

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664

AGREEMENT

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THIS AGREEMENT is made and entered, in duplicate, as of January 27, 2022, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on January 18, 2022, by and between J.J. KANE ASSOCIATES, INC. doing business as KEN PORTER AUCTIONS, a California corporation ("Contractor"), with a place of business at 4510 Muth Way, Jurupa Valley, CA 92509, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with auctioning of City of Long Beach retired vehicles and equipment ("Project"); and

WHEREAS, City has selected Contractor in accordance with City's administrative procedures using a Request for Proposal No. RFP FS21-094 ("RFP"), attached hereto as Exhibit "A", and incorporated by this reference, and City has determined that Contractor and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Contractor perform these specialized services, and Contractor is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Contractor shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and the Buyer's Premium Percentage from any auction performed pursuant to this Agreement shall pay for these services, at the rates or charges shown in Exhibit "B", attached to this Agreement and incorporated by this reference. Any remaining auction

1 proceeds shall be remitted to the City within five (5) business days after an  
2 auction.

3 B. Contractor represents that Contractor has obtained all  
4 necessary information on conditions and circumstances that may affect its  
5 performance and has conducted site visits, if necessary.

6 C. By executing this Agreement, Contractor warrants that  
7 Contractor (a) has thoroughly investigated and considered the scope of services to  
8 be performed, (b) has carefully considered how the services should be performed,  
9 and (c) fully understands the facilities, difficulties and restrictions attending  
10 performance of the services under this Agreement. If the services involve work upon  
11 any site, Contractor warrants that Contractor has or will investigate the site and is  
12 or will be fully acquainted with the conditions there existing, prior to commencement  
13 of services set forth in this Agreement. Should Contractor discover any latent or  
14 unknown conditions that will materially affect the performance of the services set  
15 forth in this Agreement, Contractor must immediately inform the City of that fact and  
16 may not proceed except at Contractor's risk until written instructions are received  
17 from the City.

18 D. Contractor must adopt reasonable methods during the life of  
19 the Agreement to furnish continuous protection to the work, and the equipment,  
20 materials, papers, documents, plans, studies and other components to prevent  
21 losses or damages, and will be responsible for all damages, to persons or property,  
22 until acceptance of the work by the City, except those losses or damages as may  
23 be caused by the City's own negligence.

24 E. CAUTION: Contractor shall not begin work until this  
25 Agreement has been signed by both parties and until Contractor's evidence of  
26 insurance has been delivered to and approved by City.

27 2. TERM. The term of this Agreement shall commence at midnight on  
28 February 1, 2022 and shall terminate at 11:59 p.m. on January 31, 2024, with the option to

1 renew for three (3) additional one-year periods, unless sooner terminated as provided in  
2 this Agreement, or unless the services or the Project is completed sooner.

3 3. COORDINATION AND ORGANIZATION.

4 A. Contractor shall coordinate its performance with City's  
5 representative, if any, named in Exhibit "C", attached to this Agreement and  
6 incorporated by this reference. Contractor shall advise and inform City's  
7 representative of the work in progress on the Project in sufficient detail so as to  
8 assist City's representative in making presentations and in holding meetings on the  
9 Project. City shall furnish to Contractor information or materials, if any, described in  
10 Exhibit "D", attached to this Agreement and incorporated by this reference, and shall  
11 perform any other tasks described in the Exhibit.

12 B. The parties acknowledge that a substantial inducement to City  
13 for entering this Agreement was and is the reputation and skill of Contractor's key  
14 employee, named in Exhibit "E" attached to this Agreement and incorporated by this  
15 reference. City shall have the right to approve any person proposed by Contractor  
16 to replace that key employee.

17 4. INDEPENDENT CONTRACTOR. In performing its services,  
18 Contractor is and shall act as an independent contractor and not an employee,  
19 representative or agent of City. Contractor shall have control of Contractor's work and the  
20 manner in which it is performed. Contractor shall be free to contract for similar services to  
21 be performed for others during this Agreement; provided, however, that Contractor acts in  
22 accordance with Section 9 and Section 11 of this Agreement. Contractor acknowledges  
23 and agrees that (a) City will not withhold taxes of any kind from Contractor's compensation;  
24 (b) City will not secure workers' compensation or pay unemployment insurance to, for or  
25 on Contractor's behalf; and (c) City will not provide and Contractor is not entitled to any of  
26 the usual and customary rights, benefits or privileges of City employees. Contractor  
27 expressly warrants that neither Contractor nor any of Contractor's employees or agents  
28 shall represent themselves to be employees or agents of City.

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5. INSURANCE.

A. As a condition precedent to the effectiveness of this Agreement, Contractor shall procure and maintain, at Contractor's expense for the duration of this Agreement, from insurance companies that are admitted to write insurance in California and have ratings of or equivalent to A:V by A.M. Best Company or from authorized non-admitted insurance companies subject to Section 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII by A.M. Best Company, the following insurance:

(a) Commercial general liability insurance (equivalent in scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This coverage shall include but not be limited to broad form contractual liability, cross liability, independent contractors liability, and products and completed operations liability. City, its boards and commissions, and their officials, employees and agents shall be named as additional insureds by endorsement (on City's endorsement form or on an endorsement equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85), and this insurance shall contain no special limitations on the scope of protection given to City, its boards and commissions, and their officials, employees and agents. This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

(b) Workers' Compensation insurance as required by the California Labor Code and employer's liability insurance in an amount not less than \$1,000,000. This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

(c) Professional liability or errors and omissions insurance in an

1 amount not less than \$1,000,000 per claim.

2 (d) Commercial automobile liability insurance (equivalent in scope  
3 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an  
4 amount not less than \$500,000 combined single limit per accident.

5 B. Any self-insurance program, self-insured retention, or  
6 deductible must be separately approved in writing by City's Risk Manager or  
7 designee and shall protect City, its officials, employees and agents in the same  
8 manner and to the same extent as they would have been protected had the policy  
9 or policies not contained retention or deductible provisions.

10 C. Each insurance policy shall be endorsed to state that coverage  
11 shall not be reduced, non-renewed or canceled except after thirty (30) days prior  
12 written notice to City, shall be primary and not contributing to any other insurance  
13 or self-insurance maintained by City, and shall be endorsed to state that coverage  
14 maintained by City shall be excess to and shall not contribute to insurance or self-  
15 insurance maintained by Contractor. Contractor shall notify City in writing within five  
16 (5) days after any insurance has been voided by the insurer or cancelled by the  
17 insured.

18 D. If this coverage is written on a "claims made" basis, it must  
19 provide for an extended reporting period of not less than one hundred eighty (180)  
20 days, commencing on the date this Agreement expires or is terminated, unless  
21 Contractor guarantees that Contractor will provide to City evidence of uninterrupted,  
22 continuing coverage for a period of not less than three (3) years, commencing on  
23 the date this Agreement expires or is terminated.

24 E. Contractor shall require that all sub-contractors or contractors  
25 that Contractor uses in the performance of these services maintain insurance in  
26 compliance with this Section unless otherwise agreed in writing by City's Risk  
27 Manager or designee.

28 F. Prior to the start of performance, Contractor shall deliver to City

1 certificates of insurance and the endorsements for approval as to sufficiency and  
2 form. In addition, Contractor shall, within thirty (30) days prior to expiration of the  
3 insurance, furnish to City certificates of insurance and endorsements evidencing  
4 renewal of the insurance. City reserves the right to require complete certified copies  
5 of all policies of Contractor and Contractor's sub-Contractors and contractors, at any  
6 time. Contractor shall make available to City's Risk Manager or designee all books,  
7 records and other information relating to this insurance, during normal business  
8 hours.

