles utilized by Applicant are maintained, including any regularly scheduled maintenance or testing performed by Applicant. Include a description of how hazardous waste generated by Applicant's operations will be disposed of.
31. Describe Applicant's off-street parking arrangements for port drayage vehicles when not in service. Indicate location of parking, the capacity, whether the property is owned by the Applicant and the approximate distance between the parking lot and the closest residence or residential area. If the property is rented, give the name and address of the landlord and, if pursuant to a rental agreement, the term of the rental agreement.
32. Does Applicant have a reserve fleet to utilize if one or more of Applicant's trucks go out of service?
- If yes, provide the information requested in #33 above with regard to each vehicle in Applicant's reserve fleet.

33. Describe how the Applicant will work jointly with the Port as the Port develops a scrappage program to ensure that older model year trucks that once serviced the Port are not displaced to other parts of the air basin.
34. Describe how the Applicant will work jointly with the Port, the Air Quality Management District, and other entities in developing and demonstrating new technologies that could result in reduced emissions at the Port.
35. Describe how Applicant will work jointly with the Port (or any entity of the Port's designation) to ensure that pedestrians are safe in and around the Port.

Financial Information

36. Applicants shall submit the following historical financial information for the entity that Applicant will utilize to provide port drayage services at the Port:
 - a) **Partnerships:** Balance sheet and income statements for the last two (2) fiscal years prepared in accordance with generally accepted accounting principles (GAAP), reflecting the current financial condition of the partners or individuals submitting the application, also including an interim balance sheet and income statement of any significant financial events occurring subsequent to the closing date of the most recent financial statements. The two (2) most recent completed IRS tax returns.
 - b) **Public Corporations:** Previous two year's annual report for the proposing entity and an interim balance sheet and income statement of any significant financial events occurring subsequent to the closing date of the most recent annual report.
 - c) **Private Corporation/Sole Proprietorships:** Previous two years CPA-prepared and certified financial statements and an interim balance sheet and income statement of any significant financial events occurring subsequent to the closing date of the most recent financial statement. Owners of closely held entities and sole proprietorships must also submit personal financial statements that are current within three (3) months from the date of the Applicant, as well as their two most recent personal tax returns. Owners of closely held entities and sole proprietorships must also submit a statement about their willingness and ability to provide a personal guarantee.
37. Is the Applicant currently the debtor in a bankruptcy case?

If yes, give case number, bankruptcy court and date filed.
38. Has the Applicant ever declared bankruptcy, filed a petition in any bankruptcy court, filed for protection from creditors in bankruptcy court, or had involuntary proceedings filed in bankruptcy court at any time in the last five (5) years?

If yes, give case number, bankruptcy court, date filed and a brief statement describing the outcome of the case.

39. Has the Applicant ever done an assignment for the benefit of creditors at any time in the last five (5) years?

If yes, provide a brief narrative statement identifying the circumstances under which this occurred, the creditors involved and the current status of the matter.

40. Provide the name, address and telephone numbers of at least three (3) credit references, including at least one (1) banking reference. If any of these references require written permission to discuss the Applicants credit or finances with the Port, please provide the appropriate statement granting permission.

41. Provide a narrative statement describing how Applicant finances its business, including outstanding loans, letters or lines of credit, security interest and cash reserves.

The Port reserves the right to request additional financial information from any Applicant. If the Applicant submits financial statements for a parent company and is subsequently awarded a direct service contract, the parent company will be required to also execute the contract such that the parent company will be bound jointly with the Applicant to the obligations of the direct service contract. A parent company shall submit an acknowledgement of this obligation with this application in the form of a resolution of the governing body of the parent company authorizing the obligations of the direct service contract to be awarded.

42. Provide the following information regarding the bonding company or surety guaranteeing against Applicant's default on (i) obligations to repay any loans advanced for the purchase of environmentally friendly equipment required by this Application; (ii) the requirement that such equipment be utilized exclusively to provide drayage services at the Port for the period specified in the loan or direct service contract:

- a) Name and address
- b) Amount of bond
- c) Copy of bond

43. Is any of the real or personal property utilized by the Applicant in the course of performing drayage services subject to outstanding liens imposed as a result of a court judgment against the Applicant or because of the Applicant's failure to pay an outstanding debt?

If so, please list the property involved, the name and address of the lien holder, the reason for the lien and amount of the lien.

Responsibility and Integrity

44. Within the last five years has any civil claim in excess of \$10,000 been filed in court, arbitration, administrative agency or other dispute resolution proceeding against Applicant:
- a) as the result of an accident involving a vehicle owned or leased by the Applicant;

- b) alleging violations of Title VII of the Civil Rights Act; the Civil Rights Act of 1991; Sections 1981 through 1988 of Title 42 of the United States Code, as amended; the Employee Retirement Security Act of 1974, as amended; the Immigration Reform and Control Act, as amended; Age Discrimination in Employment Act of 1967, as amended; The Americans with Disabilities Act of 1990, as amended; the National Labor Relations Act, as amended; Workers Adjustment and Retraining Act, as amended; any laws of the State of California relating to discrimination on account of race, sex, color, national origin, age or disability;
- c) alleging violations of Federal Labor Standards Act or California statutes regarding the payment of prevailing wages or any provision of the California Labor Code.

