

# City of

# Long Beach

Request for Proposals Number DV-22-127  
Purchase & Development of 5571 Orange



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## Overview

### Summary

The City of Long Beach (City) is soliciting proposals for the purchase and development of the property located at 5571 Orange Ave (Site) to create quality affordable housing for lower-income residents. The goal of this solicitation is to develop new neighborhood-appropriate, affordable housing for lower-income households. The site is improved with a 7,318 sq. ft. single-story building. The City will consider proposals which include demolition of the existing structure with new construction, as well as proposals for rehabilitation and adaptive re-use of the existing structure. The City will consider proposals for both for-sale and rental housing.

### Key Dates

Release Date: October 10, 2022

Questions Due to the City: 11:00AM, October 25, 2022

Proposals Due: 11:00AM, November 15, 2022

*The City reserves the right to modify these dates at any time, with appropriate notice to prospective Contractors.*

### Proposal Information

Instructions for what to include in your proposal and how to submit it are detailed in Section 4.

Proposals must be submitted electronically via the City's Long Beach Buys portal, available at <https://longbeachbuys.buyspeed.com/bsv/view/login/login.xhtml>

### RFP Official Contact

Carrie Sinohui  
[rppurchasing@longbeach.gov](mailto:rppurchasing@longbeach.gov)

*All communication with the City related to this RFP must be directed to the contact listed above.*

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# 1 The Opportunity

## 1.1 Project Summary

The Site represents an opportunity to develop affordable housing in a residential neighborhood for lower income households. The purpose of this RFP is to solicit proposals from qualified developers. Respondents must demonstrate superior experience, financial strength, and organizational resources to develop the Site with an affordable residential project appropriate to its surrounding neighborhood. The Site was acquired with former redevelopment housing set-aside funds and is improved with a 7,318 sq. ft. single-story building which operated as the North Neighborhood Branch of the Long Beach Public Library until 2016. Since then the building has sporadically served as a temporary homeless shelter and is now vacant.

## 1.2 Background

The Long Beach Community Investment Company (LBCIC) is a California non-profit public benefit corporation established and wholly-owned by the City. The LBCIC's mission includes the promotion of safe and livable neighborhoods by developing and preserving decent, safe, and quality affordable housing for lower-income residents of Long Beach. The LBCIC is governed by a Board of Directors comprised of seven members appointed by the Mayor and confirmed by the City Council.

The LBCIC purchased the Site using former redevelopment housing set-aside funds from its Low-Moderate Income Housing Asset Fund (LMIHAF). The Site is located south of 56<sup>th</sup> Street in North Long Beach and is approximately 15,375 sq. ft. ([see assessor's map](#)). The existing facility includes a 7,318 sq. ft. single-story building with a brick finish at the exterior walls. The building consists of a large Common Hall, two offices, two storage rooms, and four restrooms.

On November 13, 2018, the City Council declared the Site "Surplus land" as defined in Government Code Section 54220 and authorized the sale of the property to the Long Beach Community Investment Company for the development of affordable residential units.

The use of LMIHAF for the LBCIC's procurement of the Site restricts the use of the Site for households earning no more than 80% of the Los Angeles County Area Median Income (AMI).

To increase the supply of affordable housing stock in Long Beach, the City will consider proposals that include demolition of the existing structure with new construction, as well as proposals for rehabilitation and adaptive re-use of the existing structure.

## 1.3 Goals

The goal of this solicitation is to identify the best use for this vacant public property which will provide the maximum public benefit as an affordable rental or for-sale housing development.

## 1.4 Award Terms

This contract will be for the period of time required for the developer to secure any additional funding sources, entitlements, and commitments required to close escrow on the construction phase of the development, at which time a Promissory Note and Deed of Trust will be executed. The Promissory Note and Deed of Trust must be completed by December 31, 2024 or the award may be canceled.

## 2 Scope of Work

### 2.1 Description of Services

Proposals shall indicate if they are opting to rehabilitate the existing building or to demolish the existing building and construct a new building(s). Developer is to design and develop a high-quality, affordable rental or for-sale housing project for low-income households in compliance with all applicable requirements.

The Site is currently zoned for single-family, townhouse, or row house residential use development (R-3-T).

#### Household Income Standards

The availability and use of LMIHAF are subject to the requirements imposed by H&SC Section 34176.1, including maximum household incomes and maximum gross rents to be applied to all affordable rental units. The maximum household incomes for extremely-low, very-low, and low-income households are presented in the table below. These household income standards are applicable as of May 2022, and are adjusted annually by the California Department of Housing and Community Development (HCD).

Household Size	Extremely Low Income	Very Low Income	Low Income
1	\$25,050	\$41,700	\$66,750
2	\$28,600	\$47,650	\$76,250
3	\$32,200	\$53,600	\$85,800
4	\$35,750	\$59,550	\$95,300
5	\$38,650	\$64,350	\$102,950
6	\$41,500	\$69,100	\$110,550
7	\$44,350	\$73,850	\$118,200
8	\$47,200	\$78,650	\$125,800

#### Affordable Housing Cost Calculations (Rental Units)

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H&SC Section 50053 establishes the methodology for calculating the maximum gross affordable rents for extremely-low income, very-low income, and low-income households. As of May 2022, the maximum gross rents are presented in the following tables, showing maximum rents by unit size and income level for a project without and with federal funding assistance.

<b>Federal Funding Assistance is not Provided to the Project</b>			
<b>Number of Bedrooms</b>	<b>Extremely Low Income</b>	<b>Very Low Income</b>	<b>Low Income</b>
0	\$478	\$797	\$956
1	\$547	\$911	\$1,094
2	\$615	\$1,025	\$1,230
3	\$683	\$1,139	\$1,367
4	\$738	\$1,230	\$1,476

<b>Federal Funding Assistance is Provided to the Project</b>			
<b>Number of Bedrooms</b>	<b>Extremely Low Income</b>	<b>Very Low Income</b>	<b>Low Income</b>
0	\$478	\$797	\$956
1	\$512	\$854	\$1,025
2	\$615	\$1,025	\$1,230
3	\$711	\$1,184	\$1,421
4	\$793	\$1,321	\$1,586

The City/LBCIC will update the household income standards and gross affordable rents each year when the information is published by the HCD. The awarded developer will be required to meet these standards. In addition, utility allowances must be deducted from the gross affordable rents. The Housing Authority of the City of Long Beach publishes utility allowances schedules for the City of Long Beach, which can be found at the City’s website by clicking this link: [Utility Allowance Schedule](#).

