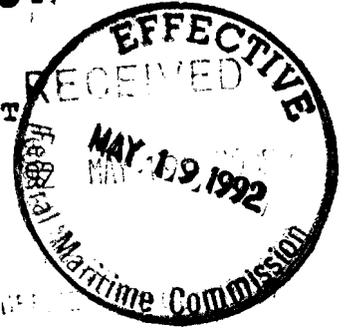


224-00380-007



INSTALLMENT SALE CONTRACT
AND
SECURITY AGREEMENT

THIS INSTALLMENT SALE CONTRACT AND SECURITY AGREEMENT is made and entered into as of MAY 8, 1992, pursuant to a minute order adopted by the Board of Harbor Commissioners of the City of Long Beach at its May 4, 1992 meeting by and between the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners ("City") and CALIFORNIA UNITED TERMINALS, a California joint venture presently consisting of General Steamship International, Ltd. and Kerr Terminals, Inc. ("Buyer").

1. RECITALS: This Installment Sale Agreement is made with reference to the following facts and objectives:

1.1 City and Buyer entered into a Fourth Amendment to and Restatement of Preferential Assignment Agreement (the "Terminal Agreement") for the use of premises at and adjacent to Piers B, C and D in the Harbor District of the City of Long Beach (Harbor Department Document No. HD-4679 and Federal Maritime Commission Agreement No. 224-003800-004).

1.2 City purchased a thirty (30) long ton "A" Frame MACH PORTAINER container crane bearing Paceco Corporation identification number 507 from Buyer and Buyer has offered to repurchase the Crane from City after certain modifications have been made to be used in

1 Document No. HD-5028

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1 handling containers at the premises described in the
2 Terminal Agreement.

3 1.3 City and Buyer intend by this Contract and
4 Security Agreement to set forth all of their
5 understandings and agreements regarding the modification
6 and repurchase of the Crane.

7 2. SALE AND DELIVERY: City shall sell, transfer and
8 deliver to Buyer on or before December 31, 1992 ("Delivery
9 Date") the 30 long ton MACH PORTAINER container crane bearing
10 Paceco Corporation identification number 507 ("Crane"),
11 modified in accordance with the provisions of paragraph 10.1,
12 together with the telescopic lifting beam (spreader bar). The
13 Crane and spreader bar are now located at Berth 26, Pier C in
14 the Harbor District of the City of Long Beach. Title to the
15 Crane shall not pass to Buyer but shall remain in City until
16 payment in full of the purchase price by Buyer as security to
17 secure Buyer's full performance of all obligations arising
18 under this Contract. Buyer shall execute all financing
19 statements and all other instruments or documents reasonably
20 related to this Contract requested by City, when so requested.
21 City shall furnish Buyer with copies of all such instruments or
22 documents filed in any public office. Upon payment to City of
23 the purchase price, City shall transfer title to the Crane,
24 equipment and spare parts, if any, to Buyer or its assignee
25 free and clear of all liens and encumbrances.

26 3. EFFECTIVE DATE: The effective date of this
27 Contract shall be (i) the date on which City shall have
28 complied with the provisions of the Shipping Act of 1984 with

1 respect to the filing of marine terminal agreements with the
2 Federal Maritime Commission or (ii) July 1, 1992, whichever is
3 later.

4 **4. PURCHASE PRICE:** Buyer shall pay to City as the
5 purchase price for the Crane an amount equal to the sum of (i)
6 Eight Hundred Thirty-two Thousand Dollars (\$832,000.00) and
7 (ii) that portion of City's actual cost of modifying the Crane
8 attributable to the extension of the boom ("purchase price").
9 The purchase price shall be paid by an initial amount of Five
10 Hundred Thousand Dollars (\$500,000.00) which shall be in the
11 form of a credit as provided in paragraph 4.2 and the balance
12 shall be paid over a payment period of seventeen (17) years
13 with the balance bearing compound interest at the rate of nine
14 percent (9%) per annum. The balance shall be paid in two
15 hundred four (204) equal monthly installments on the first
16 (1st) day of each calendar month commencing July 1, 1992 and
17 ending with the last payment due on June 1, 2009. The
18 installment payments of the balance shall be calculated using
19 the amortization schedule attached hereto marked Exhibit "A"
20 and by this reference made a part hereof.

21 4.1 The phrase "that portion of City's actual
22 cost of modifying the Crane attributable to the extension
23 of the boom" shall mean those direct and allocated costs
24 for labor, materials, supervision, supplies, tools, taxes,
25 transportation, administration, general expense and other
26 indirect or overhead costs incurred and/or expended by
27 City for design, engineering, manufacturing, erection,
28 inspection and testing of the boom of the Crane. In the

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event "that portion of City's actual costs of modifying the Crane attributable to the extension of the boom" has not been ascertained as of July 1, 1992, the estimated sum of Two Million Three Hundred Twenty-one Thousand Two Hundred Fifty-two Dollars (\$2,321,252.00) shall be substituted for City's actual costs. Upon ascertaining City's actual costs of modifying the Crane attributable to the boom extension, the balance shall be recalculated and reamortized to reflect any increase or decrease in City's actual costs above or below such estimated sum. City shall notify Buyer of the adjustment of the price and the amount of the monthly statements, if any.

4.2 The "initial amount" due as provided above shall be paid in the form of an application of a credit in the sum of Five Hundred Thousand Dollars (\$500,000.00). The credit represents a portion of the balance payable by City to Buyer for the Crane pursuant to the provisions of the Crane Purchase Agreement between City and Buyer dated as of May 4, 1992.

4.3 Any delinquent payment due City under this Contract shall be assessed an interest charge on the unpaid balance, from the date of delinquency until paid, at the rate then specified in the Port of Long Beach Tariff No. 4, as amended or restated ("Tariff No. 4") for delinquent payments. All invoices issued by City shall be due and payable upon presentation, and if not paid by the date of issue thereof shall be considered delinquent.

4.4 Buyer may prepay the unpaid portion of the

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1 balance at any time without penalty.

2 4.5 If the Crane shall be damaged or rendered
3 inoperable by fire, flood, earthquake, explosion, the
4 public enemy, vandalism, a shortage or deficiency in the
5 availability of power or other essential utility (for in
6 excess of thirty (30) days in any such instance), acts of
7 God or otherwise, so as to render it temporarily unfit for
8 use, the monthly installment payments, or a fair and just
9 proportion thereof according to the nature and extent of
10 the damage sustained, shall be suspended and deferred (for
11 a period not to exceed six calendar months excluding the
12 month in which such damage occurs) until the Crane shall
13 have been rebuilt or restored. The installments subject
14 to suspension and deferral during such period shall be
15 reviewed and adjusted by mutual agreement of the parties,
16 or in the event that such agreement cannot be reached, by
17 arbitration as provided in paragraph 7. From the date the
18 Crane has been rebuilt, restored and accepted or at the
19 end of six calendar months, whichever occurs first, the
20 total of the accrued and deferred installment payments
21 shall thereafter be payable in equal monthly installments
22 over the remaining period during which installment
23 payments are to be made, or sooner at the option of Buyer.

