

**AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
APEX COMPANIES, LLC
for
CHULA VISTA BAYFRONT SWPPP SERVICES
AGREEMENT NO. 148-2019MA**

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and APEX COMPANIES, LLC, a Delaware Limited Liability Company (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or their designated representative informed of the progress of said services at all times.
 - a. **As-Needed Services**
 - (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a Task Authorization (TA) has been signed by the District Representative.
 - (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.
 - (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** The Initial Term of this Agreement shall commence on November 12, 2019 and shall terminate on November 11, 2020, subject to earlier termination as provided below. A 24-month Optional Term may be granted at the District's sole discretion. The Optional Term, if granted, shall commence on November 12, 2020, and shall terminate on November 11, 2022. The Optional Term, if granted, shall be authorized in writing by District.
3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:
 - a. **Maximum Expenditure.** The maximum expenditure under this Agreement shall not exceed \$183,269.00 for the Initial Term. A 24-month Optional Term may be granted at the District's sole discretion. The Optional Term, if granted, shall not exceed \$450,000.00. The total maximum expenditure under this Agreement including the granted Optional Term shall not exceed \$633,269.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs beyond those specified by above Options are incurred.
 - b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds

it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

- c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

- a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.
- b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.
- c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5)

working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

- a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.
- b. Listed below are the firms that the District has approved as Service Provider's sub-contractors to provide services under this Agreement:

<u>NAME OF FIRM</u>	<u>TYPE OF SERVICES PROVIDED</u>
SWPPQueen, Inc.	Stormwater inspection, assistance, and Engineering
HydroSpout, Inc	Hydroseeding
Atlas Tree Surgery, Inc.	Analytical Laboratory Services
Day & Night Power Sweeping	Pavement vacuum & sweeping

- c. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

- a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.
- b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

- a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.
- b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.
- c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any

Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars (\$1,000,000) per Occurrence and two million dollars (\$2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed \$25,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

- (d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").
- (2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- (3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars (\$1,000,000) each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.
- (4) Professional Liability insurance in the amount of \$1,000,000 per claim and \$1,000,000 aggregate.
 - (a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.
 - (b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, "tail" coverage in the same minimum amount as set forth in this paragraph.

- (c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.
- (5) Umbrella or Excess Liability insurance with limits no less than one million dollars (\$1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer's Liability policies.
- b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.
- c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

- d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.
11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.
12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.
13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and

conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.
15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.
16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized

in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

- a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

- b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.
- c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.
19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous

charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS (IF APPLICABLE)**

- a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

- b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls electronically via the software LCPtracker.
- (1) LCPtracker is a web-based system, accessed on the World Wide Web by a web browser. Service Provider will be given a Log-On identification and password to access the San Diego Unified Port District's reporting system upon Service Provider's request.
 - (2) The use of LCPtracker by the Service Provider is mandatory. Access to LCPtracker will be provided at no cost to the Service Provider.
 - (3) In order to utilize LCPtracker, the Service Provider needs a computer and internet access. A digital camera and a scanner may be useful. For more information, go to www.lcptracker.com. To Login, go to www.lcptracker.net and from the homepage, select LOGIN and enter the Username and Password that will be provided to you by the District upon Service Provider's request.
 - (4) Use of the system will entail data entry of weekly payroll information including; employee identification, labor classification, total hours worked and hours worked on this project, wage and benefit rates paid etc. The Service Provider's payroll and accounting software might be capable of generating a 'comma delimited file' that will interface with the software.
 - (5) Service Provider must require all lower-tier sub participants the mandatory requirement to use LCPtracker to provide any required labor compliance documentation. Lower-tier sub participants will

be given a Log-On identification and password from the Service Provider.

- (6) Training options can be provided to the Service Provider upon request.

21. **SERVICE PROVIDER/CONTRACTOR REGISTRATION PROGRAM (IF APPLICABLE)**

- a. In accordance with the provisions of Labor Code section 1771.1. (a) A contractor or subcontractor shall not be qualified to bid on; be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.
- b. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- c. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

- d. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
22. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.
23. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.
- a. Submit all correspondence regarding this Agreement to:
- Mark McIntire, Capital Project Manager II
Engineering-Construction
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. 619-686-8064
Email: mmcintir@portofsandiego.org
- b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:
- Joseph Weslock, Director/Division Manager
Apex Companies, LLC
6815 Flanders Dr., Ste. 155
San Diego, CA 92121
Tel. 858-558-1120 x1501
Email: jweslock@apexcos.com

***** END OF PAGE *****

- c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT**APEX COMPANIES, LLC***Ernesto Medina**Joseph Weslock*

Ernesto Medina
Chief Engineer, Engineering-Construction

Joseph Weslock
Director/Division Manager

Approved as to form and legality:
GENERAL COUNSEL

W.D. McMiner

By: Assistant/Deputy

A manually signed copy of this Agreement transmitted by email or any other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

ATTACHMENT A SCOPE OF SERVICES

San Diego Unified Port District

A. General Information

Service Providers must specialize in the comprehensive implementation and maintenance of long-term temporary Best Management Practice (BMP) maintenance plans (LTMP's) and all CGP Permit compliance measures. Service Provider shall provide services to monitor discharges of storm water runoff associated with construction and land disturbance activities, supplemented by District Jurisdictional Runoff Management Program (JRMP) programming. The following Documents, attached electronically to RFP 19-15MA, will be made available by District to Service Provider upon request:

LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN,
CHULA VISTA BAYFRONT SITE 2 & 3 WDID: 9 37C383506

LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN,
CHULA VISTA BAYFRONT SITE 6 WDID: 9 37C382064

CHULA VISTA BAYFRONT PROGRAM SITE MAP

Service Provider may also refer to the following information, available on the internet:

Water Quality Order 2009-0009-DWQ issued by the State Water Resources Control Board (SWRCB), "National Pollutant Discharge Elimination System (NPDES), General Permit No. CAS000002 – Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities":

https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/const_permits/wqo_2009_0009_complete.pdf

Jurisdictional Runoff Management Program (JRMP): in accordance with the requirements of the San Diego Regional Water Quality Control Board (Regional Board) Order No. R9-2013-0001, as amended by Order No. R9-2015-0001 (NPDES Permit #CAS0109266) (Municipal Permit):

<https://pantheonstorage.blob.core.windows.net/environment/JRMP-document-and-appendices-January-2019.pdf>

Service Provider shall provide Temporary Water Pollution Control BMP Inspection, Maintenance and Construction Services at the San Diego Unified Port District (District) properties within the CVB project sites.

Some of those services include, but are not limited to:

1. Inspection and documenting in accordance with Long Term Temporary BMP Operations and Maintenance Plan LTMP_schedules.
2. BMP and Site maintenance and repair work in accordance with Long Term Temporary BMP Operations and Maintenance Plan (LTMP) schedules.
3. SWPPP (Stormwater Pollution Prevention Program) development and maintenance.
4. Storm Water Multiple Application and Report Tracking System (SMARTS) access and data input.
5. Permit Registration Documents (PRD's) preparation and data input.
6. QSD/QSP led construction site Weekly, Pre-Storm and Post-Storm Inspections.
7. Quarterly and Annual (SMARTS) Reporting.
8. Design, deployment and maintenance of BMP's.
9. As-needed SWPPP Amendments and BMP modifications.
10. On-call BMP workforce support to coincide with soil import and earthwork grading activities.
11. Final stabilization and Water Balance and Notice of Termination (NOT) documentation and SMARTS input.
12. LTMP development and maintenance.

The unit prices in the fee schedule shall include full compensation for all labor, supervision, materials, equipment, tools, cleanup and incidentals required to perform Temporary Water Pollution Control BMP Inspection, Maintenance and Construction. Service Provider shall move, cover or protect any structures or equipment that may be damaged during As Needed Temporary Water Pollution Control BMP Inspection, Maintenance and Construction Services. Any such damages caused by Service Provider's operation shall be repaired, replaced, reinstalled or reconstructed and restored, at no additional cost to the District. Service Provider shall always maintain site safety and security of public areas. Service Provider shall remove from Tidelands all materials, tools, equipment, debris and coverings upon completion of services.

While working on District property, the Service Provider's employees shall wear uniforms with appropriate company name and logo. Service Provider's vehicles shall be clearly marked with appropriate company name and logo.

B. Safety

Service Provider shall abide by all local, state, federal, Cal/OSHA, OSHA, and District safety codes, policies, and procedures. Service Provider will be responsible for fines incurred if not in compliance with OSHA standards. Before

the start of work, Service Provider shall post signs and provide barricades to safely protect the public. Service Provider shall remove all signs and barricades at the completion of the service. Service Provider shall follow current Caltrans traffic control guidelines when performing service as applicable. Service Provider shall provide required submittals to the District representative as listed in the Submittal Section of this Scope of Services.

1. Service Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the services provided.
2. Service Provider shall give notices and comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property to protect them from damage, injury or loss, and shall erect and maintain all necessary safeguards for such safety and protection.
3. Material usage shall be accomplished with strict adherence to California Division of Industrial Safety, or other governing regulations, and all manufacturers' warnings and application instructions listed on the Safety Data Sheet and on the product container label.

Injury & Illness Prevention Program (IIPP): Service Provider shall prepare and submit to the District's representative, one (1) copy of their IIPP that addresses all the actions necessary to establish a safe working environment, prior to the commencement of on-site service. It is the Service Provider's responsibility to take all reasonable precautions to ensure the safety of the public and its employees and to comply with all federal, state, and local regulations. It is the Service Provider's responsibility to establish and maintain safe onsite working conditions for the duration of the project.

C. Environmental

All San Diego Port District Tidelands are regulated under Regional Water Quality Control Board Order No. R9-2013-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0109266, waste Discharge Requirements for Discharges of Urban Run-off from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego county, and the San Diego Unified Port (Municipal Permit), as adopted, amended, and/or modified. The Municipal Permit prohibits any activities that could degrade storm water quality. All service to be completed as part of the Agreement must comply with all Municipal Permit requirements and District direction related to permitted activities including the following requirements:

1. No discharges of any material may enter the storm drain system or receiving water (San Diego Bay) including water, wash water, dust, petroleum products, soil or debris. Service Provider must immediately remove any such material that inadvertently enters the storm drain system and immediately notify District staff.
2. If any activity could potentially release materials to the storm drain system or the bay, the District representative must be notified prior to activity and appropriate protection of the storm drain system shall be implemented as described in the California Stormwater Best Management Practices Handbooks developed by the California Stormwater Quality Association (www.cabmphandbooks.com). All storm drain protection systems must minimize the discharge of pollutants and be adequately maintained.
3. Any materials being stored which could release constituents by wind or run-off transport shall be protected by overhead cover, secondary containment, tarpaulins, or other appropriate methods.
4. Best Management Practices (BMPs) must be implemented to prevent water, wash water, and/or debris from being tracked or transported off the service site.
5. Any fuel products, lubricating fluids, grease or other products and/or waste released from Service Provider's vehicles or equipment shall be collected and disposed of immediately in accordance with state, federal, and local laws.
6. All job-site waste materials will be properly disposed of at the completion of service including unsalvageable materials that may have been in the storm drain conveyance system.
7. Service Provider shall ensure that all employees are trained on the nature and implementation of the special provisions outlined above. This training shall include identifying the location of the storm drains on the job site, highlighting the proximity of the bay and the direct connection between the storm drain and the bay, and identifying all BMPs to be implemented to prevent the discharge of pollutants to the storm drain conveyance system or the bay.

District Environmental and Land Use Management staff may conduct a storm water inspection to verify that BMPs are properly implemented at any time during the project. Additional BMPs may be recommended or required to eliminate or prevent discharges to the stormwater conveyance system or the receiving water.

Environmentally Preferable Products – In alignment with the District's Green Port Policy, the District will strive to minimize environmental impacts directly attributable to operations on San Diego Bay and the tidelands. In alignment with

this Policy, the District has established criteria for the procurement of environmentally preferable products.