**Affordable Housing Cost Calculations (For-Sale Units)**

The cost to a buyer to purchase an affordable unit must result in monthly housing expenses not to exceed (i) the product of thirty percent (30%) times seventy percent (70%) of AMI adjusted for family size appropriate to the Unit for Low Income Households whose gross income is less than 70% of Area Median Income adjusted for family size appropriate to the unit, or (ii) the product of 30% times the actual gross income of the Low Income Household for Low Income Households whose gross income

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equals or exceeds 70% of AMI adjusted for family size appropriate to the unit. The term “adjusted for family size appropriate to the unit” shall have the meaning set forth in Health and Safety Code Section 50052.5(h) or its successor statute(s). Notwithstanding the foregoing, “Affordable Housing Cost” shall have the meaning set forth in and be interpreted in accordance with Section 50052.5 of the California Health and Safety Code or its successor statute(s).

### **Income and Affordability Covenants**

For any project that receives LMIHAF, H&SC Section 33334.2a (b)(3) requires the income and affordability covenants to remain in place for a minimum 55-year term (rental). Affordability covenants will remain in place for a minimum 45-year term (ownership). Accordingly, a Regulatory Agreement containing affordability covenants and restrictions will be recorded in the office of the county recorder at the close of escrow.

### **Affordable Housing Monitoring Fee**

The LBCIC will be imposing a \$170-per-unit, annual monitoring fee on the selected project. This fee is updated periodically.

### **Lender Fee**

Upon construction closing sufficient funds shall have been deposited into Escrow to pay City its Lender Fee, and such funds shall be included in the estimated settlement statement approved in connection with Closing for disbursement to City.

### **Developer Impact Fee Waivers**

The City provides exemptions from Parks and Recreation, Transportation, Fire Facilities, and Police Facilities Impact Fees for affordable housing projects per Long Beach Municipal Code Sections 18.17.130.B.5, 18.18.120.E, 18.23.110.A.2.e, and 18.22.110.2.e. The value of these fee waivers shall be calculated and be included as a local (City) source of funds on the development pro forma.

### **Developer Responsibilities**

While the exact nature of developer responsibilities will be subject to further negotiation, the selected developer must accept the following obligations:

- Purchase the Site in an “as is” condition for fair market value.
- Provide insurance as required by the City’s Risk Manager.
- Identify and maximize the leveraging of project funding from federal, state, and private sources.
- Negotiate and execute a Disposition and Development Agreement, or similar agreement, with the LBCIC.
- Comply with all applicable City of Long Beach Municipal Code Requirements and California Environmental Quality Act requirements.

- Comply with the City’s Green Building Policy that mandates the inclusion of sustainability elements for private development.
- Construct necessary on-site improvements to the project, including, but not limited to new paving, fencing, screening, and landscaping.
- Perform required off-site improvements, including but not limited to street trees, sidewalks, and curbs.
- Comply with the City’s Section 3 requirements and any applicable prevailing wage laws.
- Establish and implement a plan to provide employment opportunities to Long Beach residents in conjunction with the construction of the project.

## 2.2 Performance Metrics & Contract Management

### 2.2.1 Performance Metrics

The table below highlights the targets that will be tracked and reviewed collaboratively with the awarded contractor during the contract and continue until the close of conversion to permanent financing (rental units) or the close of escrow on the sale of each unit (for-sale). This list is an indication of the performance metrics of interest to the City, and is not exhaustive or final. As a part of a response to this RFP, Proposers may propose additional or alternative performance metrics to be tracked on a regular basis. The final set of performance metrics and frequency of collection will be negotiated by the successful Proposer and the City prior to the finalization of an agreement between parties, and may be adjusted over time as needed.

METRIC	DESCRIPTION	TARGET	DATA SOURCE
1. Construction Financing	Following execution of a Purchase and Sale Agreement, but prior to close of escrow, a representative of the LBCIC and LBCIC counsel shall be invited to attend regular calls to coordinate all deliverables necessary to close escrow	No less than 2 months prior to estimated close of escrow	Meeting Agendas and Minutes
2. Progress of Construction	Upon commencement of	Once per month	Construction Status Report

	construction, a representative of the LBCIC shall be invited to attend regular, on-site status meetings typically referred to as Architect, Owner, Contractor (AOC) Draw Request Meetings		
3. Progress of Lease-Up	Upon completion of construction of a rental project, a representative of the LBCIC shall be invited to attend regular lease-up calls or meetings	Preferably weekly but monthly at a minimum	Meeting Agendas and Minute
4. Conversion to Permanent Financing	At project stabilization of a rental project, a representative of the LBCIC and LBCIC counsel shall be invited to attend regular conversion calls to ensure timely conversion to permanent financing	Monthly or Weekly	Meeting Agendas and Minutes

2.2.2 Contract Management

Awarded developer shall designate a Project Manager as the primary contact with the City/LBCIC. Throughout the various development phases listed as Metrics above, a representative of the LBCIC shall be invited to attend recurring meetings with the developer and other relevant entities as appropriate (other lenders, construction company, title/escrow company, etc.).

Awarded developer shall provide to the LBCIC a monthly construction status report during the construction phase, such report shall include any funding draw requests on the project. During the lease-

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up phase of the project developer shall provide regular updates on the lease up status, preferably on a weekly basis, but no less than monthly.

