



## Memorandum

**Date:** January 11, 2010  
**To:** Board of Harbor Commissioners  
**From:** Eric C. Shen, Director of Transportation Planning *ES*  
**Subject:** Approval of Professional Services Contract with USC Keston Institute

### Requested Action

Request that the Board of Harbor Commissioners:

- Approve a Professional Services contract with the Keston Institute for Public Finance and Infrastructure Policy at USC in the amount of \$114,000 for evaluating responses to the Zero Emission Container Movement System (ZECMS) Request for Concepts/Solutions (RFCS) solicitation.

### Key Project Feature

It is estimated that the expenditure by the ports for these consulting services over the 9-month contract period will generate about one half of a full-time job in annual equivalent terms.

### Background

In March 2009 the Board of Harbor Commissioners authorized staff to prepare a contract with the USC Keston Institute for support reviewing proposals and developing performance criteria for responses to a solicitation related to ZECMS. Subsequently the ZECMS RFCS was released to potential vendors, system integrators, and investors in June 2009 and an addendum was issued in September 2009. By the close of the submission date, October 23, 2009, the Port received seven responses to the solicitation.

### Description of Work

The USC Keston Institute provides unique expertise for transportation projects. The Institute's director, Mr. Richard Little, will manage a panel of six subject matter experts as follows:

- **Advanced Transportation Technologies:** Petros A. Ioannou, Ph.D.
- **Port Planning & Operations:** Wade Watson, Principal/Project Manager, KPFF
- **Rail Operations:** George Fetty
- **Environmental Regulations:** James M. Lents, President of the International Sustainable Systems Research Center
- **Performance-Based Contracting:** Allan V. Burman, President of Jefferson Solutions
- **Finance and Economics:** Sasha N. Page, Vice President, Finance, IMG

### **Financial Implications**

The Port of Los Angeles (POLA) has previously agreed to share 50% of the cost of this task. A comprehensive cost sharing agreement for completing the ZECMS RFCS is being prepared by the City Attorney's Office and will be transmitted to POLA for approval in January 2010.

### **Prior Approval**

On March 23, 2009, the Board of Harbor Commissioners directed staff to prepare and enter into a contract with the USC Keston Institute for proposal review and development of evaluation criteria for the RFQ process and future evaluation of a ZECMS.

### **Recommendation**

It is requested that the Board of Harbor Commissioners:

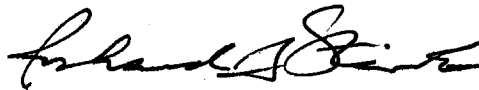
- Approve a consulting service contract with the Keston Institute for Public Finance and Infrastructure Policy at USC in the amount of \$114,000 for evaluating responses to the ZECMS RFCS solicitation.

Recommended by:



Robert Kanter, Ph.D.  
Managing Director, Environmental Affairs  
and Planning

Approved by:



Richard D. Steinke  
Executive Director

Attachment

1                                   **CONTRACT FOR CONSULTING SERVICES**  
2                                   **BETWEEN THE CITY OF LONG BEACH AND**  
3                                   **UNIVERSITY OF SOUTHERN CALIFORNIA**  
4                                   **ON BEHALF OF THE**  
5                                   **KESTON INSTITUTE FOR PUBLIC FINANCE AND INFRASTRUCTURE POLICY**  
6                                   **3551 TROUSDALE PARKWAY, ADM 352**  
7                                   **LOS ANGELES, CALIFORNIA 90089**  
8                                   **TELEPHONE NO. (213) 740-7922**  
9                                   **FAX NO. (213) 740-3249**

10                   **THIS CONTRACT** is made and entered into, in duplicate, as of the date  
11 executed by the Executive Director of the Long Beach Harbor Department ("Executive  
12 Director"), by and between the CITY OF LONG BEACH, a municipal corporation, acting  
13 by and through its Board of Harbor Commissioners ("City"), pursuant to authority granted  
14 by said Board at its meeting of \_\_\_\_\_, 2010; and  
15 UNIVERSITY OF SOUTHERN CALIFORNIA, a California nonprofit corporation, on behalf  
16 of the KESTON INSTITUTE FOR PUBLIC FINANCE AND INFRASTRUCTURE POLICY  
17 ("Consultant").

18                   1.       This contract is made with reference to the following facts and  
19 objectives:

20                         1.1     City has the need for evaluation services in connection with  
21 zero-emission container movement technologies.

22                         1.2     Consultant represents that it has or will have in its employ  
23 experienced personnel who are qualified to render these services.