24 4.6 If by reason of a strike, labor dispute,
25 lockout or other work stoppage, Buyer is prevented from
26 making substantial use of the Crane for the conduct of its
27 terminal business, the installment payments for such
28 period shall be suspended and deferred in an amount

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1 determined by mutual agreement, or by arbitration under
2 paragraph 7 if the parties are unable to agree, commencing
3 on the thirty-first day after receipt by City of notice of
4 such strike, labor dispute, lockout or other work
5 stoppage, and ending on the date Buyer is able to make
6 substantial use of the Crane for its business or the
7 expiration of six calendar months (excluding the month in
8 which the suspension commences), whichever occurs first.
9 The accrued and deferred installment payments shall be
10 payable commencing with the installment payment date next
11 following the date the suspension period ends in equal
12 monthly installments over the remaining period during
13 which installment payments are to be made by Buyer, or
14 sooner at the option of Buyer.

15 5. APPLICABLE LAWS: Buyer's use of the Crane shall
16 at all times be governed by the provisions of any applicable
17 orders, rules and regulations of the Board of Harbor
18 Commissioners, and the Charter of the City of Long Beach and
19 ordinances adopted pursuant thereto regarding health and
20 safety.

21 6. USE AND OPERATION OF CRANE - BUYER'S RATES,
22 CHARGES AND PRACTICES: Buyer shall maintain and operate the
23 Crane in furtherance of the uses described in paragraph 6 of
24 the Terminal Agreement and shall operate the Crane in an
25 efficient manner.

26 6.1 The services herein authorized to be
27 performed shall be open to all customers of Buyer without
28 discrimination. A schedule of tariff of all rates,

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1 charges, regulations and practices which are established,
2 observed and enforced by Buyer for the Crane shall be
3 filed with City by Buyer prior to the effective date of
4 this Contract. In lieu of filing such tariff, Buyer may
5 elect to use and be bound by Tariff No. 4 by filing a
6 written notice of concurrence with City and the Federal
7 Maritime Commission. In the event Buyer publishes its own
8 tariff, all crane rental charges assessed by Buyer shall
9 be fair, reasonable and nondiscriminatory. If a dispute
10 shall arise between City and Buyer regarding Buyer's
11 rates, charges, rules or practices which cannot be settled
12 by the parties, either party may request arbitration of
13 the matter in accordance with paragraph 7.

14 6.2 Buyer shall assess applicable tariff charges
15 at all times during the term of this Contract.

16 7. **ARBITRATION:** If the parties cannot agree on any
17 matter herein which is specifically subject to arbitration,
18 either party may request arbitration. The party desiring to
19 arbitrate an issue shall select an arbitrator and give written
20 notice to the other party, who shall then select a second
21 arbitrator within ten (10) business days after receipt of such
22 notice. If the other party fails to name such second
23 arbitrator within said period, the arbitrator named by the
24 first party shall decide the matter. If a second arbitrator is
25 timely chosen, the two arbitrators shall, within ten (10)
26 business days after the appointment of the second, select a
27 third. If the two cannot agree upon a third, he or she shall
28 be appointed by any judge of the Superior Court of the County

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1 of Los Angeles, California, upon application made thereto by
2 either party upon ten calendar days written notice to the
3 other. Upon their appointment, the three arbitrators shall
4 enter immediately upon the discharge of their duties and
5 determine the issue or issues submitted to them and file their
6 determination in writing with the Executive Director of the
7 Long Beach Harbor Department ("Executive Director") and Buyer
8 within sixty (60) business days after the appointment of the
9 last arbitrator to be appointed. Such arbitration proceedings
10 shall be conducted in accordance with the provisions of Title 9
11 (Arbitration) of Part 3 of the California Code of Civil
12 Procedure unless the parties hereto agree otherwise. The
13 parties shall each pay one-half of the third arbitrator's fees
14 and expenses and shall bear all costs associated with the
15 appointment and performance of their own arbitrator.

16 8. RECORDS: Buyer shall maintain in the City of
17 Long Beach, full and accurate books and records showing its
18 business transacted pertaining to the Crane, and the same shall
19 be subject to inspection or examination by City's authorized
20 representatives during business hours upon reasonable notice.

21 9. LIENS: Except where contested in good faith
22 before an administrative agency or in a court of competent
23 jurisdiction, and except for nondelinquent liens arising from
24 taxes or tax assessments, Buyer shall keep the Crane and any
25 improvements thereto free from liens of any kind or nature
26 arising out of its operations, including any liens arising out
27 of any labor performed for or materials furnished to or on
28 behalf of Buyer on the Crane.

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1 **10. CRANE IMPROVEMENTS, MAINTENANCE AND REPAIR:**

2 10.1 Prior to the Delivery Date (as defined in
3 paragraph 2) City, at its cost, shall exercise its best
4 efforts to make those improvements to the Crane described
5 in the Paceco Corporation Proposal, attached hereto as
6 Exhibit "B" and by this reference made a part hereof (with
7 the exception of the work described in Section 5.6 of
8 Exhibit "B" regarding Cranes Nos. 848 and 849). Buyer
9 acknowledges that it has received a copy of Exhibit "B"
10 and approves thereof.

11 10.2 At all times after the Delivery Date (as
12 defined in paragraph 2), Buyer, at its cost, shall
13 maintain the Crane in good order, condition and repair and
14 shall be solely responsible for the periodic examination
15 and certification thereof. Buyer, at its cost, shall make
16 all necessary adjustments and replacements of worn or
17 unfit parts.

18 10.3 Buyer acknowledges and agrees that City has
19 not made any express warranties with respect to the Crane
20 and that City expressly disclaims any implied warranty of
21 merchantability of the Crane or the fitness of the Crane
22 for any purpose and Buyer agrees that the Crane is sold
23 "as is". Buyer understands and agrees that all warranties
24 implied by the provisions of the California Uniform
25 Commercial Code are excluded from this sale.

26 10.4 Notwithstanding anything to the contrary
27 appearing in this Contract, City shall not be liable to
28 Buyer for any cost, expense or damage incurred or claimed

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1 by Buyer resulting from City's inability to deliver the
2 Crane to Buyer on or before December 31, 1992. Buyer's
3 sole remedy shall be the assertion of a claim for damages
4 against Paceco Corporation, including liquidated damages
5 as provided in the Contract for Container Crane
6 Modifications entered into as of April 13, 1992 between
7 City and Paceco Corporation, governing the modification of
8 the Crane. City shall fully cooperate with Buyer in
9 asserting any such claim and in collecting such damages
10 for Buyer, including liquidated damages. City shall
11 promptly pay to Buyer any such liquidated damages
12 attributable to Buyer's loss or damage collected from
13 Paceco.

14 10.5 City shall not be responsible in any manner
15 whatsoever for making any modifications or additions to
16 the Crane required by industry practices.

17 10.6 In the event the Crane shall require any
18 modifications in order to bring it into compliance with
19 applicable federal or state laws, rules, orders or
20 regulations, Buyer, at its cost, shall promptly make all
21 such required modifications.

22 10.7 Prior to the Delivery Date, City shall
23 cause the Crane to be surveyed and shall deliver a copy of
24 the written survey to Buyer. Thereafter, upon demand,
25 Buyer shall furnish City with copies of certificates and
26 maintenance records showing compliance by Buyer with the
27 rules, regulations, orders and directives of the federal
28 and California Occupational Health and Safety Acts, the

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1 provisions of this Contract, and such other laws, rules,
2 regulations and orders of governmental agencies having
3 jurisdiction which apply to the Crane.