Prior to the sale of affordable units developer shall identify and verify income eligibility of potential buyers. The LBCIC shall have the authority to approve or deny potential buyers if the LBCIC has determined that the household is not income-eligible.

### 2.2.3 Contract Payment

The LBCIC is not offering funding for the development of the Site. The LBCIC will provide a residual receipts loan for the property value. The loan will be evidenced by a Promissory Note and secured by a Deed of Trust. The recording of the Deed of Trust and Promissory Note, to occur at construction finance closing, will be considered the acquisition payment. The only hard payment made to the City in conjunction with this contract is the City's Lenders Fees due at construction closing.

## 3 How We Choose

### 3.1 Minimum Qualifications

The City will accept responses from entities or a combination of entities with a proven track record in the development of high-quality affordable housing. Developers may include, but are not limited to, private corporations, for-profit developers, and non-profit developers. Development Team Members may include, but are not limited to, any legal, financial, construction, and development entities formed for the Project. Developers and Development Team Members must be clearly identified and must provide a description of their legal and financial responsibilities as part of the submittal package. Responses from entities that do not have a proven track record in the development of quality affordable housing will be rejected.

The developer should have the following qualifications:

- Extensive experience developing high quality service-enriched housing;
- A minimum of five years experience with the operation and management of affordable housing;
- Experience working with diverse/multicultural businesses, business associations, community organizations, and/or neighborhood groups in accomplishing projects;
- Experience working with public agencies to implement projects; and
- Experience working on projects that incorporate sustainable construction or operations, such as Leadership in Energy and Environmental Design (LEED) certification.

### 3.2 Evaluation Criteria

Proposals shall be consistently evaluated based upon the following criteria:

<b>CRITERIA</b>
<ul style="list-style-type: none"> <li>• Scope of proposed development, including maximizing the number of housing units provided, providing high quality service-enriched housing, and a building design appropriate to the surrounding residential neighborhood;</li> <li>• Demonstrated experience in development of affordable housing;</li> <li>• Demonstrated experience in development/management of similar projects;</li> <li>• Financial stability of developer and evidence of financial capability to develop the project;</li> <li>• Proposed number of both short-term and long-term jobs created as a result of the development;</li> <li>• Demonstrated capability to plan and construct development projects in a timely fashion;</li> <li>• Demonstrated capability to maintain real property and to adhere to applicable codes, ordinances, and covenants; and</li> <li>• Inclusion of sustainability/green building elements.</li> </ul>

### 3.3 Selection Process & Timelines

<b>EVALUATION STAGE</b>	<b>ESTIMATED DATE</b>	<b>DESCRIPTION</b>
Evaluation of Narrative & Cost Proposals	November 2022	<ul style="list-style-type: none"> <li>• An Evaluation Committee will review Narrative &amp; Cost Proposals to select the proposal that best meets the needs of the City.</li> <li>• Evaluations will be conducted using a methodology derived from the evaluation criteria listed in Section 3.2.</li> </ul>
Negotiation & Contractor Selection	December 2022	<ul style="list-style-type: none"> <li>• Selected Contractor(s) will be notified in writing.</li> <li>• Any award is contingent upon the successful negotiation of final contract terms. If contract negotiations cannot be</li> </ul>

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		<p>concluded successfully, the City reserves the right to negotiate a contract with another Contractor or withdraw the RFP.</p> <ul style="list-style-type: none"> <li>• Negotiations shall be confidential and not subject to disclosure to competing Contractors unless and until an agreement is reached.</li> </ul>
Estimated Contract Execution	January 2023	It is anticipated that a Purchase and Sale Agreement will be executed once all remaining funding sources are committed to the project. If requested by awarded developer, a Commitment/Award letter will be provided from the LBCIC to assist securing additional funding for the project.
Proposer Debrief	After Contractor is Selected	<ul style="list-style-type: none"> <li>• Successful and unsuccessful Proposers are encouraged to request phone call or in person meeting with the City to discuss the strengths and weaknesses of their proposal. The intent of the debrief is to provide the Proposer with constructive feedback to equip them with information to effectively meet the City's needs and be successful in future proposals.</li> </ul>

## 4 Proposal Instructions & Content

### 4.1 Proposal Timelines & Instructions

MILESTONE	TIME (PACIFIC) & DATE	LOCATION / ADDITIONAL INFORMATION
Release date	October 10, 2022	
Questions due to the City	11:00 AM, October 25, 2022	<ul style="list-style-type: none"> <li>• Submit all inquiries via email to <a href="mailto:rfppurchasing@longbeach.gov">rfppurchasing@longbeach.gov</a></li> </ul>

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Posting of the Q&A	November 1, 2022	<ul style="list-style-type: none"> <li>• Responses to the questions will be posted on the City's Long Beach Buys portal, available at <a href="https://longbeachbuys.buyspeed.com/bsv/view/login/login.xhtml">https://longbeachbuys.buyspeed.com/bsv/view/login/login.xhtml</a></li> </ul>
Proposals due	11:00AM, November 15, 2022	<ul style="list-style-type: none"> <li>• Proposals should be submitted electronically via the City's Long Beach Buys portal, available at <a href="https://longbeachbuys.buyspeed.com/bsv/view/login/login.xhtml">https://longbeachbuys.buyspeed.com/bsv/view/login/login.xhtml</a></li> <li>• Late proposals, or proposals submitted through other channels will not be accepted.</li> <li>• Proposers are responsible for submitting their proposals completely and on time. <ul style="list-style-type: none"> <li>○ Proposers will receive an e-mail confirmation with number and a time stamp from Long Beach Buys indicating that the proposal was submitted successfully. The City will only receive proposals that were transmitted successfully.</li> <li>○ Technical support is available by email at <a href="mailto:LBPurchasing@longbeach.gov">LBPurchasing@longbeach.gov</a></li> </ul> </li> </ul>

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## 4.2 Proposal Content

Complete proposals will include the following. Proposers are encouraged to use this table as a checklist to ensure all components are included in their proposal.