Accordingly, where practicable and cost effective, Service Provider shall use cleaning and disinfecting products that meet Green Seal certification at all District facilities. All cleaning and power washing products claiming Green Seal certification, shall be required to bear this certification. Products recognized by the Environmental Protection Agency's (EPA) Safer Detergents Stewardship Initiative or the Design for the Environment Program are not required to be Green Seal certified. More information is available at www.greenseal.org and www.epa.gov/dfe. Germicidal detergents needed to perform services under this Agreement are not required to be Green Seal certified. Service Provider shall only use District approved equipment, materials, and supplies and shall comply with the District's Environmental Sustainability Policy. Accordingly, where practicable and cost effective, Service Provider shall use products that meet Green Seal certification for all services rendered under this Agreement. All products claiming Green Seal certification shall be required to bear this certification. More information is available at www.greenseal.org and www.epa.gov/dfe.

The District may permit the substitution or addition of environmentally preferable products when such products are readily available at a competitive cost and satisfy the District's performance needs. The District may choose to provide any environmentally preferable products for Service Provider's use during services rendered under this Agreement.

D. Execution

1. Long Term Temporary BMP Operations and Management Plan (LTMP)

- a. Inspection and Maintenance Services: All services shall be undertaken by the Service Provider only upon issuance of a Task Authorization issued by the District for said services. Service Provider shall not perform As-Needed services until the District representative provides a written Task Authorization specifically indicating the scope and negotiated cost for the As-Needed Services. A Task Authorization shall not be considered effective until the form has been signed by the District. The District does not guarantee a minimum or total amount of As-Needed services against this agreement.
- b. Documentation and Written Reports: The LTMP's include a spreadsheet of expected maintenance frequencies and methods for each temporary BMP. Service Provider shall utilize a database to log and track inspection results, findings, and corrective actions to document BMP maintenance activities. In addition, Service

Provider shall develop an inspection schedule for all BMPs based on LTMP's.

In addition, Service Provider shall develop an electronic inspection and maintenance form that will be used to document inspections and maintenance services performed on each BMP. The inspection form shall include the following information:

- Inspection date/time
- Inspector name
- BMP Type / Location
- Observed condition of BMP with photographic documentation
- Maintenance requirements and required actions
- Date of required actions
- Description of follow-up maintenance performed and completed
- Date maintenance was completed

c. Maintenance and Repair Services: Service Provider shall schedule and conduct temporary water pollution control BMP maintenance in coordination with District representative. Service Provider shall provide BMP maintenance and repair services that shall include maintenance, repair, modifications and replacement, as necessary. The following is a list of BMP's that are anticipated to require maintenance and repair, additional BMP's may be added during the course of the Agreement:

- Erosion Control (Preservation of Existing Vegetation) BMP, CASQA EC-2
- Erosion Control (Hydroseeding) BMP, CASQA EC-4
- Erosion Control (Earth Dikes and Drainage Swales) BMP CASQA EC-9
- Sediment Control (Silt Fence) BMP, CASQA SE-1
- Sediment Control (Fiber Roll) BMP, CASQA SE-5
- Sediment Control (Sediment Traps) BMP, CASQA SE-3
- Sediment Control (Gravel Bag Berm) BMP, CASQA SE-6
- Sediment Control (Sandbag Barrier) BMP, CASQA SE-8
- Sediment Control (Check Dams) BMP, CASQA SE-4
- Waste Management (Stockpile Management) BMP, CASQA WM-3
- Tracking Control (Stabilized Construction Entrance/Exit) BMP, CASQA TC-1

d. Additional Services and Materials: The District representative may request additional services and materials that are not specifically defined in the above General Requirements section. Service Provider shall not perform additional services without a written Task Authorization from the District representative. The District

does not guarantee a minimum amount of services under this Agreement.

2. CGP Coverage and Storm Water Pollution Prevention Plan (SWPPP)

- a. Notice of Intent (NOI) and Permit Registration Documents (PRD's): As-Needed Services to apply for CGP coverage shall be undertaken by the Service Provider only upon issuance of a Task Authorization (TA) issued by the District for said services. NOI shall be prepared and submitted via SMARTS for State Water Board to issue Waste Discharge ID (WDID).
- b. SWPPP Development: Service Provider shall develop site specific SWPPP for location as identified by District issued TA.
- c. BMP Design and Construction: Service Provider shall design and develop a plan for erosion and sediment control BMPs, in addition to all appropriate BMPs based upon appropriate measures to prevent pollutant discharges during construction activities.
- d. Inspection and Maintenance Services: Service Provider shall perform all inspections (Weekly, Pre-storm, Post-storm, etc.) as required by SWPPP developed Construction Site Monitoring Program (CSMP). All Service Provider and District found BMP maintenance and repair work shall be undertaken as provided in the CSMP and in accordance with Inspection Report indicated response period.
- e. Documentation and Written Reports: Service Provider shall be responsible for performing all reporting and documenting for CGP compliance, including all applicable SMART data input. In addition, a continuously updated SWPPP hardcopy shall be available onsite in a Service Provider supplied weatherproof and secure storage container.
- f. LTMP Development: In preparation for CGP coverage termination, a long-term operation and maintenance plan shall be developed by the Service Provider.
- g. Final Stabilization and Notice of Termination (NOT): Service Provider shall expeditiously furnish and implement all necessary measures to obtain final stabilization as defined by the CGP upon notification by District that construction activities have concluded. Service Provider shall be responsible for all NOT required documentation and SMART data input to achieve full CGP terminating conditions.

3. Locations

- a. Site 2 and 3: The two parcels are located northerly of Chula Vista Marina in Chula Vista, CA, bound to the north by G Street. Site 2 is bounded on the south by Bayside Parkway and Site 3 bounded on the south by Sandpiper Way. Each parcel is enclosed by chain link fence and secured with padlocked gates. Site 2 estimated (graded) Disturbed Soil Area (DSA) is 5.7 acres and Site 3 estimated (graded) DSA is 13.7 acres. A long-term temporary operations and maintenance plan (LTMP) for Site 2 and 3 will be made available by District to Service Provider upon request, titled 'LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN, CHULA VISTA BAYFRONT SITE 2 & 3 WDID: 9 37C383506'.

Previous coverage under the CGP for Site 2 and 3 (WDID 9 37C383506) has been terminated due to suspended grading and soil import activities at that location. An interim, long-term site maintenance plan (LTMP) for existing BMP's, is in place with responsibility currently assigned to the Port of San Diego's General Services Department.

- b. Site 6: Site 6 parcel is located within the San Diego Bay National Wildlife Refuge in Chula Vista, CA at the westerly end of Gunpowder Point Dr. Access to Site 6 position requires entry through code activated automatic gate along Gunpowder Point Dr. Site 6 is comprised of two distinct grading areas known as Site 6A, southerly situated and Site 6B, northerly oriented. Site 6 estimated (graded) Disturbed Soil Area (DSA) is 13.7 acres. 'LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN, CHULA VISTA BAYFRONT SITE 6 WDID: 9 37C382064' will be made available by District to Service Provider upon request.

Previous coverage under the CGP for Site 6 (WDID 9 37C382064) has been terminated due to suspended grading and soil import activities at that location. An interim, LTMP for existing BMP's and Site 6 site is in place with responsibility currently assigned to the Port of San Diego's General Services Department.

- c. Other Locations: Chula Vista Bayfront Project includes multiple parcels that may be scheduled for construction grading work and require CGP coverage as described in section 2 above. 'CHULA

VISTA BAYFRONT PROGRAM SITE MAP' will made available by District to Service Provider upon request.

E. Services and Response Time

Service Provider shall provide As Needed Structural Pollutant Control BMP Inspection and Maintenance Services that meet the following response times:

1. Scheduled Service: All service scheduling shall be coordinated with the District representative between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. Scheduled services shall be performed Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.
2. Urgent Service Calls: When notified by the District representative, Service Provider shall acknowledge urgent service calls within one (1) hour. Service Provider shall provide services onsite within four (4) hours, 24 hours a day, seven (7) days a week, including holidays. Service Provider shall always have an answering service or cell phone available to receive urgent requests. Service Provider shall provide services in accordance with direction received from the District representative.
3. Holiday and Weekend: No holiday or weekend work will be permitted unless directed by the District representative.
4. Re-work: The District representative shall inspect the quality of service and if required, Service Provider shall correct the service deficiencies at no additional cost to the District.

F. Submittals

Service Provider shall provide the following submittals to the District representative, prior to the commencement of work.

1. Materials: Service Provider shall submit, for District representative's acceptance, a list of all material proposed to be used under this Agreement.
2. Permits: Whenever and/or wherever traffic control is required for public safety and convenience, Service Provider shall obtain a City Traffic Control Permit(s) for the Structural Pollutant Control BMP Inspection and Maintenance services. Service Provider shall also obtain all other permits incidental to the service, or made necessary by its operation, including those permits required for night service, overload and equipment, and pay all fees and costs incurred for and by the permit requirements. However, Service Provider shall not be entitled to reimbursement from the District for said fees and costs

3. Equipment List: Service Provider shall submit, for District representative's approval, a list of all motorized equipment proposed for use under this Agreement. No motorized equipment shall be used by Service Provider under this Agreement until the equipment is approved in writing by the District representative.
4. Safety Data Sheets (SDS) – Service Provider shall furnish three (3) copies of the SDS for all chemicals used on District properties.
5. Injury and Illness Prevention Program (IIPP) - Service Provider shall provide one (1) copy of the IIPP that addresses all the actions necessary to establish a safe working environment.

G. Licensing and Certification

It is the responsibility of the Service Provider to maintain all required California State Contractor's Licenses. A copy of the license or certification shall be provided to the District representative prior to the commencement of services.

Check <http://www.cslb.ca.gov/> for all current and pertinent licensing for the scope of services.

**ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District**

1. COMPENSATION

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be on a Fixed Fee and/or Time and Materials basis.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(2) Professional services performed on a Time and Materials basis shall be invoiced in accordance with the following **Rate Schedule**:

LABOR CLASSIFICATION / POSITION TITLE	FULLY BURDENED HOURLY BILLING RATE
1. Senior Project Manager	\$190.00
2. Project Manager	\$140.00
3. Senior Engineer	\$160.00
4. Engineer	\$110.00
5. Senior Inspector	\$125.00

(a) The following shall be considered part of the fully burdened hourly rates stated in this Agreement: vehicle expenses, parking, tolls, film, postage, facsimiles, computer usage,

printing, normal copying and document reproduction, blue print services, travel, telecommunications, photography, and all other costs and expenses incurred in completing such services.

- (3) Additional classifications, fully burdened hourly rates, and Fixed Fees not listed in this Agreement may be authorized via Task Authorization with the approval of the District's Project Manager.
- (4) **Agreement Expenditure Summary.** The following table summarizes the maximum annual expenditures to be incurred under this Agreement:

Description	Initial Term (11/12/2019 – 11/11/2020)	Optional Term (11/12/2020 – 11/11/2022)
Operations and Maintenance (LTMP) at Chula Vista Bayfront Site 2 & 3 (Maximum)	\$ 108,269.00	-
As-Needed Services (Maximum)	\$ 75,000.00	\$ 450,000.00
TOTAL ANNUAL FEES, Agreement not-to-exceed amount	\$ 183,269.00	\$ 450,000.00

(5) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of \$50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

- a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.
- b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:
- (1) Agreement No. 148-2019MA
 - (2) The Task Authorization(s) (TA) number(s) being charged.

- (3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. 70602, and that payment has not been received."

- (4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number
- c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.
- d. Invoices shall be emailed to: eng_invoices@portofsandiego.org and/or mailed to the attention of Amy Dilts, Engineering-Construction Department, San Diego Unified Port District, P.O. Box 120488, San Diego, CA 92112-0488.
- e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.
- f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
TASK AUTHORIZATION FORM
San Diego Unified Port District



(DEPARTMENT NAME)
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
(619) 686-____
Fax (619) 725-____

TASK AUTHORIZATION NO. _

(Date)

(Name)

(Title)

(Name of Company)

(Address)

(City, State, Zip)

Email:

Subject: Task Authorization for Agreement No. - 20
 (Agreement Title)

You are authorized to proceed with the work described in this correspondence, in an amount not to exceed \$ _____. This Task Authorization is in accordance with the terms of the subject agreement. **Please cite TA #_** on invoice(s) for this Task.

TASK DESCRIPTION

1.	Requestor:		4.	WBS or IO/ Cost Center:	
2.	Date of Request:		5.	Task Start Date:	
3.	Task Budget:	\$	6.	Task End Date:	
7.	Task Title:				
8.	Scope of Services.				