4 10.8 After the Delivery Date, City shall not be
5 liable for, and Buyer covenants and agrees to defend and
6 indemnify City from any and all claims, liabilities, costs
7 and expenses incurred or required to meet Buyer's
8 obligations (i) under paragraphs 10.2 and 10.6; (ii)
9 arising out of or caused by breakdown of the Crane or
10 (iii) the Crane being out of service.

11 **11. INDEMNIFICATION.** Buyer shall defend and
12 indemnify the City of Long Beach, its Board of Harbor
13 Commissioners (individually and collectively) and their
14 officers and employees ("indemnified parties") from and against
15 any and all actions, suits, proceedings, claims, demands,
16 losses, liens, costs, expense and liability of any kind or
17 nature whatsoever for injury to or death of persons or
18 property, including property owned by City, brought, made,
19 filed against, imposed upon or sustained by the indemnified
20 parties or any of them and arising from or attributable to or
21 caused, directly or indirectly, by the use or operation of the
22 Crane by Buyer, its officers, agents, employees or invitees, or
23 by any person or persons acting on behalf of Buyer and with
24 Buyer's knowledge and consent express or implied, or by reason
25 of or arising out of the state of repair and maintenance of the
26 Crane, or the construction, improvement or repair of the Crane
27 by City or Buyer, its officers, agents, employees or invitees,
28 or by any person or persons acting on behalf of Buyer and with

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1 the knowledge and consent, express or implied, of Buyer, or by
2 reason of injury to or death of employees of Buyer or others
3 where liability arises out of the provisions of Section 6300 et
4 seq. of the California Labor Code or any federal, state or
5 local regulations or laws pertaining to the safety of premises
6 or of equipment located upon said premises, but excluding any
7 and all such actions, suits, proceedings, claims, demands,
8 losses, liens, costs, expenses and liability, of any kind and
9 nature whatsoever, to the extent such death, injury or damage
10 may arise from, be attributable to or be caused, directly or
11 indirectly, by the sole or active contributory negligence or
12 the willful misconduct of the indemnified parties or any of
13 them or City's agents or any person or persons acting on behalf
14 of the City with the City's consent, express or implied,
15 pursuant to this Contract.

16 11.1 With respect to any such actions, suits,
17 proceedings, claims, demands, losses, liens, cost, expense
18 or liability (except those arising from, attributable to
19 or caused directly or indirectly by the sole or active
20 contributory negligence or willful misconduct of the
21 indemnified parties or any of them or any person or
22 persons acting on behalf of City with City's consent,
23 express or implied) City shall notify Buyer thereof, shall
24 tender Buyer defense thereof and shall assist Buyer as may
25 reasonably be requested in the defense thereof; and Buyer
26 shall resist and defend such action, suit or proceeding,
27 and shall conduct or have conducted the necessary
28 investigations and adjusting related thereto. Buyer shall

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1 indemnify the indemnified parties against all costs,
2 including, but not limited to, investigating and adjusting
3 costs and counsel fees, incurred with respect to any such
4 actions, suits, fees, incurred with respect to any such
5 actions, suits, proceedings, claims and demands.

6 11.2 Buyer shall defend and indemnify and shall
7 hold City harmless against any claim, demand, cost or
8 expense incurred in or imposed as a result of any action
9 or proceeding challenging the validity of this Contract or
10 the implementation thereof. Notwithstanding the preceding
11 sentence, City acknowledges that it has full power and
12 authority to enter into this Contract and Buyer shall not
13 be required to indemnify City in the event such
14 acknowledgement is incorrect.

15 12. GENERAL LIABILITY INSURANCE: As a condition
16 precedent to the effectiveness of this Contract, and in partial
17 performance of Buyer's obligations of indemnity, Buyer shall
18 procure and maintain in full force and effect, while this
19 Contract shall remain in effect a policy of commercial general
20 liability insurance with coverage at least as broad as
21 Insurance Services Office Commercial General Liability
22 Occurrence Form CG0001 with limits of at least \$5,000,000.00
23 per occurrence for bodily injury and property damage.

24 12.1 The policy or policies shall provide as
25 follows:

26 12.1.1 That the City of Long Beach, the
27 Board of Harbor Commissioners (individually and
28 collectively), and their officers and employees,

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1 while acting within the scope of their authority,
2 shall be additional insureds, such insurance to be
3 primary and any other insurance, deductible,
4 retention or self-insurance maintained by the
5 foregoing shall not contribute with such primary
6 insurance.

7 12.1.2 That in the event of one insured
8 (whether named or additional) incurring liability to
9 any other insured (whether named or additional), the
10 policy shall cover the insured against whom claim is
11 or may be made, in the same manner as if separate
12 policies had been issued to each insured except that
13 the limits of insurance shall not be increased
14 thereby.

15 12.1.3 That said policy or policies shall
16 either contain a broad form of contractual liability
17 coverage, including contracts and agreements, or
18 there shall be attached to said policy or policies an
19 endorsement, providing that such insurance as is
20 provided for therein shall apply to the obligations
21 assumed by Buyer under this Contract.

22 12.1.4 That the same shall not be cancelled
23 or coverage reduced until a thirty-day written notice
24 of cancellation has been served upon the Executive
25 Director by registered or certified mail.

26 12.2 Such insurance provided by Buyer may
27 provide for such deductible or self-insured retentions as
28 shall be acceptable to the Executive Director.

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1 12.3 The City of Long Beach, the Board of Harbor
2 Commissioners, and their officers and employees shall not
3 be liable for the payment of any premiums or assessments
4 on said policy or policies.

5 12.4 Buyer shall deliver said policy or policies
6 of insurance, certified copies thereof, or an endorsement
7 or endorsements on forms approved by City ("evidence of
8 insurance") to the Executive Director for approval as to
9 sufficiency and to the City Attorney for approval as to
10 form. At least fifteen (15) days prior to the expiration
11 of any such policy, Buyer shall file evidence of insurance
12 with the Executive Director showing that such insurance
13 coverage has been renewed or extended. If such coverage
14 is cancelled or reduced, Buyer shall, within ten (10) days
15 after receipt of written notice of such cancellation or
16 reduction of coverage, file with the Executive Director
17 evidence of insurance showing that the required insurance
18 has been reinstated or provided through another insurance
19 company or companies, and said policy shall be submitted
20 for approval as herein provided.

21 12.5 Buyer agrees to suspend and cease all use
22 of the Crane during such periods of time as the required
23 insurance coverage is not in effect.

24 12.6 The procurement of such policy or policies
25 of insurance shall not be construed to be a limitation in
26 any respect upon Buyer's obligation of indemnity
27 hereunder.

28 **13. PROPERTY INSURANCE:** From and after the Delivery

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1 Date of the Crane (as defined in paragraph 2), Buyer, at its
2 cost, shall procure and maintain in force and effect at all
3 times that the purchase price remains unpaid a policy of fire
4 and extended coverage insurance, including earthquake coverage
5 which shall be not less than the then remaining balance of the
6 purchase price of the Crane subject to a deductible in amounts
7 which Buyer uses as standard coverage for similar properties.
8 The policy shall be endorsed to provide that in the event of a
9 loss the insurance proceeds shall be payable to City and Buyer
10 as their interests may appear.