24                         1.3     City wishes to employ Consultant upon the following terms  
25 and conditions to render such services as City shall request.

26                   2.       Consultant shall provide, in accordance with generally accepted  
27 professional and technical standards currently in effect, such services within the scope of  
28 work as may be requested in writing by City's Director of Transportation Planning (the  
"Director"). The anticipated scope of work is set forth in a letter dated  
September 17, 2009, attached hereto as Exhibit A and incorporated by this reference.

1           3.     The term of this contract shall be deemed to have commenced on  
2 October 1, 2009 and, subject to the provisions of paragraph 9, shall terminate on  
3 September 30, 2010.

4           4.     In requesting the services of Consultant, the Director shall identify in  
5 advance and in writing the project for which such services are requested and shall  
6 establish the maximum amount to be charged by Consultant on such project, the time  
7 limit within which Consultant is to complete the work, and the charge point to be used by  
8 Consultant in billing City. Consultant's charges on any project shall not exceed the  
9 maximum amount so established without the express written approval of the Director.

10          5.     Charges made by Consultant for such services shall be based on  
11 Exhibit A. However, and notwithstanding the rates set forth in Exhibit A, the fees for the  
12 panel members shall be \$190 per hour for the period October 1, 2009 through  
13 May 31, 2010, not to exceed \$10,000 per panel member.

14          6.     Consultant shall submit a separate statement not later than the tenth  
15 day of each month for each project upon which services have been performed during the  
16 immediately preceding month, referring in each of said statements to the charge point for  
17 such project previously furnished by the Director and detailing the services performed  
18 and expenses, if any, incurred. All payments to Consultant shall be made by City in due  
19 course, not to exceed thirty (30) days, after approval of invoice by the Director.

20          7.     Regardless of the use of the word "Estimated" in Exhibit A, the total  
21 amount which shall be payable by City to Consultant on all projects during the term of this  
22 contract shall not exceed **\$113,369**.

23          8.     City shall have the unrestricted right to use or disseminate the  
24 deliverables, whether as set forth in the anticipated scope of work or as otherwise  
25 delivered without payment of further compensation to Consultant. Copies of Consultant's  
26 work product may be retained by Consultant for its own records.

27          9.     City shall have the right to terminate this contract at any time upon  
28 thirty (30) days' written notice to Consultant. Consultant may terminate this contract with

thirty (30) days written notice to City, if Consultant reasonably determines that the anticipated scope of work set forth in Exhibit A is no longer academically, technically, or commercially feasible. Prior to any termination by Consultant, Consultant shall discuss with City in good faith to explore viable, mutually agreeable alternative options to continue with the work. If this contract is terminated pursuant to this paragraph 9 prior to the expiration of the term, Consultant shall be paid for those charges which have accrued but not been paid through the effective date of termination. Consultant agrees to accept such amount, plus all amounts previously paid, as full payment and satisfaction of all obligations of City to Consultant. City shall allow full credit to or reimburse Consultant for non-cancellable obligations incurred by Consultant prior to receipt of a termination notice that are consistent with Exhibit A.

10. As between the parties, title to any inventions and discoveries conceived and reduced to practice in the performance of the Scope of Services as described in Exhibit A shall be determined in accordance with the rules of inventorship under United States Patent law in effect at the time of the invention.

11. Neither City nor any of its employees shall have any control over the conduct of Consultant, or employees of Consultant, except as set forth in this contract, and Consultant and employees of Consultant shall not, at any time or in any manner, represent that Consultant or employees of Consultant, or any of them, are the officers, agents, or employees of City. It is expressly understood and agreed that Consultant is, and shall at all times remain, as to City a wholly independent contractor, and each party's obligations to the other party are solely such as are set forth in this contract. Consultant shall have the control of the means, methods and details of performing the work and shall only be subject to the general direction and supervision of City to ensure the results contracted for are achieved. Consultant shall be free to contract for similar services to be performed for others during this contract, subject to the restrictions in paragraph 15. Consultant acknowledges and agrees that: (i) City will not withhold taxes of any kind from Consultant's compensation; (ii) City will not secure workers' compensation or pay

1 unemployment insurance to, for or on Consultant's behalf; and (iii) City will not provide  
2 and Consultant is not entitled to any of the usual and customary rights, benefits or  
3 privileges of City employees.