9 G. Any modification or waiver of these insurance requirements  
10 shall only be made with the approval of City's Risk Manager or designee. Not more  
11 frequently than once a year, City's Risk Manager or designee may require that  
12 Contractor, Contractor's sub-Contractors and contractors change the amount,  
13 scope or types of coverages required in this Section if, in his or her sole opinion, the  
14 amount, scope or types of coverages are not adequate.

15 H. The procuring or existence of insurance shall not be construed  
16 or deemed as a limitation on liability relating to Contractor's performance or as full  
17 performance of or compliance with the indemnification provisions of this Agreement.

18 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
19 contemplates the personal services of Contractor and Contractor's employees, and the  
20 parties acknowledge that a substantial inducement to City for entering this Agreement was  
21 and is the professional reputation and competence of Contractor and Contractor's  
22 employees. Contractor shall not assign its rights or delegate its duties under this  
23 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval  
24 of City, except that Contractor may with the prior approval of the City Manager of City,  
25 assign any moneys due or to become due Contractor under this Agreement. Any  
26 attempted assignment or delegation shall be void, and any assignee or delegate shall  
27 acquire no right or interest by reason of an attempted assignment or delegation.  
28 Furthermore, Contractor shall not subcontract any portion of its performance without the

1 prior approval of the City Manager or designee, or substitute an approved sub-Contractor  
2 or contractor without approval prior to the substitution. Nothing stated in this Section shall  
3 prevent Contractor from employing as many employees as Contractor deems necessary  
4 for performance of this Agreement.

5 7. CONFLICT OF INTEREST. Contractor, by executing this Agreement,  
6 certifies that, at the time Contractor executes this Agreement and for its duration,  
7 Contractor does not and will not perform services for any other client which would create a  
8 conflict, whether monetary or otherwise, as between the interests of City and the interests  
9 of that other client. And, Contractor shall obtain similar certifications from Contractor's  
10 employees, sub-Contractors and contractors.

11 8. MATERIALS. Contractor shall furnish all labor and supervision,  
12 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
13 necessary to or used in the performance of Contractor's obligations under this Agreement,  
14 except as stated in Exhibit "D".

15 9. OWNERSHIP OF DATA. All materials, information and data  
16 prepared, developed or assembled by Contractor or furnished to Contractor in connection  
17 with this Agreement, including but not limited to documents, estimates, calculations,  
18 studies, maps, graphs, charts, computer disks, computer source documentation, samples,  
19 models, reports, summaries, drawings, designs, notes, plans, information, material and  
20 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,  
21 in a format identified by City, and City shall have the unrestricted right to use and disclose  
22 the Data in any manner and for any purpose without payment of further compensation to  
23 Contractor. Copies of Data may be retained by Contractor but Contractor warrants that  
24 Data shall not be made available to any person or entity for use without the prior approval  
25 of City. This warranty shall survive termination of this Agreement for five (5) years.

26 10. TERMINATION. Either party shall have the right to terminate this  
27 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days  
28 prior notice to the other party. In the event of termination under this Section, City shall pay

1 Contractor for services satisfactorily performed and costs incurred up to the effective date  
2 of termination for which Contractor has not been previously paid. The procedures for  
3 payment in Section 1.B. with regard to invoices shall apply. On the effective date of  
4 termination, Contractor shall deliver to City all Data developed or accumulated in the  
5 performance of this Agreement, whether in draft or final form, or in process. And,  
6 Contractor acknowledges and agrees that City's obligation to make final payment is  
7 conditioned on Contractor's delivery of the Data to City.

8 11. CONFIDENTIALITY. Contractor shall keep all Data confidential and  
9 shall not disclose the Data or use the Data directly or indirectly, other than in the course of  
10 performing its services, during the term of this Agreement and for five (5) years following  
11 expiration or termination of this Agreement. In addition, Contractor shall keep confidential  
12 all information, whether written, oral or visual, obtained by any means whatsoever in the  
13 course of performing its services for the same period of time. Contractor shall not disclose  
14 any or all of the Data to any third party, or use it for Contractor's own benefit or the benefit  
15 of others except for the purpose of this Agreement.

16 12. BREACH OF CONFIDENTIALITY. Contractor shall not be liable for a  
17 breach of confidentiality with respect to Data that: (a) Contractor demonstrates Contractor  
18 knew prior to the time City disclosed it; or (b) is or becomes publicly available without  
19 breach of this Agreement by Contractor; or (c) a third party who has a right to disclose does  
20 so to Contractor without restrictions on further disclosure; or (d) must be disclosed pursuant  
21 to subpoena or court order.

22 13. ADDITIONAL SERVICES. The City has the right at any time during  
23 the performance of the services, without invalidating this Agreement, to order extra work  
24 beyond that specified in the RFP or make changes by altering, adding to or deducting from  
25 the work. No extra work may be undertaken unless a written order is first given by the City,  
26 incorporating any adjustment in the Agreement Sum, or the time to perform this Agreement.  
27 Any increase in compensation of ten percent (10%) or less of the Agreement Sum, or in  
28 the time to perform of One Hundred Eighty (180) days or less, may be approved by the



1 City Representative. Any greater increases, taken either separately or cumulatively, must  
2 be approved by the City Council. It is expressly understood by Contractor that the  
3 provisions of this paragraph do not apply to services specifically set forth in the RFP or  
4 reasonably contemplated in the RFP. Contractor acknowledges that it accepts the risk that  
5 the services to be provided pursuant to the RFP may be more costly or time consuming  
6 than Contractor anticipates and that Contractor will not be entitled to additional  
7 compensation for the services set forth in the RFP.

8           14. RETENTION OF FUNDS. Contractor authorizes the City to deduct  
9 from any amount payable to Contractor (whether or not arising out of this Agreement) any  
10 amounts the payment of which may be in dispute or that are necessary to compensate the  
11 City for any losses, costs, liabilities or damages suffered by the City, and all amounts for  
12 which the City may be liable to third parties, by reason of Contractor's acts or omissions in  
13 performing or failing to perform Contractor's obligations under this Agreement. In the event  
14 that any claim is made by a third party, the amount or validity of which is disputed by  
15 Contractor, or any indebtedness exists that appears to be the basis for a claim of lien, the  
16 City may withhold from any payment due, without liability for interest because of the  
17 withholding, an amount sufficient to cover the claim. The failure of the City to exercise the  
18 right to deduct or to withhold will not, however, affect the obligations of Contractor to insure,  
19 indemnify and protect the City as elsewhere provided in this Agreement.

20           15. AMENDMENT. This Agreement, including all Exhibits, shall not be  
21 amended, nor any provision or breach waived, except in writing signed by the parties which  
22 expressly refers to this Agreement.

23           16. LAW. This Agreement shall be construed in accordance with the laws  
24 of the State of California, and the venue for any legal actions brought by any party with  
25 respect to this Agreement shall be the County of Los Angeles, State of California for state  
26 actions and the Central District of California for any federal actions. Contractor shall cause  
27 all work performed in connection with construction of the Project to be performed in  
28 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,

1 county or municipal governments or agencies (including, without limitation, all applicable  
2 federal and state labor standards, including the prevailing wage provisions of sections 1770  
3 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire  
4 marshal, health officer, building inspector, or other officer of every governmental agency  
5 now having or hereafter acquiring jurisdiction. If any part of this Agreement is found to be  
6 in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in  
7 conflict with any applicable laws, but the remainder of the Agreement will remain in full  
8 force and effect.

9 17. ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
10 constitutes the entire understanding between the parties and supersedes all other  
11 agreements, oral or written, with respect to the subject matter in this Agreement.

12 18. INDEMNITY.