<b>PROPOSAL</b>	
<input type="checkbox"/> Narrative Proposal	The Narrative Proposal should provide a straightforward, concise delineation of capabilities to satisfy the RFP. Guidance on preparing a Narrative Proposal is detailed below in Section 4.3.
<input type="checkbox"/> Cost Proposal	The Cost Proposal should be presented as a draft financial proforma and include at a minimum: <ul style="list-style-type: none"> <li>• Breakdown of development costs;</li> <li>• Site purchase price offer;</li> <li>• Funding Sources and Uses of Funds for both construction and permanent phases;</li> <li>• Lender Fee;</li> <li>• Operating Budget, which must include the City's \$170/year per unit monitoring fee;</li> <li>• Projected Cash Flow for a minimum of 30 years (rental units).</li> </ul>
<b>PROPOSAL APPENDICES</b>	
<input type="checkbox"/> Financial Stability	Proposers should include one or more of the following financial statements to provide the City with enough information to determine financial stability of the Proposer and subcontractor. <ul style="list-style-type: none"> <li>• Financial Statement or Annual Report for the last three (3) years</li> <li>• Business tax return</li> <li>• Statement of income and related earnings</li> </ul>
<input type="checkbox"/> Other Addenda (if applicable)	Colored displays, promotional materials, and other collateral are not necessary or desired. However, if a complete response cannot be provided without referencing supporting documentation, it may be provided as an addendum clearly cited in the Narrative or Cost Proposal.
<b>MANDATORY ATTACHMENTS</b>   <i>The following are included as Attachments in Long Beach Buys. They must be signed by the individual legally authorized to bind the Proposer.</i>	
<input type="checkbox"/> A. Authorization & Certification	
<input type="checkbox"/> B. Equal Benefits Ordinance (EBO) Form	

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**NON-MANDATORY ATTACHMENTS** | *The following are required for awarded Contractors prior to contract execution. If possible, Proposers are encouraged to include this information as part of their proposal to expedite processing.*

- C. W-9
- D. Business License
- E. Proof of Registration with Secretary of State
- Long Beach Buys** | *Ensure your organization’s Long Beach Buys profile is up to date, including an email address, phone number, and for any socioeconomic classifications you may qualify for.*

### 4.3 Narrative Proposal Template

Proposers should develop a narrative proposal that includes all of the following information.

#### Organizational Capacity & Experience

PROPOSER CONTACT INFORMATION		
<b>Organization</b>	Company Name	
	Company Address	
	Website	
	Federal Tax ID Number	
<b>Authorized Representative</b>	Name	
	Title	
	Email Address	
	Phone Number	
<b>Other Point of Contact (if required)</b>	Name	
	Title	
	Email Address	
	Phone Number	
PROPOSER CAPACITY & EXPERIENCE		
What type of enterprise is the organization?	<input type="checkbox"/> Non-Profit	
	<input type="checkbox"/> Sole Proprietorship	
	<input type="checkbox"/> General Partnership	
	<input type="checkbox"/> Corporation	
	State and Date of incorporation:	

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		<input type="checkbox"/> Limited Liability Company
		<input type="checkbox"/> Other
Please describe why the organization is qualified to provide the services described in this RFP (1-2 paragraphs).		
Please describe your experience developing affordable housing projects, including at least three (3) of your recent affordable housing developments. For each project, please include: project name, location, date completed, number of units and description of amenities.		
How many employees does the organization have in total and residing in Long Beach?		
Where are the representative(s) that would service the City's account located?		
Please provide name and title of key staff that would be involved in this project and provide resumes.		
Does the proposal include subcontractors?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
<b>REFERENCES</b>		
<b>Reference 1</b>	Company	
	Project Manager	
	Phone Number	
	Project Description	
	Project Start and End Dates	
<b>Reference 2</b>	Company	
	Project Manager	
	Phone Number	
	Project Description	
	Project Start and	

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	End Dates	
<b>Reference 3</b>	Company	
	Project Manager	
	Phone Number	
	Project Description	
	Project Start and End Dates	
<b>Reference 4</b>	Company	
	Project Manager	
	Phone Number	
	Project Description	
	Project Start and End Dates	
<b>Reference 5</b>	Company	
	Project Manager	
	Phone Number	
	Project Description	
	Project Start and End Dates	

<b>SUB-CONTRACTOR CONTACT INFORMATION (if applicable)</b>		
<i>Please provide this information for all subcontractors included in this proposal.</i>		
<b>Organization</b>	Company Name	
	Company Address	
<b>Authorized Representative</b>	Name	
	Title	
	Email Address	
	Phone Number	
<b>Other Point of Contact (if required)</b>	Name	
	Title	
	Email Address	
	Phone Number	
<b>SUBCONTRACTOR CAPACITY &amp; EXPERIENCE</b>		
What type of enterprise is the organization?	<input type="checkbox"/> Non-Profit	
	<input type="checkbox"/> Sole Proprietorship	
	<input type="checkbox"/> General Partnership	

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	<input type="checkbox"/> Corporation <i>State and Date of incorporation:</i> <hr/>
	<input type="checkbox"/> Limited Liability Company
	<input type="checkbox"/> _____ Other
Which specific requirements of this RFP will the subcontractor perform?	
Is the subcontractor registered with the California Department of Industrial Relations? If yes, provide registration number.	
Please describe why the organization is qualified to provide the services described in this RFP (1-2 paragraphs).	
Please describe the length of time the organization has been providing the services described in this RFP (1-3 sentences).	
How many employees does the organization have nationally, locally, and residing in Long Beach?	
Where are the representative(s) that would service the City's account located?	

Method of Approach

1. Please summarize proposed development.
2. Please summarize proposed timelines for key milestones.
3. Please summarize proposed financial structure.
4. Please summarize how the proposed project will be appropriate for the neighborhood.