4           12.. Consultant agrees, subject to applicable laws, rules, and regulations,  
5 not to discriminate in the performance of this contract against any employee or applicant  
6 for employment on the basis of race, color, national origin, religion, sex, sexual  
7 orientation, gender identity, AIDS, HIV status, age, disability, handicap, or veteran status.  
8 Consultant shall ensure that applicants are employed and that employees are treated  
9 during employment without regard to any of these bases, including but not limited to  
10 employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff,  
11 termination, rates of pay or other forms of compensation, and selection for training,  
12 including apprenticeship. Consultant agrees to post in conspicuous places available to  
13 employees and applicants for employment notices to be provided by City setting out the  
14 provisions of this nondiscrimination clause. Consultant shall in all solicitations or  
15 advertisements for employees state that all qualified applicants will receive consideration  
16 for employment without regard to these bases. Compliance with the Americans with  
17 Disabilities Act of 1990 shall be the sole responsibility of Consultant, and Consultant shall  
18 defend and hold the City harmless from any expense or liability arising from Consultant's  
19 non-compliance therewith.

20           13. Any notices to be given under this contract shall be given in writing.  
21 Such notices may be served by personal delivery, facsimile transmission or by first class  
22 regular mail, postage prepaid. Any such notice, when served by mail, shall be effective  
23 two (2) calendar days after the date of mailing of the same, and when served by facsimile  
24 transmission or personal delivery shall be effective upon receipt. For the purposes  
25 hereof, the address of City, and the proper person to receive any such notices on its  
26 behalf, is: Executive Director, Long Beach Harbor Department, P.O. Box 570, Long  
27 Beach, California 90801, FAX number (562) 901-1733; and the address and FAX number  
28 of Consultant as indicated above, attention Office of the General Counsel, as well as The

1 University of Southern California Department of Contracts and Grants, Savannah Castro,  
2 837 West Downey Way, Room 315, Los Angeles, California 90089-1147, telephone  
3 (213) 740-6619 and fax (213) 740-6070.

4 14. This contract contemplates the personal services of Consultant and  
5 its employees, and panel members, and it is recognized by the parties hereto that a  
6 substantial inducement to City for entering into this contract was, and is, the professional  
7 reputation and competence of Consultant and its employees and panel members. City  
8 approved the panel members listed in Exhibit B attached hereto and incorporated herein  
9 by this reference. Subsequent changes in panel members shall be approved in advance  
10 by the Director. Neither this contract nor any interest therein may be assigned or  
11 delegated by Consultant except upon the prior written consent of the Executive Director.  
12 Such approval shall not be unreasonably withheld, conditional or delayed. Any attempted  
13 assignment or delegation without such consent shall be void, and any assignee or  
14 delegate shall acquire no right or interest by reason of such attempted assignment or  
15 delegation. Nothing herein shall prevent Consultant from employing or hiring as many  
16 employees as Consultant may deem necessary for the proper and efficient execution of  
17 this contract.

18 15. Consultant certifies that it and its panel members presently have no  
19 interest and shall not acquire any interest, direct or indirect, which would conflict in any  
20 manner or degree with the performance of services required to be performed under this  
21 contract. Consultant shall ensure that all materials provided by the City to Consultant  
22 and Consultant's evaluation work product remain confidential until after the conclusion of  
23 the evaluation process, subject to the provisions below. Consultant acknowledges that in  
24 Addendum No. 1 ("Addendum No. 1") to the ZECMS Request for Conceptual Solutions  
25 ("RFCS"), the City advised the Respondents, in part, as follows:

26 19. [SECTION 7.3] DELETE IN ITS ENTIRETY AND  
27 INSERT THE FOLLOWING PARAGRAPHS:

28 7.3 PROPRIETARY INFORMATION CONTAINED IN  
SUBMISSION

As set forth in Section 3.7 of this RFCS, all Concept

1 Documents submitted by the Respondents shall become the property of  
2 the POLB upon submittal and may be assigned to or shared with the  
3 POLA and/or ACTA for the purposes described in this RFCS.  
4 Notwithstanding the preceding sentence, any Exempt Information (defined  
5 below) contained within any of the Concept Documents will continue to be  
6 owned by the Respondent submitting the Exempt Information in  
7 accordance with applicable federal or state laws, but the POLB shall have  
8 the right to use such information for the purposes and to the extent  
9 allowed by this RFCS.

10 The Concept Documents will be a matter of public record  
11 subject to the State of California Public Records Act, California  
12 Government Code Section 6250 et seq. ("CPRA"). Information in any  
13 Concept Documents submitted to the POLB is a public record and may be  
14 subject to disclosure if requested by a member of the public.  
15 Respondents should familiarize themselves with the CPRA, including  
16 consulting with legal counsel, regarding the requirements for disclosure of  
17 public records under the CPRA and applicable exemptions from such  
18 disclosure. The POLB will not advise any Respondent as to the nature or  
19 content of documents that might be entitled to protection from disclosure  
20 under the CPRA or other applicable laws, as to the interpretation of the  
21 CPRA, or as to the definition of a trade secret, copyrighted material,  
22 proprietary or confidential commercial or financial information.