9. Contractor Staffing (If applicable)

Name	Classification	Hours
	Staff as needed per Agreement rates	

10. List of Sub-Contractors (If applicable)

N/A

11. Please acknowledge acceptance of this Task Authorization by signing below and returning via mail to _____, Contracts Administrator, at the address above.

APPROVALS**Service Provider:**

Signature: _____

Name: _____

Title: _____

Firm: _____

Date: _____

Project Manager:

Signature: _____

Name: _____

Title: Project Manager

Date: _____

Manager:

Signature: _____

Name: _____

Title: Manager

Date: _____

Director/Chief Engineer:

Signature: _____

Name: _____

Title: Director/Chief Engineer

Date: _____

EXHIBIT B

CERTIFICATE OF INSURANCE

San Diego Unified Port District

By signing this form, the authorized agent or broker **certifies** the following:

- (1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.
- (2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage **noted on page 2 of this certificate**.
- (3) Signed copies of **all** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 100085 – 185
Duluth, GA 30096 – OR –
Email: portofsandiego@ebix.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)

SDUPD Agreement Number: _____

This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability <input type="checkbox"/> Occurrence Form <input type="checkbox"/> Claims-made Form Retro Date _____ <input type="checkbox"/> Liquor Liability Deductible/SIR: \$ _____		Commencement Date: Expiration Date:	Each Occurrence: \$ _____ General Aggregate: \$ _____
	Commercial Automobile Liability <input type="checkbox"/> All Autos <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-Owned & Hired Autos		Commencement Date: Expiration Date:	Each Occurrence: \$ _____
	Workers Compensation – Statutory Employer's Liability		Commencement Date: Expiration Date:	E.L. Each Accident \$ _____ E.L. Disease Each Employee \$ _____ E.L. Disease Policy Limit \$ _____
	Professional Liability <input type="checkbox"/> Claims Made Retro-Active Date _____		Commencement Date: Expiration Date:	Each Claim \$ _____ \$ _____
	Excess/Umbrella Liability		Commencement Date: Expiration Date:	Each Occurrence: \$ _____ General Aggregate: \$ _____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A-VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	E-mail Address: Phone: _____ Fax Number: _____ Signature of Authorized Agent(s) or Broker(s) Date: _____
--	---

SAN DIEGO UNIFIED PORT DISTRICT**REQUIRED INSURANCE ENDORSEMENT**

<u>ENDORSEMENT NO.</u>	<u>EFFECTIVE DATE</u>	<u>POLICY NO.</u>
NAMED INSURED:		
GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES): All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises		

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.
2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.
3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").
4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

 (NAME OF INSURANCE COMPANY)

 (SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
 c/o Ebix BPO
 P.O. Box 100085 – 185
 Duluth, GA 30096 – OR –
 Email to: portofsandiego@ebix.com
 Fax: 1-866-866-6516

Certificate of Completion

Envelope Id: 4E171886AFAB488EA5A3A132C000C6BE

Status: Completed

Subject: Please DocuSign: Agreement 148-2019MA - Apex Companies.doc

Source Envelope:

Document Pages: 35

Signatures: 3

Envelope Originator:

Certificate Pages: 5

Initials: 0

Mark Adams

AutoNav: Enabled

3165 Pacific Highway

Envelopeld Stamping: Enabled

San Diego, CA 92101

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

madams@portofsandiego.org

IP Address: 207.215.153.162

Record Tracking

Status: Original

Holder: Mark Adams

Location: DocuSign

9/26/2019 2:25:28 PM

madams@portofsandiego.org

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: San Diego Unified Port District

Location: DocuSign

Signer Events**Signature****Timestamp**

Joseph Weslock

Joseph Weslock

Sent: 9/26/2019 2:58:07 PM

jweslock@apexc.com

Resent: 10/11/2019 10:09:54 AM

Security Level: Email, Account Authentication
(None)

Viewed: 9/26/2019 3:14:43 PM

Signed: 10/11/2019 10:20:01 AM

Signature Adoption: Pre-selected Style

Using IP Address: 98.153.160.114

Electronic Record and Signature Disclosure:

Accepted: 9/26/2019 3:14:43 PM

ID: a224004f-69a7-4320-9871-7761b9cca7c7

Mark Adams

Completed

Sent: 10/11/2019 10:20:05 AM

madams@portofsandiego.org

Viewed: 11/5/2019 4:40:06 PM

Procurement Analyst I

Signed: 11/5/2019 4:40:16 PM

Port of San Diego

Using IP Address: 207.215.153.162

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

W.D. McMinn

W.D. McMinn

Sent: 11/5/2019 4:40:20 PM

bmcminn@portofsandiego.org

Viewed: 11/6/2019 9:44:16 AM

Form and Legality/ Deputy General Counsel

Signed: 11/6/2019 9:45:03 AM

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

Using IP Address: 207.215.153.162

Electronic Record and Signature Disclosure:

Accepted: 11/6/2019 9:44:16 AM

ID: 5affdb66-9c9a-4751-87da-b1cd9eb7b17b

Ernesto Medina

Ernesto Medina

Sent: 11/6/2019 9:45:07 AM

emedina@portofsandiego.org

Viewed: 11/6/2019 10:01:03 AM

Security Level: Email, Account Authentication
(None)

Signed: 11/6/2019 10:01:34 AM

Signature Adoption: Pre-selected Style

Using IP Address: 207.215.153.162

Electronic Record and Signature Disclosure:

Accepted: 5/20/2019 1:55:30 PM

ID: 05d2c788-6734-4dc0-be4b-4de8ff378aae

Signer Events	Signature	Timestamp
ODC DocuSign Group ODCDocuSign@portofsandiego.org Security Level: Email, Account Authentication (None)	Completed Using IP Address: 207.215.153.162	Sent: 11/6/2019 10:01:38 AM Viewed: 11/6/2019 11:10:49 AM Signed: 11/6/2019 11:28:15 AM

Electronic Record and Signature Disclosure:
 Accepted: 11/5/2018 10:01:32 AM
 ID: 2ce25280-e9c3-4a4e-bdb7-699e901f800d

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
DocuSign Core Notify Group DocuSign_Core_Notify@portofsandiego.org Security Level: Email, Account Authentication (None)	COPIED	Sent: 11/6/2019 11:28:21 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Mark McIntire mmcintir@portofsandiego.org Security Level: Email, Account Authentication (None)	COPIED	Sent: 11/6/2019 11:28:23 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/6/2019 11:28:23 AM
Certified Delivered	Security Checked	11/6/2019 11:28:23 AM
Signing Complete	Security Checked	11/6/2019 11:28:23 AM
Completed	Security Checked	11/6/2019 11:28:23 AM

Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, San Diego Unified Port District (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign, Inc. (DocuSign) electronic signing system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after signing session and, if you elect to create a DocuSign signer account, you may access them for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of a DocuSign envelope instead of signing it. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact San Diego Unified Port District:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: rsanagus@portofsandiego.org

To advise San Diego Unified Port District of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at rsanagus@portofsandiego.org and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

To request paper copies from San Diego Unified Port District

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to rsanagus@portofsandiego.org and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with San Diego Unified Port District

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to rsanagus@portofsandiego.org and in the body of such request you must state your e-mail, full name, US Postal Address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows® 2000, Windows® XP, Windows Vista®; Mac OS® X
Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	800 x 600 minimum

Enabled Security Settings:	Allow per session cookies
----------------------------	---------------------------

** These minimum requirements are subject to change. If these requirements change, you will be asked to re-accept the disclosure. Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify San Diego Unified Port District as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by San Diego Unified Port District during the course of my relationship with you.

(3)

RESOLUTION 2019-126

RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT WITH APEX COMPANIES LLC FOR AS-NEEDED CHULA VISTA BAYFRONT STORM WATER POLLUTION PREVENTION PLAN (SWPPP) SERVICES FOR AN AGGREGATE AMOUNT NOT TO EXCEED \$633,269 FOR A PERIOD OF THREE YEARS. FUNDS WILL BE SOURCED FROM THE SITE PREPARATION AT CHULA VISTA BAYFRONT PROJECT IN THE FY 2019-2023 CAPITAL IMPROVEMENT PROGRAM

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I; and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 to establish a policy governing the processing and administration of public projects, consulting and service agreements, the purchasing of supplies, materials and equipment, and grants; and

WHEREAS, the Chula Vista Bayfront (CVB) project seeks to transform approximately 535 acres of largely vacant and underutilized industrial landscape into a thriving recreational, residential, and resort destination along the Chula Vista waterfront; and

WHEREAS, the CVB Capital Improvement Program (CIP) project and site preparation at CVB is currently in the planning and design phases, and early site preparation grading at key parcels has begun and includes import and placement of pre-qualified soil embankment to accommodate sea level rise; and

WHEREAS, to date, approximately 225,000 cubic yards of fill soil have been transported to CVB as part of the site preparation for the Costa Vista RV Resort and the upcoming Gaylord hotel, and planned building pad and site improvements for these and other upcoming CVB projects will require continued import activities throughout the upcoming years; and

WHEREAS, District staff recommend entering into an agreement for Storm Water Pollution Prevention Plan (SWPPP) services for CVB to provide temporary water pollution control Best Management Practices (BMP) inspection, maintenance, and repair services at the CVB as part of the CIP project site preparation; and



File #: 2019-0327

DATE: November 5, 2019

SUBJECT:

RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT WITH APEX COMPANIES LLC FOR AS-NEEDED CHULA VISTA BAYFRONT STORM WATER POLLUTION PREVENTION PLAN (SWPPP) SERVICES FOR AN AGGREGATE AMOUNT NOT TO EXCEED \$633,269 FOR A PERIOD OF THREE YEARS. FUNDS WILL BE SOURCED FROM THE SITE PREPARATION AT CHULA VISTA BAYFRONT PROJECT IN THE FY 2019-2023 CAPITAL IMPROVEMENT PROGRAM.

EXECUTIVE SUMMARY:

This action will authorize an agreement for Storm Water Pollution Prevention Plan (SWPPP) services for the Chula Vista Bayfront to provide temporary water pollution control Best Management Practices (BMP) inspection, maintenance, and repair services at the Chula Vista Bayfront (CVB) as part of the Capital Improvement Program (CIP) project Site Preparation at Chula Vista Bayfront. Pursuant to BPC Policy No. 110, the District issued a Request for Proposals (RFP) on May 10, 2019. The District received four proposals and interviewed three of the four responsive firms: Apex Companies LLC, KEMA, and Summit Enterprises Inc. dba Summit Erosion Control.

After reviewing the written proposals, conducting interviews and leading a decision analysis process with criteria as stated in the RFP, final evaluation concluded that Apex Companies, LLC offered the best value for this agreement.

Upon Board approval, staff will be authorized to enter into Agreement No. 148-2019MA (Attachment A). The agreement is for a one-year period with the District's option to extend the agreement for two additional years as follows:

Agreement Year	Maximum Expenditure
Year 1 – November 12, 2019 through November 11, 2020	\$183,269
Years 2 and 3 – November 12, 2020 through November 11, 2022	\$450,000
Not to Exceed Total	\$633,269

Selecting and Authorizing this agreement will not commit the entire not-to-exceed agreement amount of \$633,269. Instead, this action provides staff the contractual capacity to address the SWPPP requirements as needed, should they arise during the three (3) year agreement term, for future site

File #: 2019-0327

development needs, weather conditions, and opportunities to import and place additional soil.

RECOMMENDATION:

Resolution selecting and authorizing an agreement with Apex Companies LLC for As-Needed Chula Vista Bayfront SWPPP (Storm Water Pollution Prevention Plan) services for an aggregate amount not to exceed \$633,269 for a period of three years

FISCAL IMPACT:

Funds for this service, if needed, will be sourced from the Site Preparation at Chula Vista Bayfront project in the FY 2019-2023 CIP. Approval of this agenda will authorize the expenditure of up to \$633,269 from the Capital Improvement Program funding appropriation.

COMPASS STRATEGIC GOALS:

- A Port with a healthy and sustainable bay and its environment.

DISCUSSION:

Chula Vista Bayfront Project

The Chula Vista Bayfront (CVB) project seeks to transform approximately 535 acres of largely vacant and underutilized industrial landscape into a thriving recreational, residential, and resort destination along the Chula Vista waterfront.