13 A. Contractor shall indemnify, protect and hold harmless City, its  
14 Boards, Commissions, and their officials, employees and agents (“Indemnified  
15 Parties”), from and against any and all liability, claims, demands, damage, loss,  
16 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
17 costs and expenses, including attorneys’ fees, court costs, expert and witness fees,  
18 and other costs and fees of litigation, arising or alleged to have arisen, in whole or  
19 in part, out of or in connection with (1) Contractor’s breach or failure to comply with  
20 any of its obligations contained in this Agreement, including all applicable federal  
21 and state labor requirements including, without limitation, the requirements of  
22 California Labor Code section 1770 *et seq.* or (2) negligent or willful acts, errors,  
23 omissions or misrepresentations committed by Contractor, its officers, employees,  
24 agents, subcontractors, or anyone under Contractor’s control, in the performance of  
25 work or services under this Agreement (collectively “Claims” or individually “Claim”).

26 B. In addition to Contractor’s duty to indemnify, Contractor shall  
27 have a separate and wholly independent duty to defend Indemnified Parties at  
28 Contractor’s expense by legal counsel approved by City, from and against all

1 Claims, and shall continue this defense until the Claims are resolved, whether by  
2 settlement, judgment or otherwise. No finding or judgment of negligence, fault,  
3 breach, or the like on the part of Contractor shall be required for the duty to defend  
4 to arise. City shall notify Contractor of any Claim, shall tender the defense of the  
5 Claim to Contractor, and shall assist Contractor, as may be reasonably requested,  
6 in the defense.

7 C. If a court of competent jurisdiction determines that a Claim was  
8 caused by the sole negligence or willful misconduct of Indemnified Parties,  
9 Contractor's costs of defense and indemnity shall be (1) reimbursed in full if the  
10 court determines sole negligence by the Indemnified Parties, or (2) reduced by the  
11 percentage of willful misconduct attributed by the court to the Indemnified Parties.

12 D. The provisions of this Section shall survive the expiration or  
13 termination of this Agreement.

14 19. FORCE MAJEURE. If any party fails to perform its obligations  
15 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain  
16 labor or materials or reasonable substitutes for labor materials, governmental restrictions,  
17 governmental regulations, governmental controls, judicial orders, enemy or hostile  
18 governmental action, pandemic, civil commotion, fire or other casualty, or other causes  
19 beyond the reasonable control of the party obligated to perform, then that party's  
20 performance will be excused for a period equal to the period of such cause for failure to  
21 perform.

22 20. AMBIGUITY. In the event of any conflict or ambiguity between this  
23 Agreement and any Exhibit, the provisions of this Agreement shall govern.

24 21. NONDISCRIMINATION.

25 A. In connection with performance of this Agreement and subject  
26 to applicable rules and regulations, Contractor shall not discriminate against any  
27 employee or applicant for employment because of race, religion, national origin,  
28 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or

1 disability. Contractor shall ensure that applicants are employed, and that employees  
2 are treated during their employment, without regard to these bases. These actions  
3 shall include, but not be limited to, the following: employment, upgrading, demotion  
4 or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay  
5 or other forms of compensation; and selection for training, including apprenticeship.

6 22. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
7 accordance with the provisions of the Ordinance, this Agreement is subject to the  
8 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
9 Long Beach Municipal Code, as amended from time to time.

10 A. During the performance of this Agreement, the Contractor  
11 certifies and represents that the Contractor will comply with the EBO. The  
12 Contractor agrees to post the following statement in conspicuous places at its place  
13 of business available to employees and applicants for employment:

14 "During the performance of a contract with the City of Long Beach, the  
15 Contractor will provide equal benefits to employees with spouses and its  
16 employees with domestic partners. Additional information about the City of  
17 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
18 Long Beach Business Services Division at 562-570-6200."

19 B. The failure of the Contractor to comply with the EBO will be  
20 deemed to be a material breach of the Agreement by the City.

21 C. If the Contractor fails to comply with the EBO, the City may  
22 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or  
23 to become due under the Agreement may be retained by the City. The City may  
24 also pursue any and all other remedies at law or in equity for any breach.

25 D. Failure to comply with the EBO may be used as evidence  
26 against the Contractor in actions taken pursuant to the provisions of Long Beach  
27 Municipal Code 2.93 et seq., Contractor Responsibility.

28 E. If the City determines that the Contractor has set up or used its

1 contracting entity for the purpose of evading the intent of the EBO, the City may  
2 terminate the Agreement on behalf of the City. Violation of this provision may be  
3 used as evidence against the Contractor in actions taken pursuant to the provisions  
4 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

5 23. NOTICES. Any notice or approval required by this Agreement shall  
6 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
7 postage prepaid, addressed to Contractor at the address first stated above, and to City at  
8 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy  
9 to the City Clerk at the same address. Notice of change of address shall be given in the  
10 same manner as stated for other notices. Notice shall be deemed given on the date  
11 deposited in the mail or on the date personal delivery is made, whichever occurs first.

12 24. COPYRIGHTS AND PATENT RIGHTS.

13 A. Contractor shall place the following copyright protection on all  
14 Data: © City of Long Beach, California \_\_\_\_, inserting the appropriate year.

15 B. City reserves the exclusive right to seek and obtain a patent or  
16 copyright registration on any Data or other result arising from Contractor's  
17 performance of this Agreement. By executing this Agreement, Contractor assigns  
18 any ownership interest Contractor may have in the Data to the City.

19 C. Contractor warrants that the Data does not violate or infringe  
20 any patent, copyright, trade secret or other proprietary right of any other party.  
21 Contractor agrees to and shall protect, defend, indemnify and hold City, its officials  
22 and employees harmless from any and all claims, demands, damages, loss, liability,  
23 causes of action, costs or expenses (including reasonable attorneys' fees) whether  
24 or not reduced to judgment, arising from any breach or alleged breach of this  
25 warranty.

26 25. COVENANT AGAINST CONTINGENT FEES. Contractor warrants  
27 that Contractor has not employed or retained any entity or person to solicit or obtain this  
28 Agreement and that Contractor has not paid or agreed to pay any entity or person any fee,

1 commission or other monies based on or from the award of this Agreement. If Contractor  
2 breaches this warranty, City shall have the right to terminate this Agreement immediately  
3 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments  
4 due under this Agreement or otherwise recover the full amount of the fee, commission or  
5 other monies.

6           26. WAIVER. The acceptance of any services or the payment of any  
7 money by City shall not operate as a waiver of any provision of this Agreement or of any  
8 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
9 Agreement shall not constitute a waiver of any other or subsequent breach of this  
10 Agreement.

11           27. CONTINUATION. Termination or expiration of this Agreement shall  
12 not affect rights or liabilities of the parties which accrued pursuant to the Sections titled  
13 "Ownership of Data", "Confidentiality", "Breach of Confidentiality", "Law", "Indemnity", and  
14 "Audit" prior to termination or expiration of this Agreement.

15           28. TAX REPORTING. As required by federal and state law, City is  
16 obligated to and will report the payment of compensation to Contractor on Form 1099-Misc.  
17 Contractor shall be solely responsible for payment of all federal and state taxes resulting  
18 from payments under this Agreement. Contractor shall submit Contractor's Employer  
19 Identification Number (EIN), or Contractor's Social Security Number if Contractor does not  
20 have an EIN, in writing to City's Accounts Payable, Department of Financial Management.  
21 Contractor acknowledges and agrees that City has no obligation to pay Contractor until  
22 Contractor provides one of these numbers.

23           29. ADVERTISING. Contractor shall not use the name of City, its officials  
24 or employees in any advertising or solicitation for business or as a reference, without the  
25 prior approval of the City Manager or designee.

26           30. AUDIT. City shall have the right at all reasonable times during the  
27 term of this Agreement and for a period of five (5) years after termination or expiration of  
28 this Agreement to examine, audit, inspect, review, extract information from and copy all

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CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
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1 books, records, accounts and other documents of Contractor relating to this Agreement.