23 Respondents are discouraged from including proprietary or  
24 trade secret information in their Concept Documents unless a Respondent  
25 determines that the inclusion of such information is necessary to  
26 adequately respond to this RFCS or is specifically requested by the POLB.  
27 Any Respondent claiming an exemption from disclosure under the CPRA  
28 must identify the specific provision(s) of the CPRA providing an exemption  
from disclosure for each such item or portion of the Concept Documents  
claimed by a Respondent as exempt from disclosure. The validity of each  
such identified exemption from the CPRA shall be the sole responsibility of  
each Respondent to determine and assert and the POLB specifically  
disclaims any and all related responsibility including, without limitation, any  
responsibility to analyze any claimed exemption or supporting authority.  
Respondents must also clearly identify, in writing and with specificity, all  
copyright, patent or trademark materials, trade secrets, proprietary or  
confidential commercial or financial information claimed as exempt from  
disclosure under the CPRA (collectively, "Exempt Information"). This  
identification must be included in the Concept Documents and, in addition,  
each Respondent must include one copy of the Concept Documents with  
all claimed Exempt Information redacted pursuant to Section 7.1, above.  
Any blanket statement or wholesale use of headers/footers bearing  
designations of "confidential," "proprietary," or "trade secret" affixed upon  
all or a substantial portion of a Respondent's Concept Documents or  
purporting to identify entire pages or sections of any of the Concept  
Documents or any non-specific identification is not acceptable or valid,  
and may be deemed by the POLB as a waiver of any exemption claimed  
by a Respondent.

If a request is made for disclosure of claimed Exempt



1 Information, the POLB, POLA or ACTA (collectively, the "Agencies"), as  
2 applicable, will endeavor to provide any Respondent who submits  
3 materials claimed as Exempt Information with reasonably timely notice of  
4 any demand for inspection or copying of such information under the CPRA  
5 to allow any such Respondent to seek protection from disclosure by a  
6 court of competent jurisdiction. The Agencies, by issuance of this RFCS  
7 or receipt of any Concept Documents, shall not, nor be deemed to,  
8 undertake or assume any obligation for protection or to seek protection for  
9 a Respondent's claim to Exempt Information and the Agencies cannot and  
10 do not purport to determine whether any claimed Exempt Information is in  
11 fact exempt from disclosure under the CPRA. Absent the granting of a  
12 court order prohibiting Agencies from releasing the requested information,  
13 the Agencies may release the requested information as required by  
14 applicable law.

15 The Agencies shall endeavor to limit distribution of any  
16 claimed Exempt Information only to those individuals within the Agencies  
17 and other third party advisors and consultants that the Agencies determine  
18 are reasonably necessary to participate in the review and evaluation of the  
19 Concept Documents. The Agencies shall not be, under any  
20 circumstances, responsible or liable to any Respondent or any other  
21 person for the disclosure of any claimed Exempt Information whether such  
22 disclosure is required by law, by an order of court, or as a result of  
23 inadvertence, mistake or negligence on the part of the Agencies, or their  
24 elected or appointed officials, officers, employees, agents, contractors  
25 representatives or consultants.

26 [Remainder of Section 7.3 not reproduced]

27 20. [SECTION 8] ADD THE FOLLOWING  
28 PARAGRAPHS AT THE END

1 In addition to the foregoing, the Respondents acknowledge  
2 that this RFCS is issued for the purpose of collecting information to  
3 determine feasibility and viability of submitted technologies and concepts.  
4 If determined appropriate by the Agencies, information and data  
5 contained in the Concept Documents may be used by the Agencies to  
6 prepare a subsequent RFQ/RFP. By submitting Concept Documents,  
7 each Respondent consents and agrees that any of the Agencies may  
8 incorporate into any future RFQ/RFP, industry solicitation or contract, all  
9 information, ideas or materials contained within a Respondent's Concept  
10 Documents and not claimed as Exempt Information; provided, however,  
11 the Agencies may also include a general description of a Respondent's  
12 technology and concept in sufficient detail for developing a future  
13 RFQ/RFP as long as it does not expressly disclose the details of the  
14 claimed Exempt Information. The rights of the Agencies to incorporate all  
15 aspects of any Concept Documents into a future RFQ/RFP shall be limited  
16 only by a Respondent's rights respecting claimed Exempt Information as  
17 provided in Section 7.3, unless a Respondent specifically grants  
18 permission to include any claimed Exempt Information in a future  
19 RFQ/RFP. Each Respondent, by submittal of its Concept Documents,  
20 represents and warrants to the Agencies that it possesses all necessary  
21 ownership and other use rights, free and clear of any and all claims by