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Communications & Reporting

1. Key Performance Indicators: Please describe your system of project monitoring and evaluation, including data and reporting systems that will be used to evaluate progress of the project.
2. Project Supervision: Please explain your organizational structure including supervision of front-line employees.
3. Communication and Coordination with the City: Please explain how you will report on performance to the City, and coordinate with the City to meet the objectives of the RFP.
4. Coordination with Other Stakeholders: Please explain how you will work with other stakeholders involved in the implementation of the proposal and throughout development of the project.
5. The City requires that the awarded developer provide proof of payment of any subcontractors used for this project. Please describe your experience working with labor compliance companies and Section 3 reporting and compliance requirements.

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## 5 Terms & Conditions

### 5.1 Acronyms/Definitions

1. **Awarded Contractor:** The organization/individual that is awarded a contract with the City of Long Beach, California for the services identified in this RFP.
2. **City:** The City of Long Beach and any department or agency identified herein.
3. **Contractor / Proposer:** Organization/individual submitting a proposal in response to this RFP.
4. **Department / Division:** City of Long Beach, Development Services Department
5. **Evaluation Committee:** An independent committee comprised solely of representatives of the City established to review proposals submitted in response to the RFP, evaluate the proposals, and select a Contractor.
6. **May:** Indicates something that is not mandatory but permissible.
7. **RFP:** Request for Proposals.
8. **Shall / Must:** Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.
9. **Should:** Indicates something that is recommended but not mandatory. If the Proposer fails to provide recommended information, the City may, at its sole option, ask the Proposer to provide the information or evaluate the proposal without the information.
10. **Subcontractor:** Third party not directly employed by the Proposer who will provide services identified in this RFP.
11. **LBCIC:** The Long Beach Community Investment Company
12. **Lender Fee:** An amount sufficient to reimburse City for its consultant and legal fees incurred in connection with the Project and preparation and finalization of the City Loan Documents, which shall be deposited into Escrow by Borrower and disbursed to City.
13. **HCD:** California Department of Housing and Community Development
14. **H&SC:** California Health and Safety Code
15. **Site:** 5571 Orange Ave, Long Beach CA 90805

## 5.2 Solicitation Terms & Conditions

1. The City reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the City to do so.
2. The City reserves the right to request clarification of any proposal term from Proposers.
3. The City may contact the references provided; contact any Proposer to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process.
4. The level and term of documentation required from the Proposer to satisfy the City will be commensurate with the size and complexity of the contract and Proposers should submit accordingly. If the information submitted by the Proposer, or available from other sources, is insufficient to satisfy the City as to the Proposer's contractual responsibility, the City may request additional information from the Proposer or may deem the proposal non-responsive.
5. The City reserves the right to waive informalities and minor irregularities in proposals received.
6. The City reserves the right to reject any or all proposals received prior to contract award.
7. The City's determination of the Proposer's responsibility, for the purposes of this RFP, shall be final.
8. Unless otherwise specified, the City prefers to award to a single Contractor but reserves the right to award contracts to multiple contractors.
9. The City shall not be obligated to accept the lowest priced proposal, but will make an award in the best interests of the City of Long Beach after all factors have been evaluated.
10. Any irregularities or lack of clarity in the RFP should be brought to the Purchasing Division designee's attention as soon as possible so that corrective addenda may be furnished to Proposers.
11. Proposals must include any and all proposed terms and conditions, including, without limitation, written warranties, maintenance/service agreements, license agreements, lease purchase agreements and the Proposer's standard contract language. The omission of these documents may render a proposal non-responsive.
12. Alterations, modifications or variations to a proposal may not be considered unless authorized by the RFP or by addendum or amendment.

13. Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.
14. Proposals may be withdrawn by written notice received prior to the proposal opening time.
15. The price and amount of this proposal must have been arrived at independently and without consultation, communication, agreement or disclosure with or to any other Contractor or prospective Contractor.
16. No attempt may be made at any time to induce any firm or person to refrain from submitting a proposal or to submit any intentionally high or noncompetitive proposal. All proposals must be made in good faith and without collusion.
17. Prices offered by Proposers in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded Contractor agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in response to this RFP. No other costs, rates or fees shall be payable to the awarded Contractor for implementation of their proposal.
18. The City is not liable for any costs incurred by Proposers prior to entering into a formal contract. Costs of developing the proposals or any other such expenses incurred by the Proposer in responding to the RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the City.
19. Proposal will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each Proposer may clearly label all or part of a proposal as "CONFIDENTIAL" provided that the Proposer thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any information that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the information.
20. A proposal submitted in response to this RFP must identify any subcontractors, and outline the contractual relationship between the Proposer and each subcontractor. An official of each proposed subcontractor must sign, and include as part of the proposal submitted in response to this RFP, a statement to the effect that the subcontractor has read and will agree to abide by the Proposer's obligations.
21. If the Contractor elects to use subcontractors, the City requires that the awarded Contractor provide proof of payment of any subcontractors used for this project. Proposals shall include a plan by which the City will be notified of such payments.

22. Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict should be disclosed. The City reserves the right to disqualify any Proposer on the grounds of actual or apparent conflict of interest.
23. Each Proposer must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the Proposer's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.
24. The City reserves the right to negotiate final contract terms with any Proposers selected. The contract between the parties will consist of the RFP together with any modifications thereto, and the awarded Contractor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the City during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded Contractor's proposal, and the awarded Contractor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.
25. The City will not be responsible for or bound by any oral communication or any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the City Contact.
26. Any contract resulting from this RFP shall not be effective unless and until approved by the City Council / City Manager, as applicable.
27. The City will not be liable for Federal, State, or Local excise taxes.
28. Execution of Attachment A of this RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, the Attachment B contract form and all terms and conditions therein, except such terms and conditions that the Proposer expressly excludes.
29. Proposer understands and acknowledges that the representations above are material and important, and will be relied on by the City in evaluation of the proposal. Any Proposer misrepresentation shall be treated as fraudulent concealment from the City of the true facts relating to the proposal.