11 14. SIGNS: Either party may permit, inscribe or
12 place in or on the Crane appropriate signs and placards. All
13 such signs shall be consistent with the provisions of Tariff
14 No. 4 and Section 1215 of the City Charter. Buyer, at its
15 cost, shall promptly remove any and all such signs and placards
16 placed by it on the Crane upon the termination of the Terminal
17 Agreement.

18 15. DEFAULT. If Buyer should fail to perform any of
19 its obligations hereunder (except where such failure may be
20 excused) or if a proceeding in bankruptcy, insolvency,
21 receivership, reorganization for the benefit of creditors or
22 assignment for the benefit of creditors is instituted by or
23 against Buyer or the property of Buyer or the business of Buyer
24 is in any way liquidated ("Buyer's Default") all of the
25 purchase price then owing by Buyer to City, at the option of
26 City and without notice shall become due and payable at once;
27 provided, however, that if Buyer's Default is not based on a
28 proceeding in bankruptcy, insolvency, receivership,

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1 reorganization for the benefit of creditors, or assignment for
2 the benefit of creditors being instituted by or against Buyer,
3 or on the property of Buyer or the business of Buyer being in
4 any way liquidated, then no amount of the purchase price then
5 owing by Buyer to City shall be accelerated to become due and
6 payable at once until and unless City has given written notice
7 of such default and Buyer has failed to cure such default
8 during a thirty (30) day period following receipt of such
9 notice. City shall have all rights and remedies on default
10 allowed the holder of a security interest under Division 9 of
11 the California Commercial Code, including without limitation
12 reasonable attorneys' fees and legal expenses incurred, but
13 subject to all restrictions and obligations otherwise imposed
14 by law. Without limiting the scope of these remedies, City
15 shall have the right, at any time after Buyer's Default which
16 is not cured within such thirty (30) day period following
17 receipt of such written notice to (i) accelerate the entire
18 unpaid obligation; (ii) repossess and without breach of the
19 peace secure the Crane; (iii) in lieu of recovering the
20 balance, proceed with Civil Code §§ 1812.2 and 1812.3 by
21 reselling or retaining the repossessed Crane in accordance with
22 notice as prescribed by those sections, and, if City elects to
23 resell the Crane after giving the required 10 days' notice, it
24 is specifically agreed that 10 days is reasonable advance
25 mailing or delivery of the notice of intended resale; and (iv)
26 apply the proceeds of disposition as permitted and required by
27 law.

28 16. **TAXES:** Buyer, at its cost, shall pay and

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1 discharge, all license fees, assessments and taxes, that are
2 now or hereafter imposed by any federal, state or local
3 government upon the Crane, based upon the ownership, leasing,
4 renting, sale, possession or use of the Crane, together with
5 any penalties or interest in connection therewith, excepting
6 federal, state or local governmental taxes, or payments in lieu
7 thereof, imposed upon or measured by income of City.

8 **17. UTILITY CHARGES:** Buyer shall pay for all water,
9 light, fuel, electricity, power, gas and other utilities which
10 may be furnished to or used by it in connection with the use of
11 the Crane during the term of this Contract. Buyer agrees that
12 any amounts paid by it for such utility services shall not be
13 deducted from any installment payment due City pursuant to the
14 provisions of this Contract.

15 **18. DAMAGE AND DESTRUCTION:** In the event that the
16 Crane shall be damaged or destroyed, in whole or in part, so
17 that it cannot be used at the customary or contemplated rate
18 for loading or unloading and subject to the provisions of
19 paragraph 4.5, Buyer shall commence and prosecute with all due
20 diligence any work necessary to repair or restore the Crane to
21 the condition the Crane was in immediately prior to the damage
22 or destruction, if legally, economically and engineeringly
23 feasible. If Buyer is unable to do so, then City, at its
24 option may accelerate the entire unpaid purchase price. Buyer,
25 at its cost, shall promptly remove the damaged crane from the
26 terminal premises. Nothing contained in this paragraph is
27 intended to nor should be construed as relieving Buyer from its
28 obligation to pay the installment payments in accordance with

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1 paragraph 4. As between City and Buyer, it is agreed that any
2 proceeds of insurance received with respect to such damage or
3 destruction shall be used for the repair and restoration of the
4 Crane. In the event that the Crane shall be damaged or
5 destroyed beyond repair, the proceeds of insurance with respect
6 to the Crane shall be payable first to City in satisfaction of
7 Buyer's obligation to pay the remaining balance of the purchase
8 price, then the balance, if any, to Buyer. In the event the
9 insurance proceeds are insufficient to pay the remaining
10 balance of the purchase price in full, Buyer shall pay any such
11 deficiency within thirty (30) days of City's demand therefor.

12 **19. TERMINATION FOR GOVERNMENT USE:** In the event
13 the United States Government, the State of California or any
14 agency or instrumentality of said governments, other than the
15 City of Long Beach, shall by condemnation or otherwise take
16 title to or possession of the Crane, the entire award for such
17 taking or sale proceeds for such sale, as between City and
18 Buyer, shall be payable first to City to the extent and in
19 satisfaction of Buyer's obligation to pay the remaining balance
20 of the purchase price and the balance, if any, to Buyer. In
21 the event the award is insufficient to pay the remaining
22 balance of the purchase price in full, Buyer shall pay any such
23 deficiency within thirty (30) days of City's demand therefor.

24 **20. SALE, LEASE OR DISPOSITION:** Except as otherwise
25 provided in this paragraph, Buyer shall not sell, contract to
26 sell, lease, encumber or dispose of the Crane or any interest
27 therein, without the express written consent of City until the
28 purchase price has been completely paid to City.

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City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802
Telephone (213) 590-6061

1 20.1 Buyer shall not be required to obtain
2 City's prior written consent in the event of a
3 substitution of partners in Buyer; provided, however,
4 General Steamship International, Ltd. shall remain as a
5 partner of the California United Terminals joint venture
6 owning fifty percent (50%) or more of the assets of said
7 joint venture.

8 20.2 Notwithstanding the prohibition against
9 selling, contracting to sell, leasing, encumbering or
10 disposing of the Crane, until the purchase price has been
11 completely paid to City, Buyer may dispose of the Crane
12 provided the Crane is the third of Paceco Cranes Nos. 959,
13 960 and 507 to be disposed of and any such disposition and
14 for removal shall not be consummated or effective for a
15 period of twenty-four (24) months after Buyer's written
16 notice to City of Buyer's intent to dispose of the Crane.

17 **21. OPTION OF CITY TO PURCHASE CRANE:** In the event
18 Buyer (i) fails to exercise one or more of its options to
19 extend the term of the Terminal Agreement or (ii) elects
20 unconditionally to not extend the term of the Terminal
21 Agreement and so notifies City, City shall have the option to
22 purchase the Crane together with its equipment and spare parts,
23 if any. City shall exercise its option by giving Buyer written
24 notice of City's election within thirty (30) days from the date
25 on which Buyer notifies City of its unconditional election to
26 not extend the term of the Terminal Agreement or one hundred
27 eighty (180) days prior to the expiration of the term of the
28 Terminal Agreement, whichever occurs first. The purchase price

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1 shall be the fair market value of the Crane, its equipment and
2 parts, if any, as determined by the parties. If City and Buyer
3 are unable to agree on the fair market value, such shall be
4 determined in accordance with paragraph 7. Delivery of the
5 Crane and payment of the purchase price shall take place upon
6 the date of expiration of the term of the Terminal Agreement,
7 at which time this Contract shall terminate. If the fair
8 market value of the Crane has not been determined as of the
9 date of the expiration of the term of the Terminal Agreement,
10 the Crane shall nevertheless be delivered on that date and
11 interest on the purchase price for the Crane shall be paid by
12 City to Buyer and shall accrue at the then existing prime rate
13 quoted by the Bank of America National Trust and Savings
14 Association in San Francisco, plus one percent (1%) from that
15 date to the date of payment of the purchase price, compounded
16 monthly.