1 third parties, to grant control, use and authority over the information  
2 contained in the Concept Documents and to provide to the Agencies any  
3 and all related technology and information (including claimed Exempt  
4 Information) included in the Concept Documents. Each Respondent, by  
5 submittal of its Concept Documents, represents and warrants to the  
6 Agencies that it has no knowledge of any proprietary rights of any other  
7 person who might make a claim against such Respondent or against  
8 manufacturers or users of the technologies or information submitted by  
9 such Respondent.

10 [Remainder of Section 8 not reproduced]

11 Consultant agrees that while Consultant's panel members may, after the  
12 conclusion of the evaluation process, publish or comment upon matters which do not  
13 involve Exempt Information (as defined in paragraph 19 of Addendum No. 1), Consultant  
14 and its employees, agents, subcontractors, and panel members shall not publish,  
15 comment upon or otherwise disclose Exempt Information (as defined in paragraph 19 of  
16 Addendum No. 1), except as required by law and then only in accordance with the notice  
17 procedures set forth in paragraph 19 of Addendum No. 1 (with copies of notices to be  
18 concurrently delivered to City). Further, Consultant and its employees, agents,  
19 subcontractors and panel members shall neither publish nor publicly comment upon the  
20 evaluation process or the matters being evaluated prior to the conclusion of the  
21 evaluation process and shall return all Exempt Information (as defined in paragraph 19 of  
22 Addendum No. 1) to City upon the conclusion of the evaluation process. Consultant shall  
23 ensure that its employees, agents, subcontractors, and panel members agree to comply  
24 with and be liable to City for any failure to comply with the provisions of this paragraph  
25 15, whether by separate written agreement or otherwise.

26 16. Consultant shall indemnify, hold, protect and save harmless the City  
27 of Long Beach, the Board of Harbor Commissioners, and their officials, commissioners,  
28 employees, and agents ("Indemnified Parties") from and against any and all actions,  
suits, proceedings, claims, demands, damages, losses, liens, costs, expenses or  
liabilities, of any kind or nature whatsoever ("Claims") which arise out of, pertain to, or  
relate to the negligence, recklessness or willful misconduct of Consultant, its officers,  
employees, subcontractors, agents or panel members. If a court of competent

1 jurisdiction determines that a Claim was caused in part by Indemnified Parties,  
2 Consultant's costs of indemnity shall be reduced by the percentage of negligence,  
3 recklessness or willful misconduct attributed by the court to the Indemnified Parties.  
4 Payment of a Claim shall not be a condition precedent to an Indemnified Party's right to  
5 indemnity.

6 17. As a condition precedent to the effectiveness of this contract,  
7 Consultant shall procure and maintain in full force and effect during the term of this  
8 contract the following types and levels of insurance:

9 (a) Commercial General Liability Insurance which affords  
10 coverage at least as broad as Insurance Services Office "occurrence" form CG 00  
11 01 with minimum limits of at least \$1,000,000 per occurrence, and if written with an  
12 aggregate, the aggregate shall be double the per occurrence limit.

13 (b) Automobile Liability Insurance with coverage at least as broad  
14 as Insurance Service Office Form CA 0001 covering "Any Auto" (Symbol 1) with  
15 minimum limits of \$1,000,000 each accident.

16 (c) Workers' Compensation Insurance, as required by the State  
17 of California and Employer's Liability Insurance with a limit of not less than  
18 \$1,000,000 per accident for bodily injury and disease.

19 Insurance policies will not be in compliance if they include any limiting  
20 endorsement that has not been approved in writing by City.

21 The policy or policies of insurance for Commercial General Liability and  
22 Automobile Liability shall contain the following provisions or be endorsed to provide the  
23 following:

24 (1) The Indemnified Parties and Consultant's panel members  
25 shall be additional insureds with regard to liability and defense of suits or  
26 claims arising out of the performance of the Contract. Additional insured  
27 endorsements shall not:

28 i. Be limited to ongoing operations;

- ii. Exclude contractual liability;
- iii. Restrict coverage to the sole liability of Consultant;
- iv. Contain any other exclusion contrary to the contract.

(2) This insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the Indemnified Parties shall not contribute with this primary insurance.