30. Proposals shall be kept confidential until a contract is awarded.
31. No announcement concerning the award of a contract as a result of this RFP may be made without the prior written approval of the City.
32. Proposers are advised that any contract awarded pursuant to this procurement process that exceeds \$100,000 shall be subject to the applicable provisions of Long Beach Municipal Code Section 2.73 et seq, the Equal Benefits Ordinance. Proposers shall refer to Attachment G for further information regarding the requirements of the ordinance. If Attachment G is not present in the RFP, the Equal Benefits Ordinance does not apply to this procurement.
33. All Proposers shall complete and return, with their bid, the Equal Benefits Ordinance Compliance form contained in Attachment B, if applicable. Unless otherwise specified in the procurement package, Proposers do not need to submit with their bid supporting documentation proving compliance. However, supporting documentation verifying that the benefits are provided equally shall be required if the proposer is selected for award of a contract.

### 5.3 Contract Terms & Conditions

Developers should be aware of the following terms and conditions which will apply to the subsequent development of the property:

1. The awarded Contractor will be the sole point of contract responsibility. The City will look solely to the awarded Contractor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Contractor shall not be relieved for the non-performance of any or all subcontractors.
2. The awarded Contractor must maintain, for the duration of its contract, insurance coverages as required by the City. Work on the contract shall not begin until after the awarded Contractor has submitted acceptable evidence of the required insurance coverages.
3. The Long Beach Municipal Code (LBMC) requires all businesses operating in the City of Long Beach to pay a business license tax. In some cases, the City may require a regulatory permit and/or evidence of a State or Federal license. Prior to issuing a business license, certain business types will require the business license application and/or business location to be reviewed by the Development Services, Fire, Health, and/or Police Departments. Additional information is available at [www.longbeach.gov/finance/business\\_license](http://www.longbeach.gov/finance/business_license).
4. All work performed in connection with construction shall be performed in compliance with all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies (including, without limitation, all applicable federal and state labor standards, including the prevailing wage provisions of sections 1770 et seq. of the California



Labor Code), and (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. Development contractors shall complete forms required by the City or its funding source during the course of the development, including HUD Section 3, as applicable.

5. Contractor shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents (“Indemnified Parties”), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys’ fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Contractor’s breach or failure to comply with any of its obligations contained in this Contract, including any obligations arising from the Project’s Contractor’s compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 et seq. or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Contractor, its officers, employees, agents, subcontractors, or anyone under Contractor’s control, in the performance of work or services under this Contract (collectively “Claims” or individually “Claim”).
6. In addition to Contractor’s duty to indemnify, Contractor shall have a separate and wholly independent duty to defend Indemnified Parties at Contractor’s expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Contractor shall be required for the duty to defend to arise. City shall notify Contractor of any Claim, shall tender the defense of the Claim to Contractor, and shall assist Contractor, as may be reasonably requested, in the defense.
7. If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, Contractor’s costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.
8. If the Contractor elects to use subcontractors, Contractor agrees to require its subcontractors to indemnify Indemnified Parties and to provide insurance coverage to the same extent as Contractor.
9. If the Contractor elects to use subcontractors, the Contractor shall not allow any subcontractor to commence work until all insurance required of subcontractor is obtained.

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10. The provisions of this Section shall survive the expiration or termination of this Contract.
11. **PUBLIC WORKS OF IMPROVEMENT:** Contractor agrees that all public work (as defined in California Labor Code section 1720) performed pursuant to, or as a result of, this Agreement, specifically any Development Project, (the “Public Work”), if any, shall comply with the requirements of California Labor Code sections 1770 et seq. If there is a difference between the general prevailing wage rates determined by the director of the Department of Industrial Relations and the applicable minimum wage rates determined by the Secretary of Labor (for federally assisted projects) for similar classifications of work, the Contractor and its subcontractors of every tier shall pay their workers not less than the higher wage rate.
12. In all bid specifications, contracts and subcontracts for any such Public Work, Contractor shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification or type of worker needed to perform the Public Work, and shall include such rates in the bid specifications, contract or subcontract. Such bid specifications, contract or subcontract must contain the following provision: “It shall be mandatory for the contractor to pay not less than the said prevailing rate of wages to all workers employed by the contractor in the execution of this contract. The awarded contractor expressly agrees to comply with the penalty provisions of California Labor Code section 1776
13. **CALIFORNIA WAGE RATE REQUIREMENTS:** All contractors performing public work must abide by Labor Code § 1720 et seq. Pursuant to Division 2, Part 7, Chapter 1 of the Labor Code of the State of California, the Director of Public Works of the City by and on behalf of the City Council will obtain from the Director of the Department of Industrial Relations of the State of California the general prevailing rate of per diem wages, and the general prevailing rate of holiday and overtime work in the locality in which the public work is to be performed for each craft, classification or type of workers needed to perform the Work. Copies of prevailing rate of per diem wages are on file in the office of the City Engineer, 5<sup>th</sup> floor, City Hall, 411 West Ocean Boulevard, Long Beach, California 90802, and shall be made available upon request. Copies may also be obtained on the California Department of Industrial Relations website <http://www.dir.ca.gov/dlsr>. **The applicable wage rate for the 5571 Orange Avenue Development will be those rates in effect at the time quotes or formal proposals are solicited from contractors for the Development Project.** The Contractor to whom the development project contract is awarded, and its subcontractors is directed to pay not less than the general rate of per diem wages for each craft, classification, or type of worker needed to execute the contract. The Contractor awarded the Development Project contract is required to post a copy of the determination of the director of the prevailing rate of per diem wages at each job site. The Contractor(s) awarded the Development Project contract is required to pay at least the California minimum wage for the basic hourly rate in all cases where the published prevailing wage rate is below the California minimum wage. Any and all employer payments required by the prevailing wage determinations

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must also be paid. If the California minimum wage is increased in the future to an amount above that shown in the prevailing wage determination, the basic hourly rate in that determination automatically increases to the new minimum wage.