17 **22. NOTICES:** All notices required to be given to
18 either party under this Contract shall be deemed sufficiently
19 given if addressed, as the case may be, to City as follows:

20 Executive Director
21 Long Beach Harbor Department
22 P. O. Box 570
23 Long Beach, California 90801

24 and to Buyer as follows:

25 California United Terminals
26 c/o President
27 300 Pier B Avenue
28 Long Beach, California 90802

or to such other address or addresses as either party may
advise the other in writing, and shall be deemed to be given

1 when delivered, if delivered by hand or by facsimile
2 transmission or five (5) days after mailing if delivered by
3 registered to certified mail.

4 **23. NONDISCRIMINATION:** Buyer agrees, subject to
5 applicable laws, rules and regulations, that no person shall be
6 subject to discrimination in the performance of this Contract
7 on the basis of race, color, religion, national origin, sex,
8 sexual orientation, AIDS, AIDS related condition, age,
9 disability, handicap, or Vietnam Era veteran status. Buyer
10 shall take affirmative action to ensure that applicants are
11 employed and that employees are treated during employment
12 without regard to any of these bases, including but not limited
13 to employment, upgrading, demotion, transfer, recruitment,
14 recruitment advertising, layoff, termination, rates of pay or
15 other forms of compensation, and selection for training,
16 including apprenticeship. Buyer agrees to post in conspicuous
17 places available to employees and applicants for employment
18 notices to be provided by the City setting out the provisions
19 of this nondiscrimination clause. Buyer shall in all
20 solicitations or advertisements for employees state that all
21 qualified applicants will receive consideration for employment
22 without regard to these bases.

23 **24. WAIVERS:** No waiver by either party at any time
24 of any of the terms, conditions, covenants or agreements of
25 this Contract shall be deemed or taken as a waiver at any time
26 thereafter of the same or any other term, condition, or
27 covenant nor of the strict and prompt performance thereof by
28 the party obligated to perform. No delay, failure or omission

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1 of either party to exercise any right, power, privilege or
2 option arising from any default nor subsequent acceptance of
3 compensation then or thereafter accrued shall impair any such
4 right, power, privilege or option or be construed to be a
5 waiver of any such default or relinquishment thereof or
6 acquiescence therein. No option, right, power, remedy or
7 privilege of either party hereto shall be construed as being
8 exhausted or discharged by the exercise thereof in one or more
9 instances. All of the rights, powers, options or remedies
10 given to the parties are cumulative and no one of them shall be
11 exclusive of the other or exclusive of any remedies provided by
12 law. The exercise of one right, power, option, or remedy by a
13 party shall not impair its rights to any other right, power,
14 option or remedy.

15 **25. CAPTIONS:** The use of titles, paragraph headings
16 or captions in this Contract is solely for the purpose of
17 convenience, and the same shall be entirely disregarded in
18 construing any part or portion of this Contract.

19 **26. LAW GOVERNING:** This Contract shall be governed
20 by the laws of the State of California, both as to
21 interpretation and performance.

22 **27. SUCCESSORS:** This Contract shall be binding upon
23 and shall inure to the benefit of the successors and assigns of
24 City and shall be binding upon and inure to the benefit of the
25 successors and permitted assigns of Buyer.

26 **28. SEVERABILITY:** If any clause of this Contract is
27 held to be unconscionable by any court of competent
28 jurisdiction, the clause in question shall be modified to

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } SS.

On April 29, 1992 before me, LINDA M. JOHNSON a
Notary Public in and for said State, personally appeared C. D. DEAN AND
DAVID A. HOCKSTRA

STAGLE W. F.
↑
↓

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

Signature Linda M. Johnson
LINDA M. JOHNSON
Name (Typed or Printed)

L-10 (7/91)



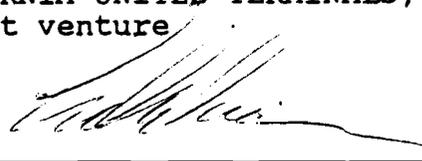
(This area for official notarial seal)

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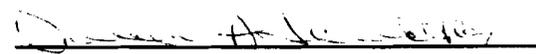
1 eliminate the unconscionable element and as so modified the
2 clause shall be binding on the parties. The remaining
3 provisions of this Contract shall not be affected by the
4 modification of any unconscionable clause. "Unconscionable"
5 shall be deemed to mean that the enforcement of the entire
6 agreement or a specific clause of the agreement will work
7 oppression or cause unfair surprise to one of the parties.
8 Unconscionability shall be determined as of the time when the
9 agreement is made, but shall not be deemed established either
10 by the fact that the agreement subsequently proved
11 disadvantageous to one of the parties or by the fact that one
12 of the parties has bargaining power superior to that of the
13 other. Should any of the covenants, conditions or agreements
14 of this Contract be held by a court of competent jurisdiction
15 to be illegal or in conflict with any applicable law, or with
16 any provision of the Charter of the City of Long Beach, the
17 validity of the remaining portions or provisions shall not be
18 affected thereby.

CALIFORNIA UNITED TERMINALS,
a joint venture

22 Dated: April 29, 1992

By 

24 Dated: April 29, 1992

By 

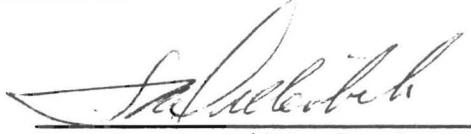
BUYER

27 //

28 //

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

Dated: May 8, 1992

By 
S. R. Dillenbeck,
Executive Director
Long Beach Harbor Department

CITY

The foregoing Installment Sale Contract and Security Agreement is hereby approved as to form this 6th day of May, 1992.