(3) The policy shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the Executive Director of the Harbor Department except notice of ten (10) days shall be allowed for non-payment of premium.

The policy or policies of insurance for Workers' Compensation shall be endorsed, as follows:

(1) A waiver of subrogation stating that the insurer waives all rights of subrogation against the Indemnified Parties.

(2) The policy or policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the Executive Director of the Harbor except notice of ten (10) days shall be allowed for non-payment of premium.

Consultant shall deliver either certified copies of the required policies or endorsements on forms approved by the City ("evidence of insurance") to the Executive Director for approval as to sufficiency and as to form. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the Executive Director. If such coverage is canceled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the Executive Director evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

The coverage provided shall apply to the obligations assumed by the

1 Consultant under the indemnity provisions of this contract but this insurance provision in  
2 no way limits the indemnity provisions and the indemnity provisions in no way limit this  
3 insurance provision.

4 Consultant agrees to suspend and cease all operations hereunder during  
5 such period of time as the required insurance coverage is not in effect and evidence of  
6 insurance has not been approved by City.

7 Each such policy shall be from a company or companies with a current A.M.  
8 Best's rating of no less than A:VII and authorized to do business in the State of California,  
9 or otherwise allowed to place insurance through surplus line brokers under applicable  
10 provisions of the California Insurance Code or any federal law.

11 If coverage is written on a claims-made basis, the retroactive date on such  
12 insurance and all subsequent insurance shall coincide with or precede the effective date  
13 of the contract and continuous coverage shall be maintained or Consultant shall obtain  
14 and submit an extended reporting period endorsement of at least three (3) years from  
15 termination or expiration of this contract. Upon expiration or termination of coverage of  
16 required insurance, Consultant shall procure and submit to City evidence of "tail"  
17 coverage or an extended reporting period endorsement of at least three (3) years from  
18 termination or expiration of this contract. Consultant may satisfy the foregoing insurance  
19 obligations by means of self-insurance or blanket insurance, all in accordance with  
20 California law.

21 18. Consultant shall obtain and maintain any necessary licenses and  
22 permits required under Title 3 and Title 5 of the Long Beach Municipal Code.

23 19. In the event of any conflict or ambiguity between this written contract  
24 and any exhibit hereto, the provisions of this contract shall govern.

25 20. If there is any legal proceeding between the parties to enforce or  
26 interpret this contract or to protect or establish any rights or remedies hereunder, the  
27 prevailing party shall be entitled to its costs and expenses, including reasonable  
28 attorneys' fees.

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

21. This contract shall not be amended, nor any provision or breach hereof waived, except in writing signed by the parties which expressly refers to this contract.

22. This contract, including all exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.

UNIVERSITY OF SOUTHERN  
CALIFORNIA, a California nonprofit  
corporation, on behalf of the KESTON  
INSTITUTE FOR PUBLIC FINANCE AND  
INFRASTRUCTURE POLICY

1/6, 2010

By:  
Name:  
Title:

*Sara Judd*  
Sara Judd  
Director  
Department of Contracts & Grants

, 2010

By:  
Name:  
Title:

CONSULTANT

CITY OF LONG BEACH, a municipal  
corporation, acting by and through its  
Board of Harbor Commissioners

, 2010

By:

Richard D. Steinke  
Executive Director  
Long Beach Harbor Department

CITY

The foregoing document is hereby approved as to form.

ROBERT E. SHANNON, City Attorney

, 2010

By:

Charles M. Gale, Deputy

CMG:rjr 01/05/10 #A09-03984  
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# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

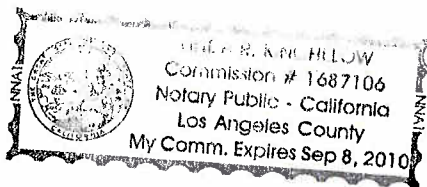
On Jan. 06/2010 before me, Linda R. Kinchelow, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared Sara Judd

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature: Linda R. Kinchelow

Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: Contract for Consulting Services

Document Date: January 6, 2010

Number of Pages: twelve

Signer(s) Other Than Named Above: Richard D. Steinke and Robert E. Shannon

### Capacity(ies) Claimed by Signer(s)

Signer's Name: Sara Judd

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Individual

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Attorney in Fact

☐ Trustee

☐ Trustee

☐ Guardian or Conservator

☐ Guardian or Conservator

☒ Other: \_\_\_\_\_

☐ Other: \_\_\_\_\_

Signer Is Representing: University of Southern California

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER  
Top of thumb here

RIGHT THUMBPRINT OF SIGNER  
Top of thumb here



September 17, 2009

Keston Institute for  
Public Finance and  
Infrastructure Policy

Richard G. Little  
Director

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Mr. Eric C. Shen, PE, PTP  
Director of Transportation Planning  
The Port of Long Beach  
925 Harbor Plaza  
Long Beach, CA 90802