The CVB Master Plan envisions:

- 70 acres of new parks (100 acres park land total, including existing parks)
- 120 acres of open space, habitat replacement, wetlands, and ecological buffers to protect wildlife habitat, species, and other coastal resources
- Shoreline promenade, walking trails, and bicycle path network
- 2,850 total hotel rooms
- 600,000 square feet of restaurant, retail, and marina-support uses
- 220,000 square feet of mixed-use commercial recreation/marine-related office uses
- 1,100 - 3,000 space parking facility

Development on the CVB is currently underway with the commencement of construction of the Costa Vista RV Park and the Sweetwater Bicycle Path and Promenade project. It is anticipated that development of the 1,600 room Gaylord hotel and related public infrastructure will commence in mid-2020. The Gaylord hotel, to be developed by RIDA, will be the centerpiece of and the catalyst project for future development within the Chula Vista Bayfront.

The CVB CIP project, Site Preparation at Chula Vista Bayfront, is currently in the planning and design phases, and early site preparation grading at key parcels has begun. Site preparation grading includes import and placement of pre-qualified soil embankment to key locations in the CVB to

File #: 2019-0327

provide soil for site improvement grading to accommodate sea level rise at key project locations.

To date, approximately 225,000 cubic yards of fill soil have been transported to the Chula Vista Bayfront as part of the Site Preparation at Chula Vista Bayfront project at the sites for the Costa Vista RV Resort and the upcoming Gaylord hotel. Planned building pad and site improvements for these and other upcoming CVB projects will require continued import activities throughout the upcoming years. This agreement will provide a qualified service provider to fulfill SWPPP inspection, maintenance, repair and reporting requirements imposed by the State of California's Construction General Permit (CGP) and the District's Jurisdictional Runoff Management Program (JRMP). The service provider will maintain in place Long-Term Temporary BMP Operations and Maintenance Plans (LTMP's). In addition, services include potential construction storm water compliance measures after selective land disturbance activities associated with grading work at various locations in Chula Vista.

Selecting and Authorizing this agreement will not commit the entire not-to-exceed agreement amount of \$633,269. Instead, this action provides staff the contractual capacity to address the SWPPP requirements on an as-needed basis during the three (3) year agreement term, to address future site development needs, weather conditions, and opportunities to import and place additional soil.

Staff implemented the process for procurement of consultants in accordance with BPC Policy No. 110. An RFP for Chula Vista Bayfront SWPPP Services was issued on May 10, 2019. During the advertisement period, 2,042 vendors were notified. Of those notified, 87 vendors signed up as prospective proposers, and four submitted proposals. An information exchange meeting, attended by 6 consultants, was held on May 22, 2019. On June 11, 2019, the District received responsive proposals from four firms. The firms are listed alphabetically in the following table:

Firm	Local Office Location
Apex Companies LLC,	San Diego, CA
KEMA	National City, CA
SoCal Stormwater Runoff Solution Services, Inc.	Sherman Oaks, CA
Summit Enterprises Inc. dba Summit Erosion Control.	San Diego, CA

Their qualifications were reviewed by a cross-departmental panel of District staff. Three of the four firms were selected for interviews based on their written proposals, and interviews were conducted on July 10, 2019. The evaluation panel considered the written proposals, presentations, and responses to interview questions, and the firms were ranked based on the criteria established in the RFP. The three top-ranked firms are described below, in the order in which they were ranked:

File #: 2019-0327

Firm	Local Office Location
<p>Apex Companies LLC:</p> <p>Apex presented a well-qualified staff where both Project Managers as well as other team members attended and were part of the overall presentation. Included in their presentation was a very clear assignment and organizational chart that defined each team members qualifications and responsibility.</p> <p>Apex Companies LLC reporting is very organized and sophisticated and utilizes current technology. They presented a proactive approach to providing solutions to anticipated storm water problems within the sites to minimize costs from responses to stormwater issues. Apex currently contracts with the Port and therefore has relevant experience. Their presentation addressed the Port's overall needs as well as the CVB site specific needs. Finally, Apex's costs were the second lowest proposed and were close to the lowest.</p>	San Diego, CA
<p>KEMA:</p> <p>KEMA presented well-qualified staff with experience working on stormwater issues nationwide as well as experience working with the California State Water Board including experience with United States Navy projects in and around San Diego Bay. KEMA did not however describe in detail their staff's experience with regards to the specific needs of the District. For example, KEMA's description of the District's needs left out key challenges such as storm water entering the Bay, pumping storm water out of the sediment traps that are currently being utilized at the CVB, or the site inspections that are required by the State Water Board.</p> <p>Finally, KEMA's costs were the highest of all respondents.</p>	National City, CA
<p>Summit Enterprises Inc. dba Summit Erosion Control:</p> <p>Summit Erosion Control presented a team with excellent field staff experience with an emphasis on private industry with building contractors. Some of the experience Summit highlighted included direct involvement in the CVB.</p> <p>Summit's presentation included the installation of sustainable and durable products. They emphasized their ability to react to events with resources with multiple field staff; this emphasis contrasted with other vendor's proactive approach to preparing the sites for storm events. Summit's proposal, however lacked solutions to potential problems, and they did not demonstrate well organized reporting capability.</p> <p>Summit's proposed costs were the lowest.</p>	San Diego, CA

File #: 2019-0327

The selection panel found that Apex Companies LLC was the highest qualified based on their experience preparing for and responding to stormwater issues, their ability to address the District's specific and overall needs, and their proactive approach to this project. Based on this analysis, staff concluded that their proposed agreement will achieve the best value to the District. Staff recommends the Board adopt a resolution selecting and authorizing an agreement with Apex Companies LLC for the Chula Vista Bayfront SWPPP (Storm Water Pollution Prevention Plan) services.

General Counsel's Comments:

The Office of the General Counsel reviewed this agenda and approved the proposed agreement as presented to it as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, a resolution selecting and authorizing an agreement with APEX Companies for as-needed SWPPP services at Chula Vista Bayfront was adequately covered in the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (CVBMP) (UPD #83356-EIR-658; SCH #2005081077; Clerk Document No. 56562), certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, which was adopted by the Board on August 13, 2013 (Resolution No. 2013-138), and the Second Addendum to the FEIR, which was adopted by the Board on April 10, 2018 (Resolution No. 2018-0069). The proposed Board action is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist. (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR and Addendums, the District finds and recommends that the proposed Board action does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the FEIR and Addendum due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the FEIR and Addendum, (b) identifies significant impacts would not be more severe than those analyzed in the FEIR and Addendum, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and (d) no changes to mitigation measures or alternatives have been identified or are required. Pursuant to CEQA Guidelines §15162 (b), the District finds and recommends that no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step-in furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

The proposed Board action complies with Sections 21 and 35 of the Port Act which allow for the Board to pass resolutions and to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust

File #: 2019-0327

Doctrine. Consequently, the proposed actions are consistent with the Public Trust Doctrine.

The proposed Board action was covered in the CDP for Site Preparation at Chula Vista Bayfront (CDP-2017-01; Clerk Document No. 66187) approved by the District on January 25, 2017 and the amendment to the CDP issued by the District on November 1, 2018. The proposed Board action is consistent with the project in that CDP and amendment. No additional action under the California Coastal Act is required at this time.

Equal Opportunity Program:

Due to limited known sub opportunities, no SBE goal was established for this agreement. Apex Companies LLC did identify SBE's as part of their team.

PREPARED BY:

Mark McIntire
Capital Project Manager, Engineering - Construction

Attachment A: Agreement between San Diego Unified Port District and Apex Companies, LLC for Chula Vista Bayfront SWPPP Services - Agreement No. 148-2019MA

Attachment A to Agenda File No. 2019-0327

**AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
APEX COMPANIES, LLC
for
CHULA VISTA BAYFRONT SWPPP SERVICES
AGREEMENT NO. 148-2019MA**

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and APEX COMPANIES, LLC, a Delaware Limited Liability Company (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or their designated representative informed of the progress of said services at all times.

- a. **As-Needed Services**

- (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a Task Authorization (TA) has been signed by the District Representative.
- (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.
- (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** The Initial Term of this Agreement shall commence on November 12, 2019 and shall terminate on November 11, 2020, subject to earlier termination as provided below. A 24-month Optional Term may be granted at the District's sole discretion. The Optional Term, if granted, shall commence on November 12, 2020, and shall terminate on November 11, 2022. The Optional Term, if granted, shall be authorized in writing by District.
3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:
 - a. **Maximum Expenditure.** The maximum expenditure under this Agreement shall not exceed \$183,269.00 for the Initial Term. A 24-month Optional Term may be granted at the District's sole discretion. The Optional Term, if granted, shall not exceed \$450,000.00. The total maximum expenditure under this Agreement including the granted Optional Term shall not exceed \$633,269.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs beyond those specified by above Options are incurred.
 - b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds

it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

- c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

- a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.
- b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.
- c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5)

working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

- a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.
- b. Listed below are the firms that the District has approved as Service Provider's sub-contractors to provide services under this Agreement:

<u>NAME OF FIRM</u>	<u>TYPE OF SERVICES PROVIDED</u>
SWPPQueen, Inc.	Stormwater inspection, assistance, and Engineering
HydroSpout, Inc	Hydroseeding
Atlas Tree Surgery, Inc.	Analytical Laboratory Services
Day & Night Power Sweeping	Pavement vacuum & sweeping

- c. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

- a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.
- b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any

Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars (\$1,000,000) per Occurrence and two million dollars (\$2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed \$25,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

- (d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").
- (2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- (3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars (\$1,000,000) each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.
- (4) Professional Liability insurance in the amount of \$1,000,000 per claim and \$1,000,000 aggregate.
 - (a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.
 - (b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, "tail" coverage in the same minimum amount as set forth in this paragraph.

- (c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.
- (5) Umbrella or Excess Liability insurance with limits no less than one million dollars (\$1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer's Liability policies.
- b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.
- c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

- d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.
11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.
12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.
13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and

conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.
15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.
16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized

in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

- a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

- b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.
- c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous

charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS (IF APPLICABLE)**

- a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

- b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls electronically via the software LCPtracker.
- (1) LCPtracker is a web-based system, accessed on the World Wide Web by a web browser. Service Provider will be given a Log-On identification and password to access the San Diego Unified Port District's reporting system upon Service Provider's request.
 - (2) The use of LCPtracker by the Service Provider is mandatory. Access to LCPtracker will be provided at no cost to the Service Provider.
 - (3) In order to utilize LCPtracker, the Service Provider needs a computer and internet access. A digital camera and a scanner may be useful. For more information, go to www.lcptracker.com. To Login, go to www.lcptracker.net and from the homepage, select LOGIN and enter the Username and Password that will be provided to you by the District upon Service Provider's request.
 - (4) Use of the system will entail data entry of weekly payroll information including; employee identification, labor classification, total hours worked and hours worked on this project, wage and benefit rates paid etc. The Service Provider's payroll and accounting software might be capable of generating a 'comma delimited file' that will interface with the software.
 - (5) Service Provider must require all lower-tier sub participants the mandatory requirement to use LCPtracker to provide any required labor compliance documentation. Lower-tier sub participants will

be given a Log-On identification and password from the Service Provider.

- (6) Training options can be provided to the Service Provider upon request.