2 31. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
3 designed to or entered for the purpose of creating any benefit or right for any person or  
4 entity of any kind that is not a party to this Agreement.

5 IN WITNESS WHEREOF, the parties have caused this document to be duly  
6 executed with all formalities required by law as of the date first stated above.

J.J. KANE ASSOCIATES, INC. doing  
business as KEN PORTER AUCTIONS, a  
California corporation

7  
8  
9 February 9, 2022

By [Signature]  
Name Dennis McIntyre  
Title President

10  
11  
12 February 9, 2022

By [Signature]  
Name Christopher Harmon  
Title Senior Vice President

13  
14 "Contractor"

CITY OF LONG BEACH, a municipal  
corporation

15  
16  
17 March 16, 2022

By [Signature]  
City Manager

18  
19 "City"

EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

20 This Agreement is approved as to form on March 9, 2022.

21 CHARLES PARKIN, City Attorney

22 By [Signature]  
23 Deputy

24 State of Alabama  
25 County of Jefferson  
26 Subscribed and sworn to (or affirmed) before me this  
9<sup>th</sup> day of February  
By Dennis McIntyre & Christopher Harmon  
27 Personally known  OR produced identification \_\_\_\_\_  
Type identification produced \_\_\_\_\_

28 [Signature]  
Notary Public  
my comm. exp. 02/02/2024

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1 books, records, accounts and other documents of Contractor relating to this Agreement.

2 31. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
3 designed to or entered for the purpose of creating any benefit or right for any person or  
4 entity of any kind that is not a party to this Agreement.

5 IN WITNESS WHEREOF, the parties have caused this document to be duly  
6 executed with all formalities required by law as of the date first stated above.

J.J. KANE ASSOCIATES, INC. doing  
business as KEN PORTER AUCTIONS, a  
California corporation

7  
8  
9 February 9, 2022

By [Signature]  
Name Dennis Mc Intyre  
Title President

10  
11  
12 February 9, 2022

By [Signature]  
Name Chris Harmon  
Title Secretary

13 "Contractor"

CITY OF LONG BEACH, a municipal  
corporation

14  
15  
16  
17 \_\_\_\_\_, 2022

By \_\_\_\_\_  
City Manager

18 "City"

19 This Agreement is approved as to form on \_\_\_\_\_, 2022.

20 CHARLES PARKIN, City Attorney

21 By \_\_\_\_\_  
22 Deputy

23  
24 State of AL  
County of Jefferson  
25 Subscribed and sworn to (or affirmed) before me this  
9 day of February 2022  
26 By Dennis Mc Intyre and Christopher Harmon  
Personally known  OR produced identification \_\_\_\_\_  
Type identification produced \_\_\_\_\_

27 [Signature]  
28 My comm. exp. 02/02/2024 Notary Public



# EXHIBIT “A”

Request for Proposal

# City of Long Beach

Request for Proposals Number FM21-094  
FLEET AUCTION SERVICES



## Overview

### Summary

The City of Long Beach (City), Department of Financial Management (Department), Fleet Services Bureau is soliciting proposals from qualified, experienced firms to provide auctioneer services at a live location, and/or through online services for the sale of surplus City property including vehicles, miscellaneous items and materials provided periodically by the City.

### Key Dates

Release Date: September 17, 2021

Questions Due to City: September 23, 2021 @ 11:00 am

Answers Due from the City: September 30, 2021

Proposals Due: October 7, 2021 by 11:00 AM

*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 Planet Bids portal, available at

<https://pbsystem.planetbids.com/portal/15810/portal-home>.

### RFP Official Contact

Michelle King

[rfppurchasing@longbeach.gov](mailto:rfppurchasing@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 City requires the services of an auction firm to provide auctioneering services, which shall include, but are not limited to, the public sale of surplus motor vehicles and miscellaneous items with no out-of-pocket expense to the City. The successful firm (contractor) shall conduct all auctions in accordance with all Federal and State laws, rules and regulations, as well as necessary licenses, permits, and certificates.

## 1.2 Background

Under current operations, motor vehicles and miscellaneous items become wrecked, obsolete, or replaced based on specific criteria. City assets must be sold by competitive bid and auctions are a preferred means of disposing of surplus assets.

## 1.3 Goals

The goal is to maximize the return of funds to the City through public sales of the City's surplus property.

## 1.4 Award Terms

This contract will be for a period of two years with the option to renew for three additional one-year periods. The total contract term will not exceed five years.

# 2 Scope of Work

## 2.1 Description of Services

Contractor shall provide all personnel, advertising and marketing, and services required for conducting public auctions for the City's surplus property. Contractor shall supply their own auction space where these services shall take place.

Contractor shall assign a sufficient number of employees to perform the required services. Contractor is responsible for providing training and supervision of the personnel assigned to perform services under the contract. Contractor shall assign a contract manager, and a designated alternate, to act as a liaison for the Contractor. The contract manager and designated alternate shall have full authority to act on behalf of the Contractor in all matters related to the daily operation of the contract. Contractor shall ensure a high standard of conduct by its personnel, including compliance at all times with any applicable State and Federal regulations related to auctions and the specific requirements of the contract.

Contractor shall develop a marketing plan including advertising for the auction services, to ensure the availability of sufficient buyers to attain a reasonable value of sales. The marketing plan shall include newspaper, other print media, electronic or Internet advertising, direct mail, and contractor's website. Costs for the initiation, completion or any such associated costs for all marketing and advertisement are entirely the responsibility of the Contractor and shall not be reimbursed in any manner by the City.

An overview of the marketing plan shall be submitted with the contractor's proposal; including samples of ads, e-mail brochures, and other media announcements.

Contractor shall provide maintenance of all auction records and the chronology of the bidding for all auction items. Contractor shall furnish all tools, equipment apparatus, facilities, transportation, labor and materials necessary to provide the auction services. The services shall be performed at such times and places as directed by and subject to the approval of the City. All vehicles and items provided are on an "as is" basis.

Contractor shall pick up and transport all vehicles and miscellaneous items to be sold. Contractor shall be responsible for the safe transportation and the secure storage of all City vehicles and miscellaneous items released for auction. Contractor shall be responsible for any loss or damage to property during and after transport of City property to auction site.

Contractor shall have a computer terminal that is connected to the Department of Motor Vehicles (DMV) database with access to check registration, Vehicle Identification Number (VIN), and provide DMV title search, as required.

Contractor shall turn in any articles found in vehicles and miscellaneous items to the City within five (5) business days of receipt.

Contractor shall provide smog certification for each applicable vehicle and a written estimate and justification for any repairs necessary for smog certification in order to conduct the sale. Contractor shall obtain prior approval for repairs in writing from the City.

Contractor shall remove all license plates left on vehicles and miscellaneous personal property items from the vehicles and return them to the City.

Contractor shall professionally remove all decals, logos, numbers, lettering and any other identification on vehicles and miscellaneous items as necessary, and paint area as required so that there are no identifiable markings as City of Long Beach property.

Contractor must dispose of all ballistic panels when requested by the City without selling to the public and in accordance with all local and state regulations. Disposal methods and records must be provided.

Contractor shall videotape or digitally record the entire auction sale and shall provide a copy of recording upon request by the City.

Contractor shall furnish the successful bidder at the point of sale with the following items if applicable:

- Bill of sale
- Title (Pink Slip)
- Smog Certificate
- Safety Inspection
- A Certified Weight Slip

Contractor shall provide the City a summary of all sales transactions including but not limited to the following within (10) business days of each auction in which City vehicles and miscellaneous items were sold, as applicable:

- Vehicle Identification Number and description
- Sale price and date
- Buyer's premium amount and rate
- Total gross sales
- Commission amount and rate
- Any City approved charges for repairs
- Net sales proceeds
- New owner of record information

Contractor must complete transfer of title if property is sold to a private party. Contractor must transfer title prior to vehicle release and submit appropriate paperwork to DMV within thirty (30) days. Contractor shall provide on behalf of the buyer the services necessary to register, license or transfer title of property(s) to buyer.