Re: Proposal to assist the Ports of Long Beach and Los Angeles and the Alameda  
Corridor Transportation Authority with the evaluation of zero-emission  
container movement technologies

Dear Mr. Shen:

I am pleased to submit a Proposal for the Keston Institute for Public Finance  
and Infrastructure Policy to assist the Ports of Long Beach and Los Angeles and the  
Alameda Corridor Transportation Authority with the evaluation of zero-emission  
container movement technologies. These services will be provided and compensated  
as generally described in the following paragraphs.

Scope of Services

The USC Keston Institute for Public Finance and Infrastructure Policy ("the Keston  
Institute") will provide assistance to the Port of Long Beach (POLB) in conjunction  
with the Port of Los Angeles (POLA) (collectively, the Ports) and the Alameda  
Corridor Transportation Authority (ACTA) for the evaluation of responses to a  
Request for Concepts/Solutions (RFCS) for a public-private partnership (P3) to  
design, build, finance, operate, and maintain/manage (DBFOM) a Zero Emission  
Container Mover System (ZECMS), at no cost to the Ports or ACTA, linking the San  
Pedro Bay Ports and near-dock intermodal facilities. The Keston Institute will assist  
the Ports in (a) determining the viability of available ZECMS technologies submitted  
by each respondent to the RFCS and the feasibility of employing that technology;  
(b) evaluating the capabilities of each respondent's management teams to provide  
and present detailed design criteria and construction capability for a possible future  
RFQ/RFP for the Design, Build, Finance, Operate, and Maintain (DBFOM) of a  
ZECMS project; and (c) assessing each respondent's current financial plan for  
funding a ZECMS project at no net cost to the Ports, including operating costs for a  
proposed long-term leasehold initiative.

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## Exhibit A

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This assistance will include the evaluation and ranking of responses to the RFCS, participating in interviews of selected respondents, and a final ranking of the responses received. This assistance will be for a period of 8.5 months commencing on or about August 1, 2009.

Specific tasks that will be undertaken in providing this assistance include:

- 1) Review the draft RFCS and participate in the pre-submittal conference
- 2) Evaluate and rank the responses received to the RFCS based on criteria weighting factors developed in concert with the project management team
- 3) Participate in the interviews of top-ranked respondents and provide a final ranking of responses received
- 4) Develop draft performance criteria for the ZECMS project and participate in the development of the RFP (if issued)

The results of these activities will be presented in three separate deliverables: 1) results of the preliminary evaluations of the responses to the RFCS; 2) final evaluation, discussion, and ranking of respondents based on their responses to the RFCS including participation in interview panels, and 3) recommended performance criteria for the pilot project for inclusion in a possible Request for Proposals (RFP).

### Preliminary Work Plan

The work described by this proposal will be accomplished generally as follows:

- To ensure that the POLB receives the most knowledgeable, thorough, and up-to-date advice on the evaluation of responses to the RFCS, an independent panel of experts ("the panel") will be assembled by the Keston Institute. Experts from the in the following six areas would be represented on the panel:
  - o Technology -- including infrastructure and system integration
  - o Terminal Operations -- including port operations and labor rules
  - o Rail Operations -- including labor rules and rail regulations
  - o Environmental -- transportation, air quality, and environmental process
  - o Performance-based Procurement
  - o Transportation economics and finance
- All responses submitted to the Ports in response to the RFCS will be reviewed by the panel which will evaluate, summarize, and rank them based on weighting criteria developed in concert with the project management team.

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- The Ports will select respondents to be interviewed and selected members of the panel will participate in the interview process. The Keaton Institute will report to the Ports on the panel's deliberations and findings regarding the qualifications of the interviewees.
- The panel will develop draft performance criteria for the demonstration ZECMS project for inclusion in a Request for Proposals (RFP) if a decision to issue an RFP is made.

Estimate of Cost

The total estimated cost of the activities described in this proposal is \$113,369. The derivation of this cost estimate is shown on the attached Cost Proposal.

Period of Performance

This activity is expected to begin on or about October 1, 2009, for an 8.5-month period ending May 15, 2010.

Deliverables

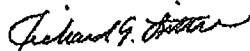
The results of these activities will be presented as previously described.