21. **SERVICE PROVIDER/CONTRACTOR REGISTRATION PROGRAM (IF APPLICABLE)**

- a. In accordance with the provisions of Labor Code section 1771.1. (a) A contractor or subcontractor shall not be qualified to bid on; be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.
- b. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- c. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

d. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

22. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

23. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement to:

Mark McIntire, Capital Project Manager II
Engineering-Construction
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. 619-686-8064
Email: mmcintir@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Joseph Weslock, Director/Division Manager
Apex Companies, LLC
6815 Flanders Dr., Ste. 155
San Diego, CA 92121
Tel. 858-558-1120 x1501
Email: jweslock@apexcos.com

***** END OF PAGE *****

- c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT**APEX COMPANIES, LLC**

Ernesto Medina
Chief Engineer, Engineering-Construction

Joseph Weslock

Joseph Weslock
Director/Division Manager

Approved as to form and legality:
GENERAL COUNSEL

By: Assistant/Deputy

A manually signed copy of this Agreement transmitted by email or any other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

ATTACHMENT A SCOPE OF SERVICES

San Diego Unified Port District

A. General Information

Service Providers must specialize in the comprehensive implementation and maintenance of long-term temporary Best Management Practice (BMP) maintenance plans (LTMP's) and all CGP Permit compliance measures. Service Provider shall provide services to monitor discharges of storm water runoff associated with construction and land disturbance activities, supplemented by District Jurisdictional Runoff Management Program (JRMP) programming. The following Documents, attached electronically to RFP 19-15MA, will be made available by District to Service Provider upon request:

LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN,
CHULA VISTA BAYFRONT SITE 2 & 3 WDID: 9 37C383506

LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN,
CHULA VISTA BAYFRONT SITE 6 WDID: 9 37C382064

CHULA VISTA BAYFRONT PROGRAM SITE MAP

Service Provider may also refer to the following information, available on the internet:

Water Quality Order 2009-0009-DWQ issued by the State Water Resources Control Board (SWRCB), "National Pollutant Discharge Elimination System (NPDES), General Permit No. CAS000002 – Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities":

https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/const_permits/wqo_2009_0009_complete.pdf

Jurisdictional Runoff Management Program (JRMP): in accordance with the requirements of the San Diego Regional Water Quality Control Board (Regional Board) Order No. R9-2013-0001, as amended by Order No. R9-2015-0001 (NPDES Permit #CAS0109266) (Municipal Permit):

<https://pantheonstorage.blob.core.windows.net/environment/JRMP-document-and-appendices-January-2019.pdf>

Service Provider shall provide Temporary Water Pollution Control BMP Inspection, Maintenance and Construction Services at the San Diego Unified Port District (District) properties within the CVB project sites.

Some of those services include, but are not limited to:

1. Inspection and documenting in accordance with Long Term Temporary BMP Operations and Maintenance Plan LTMP_schedules.
2. BMP and Site maintenance and repair work in accordance with Long Term Temporary BMP Operations and Maintenance Plan (LTMP) schedules.
3. SWPPP (Stormwater Pollution Prevention Program) development and maintenance.
4. Storm Water Multiple Application and Report Tracking System (SMARTS) access and data input.
5. Permit Registration Documents (PRD's) preparation and data input.
6. QSD/QSP led construction site Weekly, Pre-Storm and Post-Storm Inspections.
7. Quarterly and Annual (SMARTS) Reporting.
8. Design, deployment and maintenance of BMP's.
9. As-needed SWPPP Amendments and BMP modifications.
10. On-call BMP workforce support to coincide with soil import and earthwork grading activities.
11. Final stabilization and Water Balance and Notice of Termination (NOT) documentation and SMARTS input.
12. LTMP development and maintenance.

The unit prices in the fee schedule shall include full compensation for all labor, supervision, materials, equipment, tools, cleanup and incidentals required to perform Temporary Water Pollution Control BMP Inspection, Maintenance and Construction. Service Provider shall move, cover or protect any structures or equipment that may be damaged during As Needed Temporary Water Pollution Control BMP Inspection, Maintenance and Construction Services. Any such damages caused by Service Provider's operation shall be repaired, replaced, reinstalled or reconstructed and restored, at no additional cost to the District. Service Provider shall always maintain site safety and security of public areas. Service Provider shall remove from Tidelands all materials, tools, equipment, debris and coverings upon completion of services.

While working on District property, the Service Provider's employees shall wear uniforms with appropriate company name and logo. Service Provider's vehicles shall be clearly marked with appropriate company name and logo.

B. Safety

Service Provider shall abide by all local, state, federal, Cal/OSHA, OSHA, and District safety codes, policies, and procedures. Service Provider will be responsible for fines incurred if not in compliance with OSHA standards. Before

the start of work, Service Provider shall post signs and provide barricades to safely protect the public. Service Provider shall remove all signs and barricades at the completion of the service. Service Provider shall follow current Caltrans traffic control guidelines when performing service as applicable. Service Provider shall provide required submittals to the District representative as listed in the Submittal Section of this Scope of Services.

1. Service Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the services provided.
2. Service Provider shall give notices and comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property to protect them from damage, injury or loss, and shall erect and maintain all necessary safeguards for such safety and protection.
3. Material usage shall be accomplished with strict adherence to California Division of Industrial Safety, or other governing regulations, and all manufacturers' warnings and application instructions listed on the Safety Data Sheet and on the product container label.

Injury & Illness Prevention Program (IIPP): Service Provider shall prepare and submit to the District's representative, one (1) copy of their IIPP that addresses all the actions necessary to establish a safe working environment, prior to the commencement of on-site service. It is the Service Provider's responsibility to take all reasonable precautions to ensure the safety of the public and its employees and to comply with all federal, state, and local regulations. It is the Service Provider's responsibility to establish and maintain safe onsite working conditions for the duration of the project.

C. Environmental

All San Diego Port District Tidelands are regulated under Regional Water Quality Control Board Order No. R9-2013-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0109266, waste Discharge Requirements for Discharges of Urban Run-off from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego county, and the San Diego Unified Port (Municipal Permit), as adopted, amended, and/or modified. The Municipal Permit prohibits any activities that could degrade storm water quality. All service to be completed as part of the Agreement must comply with all Municipal Permit requirements and District direction related to permitted activities including the following requirements:

1. No discharges of any material may enter the storm drain system or receiving water (San Diego Bay) including water, wash water, dust, petroleum products, soil or debris. Service Provider must immediately remove any such material that inadvertently enters the storm drain system and immediately notify District staff.
2. If any activity could potentially release materials to the storm drain system or the bay, the District representative must be notified prior to activity and appropriate protection of the storm drain system shall be implemented as described in the California Stormwater Best Management Practices Handbooks developed by the California Stormwater Quality Association (www.cabmphandbooks.com). All storm drain protection systems must minimize the discharge of pollutants and be adequately maintained.
3. Any materials being stored which could release constituents by wind or run-off transport shall be protected by overhead cover, secondary containment, tarpaulins, or other appropriate methods.
4. Best Management Practices (BMPs) must be implemented to prevent water, wash water, and/or debris from being tracked or transported off the service site.
5. Any fuel products, lubricating fluids, grease or other products and/or waste released from Service Provider's vehicles or equipment shall be collected and disposed of immediately in accordance with state, federal, and local laws.
6. All job-site waste materials will be properly disposed of at the completion of service including unsalvageable materials that may have been in the storm drain conveyance system.
7. Service Provider shall ensure that all employees are trained on the nature and implementation of the special provisions outlined above. This training shall include identifying the location of the storm drains on the job site, highlighting the proximity of the bay and the direct connection between the storm drain and the bay, and identifying all BMPs to be implemented to prevent the discharge of pollutants to the storm drain conveyance system or the bay.

District Environmental and Land Use Management staff may conduct a storm water inspection to verify that BMPs are properly implemented at any time during the project. Additional BMPs may be recommended or required to eliminate or prevent discharges to the stormwater conveyance system or the receiving water.

Environmentally Preferable Products – In alignment with the District's Green Port Policy, the District will strive to minimize environmental impacts directly attributable to operations on San Diego Bay and the tidelands. In alignment with

this Policy, the District has established criteria for the procurement of environmentally preferable products.

Accordingly, where practicable and cost effective, Service Provider shall use cleaning and disinfecting products that meet Green Seal certification at all District facilities. All cleaning and power washing products claiming Green Seal certification, shall be required to bear this certification. Products recognized by the Environmental Protection Agency's (EPA) Safer Detergents Stewardship Initiative or the Design for the Environment Program are not required to be Green Seal certified. More information is available at www.greenseal.org and www.epa.gov/dfe. Germicidal detergents needed to perform services under this Agreement are not required to be Green Seal certified. Service Provider shall only use District approved equipment, materials, and supplies and shall comply with the District's Environmental Sustainability Policy. Accordingly, where practicable and cost effective, Service Provider shall use products that meet Green Seal certification for all services rendered under this Agreement. All products claiming Green Seal certification shall be required to bear this certification. More information is available at www.greenseal.org and www.epa.gov/dfe.

The District may permit the substitution or addition of environmentally preferable products when such products are readily available at a competitive cost and satisfy the District's performance needs. The District may choose to provide any environmentally preferable products for Service Provider's use during services rendered under this Agreement.

D. Execution

1. Long Term Temporary BMP Operations and Management Plan (LTMP)

- a. Inspection and Maintenance Services: All services shall be undertaken by the Service Provider only upon issuance of a Task Authorization issued by the District for said services. Service Provider shall not perform As-Needed services until the District representative provides a written Task Authorization specifically indicating the scope and negotiated cost for the As-Needed Services. A Task Authorization shall not be considered effective until the form has been signed by the District. The District does not guarantee a minimum or total amount of As-Needed services against this agreement.
- b. Documentation and Written Reports: The LTMP's include a spreadsheet of expected maintenance frequencies and methods for each temporary BMP. Service Provider shall utilize a database to log and track inspection results, findings, and corrective actions to document BMP maintenance activities. In addition, Service

Provider shall develop an inspection schedule for all BMPs based on LTMP's.

In addition, Service Provider shall develop an electronic inspection and maintenance form that will be used to document inspections and maintenance services performed on each BMP. The inspection form shall include the following information:

- Inspection date/time
- Inspector name
- BMP Type / Location
- Observed condition of BMP with photographic documentation
- Maintenance requirements and required actions
- Date of required actions
- Description of follow-up maintenance performed and completed
- Date maintenance was completed

c. Maintenance and Repair Services: Service Provider shall schedule and conduct temporary water pollution control BMP maintenance in coordination with District representative. Service Provider shall provide BMP maintenance and repair services that shall include maintenance, repair, modifications and replacement, as necessary. The following is a list of BMP's that are anticipated to require maintenance and repair, additional BMP's may be added during the course of the Agreement:

- Erosion Control (Preservation of Existing Vegetation) BMP, CASQA EC-2
- Erosion Control (Hydroseeding) BMP, CASQA EC-4
- Erosion Control (Earth Dikes and Drainage Swales) BMP CASQA EC-9
- Sediment Control (Silt Fence) BMP, CASQA SE-1
- Sediment Control (Fiber Roll) BMP, CASQA SE-5
- Sediment Control (Sediment Traps) BMP, CASQA SE-3
- Sediment Control (Gravel Bag Berm) BMP, CASQA SE-6
- Sediment Control (Sandbag Barrier) BMP, CASQA SE-8
- Sediment Control (Check Dams) BMP, CASQA SE-4
- Waste Management (Stockpile Management) BMP, CASQA WM-3
- Tracking Control (Stabilized Construction Entrance/Exit) BMP, CASQA TC-1

d. Additional Services and Materials: The District representative may request additional services and materials that are not specifically defined in the above General Requirements section. Service Provider shall not perform additional services without a written Task Authorization from the District representative. The District

does not guarantee a minimum amount of services under this Agreement.

2. CGP Coverage and Storm Water Pollution Prevention Plan (SWPPP)

- a. Notice of Intent (NOI) and Permit Registration Documents (PRD's): As-Needed Services to apply for CGP coverage shall be undertaken by the Service Provider only upon issuance of a Task Authorization (TA) issued by the District for said services. NOI shall be prepared and submitted via SMARTS for State Water Board to issue Waste Discharge ID (WDID).
- b. SWPPP Development: Service Provider shall develop site specific SWPPP for location as identified by District issued TA.
- c. BMP Design and Construction: Service Provider shall design and develop a plan for erosion and sediment control BMPs, in addition to all appropriate BMPs based upon appropriate measures to prevent pollutant discharges during construction activities.
- d. Inspection and Maintenance Services: Service Provider shall perform all inspections (Weekly, Pre-storm, Post-storm, etc.) as required by SWPPP developed Construction Site Monitoring Program (CSMP). All Service Provider and District found BMP maintenance and repair work shall be undertaken as provided in the CSMP and in accordance with Inspection Report indicated response period.
- e. Documentation and Written Reports: Service Provider shall be responsible for performing all reporting and documenting for CGP compliance, including all applicable SMART data input. In addition, a continuously updated SWPPP hardcopy shall be available onsite in a Service Provider supplied weatherproof and secure storage container.
- f. LTMP Development: In preparation for CGP coverage termination, a long-term operation and maintenance plan shall be developed by the Service Provider.
- g. Final Stabilization and Notice of Termination (NOT): Service Provider shall expeditiously furnish and implement all necessary measures to obtain final stabilization as defined by the CGP upon notification by District that construction activities have concluded. Service Provider shall be responsible for all NOT required documentation and SMART data input to achieve full CGP terminating conditions.