Contractor shall provide the City a list of all unsold and salvaged/dismantled vehicles and miscellaneous items within (10) business days of close of each auction. Contractor shall hold unsold vehicles and miscellaneous items until the next auction at NO COST to the City.

Contractor shall reimburse and provide payment to the City within 10 business days of close of each auction with a certified bank check, cashier check or wire transfer.

Contractor shall maintain a business office Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m.

Contractor's auction facility shall have sufficient parking and on-site restroom facilities to accommodate customers and comply with the provisions of the Americans with Disabilities Act.

Contractor shall provide storage space at Contractor's facility at no cost to the City, until vehicles or miscellaneous items are sold and picked up by buyer. **No exceptions.**

Contractor shall provide access to auction and storage facilities for inspection by City.

Contractor shall be responsible for providing security of all vehicles, miscellaneous items, and proceeds from sales 24 hours per day, 7 days per week. Contractor's facility shall have a security system that includes, but is not limited to, security guards and alarm system.

Contractor shall conduct auctions at the same facility unless otherwise specified and approved by the City. Contractor may not store vehicles and miscellaneous items at a location other than Contractor's facility. **No exceptions.**

## 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. 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. Consistently scheduled auctions and reporting of auction sales data	Sale data of auction results is used as part of the Fleet Services monthly key performance indicators.	The Contractor shall conduct at least two (2) auctions per month and report auction sales data within 10 business days.	

### 2.2.2 Contract Management

The awarded Contractor shall meet with the designated City contract manager to review the contract and expectations in a kickoff meeting. The Contractor will continue to meet with the designated City contract manager on an as-needed basis to continue facilitating communication and performance evaluation.

Performance issues will be documented with the City's Purchasing division and could lead to termination of contract.



2.2.3 Contract Payment – This section is not applicable.

### 3 How We Choose

#### 3.1 Minimum Qualifications

- Contractor must be licensed by the Department of Motor Vehicles as a vehicle dealer. A copy of valid license must be submitted with proposal.
- Contractor must possess a valid and unrevoked Seller's Permit from the State Board of Equalization pursuant to California Vehicle Code, Section 11617 (a)(6) 11701(f). A copy of valid permit must be submitted with proposal.
- Contractor must have an Auctioneer/Auction Company Bond on file with the Secretary of State pursuant to California Civil Code, Section 1812.600 in the amount of \$20,000. A copy of bond must be submitted with proposal.
- Copies of all licenses, permits, and bond shall be submitted with Proposal. Failure to submit copies of required documents may cause the City to deem the Proposal as non-responsive.

#### 3.2 Evaluation Criteria

Proposals shall be consistently evaluated based upon the following criteria:

<b>CRITERIA</b>
1. Organizational Capacity & Experience <ul style="list-style-type: none"> <li>• Demonstrated competence</li> <li>• Experience in performance of comparable engagements</li> <li>• Expertise and availability of key personnel</li> <li>• Financial stability</li> <li>• Conformance with the terms of this RFP</li> </ul>
2. Reasonableness of Cost

#### 3.3 Selection Process & Timelines

<b>EVALUATION STAGE</b>	<b>ESTIMATED DATE</b>	<b>DESCRIPTION</b>
Evaluation of Narrative & Cost Proposals	10/14/21	<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>

Potential Interviews/ Demos	10/21/21	<ul style="list-style-type: none"> <li>The City may interview or request demos from none, one, some or all Proposers.</li> </ul>
Negotiation & Contractor Selection	10/28/21	<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 concluded successfully, the City reserves the right to negotiate a contract with another Contractor or withdraw the RFP.</li> <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	12/1/21	
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

<b>MILESTONE</b>	<b>TIME (PACIFIC) &amp; DATE</b>	<b>LOCATION / ADDITIONAL INFORMATION</b>
Release date	9/17/21	
Questions due to the City	11:00 AM 9/23/21	<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>
Posting of the Q&A	9/30/21	<ul style="list-style-type: none"> <li>Responses to the questions will be posted on the City's Planet Bids portal, available at <a href="https://pbsystem.planetbids.com/portal/15810/portal-home">https://pbsystem.planetbids.com/portal/15810/portal-home</a>.</li> </ul>
Proposals due	11:00 AM 10/7/21	<ul style="list-style-type: none"> <li>Proposals should be submitted electronically via the City's Planet Bids portal, available at <a href="https://pbsystem.planetbids.com/portal/15810/portal-home">https://pbsystem.planetbids.com/portal/15810/portal-home</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-bid confirmation number with a time stamp from Planet Bids indicating that the proposal was submitted successfully. The City will only receive proposals that were transmitted successfully.</li> <li>Technical support is available by phone at (818) 992-1771</li> <li>Support resources including a list of Frequently Asked Questions are available on Planet Bids at <a href="https://pbsystem.planetbids.com/portal/15810/help">https://pbsystem.planetbids.com/portal/15810/help</a>.</li> </ul> </li> </ul>

## 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 prepared using a Proposal Cost Form provided as Appendix A to present prices.
<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</li> <li>• Business tax return</li> <li>• Statement of income and related earnings</li> </ul>
<input type="checkbox"/> Other Addenda (if applicable)	Promotional materials, ads and other media materials should 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 Planet Bids. 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	
<b>NON-MANDATORY ATTACHMENTS</b>   <i>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.</i>	
<input type="checkbox"/> C. W-9	
<input type="checkbox"/> D. City Business License	
<input type="checkbox"/> E. Proof of Registration with Secretary of State	
<input type="checkbox"/> F. Insurance Requirements	
<input type="checkbox"/> <b>Planet Bids</b>	<i>Ensure your organization's Planet Bids profile is up to date, including an email address, phone number, and for any socioeconomic classifications you may qualify for.</i>

### 4.3 Narrative Proposal Template

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

#### Organizational Capacity & Experience

<b>PROPOSER CONTACT INFORMATION</b>		
<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	
<b>PROPOSER 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	
	<input type="checkbox"/> Corporation <i>State and Date of incorporation:</i> <hr/>	
	<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 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 in total and residing in Long Beach?		

Where are the representative(s) that would service the City's account located?		
Who are the key staff involved in the project? For each, please a name, title, and resume either as an attachment or 1 paragraph description.		
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 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	

**SUB-CONTRACTOR CONTACT INFORMATION (if applicable)**  
 Please provide this information for all subcontractors included in this proposal.

<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	

**SUBCONTRACTOR 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:	
	<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?		

<p>Who are the key staff involved in the project? For each, please a name, title, and resume either as an attachment or 1 paragraph description.</p>	
--	--

Method of Approach

1. Please briefly summarize your proposed solution
2. Please explain the logic model for how you will achieve the target outcomes/outputs of this RFP.
3. Please summarize your proposed workplan with timelines for key milestones
4. Please explain how your proposal will provide 24/7 security of all vehicles, miscellaneous items, and proceeds from sales at your facilities.
5. Please explain how your proposal will mitigate or address operational/technical/legal challenges?
6. Please outline what you will need from the City to implement the contract successfully.

Communications & Reporting

1. Please explain the data and reporting systems that will be used to routinely evaluate program performance. Are there any additional or alternative performance metrics you would recommend tracking?
2. Please explain how employees responsible for front-line service will be supervised.
3. Please explain how you will report on performance to the City, and coordinate with the City to meet the objectives of the RFP.
4. Please explain how you will work with stakeholder groups involved in the implementation of the proposal, such as grant entities.
5. The City requires that the awarded Contractor provide proof of payment of any subcontractors used for this project. If the proposal includes subcontractors, please describe the plan for how the City will be notified of such payments.