Ensuring Objectivity of the Process

Assembling highly qualified and capable individuals is a necessary condition for success of this effort. The Keaton Institute and the Ports recognize that it is essential that there is a high degree of public confidence in the competence, fairness, and objectivity of this effort. If the advice generated by this effort is to be effective, it must be, and must be perceived to be, not only highly competent but the result of a process that is fairly balanced in terms of the knowledge, experience, and perspectives utilized to produce it. For these reasons, the Keaton Institute and the Ports are committed to ensuring that the advice provided to the Ports by the Keaton Institute represents the most accurate, fair, and unbiased information possible.

The Keaton Institute for Public Finance and Infrastructure Policy is very interested in assisting the Ports as they pursue sustainable, cost-effective technologies to support the region's goods movement economy. Please let me know if you have any questions regarding this proposal or desire additional clarification.

Cordially,



Richard G. Little, Director  
The Keaton Institute for Public Finance and Infrastructure Policy

Exhibit A

BUDGET JUSTIFICATION

Panel Members

Assume 50 hours per panel member @ \$200 per hour = \$10,000 x 6 members = \$60,000<sup>1</sup>

Travel

Out of area travel: 2 meetings for 2 days @ \$1200/meeting (airfare \$600 + \$300/day (hotel, meals, and incidentals) for 3 travelers = \$7200

In area travelers: 2 meetings for 2 days @ \$300/day for 4 travelers = \$4800

Total travel = \$12,000<sup>2</sup>

<sup>1</sup>Billing will be on an hourly basis and submitted bi-monthly with total amount not to exceed \$60,000 for panel members and \$25,582 for staff.

<sup>2</sup>Travel will not exceed \$12,000 and will be itemized on invoices.

# Exhibit A

## Cost Proposal Assistance to the Ports of Long Beach and Los Angeles and the Alameda Corridor Transportation Authority With the Evaluation of Zero-Emission Container Movement Systems (ZECMS)

|                                    |         |  |   |   |  |           |
|------------------------------------|---------|--|---|---|--|-----------|
| P.I.: Richard Little               |         | October 1, 2009 to May 15, 2010                                  |   | At 15% of total direct cost                             |  |           |
| Project Period:                    |         | 8.5 months   |   |   |  |           |
| Task Duration:                     |         |  |   |   |  |           |
|                                    |         | Task 1   | Task 2  | Task 3  | Task 4   | Totals    |
|                                    |         | Review the RECFS and participate in the pre-scheduled conference | Evaluate and rank the responses received to the RECFS | Participate in the interviews of top-ranked respondents | Develop draft performance criteria for the ZECMS project and participate in the development of the RFP (if issued) |           |
| Salary                             | \$/hour | # of hours   | # of hours  | # of hours  | # of hours   |           |
| Sp41                               |         |  |   |   |  |           |
| Richard G. Little                  | \$97.83 | 40   | \$3,913   | 40  | \$3,913  | \$15,653  |
| Delaine M. Flanagan                | \$23.44 | 25   | \$586   | 30  | \$708  | \$2,578   |
| Research Assistant*                | \$23.00 | 15   | \$345   | 15  | \$345  | \$1,380   |
| * Does not receive fringe benefits |         |  |   |   |  |           |
| Total Salary                       |         |  |   |   |  | \$19,611  |
| Fringe @37.75%                     |         |  |   |   |  | \$5,971   |
| Total Salary and Fringe            |         |  |   |   |  | \$25,582  |
| Panel Members (6) @ \$10,000**     |         |  |   |   |  | \$60,000  |
| Materials and Supplies             |         |  |   |   |  | \$1,000   |
| Travel**                           |         |  |   |   |  | \$12,000  |
| Total Direct Cost                  |         |  |   |   |  | \$98,582  |
| F&A** 15%                          |         |  |   |   |  | \$14,787  |
| Total Estimated Cost               |         |  |   |   |  | \$113,369 |

\* See attached justification

\*\*Facilities & Administration Costs (F&A) (formerly known as Indirect Costs) are those costs incurred in the general support and management of the proposed activities which cannot be readily determined by direct measurement. They are expressed as a percentage of Modified Total Direct Costs (MTDC).

PANEL MEMBERS

|  |
|--|
| Petros A. Ioannou, PhD   |
| Wade Watson, Principal/Project Manager, KPFF                                       |
| George Fetty   |
| James M. Lents, President of the International Sustainable Systems Research Center |
| Allan V. Burman, President of Jefferson Solutions                                  |
| Sasha N. Page, Vice President Finance, IMG   |