14. City makes no representation or statement at this time that the project or any portion thereof, is or is not a “public work” as defined in California Labor Code section 1720.
15. **FEDERAL DAVIS BACON REQUIREMENTS (FEDERALLY ASSISTED CONTRACTS ONLY):** Federal-aid Work is subject to the requirements of the Davis Bacon Act. The contractor to whom Development Project contracts are awarded must comply with the Federal Wage **Decision applicable at the time a quote or formal procurement for work is requested for the Development Project** and all record keeping requirements of the Davis Bacon Act.
16. **HUD SECTION 3:** The Development Project may be subject to HUD Section 3 requirements as set forth in 24 CFR 75. The City’s HUD Section 3 guidelines and forms are included as Appendix A for informational purposes only.
17. **DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) COMPLIANCE:** The Development Project may be subject to the following: No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. The Development Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractors are further cautioned that certified payrolls shall be submitted electronically directly to the Department of Industrial Relations.
18. **CERTIFIED PAYROLL SUBMISSION TO THE CITY OF LONG BEACH:** Pursuant to the provisions of Labor Code Section 1776, Contractor awarded a public work of improvement contract shall keep and shall cause each subcontractor performing any portion of the work under the Development Project Contract to keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Development Project Contractor or subcontractor in connection with the Development Project. Such payroll records for Development Project Contractor and all subcontractors shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor pursuant to the provisions of Section 1776 of the Labor Code. A Development Project Contractor's failure to furnish such records to City or City’s authorized Labor Compliance representative in the manner provided herein for notices shall entitle City to

withhold the penalty prescribed by law from progress payments due to the Development Project Contractor.

19. Each Development Project contractor and every subcontractor and supplier may be required to submit certified payrolls and labor compliance documentation electronically at the discretion of and the manner specified by the City of Long Beach. Electronic submittal will be a web-based system, accessed on the World Wide Web by a web browser. Each Development Project contractor and subcontractor will be given a Log On identification and password to access the City of Long Beach reporting system. The foregoing is in addition to, and not in lieu of, any other requirements or obligations established and imposed by any department of the City with regard to submission and retention of certified payroll records for any Development Project Contractor and subcontractors.

20. **APPRENTICESHIP EMPLOYMENT (CONTRACTS OVER \$30,000 ONLY):** The Development Project Contractor shall comply with Section 1777.5 of the Labor Code concerning the employment of apprentices by the Development Project Contractor or any subcontractor under the Contractor and, by submitting a Bid and executing the Contract, the Development Project Contractor stipulates that it shall so comply. Development Project Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. For federally assisted contracts, prospective bidders on the Development Project should refer to the Federal Labor Standards Provisions (HUD 4010) in Appendix E.

21. **PENALTIES:** Development Project Contractor and subcontractors are subject to penalties, including, but not limited to, under Labor Code §§ 1775, 1776, 1777.7 and 1813, for failure to comply with Labor Code § 1720 et seq. The Awarded Development Project Contractor(s) expressly agrees to comply with the penalty provisions of California Labor Code section 1776.

**22. INSURANCE REQUIREMENTS:**

- a. Developer, or at City's election City, for the benefit of City and Developer, shall procure and maintain for the duration of this Contract, at Developer's expense, the following insurance coverages including any extensions, renewals or holding over thereof, from insurance carriers admitted to write insurance in California or having a minimum rating of or equivalent to a current rating of A:VIII by A.M. Best & Co. for at least the coverages and limits listed herein unless otherwise determined by City's Risk Manager or designee. "Claims-made" policies are not acceptable unless approved in advance and in writing by City's Risk Manager or designee.

- i. Commercial general liability insurance equivalent in coverage to ISO CG 00 01 10 93, including, as may be applicable to Developer’s operations, products liability and completed operations, and fire legal liability, in an amount not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) in aggregate. This insurance shall be endorsed to add the LBCIC, the City of Long Beach, and their directors, officials, employees, and agents as additional insureds by an endorsement equivalent in coverage scope to ISO CG 20 26 11 85.
  - ii. Automobile liability in an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage covering Auto Symbol 1 “All Autos.”
  - iii. “All Risk” property insurance, including debris removal, the perils of earthquake and flood, and builder’s risk coverage during the course of construction, in an amount sufficient to cover the full replacement value of the Developer’s improvements, personal property and equipment. LBCIC and City shall be named as an additional insured under a standard loss payable endorsement. The requirements for the perils of earthquake and flood may be waived or modified by the City if, at the City’s sole discretion, it is determined that the cost of earthquake and flood insurance is excessive or there is inadequate availability of affordable earthquake and flood insurance.
  - iv. Workers’ compensation insurance as required by the Labor Code of the State of California and employer’s liability insurance with minimum limits of one million dollars (\$1,000,000). The policy shall be endorsed with a waiver of the Developer’s and it insurers’ rights of subrogation against the LBCIC, the City of Long Beach, and their directors, officials, employees, and agents.
  - v. Business interruption insurance providing that any loan payments or fees due LBCIC shall be paid for a period of up to twelve (12) months if the Property is destroyed, damaged, or rendered inaccessible. Such insurance shall name LBCIC as loss payee.
- b.

During the construction phase of the contract, Developer shall be responsible for procuring and maintaining or causing to be procured or maintained on behalf of its general contractor and subcontractors of all tiers the following coverages:

- i.
- ii. General liability insurance including, as applicable, products liability and completed operations, and fire legal liability, in an amount not less than not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) in aggregate. (Subcontractors may provide limits of not less than one million dollars (\$1,000,000) per

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occurrence and two million dollars (\$2,000,000) in aggregate.) Such insurance shall be endorsed to add the LBCIC, the City of Long Beach, and their directors, officials, employees, and agents as a additional insureds as respects the general contractor's and subcontractors' operations and work at the Property by an endorsement equivalent in coverage scope to ISO CG 20 26 11 85. Such insurance shall not exclude the perils of explosion, collapse, or underground (XCU) or sudden and accidental pollution liability.