3. Locations

- a. Site 2 and 3: The two parcels are located northerly of Chula Vista Marina in Chula Vista, CA, bound to the north by G Street. Site 2 is bounded on the south by Bayside Parkway and Site 3 bounded on the south by Sandpiper Way. Each parcel is enclosed by chain link fence and secured with padlocked gates. Site 2 estimated (graded) Disturbed Soil Area (DSA) is 5.7 acres and Site 3 estimated (graded) DSA is 13.7 acres. A long-term temporary operations and maintenance plan (LTMP) for Site 2 and 3 will be made available by District to Service Provider upon request, titled 'LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN, CHULA VISTA BAYFRONT SITE 2 & 3 WDID: 9 37C383506'.

Previous coverage under the CGP for Site 2 and 3 (WDID 9 37C383506) has been terminated due to suspended grading and soil import activities at that location. An interim, long-term site maintenance plan (LTMP) for existing BMP's, is in place with responsibility currently assigned to the Port of San Diego's General Services Department.

- b. Site 6: Site 6 parcel is located within the San Diego Bay National Wildlife Refuge in Chula Vista, CA at the westerly end of Gunpowder Point Dr. Access to Site 6 position requires entry through code activated automatic gate along Gunpowder Point Dr. Site 6 is comprised of two distinct grading areas known as Site 6A, southerly situated and Site 6B, northerly oriented. Site 6 estimated (graded) Disturbed Soil Area (DSA) is 13.7 acres. 'LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN, CHULA VISTA BAYFRONT SITE 6 WDID: 9 37C382064' will be made available by District to Service Provider upon request.

Previous coverage under the CGP for Site 6 (WDID 9 37C382064) has been terminated due to suspended grading and soil import activities at that location. An interim, LTMP for existing BMP's and Site 6 site is in place with responsibility currently assigned to the Port of San Diego's General Services Department.

- c. Other Locations: Chula Vista Bayfront Project includes multiple parcels that may be scheduled for construction grading work and require CGP coverage as described in section 2 above. 'CHULA

VISTA BAYFRONT PROGRAM SITE MAP' will made available by District to Service Provider upon request.

E. Services and Response Time

Service Provider shall provide As Needed Structural Pollutant Control BMP Inspection and Maintenance Services that meet the following response times:

1. Scheduled Service: All service scheduling shall be coordinated with the District representative between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. Scheduled services shall be performed Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.
2. Urgent Service Calls: When notified by the District representative, Service Provider shall acknowledge urgent service calls within one (1) hour. Service Provider shall provide services onsite within four (4) hours, 24 hours a day, seven (7) days a week, including holidays. Service Provider shall always have an answering service or cell phone available to receive urgent requests. Service Provider shall provide services in accordance with direction received from the District representative.
3. Holiday and Weekend: No holiday or weekend work will be permitted unless directed by the District representative.
4. Re-work: The District representative shall inspect the quality of service and if required, Service Provider shall correct the service deficiencies at no additional cost to the District.

F. Submittals

Service Provider shall provide the following submittals to the District representative, prior to the commencement of work.

1. Materials: Service Provider shall submit, for District representative's acceptance, a list of all material proposed to be used under this Agreement.
2. Permits: Whenever and/or wherever traffic control is required for public safety and convenience, Service Provider shall obtain a City Traffic Control Permit(s) for the Structural Pollutant Control BMP Inspection and Maintenance services. Service Provider shall also obtain all other permits incidental to the service, or made necessary by its operation, including those permits required for night service, overload and equipment, and pay all fees and costs incurred for and by the permit requirements. However, Service Provider shall not be entitled to reimbursement from the District for said fees and costs

3. Equipment List: Service Provider shall submit, for District representative's approval, a list of all motorized equipment proposed for use under this Agreement. No motorized equipment shall be used by Service Provider under this Agreement until the equipment is approved in writing by the District representative.
4. Safety Data Sheets (SDS) – Service Provider shall furnish three (3) copies of the SDS for all chemicals used on District properties.
5. Injury and Illness Prevention Program (IIPP) - Service Provider shall provide one (1) copy of the IIPP that addresses all the actions necessary to establish a safe working environment.

G. Licensing and Certification

It is the responsibility of the Service Provider to maintain all required California State Contractor's Licenses. A copy of the license or certification shall be provided to the District representative prior to the commencement of services.

Check <http://www.cslb.ca.gov/> for all current and pertinent licensing for the scope of services.

**ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District**

1. COMPENSATION

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be on a Fixed Fee and/or Time and Materials basis.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(2) Professional services performed on a Time and Materials basis shall be invoiced in accordance with the following **Rate Schedule**:

LABOR CLASSIFICATION / POSITION TITLE	FULLY BURDENED HOURLY BILLING RATE
1. Senior Project Manager	\$190.00
2. Project Manager	\$140.00
3. Senior Engineer	\$160.00
4. Engineer	\$110.00
5. Senior Inspector	\$125.00

(a) The following shall be considered part of the fully burdened hourly rates stated in this Agreement: vehicle expenses, parking, tolls, film, postage, facsimiles, computer usage,

printing, normal copying and document reproduction, blue print services, travel, telecommunications, photography, and all other costs and expenses incurred in completing such services.

- (3) Additional classifications, fully burdened hourly rates, and Fixed Fees not listed in this Agreement may be authorized via Task Authorization with the approval of the District's Project Manager.
- (4) **Agreement Expenditure Summary.** The following table summarizes the maximum annual expenditures to be incurred under this Agreement:

Description	Initial Term (11/12/2019 – 11/11/2020)	Optional Term (11/12/2020 – 11/11/2022)
Operations and Maintenance (LTMP) at Chula Vista Bayfront Site 2 & 3 (Maximum)	\$ 108,269.00	-
As-Needed Services (Maximum)	\$ 75,000.00	\$ 450,000.00
TOTAL ANNUAL FEES, Agreement not-to-exceed amount	\$ 183,269.00	\$ 450,000.00

(5) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of \$50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

- a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.
- b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:
- (1) Agreement No. 148-2019MA
 - (2) The Task Authorization(s) (TA) number(s) being charged.

- (3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

- (4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number
- c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.
- d. Invoices shall be emailed to: eng_invoices@portofsandiego.org and/or mailed to the attention of Amy Dilts, Engineering-Construction Department, San Diego Unified Port District, P.O. Box 120488, San Diego, CA 92112-0488.
- e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.
- f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
TASK AUTHORIZATION FORM
San Diego Unified Port District

**(DEPARTMENT NAME)**

San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
(619) 686-____
Fax (619) 725-____

TASK AUTHORIZATION NO. _

(Date)

(Name)

(Title)

(Name of Company)

(Address)

(City, State, Zip)

Email:

Subject: Task Authorization for Agreement No. _ - 20__
 (Agreement Title)

You are authorized to proceed with the work described in this correspondence, in an amount not to exceed \$ _____. This Task Authorization is in accordance with the terms of the subject agreement. **Please cite TA #_ on invoice(s) for this Task.**

TASK DESCRIPTION

1. Requestor:		4. WBS or IO/ Cost Center:	
2. Date of Request:		5. Task Start Date:	
3. Task Budget:	\$	6. Task End Date:	
7. Task Title:			
8. Scope of Services.			

9. Contractor Staffing (If applicable)

Name	Classification	Hours
	Staff as needed per Agreement rates	

10. List of Sub-Contractors (If applicable)

N/A

11. Please acknowledge acceptance of this Task Authorization by signing below and returning via mail to _____, Contracts Administrator, at the address above.

APPROVALS**Service Provider:**

Signature: _____

Name: _____

Title: _____

Firm: _____

Date: _____

Project Manager:

Signature: _____

Name: _____

Title: Project Manager

Date: _____

Manager:

Signature: _____

Name: _____

Title: Manager

Date: _____

Director/Chief Engineer:

Signature: _____

Name: _____

Title: Director/Chief Engineer

Date: _____

EXHIBIT B CERTIFICATE OF INSURANCE San Diego Unified Port District

By signing this form, the authorized agent or broker **certifies** the following:

- (1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.
- (2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage **noted on page 2 of this certificate**.
- (3) Signed copies of **all** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 100085 – 185
Duluth, GA 30096 – OR –
Email: portofsandiego@ebix.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)			SDUPD Agreement Number: _____	
			This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.	
CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability <input type="checkbox"/> Occurrence Form <input type="checkbox"/> Claims-made Form <input type="checkbox"/> Retro Date _____ <input type="checkbox"/> Liquor Liability Deductible/SIR: \$ _____		Commencement Date: _____ Expiration Date: _____	Each Occurrence: \$ _____ General Aggregate: \$ _____
	Commercial Automobile Liability <input type="checkbox"/> All Autos <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-Owned & Hired Autos		Commencement Date: _____ Expiration Date: _____	Each Occurrence: \$ _____
	Workers Compensation – Statutory Employer's Liability		Commencement Date: _____ Expiration Date: _____	E.L. Each Accident \$ _____ E.L. Disease Each Employee \$ _____ E.L. Disease Policy Limit \$ _____
	Professional Liability <input type="checkbox"/> Claims Made Retro-Active Date _____		Commencement Date: _____ Expiration Date: _____	Each Claim \$ _____
	Excess/Umbrella Liability		Commencement Date: _____ Expiration Date: _____	Each Occurrence: \$ _____ General Aggregate: \$ _____
CO LTR	COMPANIES AFFORDING COVERAGE		A. M. BEST RATING	
A				
B				
C				
D				
A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A-VII or better unless approved in writing by the District.				
Name and Address of Authorized Agent(s) or Broker(s)			E-mail Address: _____	
			Phone: _____ Fax Number: _____	
			Signature of Authorized Agent(s) or Broker(s) _____	
			Date: _____	

SAN DIEGO UNIFIED PORT DISTRICT
REQUIRED INSURANCE ENDORSEMENT

<u>ENDORSEMENT NO.</u>	<u>EFFECTIVE DATE</u>	<u>POLICY NO.</u>
NAMED INSURED:		
GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES): All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises		

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.
2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.
3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").
4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

 (NAME OF INSURANCE COMPANY)

 (SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
 c/o Ebix BPO
 P.O. Box 100085 – 185
 Duluth, GA 30096 – OR –
 Email to: portofsandiego@ebix.com
 Fax: 1-866-866-6516

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT WITH APEX COMPANIES LLC FOR AS-NEEDED CHULA VISTA BAYFRONT STORM WATER POLLUTION PREVENTION PLAN (SWPPP) SERVICES FOR AN AGGREGATE AMOUNT NOT TO EXCEED \$633,269 FOR A PERIOD OF THREE YEARS. FUNDS WILL BE SOURCED FROM THE SITE PREPARATION AT CHULA VISTA BAYFRONT PROJECT IN THE FY 2019-2023 CAPITAL IMPROVEMENT PROGRAM**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I; and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 to establish a policy governing the processing and administration of public projects, consulting and service agreements, the purchasing of supplies, materials and equipment, and grants; and

WHEREAS, the Chula Vista Bayfront (CVB) project seeks to transform approximately 535 acres of largely vacant and underutilized industrial landscape into a thriving recreational, residential, and resort destination along the Chula Vista waterfront; and

WHEREAS, the CVB Capital Improvement Program (CIP) project and site preparation at CVB is currently in the planning and design phases, and early site preparation grading at key parcels has begun and includes import and placement of pre-qualified soil embankment to accommodate sea level rise; and

WHEREAS, to date, approximately 225,000 cubic yards of fill soil have been transported to CVB as part of the site preparation for the Costa Vista RV Resort and the upcoming Gaylord hotel, and planned building pad and site improvements for these and other upcoming CVB projects will require continued import activities throughout the upcoming years; and

WHEREAS, District staff recommend entering into an agreement for Storm Water Pollution Prevention Plan (SWPPP) services for CVB to provide temporary water pollution control Best Management Practices (BMP) inspection, maintenance, and repair services at the CVB as part of the CIP project site preparation; and

20xx-xxx

WHEREAS, pursuant to BPC Policy No. 110, the District issued a Request for Proposals (RFP) on May 10, 2019;

WHEREAS, by June 11, 2019, the District received responsive proposals from four (4) firms; and

WHEREAS, three (3) firms were interviewed by staff on July 10, 2019, and staff ranked the firms in accordance with the selection criteria listed in the RFQ based on the firms' proposals and interviews; and

WHEREAS, based on this selection process, staff recommends that the BPC select and authorize an agreement with Apex Companies LLC for as-needed Chula Vista Bayfront Storm Water Pollution Prevention Plan in an amount not to exceed \$633,269 for a period of three (3) years; and

WHEREAS, selecting and authorizing this agreement would not commit the entire not-to-exceed agreement amount of \$633,269, instead, this action would provide staff the contractual capacity to address the SWPPP requirements as-needed, should they arise during the three (3) year agreement term, for future site development needs, weather conditions, and opportunities to import and place additional soil; and

WHEREAS, funds for this service, will be sourced from the Site Preparation at Chula Vista Bayfront project in the FY 2019-2023 CIP. Approval of this agenda will authorize the expenditure of up to \$633,269 from the Capital Improvement Program funding appropriation.