JOHN R. CALHOUN, City Attorney

By 
Senior Deputy

Certified as a True and Correct Copy


Executive Secretary
Board of Harbor Commissioners
of the City of Long Beach,
California
Dated May 13, 1992

ECP:pw
4/28/92
C-11\CUT.CON

John R. Calhoun
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802
Telephone (213) 590-6061

AMOUNT \$1,000
 RATE % 9.00%
 PERIODS 204
 PAYMENT \$9.59

PAYMENT #	INTEREST	PRINCIPAL	BALANCE
1	7.50	2.09	997.91
2	7.48	2.10	995.81
3	7.47	2.12	993.69
4	7.45	2.14	991.55
5	7.44	2.15	989.40
6	7.42	2.17	987.23
7	7.40	2.18	985.05
8	7.39	2.20	982.85
9	7.37	2.22	980.63
10	7.35	2.23	978.40
11	7.34	2.25	976.15
12	7.32	2.27	973.88
13	7.30	2.28	971.60
14	7.29	2.30	969.30
15	7.27	2.32	966.98
16	7.25	2.34	964.64
17	7.23	2.35	962.29
18	7.22	2.37	959.92
19	7.20	2.39	957.53
20	7.18	2.41	955.13
21	7.16	2.42	952.70
22	7.15	2.44	950.26
23	7.13	2.46	947.80
24	7.11	2.48	945.32
25	7.09	2.50	942.82
26	7.07	2.52	940.30
27	7.05	2.54	937.77
28	7.03	2.55	935.21
29	7.01	2.57	932.64
30	6.99	2.59	930.04
31	6.98	2.61	927.43
32	6.96	2.63	924.80
33	6.94	2.65	922.15
34	6.92	2.67	919.48
35	6.90	2.69	916.78
36	6.88	2.71	914.07
37	6.86	2.73	911.34
38	6.84	2.75	908.59
39	6.81	2.77	905.81
40	6.79	2.79	903.02
41	6.77	2.82	900.20
42	6.75	2.84	897.37
43	6.73	2.86	894.51
44	6.71	2.88	891.63
45	6.69	2.90	888.73
46	6.67	2.92	885.81
47	6.64	2.94	882.86
48	6.62	2.97	879.89
49	6.60	2.99	876.91

EXHIBIT A

50	6.58	3.01	873.89
51	6.55	3.03	870.86
52	6.53	3.06	867.80
53	6.51	3.08	864.72
54	6.49	3.10	861.62
55	6.46	3.13	858.50
56	6.44	3.15	855.35
57	6.42	3.17	852.17
58	6.39	3.20	848.98
59	6.37	3.22	845.76
60	6.34	3.24	842.51
61	6.32	3.27	839.24
62	6.29	3.29	835.95
63	6.27	3.32	832.63
64	6.24	3.34	829.29
65	6.22	3.37	825.92
66	6.19	3.39	822.52
67	6.17	3.42	819.11
68	6.14	3.44	815.66
69	6.12	3.47	812.19
70	6.09	3.50	808.69
71	6.07	3.52	805.17
72	6.04	3.55	801.62
73	6.01	3.58	798.05
74	5.99	3.60	794.44
75	5.96	3.63	790.81
76	5.93	3.66	787.16
77	5.90	3.68	783.47
78	5.88	3.71	779.76
79	5.85	3.74	776.02
80	5.82	3.77	772.25
81	5.79	3.80	768.46
82	5.76	3.82	764.63
83	5.73	3.85	760.78
84	5.71	3.88	756.90
85	5.68	3.91	752.98
86	5.65	3.94	749.04
87	5.62	3.97	745.07
88	5.59	4.00	741.07
89	5.56	4.03	737.04
90	5.53	4.06	732.98
91	5.50	4.09	728.89
92	5.47	4.12	724.77
93	5.44	4.15	720.62
94	5.40	4.18	716.44
95	5.37	4.21	712.22
96	5.34	4.25	707.97
97	5.31	4.28	703.70
98	5.28	4.31	699.39
99	5.25	4.34	695.04
100	5.21	4.38	690.67
101	5.18	4.41	686.26
102	5.15	4.44	681.82
103	5.11	4.47	677.34
104	5.08	4.51	672.84
105	5.05	4.54	668.30
106	5.01	4.58	663.72
107	4.98	4.61	659.11
108	4.94	4.64	654.46
109	4.91	4.68	649.79

110	4.87	4.71	645.07
111	4.84	4.75	640.32
112	4.80	4.79	635.53
113	4.77	4.82	630.71
114	4.73	4.86	625.86
115	4.69	4.89	620.96
116	4.66	4.93	616.03
117	4.62	4.97	611.06
118	4.58	5.01	606.06
119	4.55	5.04	601.02
120	4.51	5.08	595.93
121	4.47	5.12	590.82
122	4.43	5.16	585.66
123	4.39	5.20	580.46
124	4.35	5.23	575.23
125	4.31	5.27	569.96
126	4.27	5.31	564.64
127	4.23	5.35	559.29
128	4.19	5.39	553.90
129	4.15	5.43	548.46
130	4.11	5.47	542.99
131	4.07	5.52	537.47
132	4.03	5.56	531.91
133	3.99	5.60	526.32
134	3.95	5.64	520.67
135	3.91	5.68	514.99
136	3.86	5.73	509.27
137	3.82	5.77	503.50
138	3.78	5.81	497.69
139	3.73	5.86	491.83
140	3.69	5.90	485.93
141	3.64	5.94	479.99
142	3.60	5.99	474.00
143	3.55	6.03	467.97
144	3.51	6.08	461.89
145	3.46	6.12	455.76
146	3.42	6.17	449.59
147	3.37	6.22	443.38
148	3.33	6.26	437.12
149	3.28	6.31	430.81
150	3.23	6.36	424.45
151	3.18	6.40	418.04
152	3.14	6.45	411.59
153	3.09	6.50	405.09
154	3.04	6.55	398.54
155	2.99	6.60	391.94
156	2.94	6.65	385.29
157	2.89	6.70	378.59
158	2.84	6.75	371.85
159	2.79	6.80	365.05
160	2.74	6.85	358.20
161	2.69	6.90	351.30
162	2.63	6.95	344.34
163	2.58	7.01	337.34
164	2.53	7.06	330.28
165	2.48	7.11	323.17
166	2.42	7.16	316.00
167	2.37	7.22	308.79
168	2.32	7.27	301.51
169	2.26	7.33	294.19

170	2.21	7.38	286.80
171	2.15	7.44	279.37
172	2.10	7.49	271.88
173	2.04	7.55	264.33
174	1.98	7.61	256.72
175	1.93	7.66	249.06
176	1.87	7.72	241.34
177	1.81	7.78	233.56
178	1.75	7.84	225.72
179	1.69	7.90	217.83
180	1.63	7.95	209.87
181	1.57	8.01	201.86
182	1.51	8.07	193.79
183	1.45	8.13	185.65
184	1.39	8.20	177.46
185	1.33	8.26	169.20
186	1.27	8.32	160.88
187	1.21	8.38	152.50
188	1.14	8.44	144.05
189	1.08	8.51	135.55
190	1.02	8.57	126.97
191	0.95	8.64	118.34
192	0.89	8.70	109.64
193	0.82	8.77	100.87
194	0.76	8.83	92.04
195	0.69	8.90	83.14
196	0.62	8.96	74.18
197	0.56	9.03	65.15
198	0.49	9.10	56.05
199	0.42	9.17	46.88
200	0.35	9.24	37.64
201	0.28	9.31	28.34
202	0.21	9.38	18.96
203	0.14	9.45	9.52
204	0.07	9.52	(0.00)

PROPOSAL

for

BOOM EXTENSION & RELATED MAINTENANCE WORK

on

**PACECO® PORTAINER® CRANES
#960, 959 AND 507**

and

MAINTENANCE WORK

on

**PACECO PORTAINER® CRANES
#847 and 848**

at

PIER C, BERTHS 24 - 36

THE PORT OF LONG BEACH

The information contained herein is proprietary and is the exclusive property of PACECO® CORP. Disclosure or use of this information without the written consent of PACECO® CORP. is strictly prohibited.

1.0 OBJECTIVE

1.1 Primary Objective

To increase the operating outreach of three (3) PACECO MACH Portainer® cranes, Serial Numbers 960, 959 and 507, by twenty six feet (26'-0") without a significant increase in gantry wheel loading.