## 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, Financial Management, Fleet Services Bureau.
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.

### 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

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. 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").
5. 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.

6. 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.
7. 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.
8. 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.
9. The provisions of this Section shall survive the expiration or termination of this Contract.

#### 5.4 Additional Requirements

1. Any Contract arising from this procurement process shall be funded in whole or in part from various granting entities. Pursuant to said grants, the Awarded Consultant is required to comply with (and to incorporate into its agreements with any sub-consultants) the following provisions in the performance of the Contract, as applicable.
2. Order of Precedence - In the event of conflicts or discrepancies between these Federal grant funding provisions and any other Contract document, the Federal grant provisions shall take precedence.
3. Access to Contractor's Records - The Awarded Contractor shall provide the City, the Office of State and Local Government Coordination and Preparedness, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the Awarded Contractor which are directly pertinent to the work performed under the Contract for the purposes of making audit, examination, excerpts or transcriptions.
4. Americans with Disabilities Act- The Awarded Contractor hereby certifies that it will comply, as applicable, with the Americans with Disabilities Act of 1990 ("ADA"), 42 USC §§ 12101 et seq., and its implementing regulations, including Subtitle A, Title II of the ADA. The Awarded Contractor will provide, as applicable, reasonable accommodations to allow qualified individuals with disabilities to

have access to and to participate in its programs, services and activities in accordance with the provisions of the ADA. The Awarded Contractor will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any contract entered into by the Awarded Contractor (or any subcontract thereof), relating to this Agreement, shall be subject to the provisions of this paragraph.

5. Compliance with Contract Work Hours and Safety Standard Act – The Awarded Contractor shall comply with the requirements of §§ 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C §§ 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
6. Compliance with Copeland "Anti-Kickback" Act – The Awarded Contractor shall comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874) as supplemented in the Department of Labor regulations (29 CFR Part 3).
7. Compliance with Davis-Bacon Act – The Awarded Contractor shall comply with the requirements of the Davis-Bacon ACT (40 U.S.C. §§ 276 to 276-a7) as supplemented by Department of Labor regulations (29 CFR Part 5) where applicable and shall provide the City with all applicable payroll records on a weekly basis.
8. Copyright - The Awarded Contractor acknowledges the existence of requirements and regulations of the awarding Federal agency relating to copyrights and right in data, including, but not limited to those set forth in 44 CFR Part 13.34 which states: "The Federal awarding agency reserves royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support." The Awarded Contractor shall comply with 25 CFR 85.34.
9. Drug-Free Workplace - The Awarded Contractor hereby certifies that it shall provide or shall continue to provide a drug-free workplace as required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701), and implemented at 44 CFR Part 17.
10. Energy Efficiency - The Awarded Contractor shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State of California's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L.94-163, 89 Stat. 871).
11. Environmental Legislation - The Awarded Contractor shall comply with all applicable standards, orders or requirements issued under § 306 of the Clean Air

Act (42 U.S.C. 1857 (h)), § 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

12. System for Award Management (SAM) - In accordance with Executive Orders 12549 and 12689 concerning suspension and debarment, contracts must prohibit contractors from awarding any subcontract to persons (individuals or organizations) listed as having an active exclusion of the Federal System for Awards Management Database ([www.sam.gov](http://www.sam.gov)).
13. Minority, Women and Other Business Enterprise Outreach – In accordance with CalEMA/Grantor directives, as applicable, firms who represent small business enterprises (SBEs), minority business enterprises (MBEs) and women business enterprises (WBEs) are encouraged to participate in competition for this opportunity. Any such enterprise shall include the appropriate SBE/MBE/WBE certification along with its proposal. The Awarded Contractor agrees that, to the extent contractors or subcontractors are utilized, the Awarded Contractors shall use small, minority, women-owned, or disadvantaged business concerns and contractors or subcontractors to the extent practicable and shall take the affirmative steps as set forth in 44 CFR §13.36(e).
14. National Preservation Acts -The Awarded Contractor shall assist City (if necessary) in assuring compliance with § 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
15. Non-discrimination; Equal Employment Opportunity - The Awarded Contractor hereby assures the City that in performing its obligations pursuant to the Contract, it will comply with all applicable nondiscrimination requirements as set forth in 44 CFR Part 13.36. In addition, the Awarded Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Opportunity Employment," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60), and where applicable to the nondiscrimination provisions of the Omnibus Crime Control and Safe Street Acts of 1968 (42 U.S.C. § 3789d), the Victims of Crimes Act (42 U.S.C. § 10604(e)), the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. § 5672(b)), the Civil Rights Act of 1964 (42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34), the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86), and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07), see Executive Order 13279 (equal protection of the laws for faith-based and community organizations). This provision must be incorporated by Awarded Contractor into any subcontract exceeding \$10,000.



16. Patent Rights- The Awarded Contractor acknowledges the existence of requirements and regulations of the awarding Federal agency relating to patent rights with respect to any discovery or invention which arises or is developed in the course or under this Contract, including, but not limited to those regulations and requirements set forth in 44 CFR Part 13.36. Any discovery or invention that arises during the course of this Contract shall be immediately reported to the Department's project management team. The awarding Federal agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and 37 CFR Part 401.
17. Payments, Reports, Records, Retention and Enforcement - The Awarded Contractor acknowledges the requirements and regulations set forth in 44 CFR Parts 13.36 through 13.42 and 49 CFR Part 18 and agrees to cooperate with the City in order to allow the City to comply with said requirements. The Awarded Contractor shall retain all of its records relating to the project for a period of five (5) years after City makes final payment to the Awarded Contractor and all other pending matters are closed.
18. Publications – All publications created and/or published with funding under any contract arising from this RFP shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions in this document are those of the author(s) and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."
19. Rights to Data – The Grantor and the City shall have unlimited rights or copyright license to any data first produced or delivered under this Agreement. "Unlimited rights" means the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public and perform and display publicly, or permit others to do so; as required by 48 CFR 27.401. Where the data are not first produced under this Contract or are published copyrighted data with the notice of 17 U.S.C § 401 or 402, the Grantor acquires the data under copyright license as set forth in 48 CFR 27.404(f)(2) instead of unlimited rights (4 CFR 27.404(a)).
20. Rights to Use Inventions – City and all grantors and/or awarding Federal Agency shall have an unencumbered right, and a non-exclusive, irrevocable, royalty – free license, to use, manufacture, improve upon and all others to do so for all governmental purposes, any invention developed under the Contract.

## 5.5 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.

## Attachment B

### **EQUAL BENEFITS ORDINANCE DISCLOSURE**

As a condition of being awarded a contract with the City of Long Beach ("City"), the selected Contractor/Vendor ("Contractor") may be required during the performance of the Contract, to comply with the City's nondiscrimination provisions of the Equal Benefits Ordinance ("EBO") set forth in the Long Beach Municipal Code section 2.73 et seq. The EBO requires that during the performance of the contract, the Contractor shall provide equal benefits to its employees with spouses and employees with domestic partners. Benefits include but are not limited to, health benefits, bereavement leave, family medical leave, membership and membership discounts, moving expenses, retirement benefits and travel benefits. A cash equivalent payment is permitted if an employer has made all reasonable efforts to provide domestic partners with access to benefits but is unable to do so. A situation in which a cash equivalent payment might be used is where the employer has difficulty finding an insurance provider that is willing to provide domestic partner benefits.

The EBO is applicable to the following employers:

- For-profit employers that have a contract with the City for the purchase of goods, services, public works or improvements and other construction projects in the amount of \$100,000 or more
- For-profit entities that generate \$350,000 or more in annual gross receipts leasing City property pursuant to a written agreement for a term exceeding 29 days in any calendar year

Contractors who are subject to the EBO must certify to the City before execution of the contract that they are in compliance with the EBO by completing the EBO Certification Form, attached, or that they have been issued a waiver by the City. Contractors must also allow authorized City representatives access to records so the City can verify compliance with the EBO.