- iii. Automobile liability insurance including with a combined single limit of at least one million dollars (\$1,000,000).
- iv. "All Risk" property insurance, including debris removal, the perils of earthquake and flood, and builder's risk coverage during the course of construction, in an amount sufficient to cover the full replacement value of the general contractor's and subcontractors' personal property and equipment on or about the Property. The requirements for the perils of earthquake and flood may be waived or modified by the City if, at the City's sole discretion, it is determined that the cost of earthquake and flood insurance is excessive or there is inadequate availability of affordable earthquake and flood insurance.
- v. Workers' compensation insurance as required by the Labor Code of the State of California and employer's liability insurance with minimum limits of one million dollars (\$1,000,000). The policy shall be endorsed with a waiver of the Developer's or its insurers' rights of subrogation against the LBCIC, the City of Long Beach, and their directors, officials, employees, and agents.

c.

If City exercises its election to purchase any of the insurance coverages set forth in paragraph 22.a.:

- i. Developer shall reimburse City immediately for the cost of insurance procured by City on Developer's behalf and in any event no later than fifteen (15) calendar days after the date of City's invoice therefor. Any such invoiced amount not received by City within fifteen (15) calendar days after the date of City's invoice is subject to interest of two percent (2%) per month accruing from the sixteenth (16th) calendar day after the invoice date, compounded monthly.
- ii. City or City's Risk Manager or designee may, at Developer's request, agree to Developer's purchase of any insurance set forth in paragraph 22.a.
- iii. If City does not exercise its election to purchase any of the insurance coverages specified in paragraph 22.a., Developer shall have the responsibility for procuring and maintaining such insurance.



- d. Developer agrees to provide City with any of its policy information or that required of its general contractor and subcontractors when requested by City and to make available to City all books, records and other information relating to such insurance during normal business hours. Developer also shall deliver to City certificates of insurance and original endorsements for approval as to sufficiency and form. City reserves the right to require complete certified copies of all policies required by this contract of the Developer or any general contractor or subcontractor at any time. The certificates and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf.
- e. Any self-insurance program, self-insured retention, or deductibles must be approved separately in writing by City's Risk Manager or designee and shall protect the LBCIC, the City of Long Beach, and their directors, officials, employees, and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention provisions.
- f. Insurance required by paragraph a. shall be primary insurance as respects any insurance or self-insurance maintained by the City. Any insurance or self-insurance maintained by the City shall be excess of this insurance. Coverage shall state that the insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability, and all policies shall be endorsed to state that coverage shall not be suspended, voided, changed, or canceled by either party except after thirty (30) days prior written notice to City.
- g. With respect to damage to property, City and Developer hereby waive all rights of subrogation, one against the other, but only to the extent that collectible commercial insurance is available for said damage.
- h. If in the opinion of City from time to time, the amount, scope, or type of insurance coverage specified herein is not adequate, Developer shall amend its insurance as required by City's Risk Manager or designee.
- i. Such insurance as required herein shall not be deemed to limit Developer's liability relating to performance under this contract. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this contract. Developer understands and agrees that, notwithstanding any insurance, Developer is obligated to defend, indemnify, and hold the LBCIC, the City of Long Beach, and their directors, officials, employees, and agents harmless hereunder for the full and total amount of any damage, injury, loss, expense, cost, or liability caused by the condition of the Property or in any manner connected with

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or attributed to the acts, omissions or operations of Developer, its officers, agents, contractors, subcontractors, employees, licensees, patrons, or visitors, or their use, misuse, or neglect of the Property.

- j. Any modification or waiver of the insurance requirements herein shall be made only with the written approval of City's Risk Manager or designee.
- k. Note that an ALTA title insurance policy with an ALTA 32-06 endorsement (construction loan) shall be required. Payment and performance bonds (at 100% project construction costs) shall be required of the construction phase in addition to these insurance requirements.

## 5.4 Protest Procedures

### Who May Protest

Only a Proposer who has actually submitted a proposal is eligible to protest a contract awarded through a Request for Proposals (RFP). A Proposer may not rely on the protest submitted by another Proposer but must pursue its own protest.

### Time for Protest

The City will post a notice of the intent to award a contract at least ten (10) business days before an award is made. The notice will be available to all Proposers who submitted a proposal via the City's electronic bid notification system at <http://www.longbeach.gov/purchasing>. A Proposer desiring to submit a protest for a proposal must do so within five (5) business days of the electronic notification of intent to award. The City Purchasing Agent must receive the protest by the close of business on the fifth (5th) business day following posting of notification of intent to award the contract. Proposers are responsible for registering with the City's electronic bid notification system and maintaining an updated Contractor profile. The City is not responsible for Proposers' failure to obtain notification for any reason, including but not limited to failure to maintain updated email addresses, failure to open/read electronic messages and failure of their own computer/technology equipment. The City's RFP justification memo will be available for review by protestors once the notification of intent to award has been posted via the City's electronic bid notification system.

### Form of Protest

The protest must be in writing and signed by the individual who signed the proposal or, if the Proposer is a corporation, by an officer of the corporation, and addressed to the City Purchasing Agent. Protests must be submitted via the email address above. They must include a valid email address and phone number. Protests must set forth a complete and detailed statement of the grounds for the protest and include all relevant information to support the grounds stated, and must refer to specific portions of the

RFP and attachments upon which the protest is based. Once the protest is received by the City Purchasing Agent, the City will not accept additional information on the protest unless the City requests it.

#### City Response to Protest

The City Purchasing Agent or designee will respond with a decision regarding the protest within five (5) business days of receipt of protest to the email address provided in the protest. This decision shall be final.

#### Limitation of Remedy

The procedure and time limits set forth herein are mandatory and are the Proposer's sole and exclusive remedy in the event of a protest. The Proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue a protest, including filing a Government Code Claim or initiation of legal proceedings.