1.2 Secondary Objective

To provide related maintenance and operating improvements to five (5) PACECO MACH Portainer cranes serial numbers 960, 959, 507 847 and 848.

2.0 DEFINITIONS

Work : The modification to the cranes including all components thereof.
City : The Port of Long Beach
Tenant : California United Terminals
Engineer : PACECO® CORP.
Sub-contractor : On-site erector of crane modification parts.
Vendor(s) : Sub suppliers to PACECO CORP. for fabrication Work, and components.

3.0 SCOPE OF WORK

The following summarizes the Scope of Work in broad terms.

<u>ACTIVITY</u>	<u>ENGINEER</u>	<u>CITY/TENANT</u>
Structural and mechanical inspection cranes	•	
Design engineering and drafting of modification Work	•	
Provision of Work site		•
Services to Work site		•
Permits		•

<u>ACTIVITY</u>	<u>ENGINEER</u>	<u>CITY/TENANT</u>
Fabrication and procurement of materials required to complete modification Work	.	
Preservation and storage of materials	.	
Site security	.	
Crane transfer to Work site	.	
Crane modification Work	.	
Installation of new materials including mechanical and electrical Works	.	
Painting/touch up Work	.	
Lubrication/greasing Work	.	
⇒ Crane return to rails	.	
> Site adjusting/testing	.	
Test weights	.	
↳ Return crane to rails	.	
Overload testing	.	
Crane survey after modification	.	
Re-painting crane	.	
Cleaning site after modification	.	
Work	.	
Dispersion of old crane parts	.	

4.0 PRICING FOR PRIMARY OBJECTIVE

4.1 BOOM EXTENSION OF CRANES #960 AND 959

To supply Engineering, Materials, Site Operations, Inspection and Project Management to increase the operating outreach of two (2) Modified "A" Frame MACH Portainer cranes by 26'-0".....\$3,871,200.

	Sales Tax	<u>319,374.</u>
Total for two (2) cranes		\$4,190,574.

(Four Million, One Hundred and Ninety Thousand, Five Hundred and Seventy-Four Dollars)

4.2 BOOM EXTENSION OF CRANE #507

To supply Engineering, Materials, Site Operations, Inspection and Project Management to increase the operating outreach of one (1) "A" Frame MACH Portainer crane by 26'-0".....\$2,144,344.

	Sales Tax	<u>176,908.</u>
Total for one (1) crane		\$2,321,252.

(Two Million, Three Hundred and Twenty-One Thousand, Two Hundred and Fifty-Two Dollars)

Notes:

1. The prices in 4.1 and 4.2 are based on one contract for three (3) cranes and a single mobilization and demobilization charge.
2. The prices in 4.1 and 4.2 are also based on a clean inspection of the subject cranes. In the event the inspection reveals problems, then these will be discussed with the City and a mutually acceptable solution agreed with respect to price and delivery of the Work.
3. The Tenant shall provide the agreed Work site including utilities (electricity and telephone) at the South-East corner of the Terminal.
4. The Tenant shall be responsible for clearing obstructions (containers, etc.) away from the transfer route from the present crane operating positions to the Work Site.
5. The City shall approve the transfer route with respect to ground loading.

- 6. The Tenant shall provide a storage area for the sub contractor's transfer equipment adjacent to, or near, the Work Site.

4.3 REPLACEMENT OF OPERATORS CAB ON CRANES #960, 959 AND 507

To supply Engineering, Materials, Site Operations, Inspection and Project Management to install a new operator cab on three (3) subject cranes including removal of old fiber glass units.....\$222,000.

	Sales Tax	<u>18,315.</u>
	Total for Three (3) cranes	\$240,315.

(Two Hundred and Forty Thousand, Three Hundred and Fifteen Dollars)

Notes:

- 1. Engineer will supply Tenant with drawings of proposed cab including internal equipment to allow operator input. The price in 4.3 assumes duplicate operating functions updated to latest technology.
- 2. The boom extension Work in 4.1 and 4.2 takes account of the weight and geometry of the new steel cabs and connection arms.
- 3. The price in 4.3 is based on performing the cab replacement Work in conjunction with the boom extension Work with each crane moved to the designated Work site area.

4.4 NEW TROLLEY ACCESS PLATFORM, RELATED MODIFICATIONS AND CAB WINDOW WASH PLATFORM ON CRANES #960, 969 AND 507

To supply Engineering, Materials, Site Operations, Inspection and Project Management to install new crane access platforms and a cab window wash platform on the three (3) subject cranes.....\$162,000.

	Sales Tax	<u>13,365.</u>
	Total for Three (3) cranes	\$175,365.

(One Hundred and Seventy-Five Thousand, Three Hundred and Sixty-Five Dollars)

Notes:

1. The price in 4.4 is based on performing this Work with the cranes back on the operating rails. In the event the schedule permits, this Work will be completed while in the designated Work area.
2. In the event this Work is performed on the operating rails, the Tenant shall advise the Engineer of the availability of each crane for an exclusive period of at least five (5) consecutive days per crane. In the event that this Work is not completed during this period than the crane will be returned to the Tenant and completed during the next available window.

4.5 INSTALL NEW PASSENGER AND EQUIPMENT ELEVATOR ON CRANE #507

To supply and installation of a Schumaker Elevator on subject crane including all necessary Engineering, Materials, Site Operations and Project Management per CAL OSHA requirements.....\$136,500.

Sales Tax	<u>11,261.</u>
Total for One (1) crane	\$147,761.

(One Hundred and Forty-Seven Thousand, Seven Hundred and Sixty-One Dollars)

Notes:

1. The price in 4.5 is based on undertaking this Work with the crane on the rails.
2. The Tenant shall advise the Engineer of the availability of the crane for an exclusive period of at least five (5) consecutive days. In the event the Work is not completed during this period then the crane will be returned to the Tenant and completed during the next available window.
3. The price in 4.5 is based on the Tenant coordinating with the elevator vendor so that the Engineer receives the elevator at a price equal to that given to the Tenant.

4.6 STRUCTURAL, MECHANICAL AND ELECTRICAL SURVEY OF CRANES #960, 959 AND 507

To provide an NDT survey of the modified crane structure, visual and functional survey of electrical drive and mechanical systems of the subject cranes including submission of a report to the City.....\$172,500.

Total for Three (3) crane \$172,500.

(One Hundred and Seventy-Two Thousand, Five Hundred Dollars)

Note:

1. This Work will be performed with the cranes back on the rails after all modifications are complete. The Tenant shall make each crane available for a period of at least five (5) consecutive days to undertake this Work.

4.7 RE-PAINT CRANES #960, 959 AND 507

To supply all necessary Materials and Labor to repaint the subject cranes to the following specification:

1. High pressure water wash crane structure etc.
2. Degrease as required.
3. Mechanical tool or wire brush, clean any mechanically damaged areas so that they are uniformly flattened and smooth.
4. Areas as in (3) above will be coated as follows:
Primer: Carbomastic 15 3 mils dft
Intermediate: Carboline 890 3 mils dft
Finish Coat: Urethane 834 1.5/2.0 mils dft
5. Other areas of crane shall be coated as follows:
Finish coat: Urethane 834 1.5/2.0 mils dft

6. Color of finish coat PACECO Brown Olive

.....\$273,000.