NOW THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or her designated representative is hereby authorized to execute agreements for as-needed Storm Water Pollution Prevention Plan requirements as-needed, should they arise during the three (3) year agreement term, for future site development needs, weather conditions, and opportunities to import and place additional soil for an amount not to exceed \$633,269 for a period of three (3) years with Apex Companies LLC.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 5th day of November 2019, by the following vote:

2019-126

WHEREAS, pursuant to BPC Policy No. 110, the District issued a Request for Proposals (RFP) on May 10, 2019;

WHEREAS, by June 11, 2019, the District received responsive proposals from four (4) firms; and

WHEREAS, three (3) firms were interviewed by staff on July 10, 2019, and staff ranked the firms in accordance with the selection criteria listed in the RFQ based on the firms' proposals and interviews; and

WHEREAS, based on this selection process, staff recommends that the BPC select and authorize an agreement with Apex Companies LLC for as-needed Chula Vista Bayfront Storm Water Pollution Prevention Plan in an amount not to exceed \$633,269 for a period of three (3) years; and

WHEREAS, selecting and authorizing this agreement would not commit the entire not-to-exceed agreement amount of \$633,269, instead, this action would provide staff the contractual capacity to address the SWPPP requirements as-needed, should they arise during the three (3) year agreement term, for future site development needs, weather conditions, and opportunities to import and place additional soil; and

WHEREAS, funds for this service, will be sourced from the Site Preparation at Chula Vista Bayfront project in the FY 2019-2023 CIP. Approval of this agenda will authorize the expenditure of up to \$633,269 from the Capital Improvement Program funding appropriation.

NOW THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or her designated representative is hereby authorized to execute agreements for as-needed Storm Water Pollution Prevention Plan requirements as-needed, should they arise during the three (3) year agreement term, for future site development needs, weather conditions, and opportunities to import and place additional soil for an amount not to exceed \$633,269 for a period of three (3) years with Apex Companies LLC.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: Assistant/Deputy

2019-126

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 5th day of November 2019, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Valderrama, and Zucchet

NAYS: None.

EXCUSED: None.

ABSENT: None.

ABSTAIN: None.



Garry J. Bonelli, Chairman
Board of Port Commissioners

ATTEST:



Donna Morales
District Clerk

(Seal)

TASK AUTHORIZATION NO.1

November 27, 2019

Joseph Weslock
Director/Division Manager
APEX Companies, LLC
6815 Flanders Dr., Ste. 155
San Diego, CA 92121
jweslock@apexcos.com

Subject: Task Authorization No. 1 for Agreement No. 148-2019MA(46-1281) as needed Chula Vista Bayfront SWPPP Services

You are authorized to proceed with the work described in this correspondence, in an amount not to exceed **\$108,269.00**. This Task Authorization is in accordance with the terms of the subject agreement. Please cite **TA #01** on invoice(s) for this Task.

TASK DESCRIPTION

1.	Requestor:	Abraham Pineda	4.	WBS #:	P0460-4.5
2.	Date of Request:	11/27/19	5.	Task Start Date:	Upon Execution
3.	Task Budget:	\$108,269.00	6.	Task End Date:	12/01/2020
7.	Task Title: Chula Vista Bayfront SWPPP Services at Site 2&3				

8. DESCRIPTION

Apex Companies, LLC (Service Provider) will implement and maintain Long Term Temporary Best Management Practice (BMP) Operations and Maintenance Plans (LTMPs) and all Construction General Permit (CGP) compliance measures. Service Provider shall provide services to monitor discharges of stormwater runoff associated with construction and land disturbance activities, supplemented by the District's Jurisdictional Runoff Management Program (JRMP) programming.

9. TASKS**Task 1 – SWPPP Services for Site 2 and 3****1. General - Services include but are not limited to:**

- Inspection and documenting in accordance with Long Term Temporary BMP Operations and Maintenance Plan LTMP schedules.
- BMP and site maintenance and repair work in accordance with Long Term Temporary BMP Operations and Maintenance Plan (LTMP) schedules.
- SWPPP (Stormwater Pollution Prevention Program) development and maintenance.



- d. Stormwater Multiple Application and Report Tracking System (SMARTS) access and data input.
- e. Permit Registration Documents (PRDs) preparation and data input.
- f. Qualified SWPPP Developer/Qualified SWPPP Practitioner (QSD/QSP) led construction site Weekly, Pre-Storm, and Post-Storm Inspections.
- g. Quarterly and Annual SMARTS Reporting.
- h. Design, deployment, and maintenance of BMPs.
- i. As-needed SWPPP Amendments and BMP modifications.
- j. On-call BMP workforce support to coincide with soil import and earthwork grading activities.
- k. Final stabilization and water balance, Notice of Termination (NOT) documentation, and SMARTS input.
- l. LTMP development and maintenance.

The unit prices in the fee schedule shall include full compensation for all labor, supervision, materials, equipment, tools, cleanup, and incidentals required to perform Temporary Water Pollution Control BMP Inspection, Maintenance, and Construction. Service Provider shall move, cover, or protect any structures or equipment that may be damaged during As-Needed Temporary Water Pollution Control BMP Inspection, Maintenance, and Construction Services. Any such damages caused by Service Provider's operation shall be repaired, replaced, reinstalled or reconstructed, and restored, at no additional cost to the District. Service Provider shall always maintain site safety and security of public areas. Service Provider shall remove from Tidelands all materials, tools, equipment, debris, and coverings upon completion of services.

While working on District property, the Service Provider's employees shall wear uniforms with appropriate company name and logo. Service Provider's vehicles shall be clearly marked with appropriate company name and logo.

2. Safety

Service Provider shall abide by all local, state, federal, Cal/OSHA, OSHA, and District safety codes, policies, and procedures. Service Provider will be responsible for fines incurred if not in compliance with OSHA standards. Before the start of work, Service Provider shall post signs and provide barricades to safely protect the public. Service Provider shall remove all signs and barricades at the completion of the service. Service Provider shall follow current Caltrans traffic control guidelines when performing service as applicable. Service Provider shall provide required submittals to the District representative as listed in the Submittal Section of this Scope of Services.

- a. Service Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the services provided.
- b. Service Provider shall give notices and comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property to protect them from damage, injury, or loss, and shall erect and maintain all necessary safeguards for such safety and protection.
- c. Material usage shall be accomplished with strict adherence to California Division of Industrial Safety, or other governing regulations, and all manufacturers' warnings and application instructions listed on the Safety Data Sheet and on the product container label.



Injury & Illness Prevention Program (IIPP): Service Provider shall prepare and submit to the District's representative, one (1) copy of their IIPP that addresses all the actions necessary to establish a safe working environment, prior to the commencement of on-site service. It is the Service Provider's responsibility to take all reasonable precautions to ensure the safety of the public and its employees and to comply with all federal, state, and local regulations. It is the Service Provider's responsibility to establish and maintain safe onsite working conditions for the duration of the project.

3. Environmental

All District Tidelands are regulated under Regional Water Quality Control Board Order No. R9-2013-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0109266, Waste Discharge Requirements for Discharges of Urban Run-off from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego county, and the District (Municipal Permit), as adopted, amended, and/or modified. The Municipal Permit prohibits any activities that could degrade storm water quality. All service to be completed as part of the Agreement must comply with all Municipal Permit requirements and District direction related to permitted activities including the following requirements:

- a. No discharges of any material may enter the storm drain system or receiving water (San Diego Bay) including water, wash water, dust, petroleum products, soil or debris. Service Provider must immediately remove any such material that inadvertently enters the storm drain system and immediately notify District staff.
- b. If any activity could potentially release materials to the storm drain system or the bay, the District representative must be notified prior to activity and appropriate protection of the storm drain system shall be implemented as described in the California Stormwater Best Management Practices Handbooks developed by the California Stormwater Quality Association (www.cabmphandbooks.com). All storm drain protection systems must minimize the discharge of pollutants and be adequately maintained.
- c. Any materials being stored which could release constituents by wind or run-off transport shall be protected by overhead cover, secondary containment, tarpaulins, or other appropriate methods.
- d. Best Management Practices (BMPs) must be implemented to prevent water, wash water, and/or debris from being tracked or transported off the service site.
- e. Any fuel products, lubricating fluids, grease or other products and/or waste released from Service Provider's vehicles or equipment shall be collected and disposed of immediately in accordance with state, federal, and local laws.
- f. All job-site waste materials will be properly disposed of at the completion of service including unsalvageable materials that may have been in the storm drain conveyance system.
- g. Service Provider shall ensure that all employees are trained on the nature and implementation of the special provisions outlined above. This training shall include identifying the location of the storm drains on the job site, highlighting the proximity of the bay and the direct connection between the storm drain and the bay, and identifying all BMPs to be implemented to prevent the discharge of pollutants to the storm drain conveyance system or the bay.

District Environmental and Land Use Management staff may conduct a storm water inspection to verify that BMPs are properly implemented at any time during the project. Additional BMPs may



be recommended or required to eliminate or prevent discharges to the stormwater conveyance system or the receiving water.

Environmentally Preferable Products: In alignment with the District's Green Port Policy, the District will strive to minimize environmental impacts directly attributable to operations on San Diego Bay and the Tidelands. In alignment with this Policy, the District has established criteria for the procurement of environmentally preferable products.

Accordingly, where practicable and cost effective, Service Provider shall use cleaning and disinfecting products that meet Green Seal certification at all District facilities. All cleaning and power washing products claiming Green Seal certification, shall be required to bear this certification. Products recognized by the Environmental Protection Agency's (EPA) Safer Detergents Stewardship Initiative or the Design for the Environment Program are not required to be Green Seal certified. More information is available at www.greenseal.org and www.epa.gov/dfe. Germicidal detergents needed to perform services under this Agreement are not required to be Green Seal certified. Service Provider shall only use District approved equipment, materials, and supplies and shall comply with the District's Environmental Sustainability Policy. Accordingly, where practicable and cost effective, Service Provider shall use products that meet Green Seal certification for all services rendered under this Agreement. All products claiming Green Seal certification shall be required to bear this certification. More information is available at www.greenseal.org and www.epa.gov/dfe.

The District may permit the substitution or addition of environmentally preferable products when such products are readily available at a competitive cost and satisfy the District's performance needs. The District may choose to provide any environmentally preferable products for Service Provider's use during services rendered under this Agreement.

4. Execution

a. Long Term Temporary BMP Operations and Management Plan (LTMP)

- i. **Documentation and Written Reports:** The LTMPs include a spreadsheet of expected maintenance frequencies and methods for each temporary BMP. Service Provider shall utilize a database to log and track inspection results, findings, and corrective actions to document BMP maintenance activities. In addition, Service Provider shall develop an inspection schedule for all BMPs based on LTMPs.