If “yes”, identify the claim by claimant name, date of claim, a brief description of the nature of the claim, the court and case number and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

45. Within the last five (5) years has any civil claim been filed in court, arbitration, administrative agency or other dispute resolution proceeding against Applicant:
- a) alleging violations of the Truth-in-Leasing regulations, 49 C.F.R. §376.12, et. seq.;
 - b) alleging violations of Federal Hours of Service Rules;
 - c) alleging violation of any other rule or regulation promulgated by the Federal Motor Carrier Safety Administration, including rules regarding the proper transportation of hazardous materials.

If “yes”, identify the claim by claimant name, date of claim, a brief description of the nature of the claim, the court and case number and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

46. Within the last five (5) years has any civil claim been filed in court, arbitration, administrative agency or other dispute resolution proceeding against Applicant:
- a) alleging violations of the Federal Occupational Safety and Health Act or the California Occupational Health & Safety Act
 - b) alleging violations of the Clean Air Act or any rule or regulation promulgated by the Federal Environmental Protection Agency or any environmental protection agencies of the State of California or other local body;
 - c) alleging violations of any law, rule or regulation concerning the disposal of hazardous waste materials;

If “yes”, identify the claim by claimant name, date of claim, a brief description of the nature of the claim, the court and case number and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

47. Within the past five (5) years has any insurance carrier refused to renew any form of insurance for the Applicant?

If "yes", give the name of the insurance carrier, the form of insurance, the year of the refusal and any explanation for refusal.

48. Within the past five (5) years, has any civil claim been filed in court, arbitration, administrative agency or other dispute resolution proceeding against Applicant alleging that the Applicant defaulted under a contract with a governmental entity or private individual or entity?

If yes, provide a short narrative identifying the date and court in which such claim was filed, the plaintiff filing the suit, the circumstances surrounding the claim and the ultimate outcome or whether the claim is still pending.

49. Within the past five (5) years, has a governmental or private entity or individual terminated Applicant's contract prior to completion of the contract?

If yes, provide a short narrative explaining the circumstances surrounding each instance, including the entity or agency involved and the nature of the contract involved.

50. Within the past five (5) years, has the Applicant been convicted of, or found liable in a civil suit for making a false claim(s) or material misrepresentation(s) to any private or governmental agency?

If yes, explain the specific circumstances surrounding each instance.

51. Within the past five (5) years, has the Applicant 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; or the crime of theft, fraud, embezzlement, perjury or bribery?

If yes, explain the specific circumstances surrounding each instance, including the entity involved, the specific infractions alleged, the dates of such instances, and the current status of each instance and, where appropriate, the identity of the executive, management personnel or owner involved.

52. Within the past five (5) years, has any claim been filed in court, arbitration, administrative agency or other dispute resolution proceeding against Applicant, by any governmental entity, for non-payment of fees or taxes?

If yes, explain the specific circumstances surrounding each instance, including the entity involved, the specific fees and taxes unpaid, the amount of fees or taxes involved, the dates of such instances and the current status of each such instance.

53. Within the past five (5) years, has the Applicant ever been barred from bidding on any government project?

If yes, explain the specific circumstances surrounding each instance, including the entity involved, the contract involve, the dates of the each instance and whether the Applicant is still barred from bidding on contracts with the entity involved.

SECTION VI. EVALUATION CRITERIA

All proposals will be reviewed and evaluated in accordance with the following criteria. The criteria are itemized with their respective weights to provide a guideline of the relative importance of each section.

In addition to an Applicant's successful overall score, an Applicant must achieve a qualifying score in each individual section. A failing score in any single section outlined below (failing defined as less than 70% of the maximum possible score for that section) will make an Applicant ineligible for a direct service contract.

Scoring occurs after interviews (if any) have been completed.

Background

This section seeks information about the Applicant's corporate structure and is for identification purposes only. This section is not scored.

Experience, Responsibility & Integrity **20%**

This criterion will evaluate the background, qualifications and experience of Applicant in drayage operations at the Port or other Ports, or in trucking industry overall. This will include the comparative size and performance of Applicant's operations, Applicant's references and contracts/letters of commitment, and any relevant legal and/or regulatory history.

Operational Plan **25%**

This criterion will evaluate the quality, comprehensive nature and feasibility of Applicant's plan for drayage operations. This will include factors such as staffing levels, staff training, preference for current workforce, labor peace assurances, management team, fleet maintenance and other procedures, parking and other facilities, and hazmat endorsements. Key elements of this section include Applicant's proposed innovations or improvements to efficiency in system-wide performance, and Applicant's safety and security measures.

DBE Participation **10%**

This criterion will evaluate the extent of participation by small, locally-owned or otherwise disadvantaged business enterprises.

Environmental & Community Mitigation **25%**

This criterion will evaluate the speed and comprehensive nature of Applicant's compliance with the CAAP, as well as additional environmental measures and any plans for addressing community concerns.

Financial Capacity & Stability **20%**

This criterion will evaluate the comprehensive nature of all financial requirements, including proof of insurance, access to capital, and credit/banking references. Additionally, this includes an assessment of Applicant's stability (via examining any bankruptcies or relevant changes in the nature of the entity) and Applicant's ability to fund a truck fleet (under the terms of the CAAP) as well as the complement of costs associated with employee drivers.