The EBO includes provisions that address difficulties associated with implementing procedures to comply with the EBO. Contractors can delay implementation of procedures to comply with the EBO in the following circumstances:

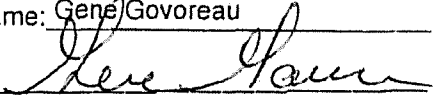
- 1) By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or
- 2) At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or
- 3) Upon expiration of the contractor's current collective bargaining agreement(s).

Compliance with the EBO

If a contractor has not received a waiver from complying with the EBO and the timeframe within which it can delay implementation has expired but it has failed to comply with the EBO, the Contractor may be deemed to be in material breach of the Contract. In the event of a material breach, the City may cancel, terminate or suspend the City agreement, in whole or in part. The City also may deem the Contractor an irresponsible bidder and disqualify the Contractor from contracting with the City for a period of three years. In addition, the City may assess liquidated damages against the Contractor which may be deducted from money otherwise due the Contractor. The City may also pursue any other remedies available at law or in equity.

By my signature below, I acknowledge that the Contractor understands that to the extent it is subject to the provisions of the Long Beach Municipal Code section 2.73, the Contractor shall comply with this provision.

Printed Name: Gene Govoreau Title: Auction Operations Mgr

Signature:  Date: 02/02/21

Business Entity Name: JJ Kane Associates, Inc dba Ken Porter Auctions

## EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE

### Section 1. CONTRACTOR/VENDOR INFORMATION

JJ Kane Associates, Inc dba

Name: Ken Porter Auctions Federal Tax ID No.                       
Address: 4510 Muth Way  
City: Jurupa Valley State: CA ZIP: 92509  
Contact Person: Gene Govoreau Telephone: (310) 613-9501  
Email: gene@jjkane.com Fax: (310) 353-5740

### Section 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this Contract because the Contractor/Vendor has no employees.        Yes   x   No
- B. Does your company provide (or make available at the employees' expense) any employee benefits?   x   Yes        No  
(If "yes," proceed to Question C. If "no," proceed to section 5, as the EBO does not apply to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee?  
  x   Yes        No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee?  
  x   Yes        No (If you answered "no" to both questions C and D, proceed to section 5, as the EBO is not applicable to this contract. If you answered "yes" to both Questions C and D, please continue to Question E. If you answered "yes" to Question C and "no" to Question D, please continue to section 3.)
- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of an employee?  
  x   Yes        No  
(If "yes," proceed to section 4, as you are in compliance with the EBO. If "no," continue to section 3.)

Section 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:

\_\_\_\_\_ By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or

\_\_\_\_\_ At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or

\_\_\_\_\_ Upon expiration of the contractor's current collective bargaining agreement(s).

- B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent? (The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.)

\_\_\_\_ Yes \_\_\_\_ No

Section 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statement, etc.) to verify that you do not discriminate in the provision of benefits.

Section 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Long Beach Municipal Code and in the terms of the contract of purchase order with the City.

Executed this 6th day of October, 2021, at Jurupa Valley CA

Name Gene Govoreau

Signature 

Title Auction Operations Mgr

Federal Tax ID No. 

Attachment C

**W-9 Request for Taxpayer  
Identification Number and Certification**

[Form must be signed and dated]

# Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**Attec, Inc**

2 Business name/disregarded entity name, if different from above

**Ken Porter Auctions/JJ Kane Associates, Inc.**

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

- Individual/sole proprietor or single-member LLC
- C Corporation
- S Corporation
- Partnership
- Trust/estate
- Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ \_\_\_\_\_
- Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.
- Other (see instructions) ▶ \_\_\_\_\_

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) 5

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

**4510 Muth Way**

6 City, state, and ZIP code

**Jurupa Valley, CA 92509**

7 List account number(s) here (optional)

Requester's name and address (optional)

Print or type. See specific instructions on page 3.

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-			-		

OR

Employer identification number									

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of U.S. person ▶

*[Handwritten Signature]*

Date ▶ 10/6/21

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



**Attachment D**

**Business License**

**Submit a copy of a City of Long Beach  
Business License.**

**[OPTIONAL at time of submission].**

# ATTACHMENT E

## SECRETARY OF STATE CERTIFICATION PRINTOUT

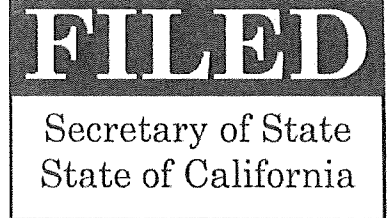
<https://businesssearch.sos.ca.gov/>

The screenshot shows the homepage of the California Secretary of State's Business Search portal. At the top, there is a navigation bar with links for PURCHASING, PLANETBIDS, INTRANET HOME, System for Award Manage..., Suggested Sites, and City of Long Beach - Legstar. Below this is a header for Alex Padilla, California Secretary of State, with the state seal and a decorative image of flowers. A secondary navigation bar includes links for About, Business, Notary & Authentications, Elections, Campaign & Lobbying, State Archives, Registries, News, and Contact. The main content area is titled "Business Entities (BE) Business Search" and contains a search form. The form includes a "Search Type" section with radio buttons for "Search by Corporation Name", "Search by LP/LLC Name", and "Search by Entity Number". Below this is a "Search Criteria" section with a "Search Filter" dropdown menu set to "Keyword" and a "Search" button. A note states: "All fields marked with an asterisk (\*) are required." The left sidebar lists various online services such as "E-File Statements of Information for Corporations", "Business Search", "Processing Times", "Disclosure Search", "Service Options", "Name Availability", "Forms, Samples & Fees", "Statements of Information (annual/biennial reports)", "Filing Tips", "Information Requests (certificates, copies & status reports)", "Service of Process", and "FAQs".

Please include a printout from this website with your bid.  
*Individual and Sole Proprietor businesses are exempt.*



**California Secretary of State  
Electronic Filing**



**Corporation - Statement of Information**

---

Entity Name: J. J. KANE ASSOCIATES, INC.

Entity (File) Number: C3096644  
File Date: 12/14/2020  
Entity Type: Corporation  
Jurisdiction: NEW JERSEY  
Document ID: GM78654

---

**Detailed Filing Information**

1. Entity Name: J. J. KANE ASSOCIATES, INC.
  
2. Business Addresses:
  - a. Street Address of Principal Office in California:
  
  
  
  
  
  
  
  
  
  
  - b. Mailing Address: 33 INVERNESS CENTER PARKWAY  
BIRMINGHAM, Alabama 35242  
United States of America
  
  
  
  
  
  
  
  
  
  
  - c. Street Address of Principal Executive Office: 33 INVERNESS CENTER PARKWAY  
BIRMINGHAM, Alabama 35242  
United States of America
  
3. Officers:
  - a. Chief Executive Officer: DENNIS W MCINTYRE  
33 INVERNESS CENTER PARKWAY  
BIRMINGHAM, Alabama 35242  
United States of America
  
  - b. Secretary: CHRISTOPHER B HARMON  
210 INVERNESS CENTER PARKWAY  
BIRMINGHAM, Alabama 35242  
United States of America

Document ID: GM78654



## California Secretary of State Electronic Filing

Officers (cont'd):

c. Chief Financial Officer:

ALLEN WRITCHIE  
210 INVERNESS CENTER PARKWAY  
BIRMINGHAM, Alabama 35242  
United States of America

4. Director:

Not Applicable

Number of Vacancies on the Board of  
Directors:

Not Applicable

5. Agent for Service of Process:

CAPITOL CORPORATE SERVICES,  
INC. (C1990324)

6. Type of Business:

AUCTION

By signing this document, I certify that the information is true and correct and that I am authorized by California law to sign.