In addition, Service Provider shall develop an electronic inspection and maintenance form that will be used to document inspections and maintenance services performed on each BMP. The inspection form shall include the following information:

1. Inspection date/time
2. Inspector name
3. BMP Type / Location
4. Observed condition of BMP with photographic documentation
5. Maintenance requirements and required actions
6. Date of required actions
7. Description of follow-up maintenance performed and completed
8. Date maintenance was completed



- ii. **Maintenance and Repair Services:** Service Provider shall schedule and conduct temporary water pollution control BMP maintenance in coordination with District representative. Service Provider shall provide BMP maintenance and repair services that shall include maintenance, repair, modifications, and replacement, as necessary. The following is a list of BMPs that are anticipated to require maintenance and repair, additional BMPs may be added during the course of the Agreement:

1. Erosion Control (Preservation of Existing Vegetation) BMP, CASQA EC-2
2. Erosion Control (Hydroseeding) BMP, CASQA EC-4
3. Erosion Control (Earth Dikes and Drainage Swales) BMP CASQA EC-9
4. Sediment Control (Silt Fence) BMP, CASQA SE-1
5. Sediment Control (Fiber Roll) BMP, CASQA SE-5
6. Sediment Control (Sediment Traps) BMP, CASQA SE-3
7. Sediment Control (Gravel Bag Berm) BMP, CASQA SE-6
8. Sediment Control (Sandbag Barrier) BMP, CASQA SE-8
9. Sediment Control (Check Dams) BMP, CASQA SE-4
10. Waste Management (Stockpile Management) BMP, CASQA WM-3
11. Tracking Control (Stabilized Construction Entrance/Exit) BMP,
12. CASQA TC-1

b. **CGP Coverage and Storm Water Pollution Prevention Plan (SWPPP)**

- i. **Notice of Intent (NOI) and Permit Registration Documents (PRDs):** As-Needed Services to apply for CGP coverage shall be undertaken by the Service Provider. NOI shall be prepared and submitted via SMARTS for State Water Board to issue Waste Discharge ID (WDID).
- ii. **SWPPP Development:** Service Provider shall develop site specific SWPPP revisions as conditions change on Site 2 and 3.
- iii. **BMP Design and Construction:** Service Provider shall design and develop a plan for erosion and sediment control BMPs, in addition to all appropriate BMPs based upon appropriate measures to prevent pollutant discharges during construction activities.
- iv. **Inspection and Maintenance Services:** Service Provider shall perform all inspections (Weekly, Pre-storm, Post-storm, etc.) as required by SWPPP developed Construction Site Monitoring Program (CSMP). All Service Provider and District found BMP maintenance and repair work shall be undertaken as provided in the CSMP and in accordance with Inspection Report indicated response period.
- v. **Documentation and Written Reports:** Service Provider shall be responsible for performing all reporting and documenting for CGP compliance, including all applicable SMART data input. In addition, a continuously updated SWPPP hardcopy shall be available onsite in a Service Provider supplied weatherproof and secure storage container.
- vi. **LTMP Development:** In preparation for CGP coverage termination, a long-term operation and maintenance plan shall be developed by the Service Provider.
- vii. **Final Stabilization and Notice of Termination (NOT):** Service Provider shall expeditiously furnish and implement all necessary measures to obtain final stabilization



as defined by the CGP upon notification by District that construction activities have concluded. Service Provider shall be responsible for all NOT required documentation and SMART data input to achieve full CGP terminating conditions.

c. Location

- i. **Site 2 and 3:** The two (2) parcels are located northerly of Chula Vista Marina in Chula Vista, CA, bound to the north by G Street. Site 2 is bounded on the south by Bayside Parkway and Site 3 bounded on the south by Sandpiper Way. Each parcel is enclosed by chain link fence and secured with padlocked gates. Site 2 estimated (graded) Disturbed Soil Area (DSA) is 5.7 acres and Site 3 estimated (graded) DSA is 13.7 acres. A long-term temporary operations and maintenance plan (LTMP) for Site 2 and 3 will be made available by District to Service Provider upon request, titled 'LONG-TERM TEMPORARY BMP OPERATIONS AND MAINTENANCE PLAN, CHULA VISTA BAYFRONT SITE 2 & 3 WDID: 9 37C383506'.

5. Services and Response Time

- a. Service Provider shall provide As-Needed Structural Pollutant Control BMP Inspection and Maintenance Services that meet the following response times:
 - i. **Scheduled Service:** All service scheduling shall be coordinated with the District representative between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. Scheduled services shall be performed Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.
 - ii. **Urgent Service Calls:** When notified by the District representative, Service Provider shall acknowledge urgent service calls within one (1) hour. Service Provider shall provide services onsite within four (4) hours, 24 hours a day, seven (7) days a week, including holidays. Service Provider shall always have an answering service or cell phone available to receive urgent requests. Service Provider shall provide services in accordance with direction received from the District representative.
 - iii. **Holiday and Weekend:** No holiday or weekend work will be permitted unless directed by the District representative.
 - iv. **Re-work:** The District representative shall inspect the quality of service and if required, Service Provider shall correct the service deficiencies at no additional cost to the District.

6. Submittals

- a. Service Provider shall provide the following submittals to the District representative, prior to the commencement of work.
 - i. **Materials:** Service Provider shall submit, for District representative's acceptance, a list of all material proposed to be used under this Agreement.
 - ii. **Permits:** Whenever and/or wherever traffic control is required for public safety and convenience, Service Provider shall obtain a City Traffic Control Permit(s) for the Structural Pollutant Control BMP Inspection and Maintenance services. Service Provider shall also obtain all other permits incidental to the service, or

**ENGINEERING-CONSTRUCTION**

3165 Pacific Highway, San Diego, CA 92101

made necessary by its operation, including those permits required for night service, overload and equipment, and pay all fees and costs incurred for and by the permit requirements. However, Service Provider shall not be entitled to reimbursement from the District for said fees and costs

- iii. **Equipment List:** Service Provider shall submit, for District representative's approval, a list of all motorized equipment proposed for use under this Agreement. No motorized equipment shall be used by Service Provider under this Agreement until the equipment is approved in writing by the District representative.
- iv. **Safety Data Sheets (SDS):** Service Provider shall furnish three (3) copies of the SDS for all chemicals used on District properties.
- v. **Injury and Illness Prevention Program (IIPP):** Service Provider shall provide one (1) copy of the IIPP that addresses all the actions necessary to establish a safe working environment.

7. Licensing and Certification

- a. It is the responsibility of the Service Provider to maintain all required California State Contractor's Licenses. A copy of the license or certification shall be provided to the District representative prior to the commencement of services.

Check <http://www.cslb.ca.gov> for all current and pertinent licensing for the scope of services.

10. COST & SCHEDULE

Task	Description	Fiscal Year	WBS	Task Amount
1	SWPPP Services for Site 2 and 3	FY 18/19 & FY 19/20	P0460-4.5	\$108,269.00
Total Cost Not-to-Exceed Fixed Fee				\$108,269.00




ENGINEERING-CONSTRUCTION
3165 Pacific Highway, San Diego, CA 92101

ACKNOWLEDGEMENT

Please acknowledge acceptance of this Task Authorization by signing below, dating the form, and returning it via email to eng_admin@portofsandiego.org.

APPROVALS

Signature: 

Name: Joseph Weslock

Title: Director/Division Manager

Firm: Apex Companies, LLC

Date: 12/4/19

Signature: 

Name: Abraham Pineda

Title: Assistant Engineer

Firm: San Diego Unified Port District

Date: 12-04-19

Signature: 

Name: Mark McIntire

Title: Capital Project Manager II

Firm: San Diego Unified Port District

Date: 12/04/2019

Signature: 

Name: Christopher Brooke

Title: Manager, Engineering-Construction

Firm: San Diego Unified Port District

Date: 12/4/19

Signature: 

Name: Ernesto Medina

Title: Chief Engineer

Firm: San Diego Unified Port District

Date: 12/4/19

(3)

TASK AUTHORIZATION NO.2**REFERENCE
COPY
70602**

December 30, 2019

Joseph Weslock
Director/Division Manager
APEX COMPANIES, LLC
6815 Flanders Dr., Ste. 155
San Diego, CA 92121
jweslock@apexcos.com

Subject: Task Authorization No. 2 for Agreement No. 148-2019MA(46-1281) as needed Chula Vista Bayfront SWPPP Services

You are authorized to proceed with the work described in this correspondence, in an amount not to exceed **\$75,000.00**. This Task Authorization is in accordance with the terms of the subject agreement. Please cite **TA #02** on invoice(s) for this Task.

TASK DESCRIPTION

1.	Requestor:	Mark McIntire	4.	WBS #:	P0040-8.3
2.	Date of Request:	12/30/19	5.	Task Start Date:	Upon Execution
3.	Task Budget:	\$75,000.00	6.	Task End Date:	12/31/2020
7.	Task Title: Chula Vista Bayfront SWPPP Services at Site H23				

8. DESCRIPTION

Apex Companies, LLC (Service Provider) will implement and maintain SWPPP and Construction General Permit (CGP) Best Management Practice (BMP) compliance measures, and develop and implement Long Term Operations and Maintenance Plans (LTMPs), as necessary, upon submittal of a Notice of Termination (NOT) for the CGP. Service Provider shall provide services to monitor discharges of stormwater runoff associated with construction and land disturbance activities, supplemented by the District's Jurisdictional Runoff Management Program (JRMP) programming.

9. TASKS**Task 1 – SWPPP Services for Site H23**

- 1) **General - Services include but are not limited to:**
 - a. Design, deployment, and maintenance of BMPs, including LTMP.
 - b. Inspection and documenting in accordance with Long Term Temporary BMP Operations and Maintenance Plan LTMP schedules. NOTE: Site is Risk Level 2 under the Construction General Permit.

- c. Standard CGP required inspections (weekly and pre-, during, and post-rain event).
- d. Rain Event Action Plan (REAP) preparation by a QSP whenever there is a 50% chance of rain.
- e. Sampling and reporting per RL2 requirements and the REAP.
- f. Maintaining 1 SWPPP with 2 separate SWPPP site maps/exhibits.
- g. Haley & Aldrich (H&A) will be responsible for SWPPP document maintenance for the interior work areas in the southern portions of the site (portion of the site under their control for ongoing soils remediation work and associated dewatering work).
- h. Maintenance of all BMPs except for those under the control of H&A as described above.
- i. BMP and site maintenance and repair work in accordance with Long Term Temporary BMP Operations and Maintenance Plan (LTMP) schedules.
- j. Stormwater Multiple Application and Report Tracking System (SMARTS) access and data input.
- k. Permit Registration Documents (PRDs) preparation and data input.
- l. Qualified SWPPP Developer/Qualified SWPPP Practitioner (QSD/QSP) led construction site Weekly, Pre-Storm, and Post-Storm Inspections.
- m. Quarterly and Annual SMARTS Reporting.
- n. As-needed SWPPP Amendments and BMP modifications.
- o. On-call BMP workforce support to coincide with soil import and earthwork grading activities.
- p. Final stabilization and water balance, Notice of Termination (NOT) documentation, and SMARTS input.
- q. LTMP development and maintenance as necessary.

10. COST & SCHEDULE

Task	Description	Fiscal Year	WBS	Task Amount
1	SWPPP Services for Site H23	FY 19/20	P0040-8.3	\$75,000.00
Total Cost Not-to-Exceed Fixed Fee				\$75,000.00

ACKNOWLEDGEMENT

Please acknowledge acceptance of this Task Authorization by signing below, dating the form, and returning it via email to eng_admin@portofsandiego.org.


APPROVALSSignature: 

Name: Joseph Weslock

Title: Director/Division Manager

Firm: Apex Companies, LLC

Date: January 6, 2020

Signature: 

Name: Mark McIntire

Title: Capital Project Manager II

Firm: San Diego Unified Port District

Date: 01/06/2020

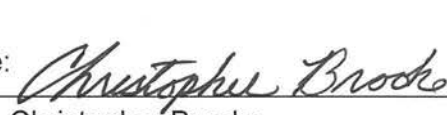
Signature: 

Name: Gretchen Herr

Title: Manager, Engineering-Construction

Firm: San Diego Unified Port District

Date: 01/06/2020

Signature: 

Name: Christopher Brooke

Title: Manager, Engineering-Construction

Firm: San Diego Unified Port District

Date: 1/6/2020

Signature: 

FOR Name: Ernesto Medina

Title: Chief Engineer

Firm: San Diego Unified Port District

Date: 1/6/2020