Electronic Signature: CHRISTOPHER B. HARMON

*Use [bizfile.sos.ca.gov](http://bizfile.sos.ca.gov) for online filings, searches, business records, and resources.*

Document ID: GM78654

3096644

**FILED**  
in the office of the Secretary of State  
of the State of California  
APR 09 2008

**STATEMENT AND DESIGNATION  
BY FOREIGN CORPORATION**

J. J. Kane Associates, Inc.

(Name of Corporation)

\_\_\_\_\_, a corporation organized and existing under the laws of New Jersey, makes the following statements and designation:  
(State or Place of Incorporation)

- The address of its principal executive office is \_\_\_\_\_  
8008 US Hwy Rt 130 Suite 214, Delran, NJ 08075
- The address of its principal office in the State of California is \_\_\_\_\_  
(If none, leave Item 2 blank.)

**DESIGNATION OF AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA**  
(Complete either Item 3 or Item 4.)

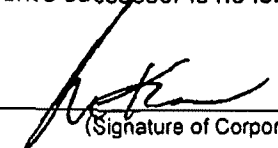
3. (Use this paragraph if the process agent is a natural person.)

\_\_\_\_\_, a natural person residing in the State of California, whose complete street address is \_\_\_\_\_, is designated as agent upon whom process directed to this corporation may be served within the State of California, in the manner provided by law.

4. (Use this paragraph if the process agent is another corporation.)

~~CAPITOL CORPORATION SERVICES~~ <sup>CMC</sup> Capitol Corporate Services Inc.  
a corporation organized and existing under the laws of CALIFORNIA, is designated as agent upon whom process directed to this corporation may be served within the State of California, in the manner provided by law.

5. It irrevocably consents to service of process directed to it upon the agent designated above, and to service of process on the Secretary of State of the State of California if the agent so designated or the agent's successor is no longer authorized to act or cannot be found at the address given.

  
\_\_\_\_\_  
(Signature of Corporate Officer)

JOSEPH KANE - PRESIDENT  
(Typed Name and Title of Officer Signing)

*If an individual is designated as the agent for service of process, include the agent's business or residential street address in California (a P O Box address is not acceptable) If another corporation is designated as the agent for service of process, do not include the address of the designated corporation Note: Corporate agents must have complied with California Corporations Code section 1505 prior to designation, and a corporation cannot act as its own agent.*

STATE OF NEW JERSEY  
DEPARTMENT OF TREASURY  
SHORT FORM STANDING

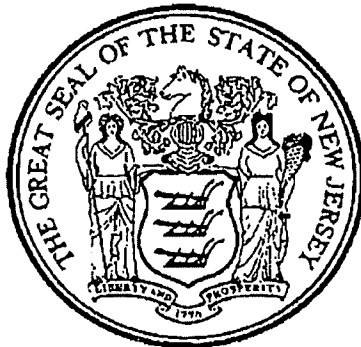
J.J. KANE ASSOCIATES, INC.  
0100402627

*I, the Treasurer of the State of New Jersey, do hereby certify that the above-named New Jersey Domestic Profit Corporation was registered by this office on January 18, 1989.*

*As of the date of this certificate, said business continues as an active business in good standing in the State of New Jersey, and its Annual Reports are current.*

*I further certify the registered agent and registered office are:*

*John J Kane  
611 Parkside Avenue  
Toms River, NJ 08753*



Certificate Number: 111545120

Verify this certificate online at

[http://www1.state.nj.us/TYTR\\_StandingCert/ISP/Verify\\_Cert.jsp](http://www1.state.nj.us/TYTR_StandingCert/ISP/Verify_Cert.jsp)

*IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at Trenton, this 20th day of February, 2008*

*R. David Rousseau  
Acting State Treasurer*

Attachment F

**RFP 21-094 FLEET AUCTION SERVICES  
INSURANCE REQUIREMENTS**

**INSURANCE.** As a condition precedent to the effectiveness of this Contract, Contractor shall procure and maintain at Contractor's expense for the duration of this Contract from an insurance company that is admitted to write insurance in the State of California or that has a rating of or equivalent to an A:VIII by A.M. Best and Company the following insurance:

- (a) Commercial general liability insurance or self-insurance equivalent in coverage scope to ISO CG 00 01 10 93 naming the **City of Long Beach and its officials, employees, and agents** as additional insureds on a form equivalent in coverage scope to ISO CG 20 26 11 85 from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out activities performed by or on behalf of the Contractor in an amount not less than One Million Dollars (US \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000) in general aggregate.
- (b) Workers' compensation coverage as required by the Labor Code of the State of California and Employer's liability insurance with minimum limits of One Million Dollars (US \$1,000,000) per accident or occupational illness. The policy shall be endorsed with a waiver of the insurer's right of subrogation against the **City of Long Beach and its officials, employees, and agents**.
- (c) If applicable, automobile liability insurance equivalent in coverage scope to ISO CA 00 0)1 06 92 in an amount not less than Five Hundred Thousand Dollars (US \$500,000) combined single limit (CSL) per accident for bodily injury and property damage covering owned, non-owned, and hired automobiles.
- (d) Professional liability or errors and omissions liability insurance in an amount not less than One Million Dollars (\$1,000,000) per claim and in aggregate covering the scope of services provided pursuant to this Contract.

Any self-insurance program or self-insurance retention must be approved separately in writing by City and shall protect the **City of Long Beach and its 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. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, or canceled by either party except after twenty (20) days prior written notice to City, and shall be primary and not contributing to any other insurance or self-insurance maintained by City.

*Any subcontractors which Contractor may use in the performance of this Contract shall be required to maintain insurance in compliance with the provisions of this section and to indemnify the City to the same extent as the Contractor.*

Contractor shall deliver to City certificates of insurance and original endorsements for approval as to sufficiency and form prior to the start of performance hereunder. 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. "Claims-made" policies are not acceptable unless City Risk Manager determines that "Occurrence" policies are not available in the market for the risk being insured. In a "Claims-made" policy is accepted, it must provide for an extended reporting period of not less than three (3) years. Such insurance as required herein shall not be deemed to limit Contractor's liability relating to performance under this Contract. City reserves the right to require complete certified copies of all said policies at any time. Any modification or waiver of the insurance requirements herein shall be made only with the approval of City Risk Manager. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification provisions of this Contract.

# EXHIBIT “B”

Cost/Rates



## APPENDIX "A"

### PROPOSAL COST FORM

Please read this form carefully. Submission of an incomplete Proposal may cause the City to deem the Proposal non-responsive and reject the Proposal.

COMPANY NAME: JJ Kane Associates, Inc dba Ken Porter Auctions

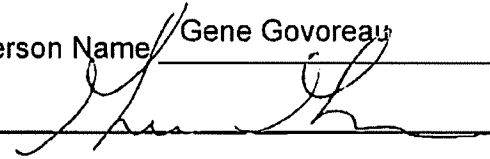
The percentage of gross sales shall include all direct and indirect costs with no out-of-pocket expenses incurred by the City; with the exception of vehicle repairs for which contractor must obtain approval from the City prior to auction.

Commission as Percentage (%) of Gross Sales 0%

Buyer's Premium Percentage (%) 10%

Rebate Percentage (%) if applicable N/A

Contact Person Name Gene Govoreau

Signature 

# EXHIBIT “C”

City’s Representative(s):

Ernesto Martinez, Superintendent of  
Acquisitions

Office: 562.570.5406

[Ernesto.martinez@longbeach.gov](mailto:Ernesto.martinez@longbeach.gov)

# EXHIBIT “D”

Materials/Information Furnished: None

# EXHIBIT “E”

Consultant’s Key Employee(s):

Gene Govoreau, Auction Operations Manager

Office: 310.353.7140