	Sales Tax	<u>22,523.</u>
	Total for Three (3) crane	\$295,523.

(Two Hundred and Ninety-Five Thousand, Five Hundred and Twenty-Three Dollars)

Notes:

1. The price in 4.6 is based on commencing the re-painting by spray and roller application of each crane in the designated Work area after boom extension and related Work has been completed. Finish painting will be performed with the cranes back on the operating rails. The Tenant shall make each crane available for a period of at least five (5) consecutive days to permit completion of this Work.

5.0 PRICING FOR SECONDARY OBJECTIVE

5.1 REPLACEMENT OF OPERATOR CAB ON CRANES #847 AND 848

To supply Engineering, Materials, Site Operations, Inspection and Project Management to install a new operator cab on subject cranes including removal of the old fiber glass units.....\$160,000.

	Sales Tax	- <u>13,200.</u>
	Total for Two (2) crane	\$173,200.

(Two Hundred and Ninety-Five Thousand, Five Hundred and Twenty-Three Dollars)

Notes:

1. Engineer will supply Tenant with drawings of proposed cab including internal equipment to allow operator input. The price in 4.3 assumes duplicate functions updated to latest technology.
2. The price in 5.1 assumes that the Work will be performed with the cranes on the operating rails.

3. The Tenant shall advise the Engineer of the availability of each crane for an exclusive period of at least ten (10) consecutive days per crane to perform this Work.

5.2 NEW TROLLEY ACCESS PLATFORM, RELATED MODIFICATIONS, AND CAB WINDOW WASH PLATFORM ON CRANES #847 AND 848

To supply Engineering, Materials, Site Operations, Inspection and Project Management to install new crane access platforms and a cab window wash platform on the two (2) subject cranes.....\$108,000.

	Sales Tax	<u>8,910.</u>
Total for Two (2) cranes		\$116,910.

(One Hundred and Sixteen Thousand, Nine Hundred and Ten Dollars)

Notes:

1. The price in 5.2 assumes that the Work will be performed with the cranes on the operating rails.
2. The Tenant shall advise the Engineer of the availability of each crane for an exclusive period of at least five (5) consecutive days per crane. In the event that this Work is not completed during this period than the crane will be returned to the Tenant and completed during the next available window.

5.3 INSTALL NEW PASSENGER AND EQUIPMENT ELEVATOR ON CRANE #847 AND 848

To supply and installation of a Schumaker elevator on each subject crane including all necessary Engineering Materials, Site Operations, Inspection and Project Management per CAL OSHA requirements.....\$249,000.

	Sales Tax	<u>20,543.</u>
Total for Two (2) cranes		\$269,543.

(Two Hundred and Sixty-Nine Thousand, Five Hundred and Forty-Three Dollars)

Notes:

1. The price in 5.3 assumes that the Work will be done with the designated cranes on the operating rails.
2. The price in 5.3 is based on the Tenant coordinating with the elevator vendor so that the Engineer receives the elevators at a price equal to that given to the Tenant.
3. The Tenant shall advise the Engineer of the availability of each crane for an exclusive period of at least five (5) consecutive days per crane. In the event that this Work is not completed during this period than the crane will be returned to the Tenant and completed during the next available window.

5.4 STRUCTURAL, MECHANICAL AND ELECTRICAL SURVEY OF CRANES #847 AND 848

To provide an NDT survey of the crane structure, visual and functional survey of the electrical drive and mechanical systems of the subject cranes including submission of a report to the City.....\$115,000.

Total for Two (2) cranes \$115,000.

(One Hundred and Fifteen Thousand Dollars)

Note:

1. This Work will be performed with the cranes on the rails after all modifications are complete. The Tenant shall make each crane available for a period of at least three (3) consecutive days to undertake this Work.

5.5 RE-PAINT CRANES #847 AND 848

To supply all necessary materials and labor to repaint the subject cranes to the following specification:

1. High pressure water wash crane structure etc.
2. Degrease as required.
3. Mechanical tool or wire brush, clean any mechanically damaged areas so that they are uniformly flattened and smooth.

4. Areas as in (3) above will be coated as follows:
 Primer: Carbomastic 15 3 mils dft
 Intermediate: Carboline 890 3 mils dft
 Finish Coat: Urethane 834 1.5/2.0 mils dft
5. Other areas of crane shall be coated as follows:
 Finish coat: Urethane 834 1.5/2.0 mils dft
6. Color of finish coat PACECO Brown Olive

.....\$190,000.

Sales Tax	<u>15,675.</u>
Total for Two (2) cranes	\$205,675.

(Two Hundred and Five Thousand, Six Hundred and Seventy-Five Dollars)

Notes:

1. The price in 5.5 is based on painting by spray and roller application each crane on the operating rail. The Tenant shall make each crane available for a period of at least five (5) consecutive days. In the event the Work is not completed during this period then the crane(s) will be returned to the Tenant and completed during the next available window.

~~5.6 OPTION FOR BOOM EXTENSION OF CRANES #847 AND 848~~

~~To supply Engineering, Materials, Site Operations Inspection and Project Management Supervision to increase the operating outreach of two (2) Modified "A" Frame MACH Portainer cranes by 26'-0".....\$3,765,900.~~

Sales Tax	<u>310,687.</u>
Total for two (2) cranes	\$4,076,587.

~~(Four Million, Seventy-Six Thousand, Five Hundred and Eighty-Seven Dollars)~~

~~Notes:~~

- ~~1. The price in 5.6 above is based on continuing site operations after completion of the Work on cranes #960, 959 and 507 without a demobilization and re-mobilization charge.~~

6/20/00

2. The price in 5.6 is also based on a clean inspection of the subject cranes. In the event the inspection reveals problems, then these will be discussed with the City and a mutually acceptable solution agreed with respect to price and delivery of the Work.
3. The Tenant shall provide the agreed Work site including utilities (electricity and telephone) at the South-East corner of the Terminal.
4. The Tenant shall be responsible for clearing obstructions (containers, etc.) away from the transfer route from the present crane operating positions to the Work Site.
5. The City shall approve the transfer route with respect to ground loading.
6. The Tenant shall provide a storage area for the sub contractor's transfer equipment adjacent to, or near, the Work Site.

6.0 GENERAL CONDITIONS

6.1 PRICES

All prices in Section 4.0 and 5.0 above are based on the award of all the Work specified in each section. It is recognized that separate Agreements may be required to achieve this objective.

6.2 VALIDITY

This offer will remain valid for acceptance for thirty (30) days from submission, after which it shall be subject to reconfirmation in all respects.

6.3 PAYMENT SCHEDULE

Payment shall be made by progress payments as follows:

- 10% of the Contract Value upon execution of the Contract.
- 20% of the contract Value upon completion of the design and engineering drawings.
- 30% of the Contract Value on mobilization at job site.
- 30% of the Contract Value on readiness for testing, payable on a per crane basis.
- 10% of the Contract Value on completion, payable on a per crane basis.

Payment shall be made on net 30 days basis against presentation of each invoice. Delayed payments shall be subject to interest charges of 1 1/2% per month, or the maximum allowed by law.

6.4 SALES TAX

All prices include 8.25% Long Beach Sales Tax, as applicable to the services provided.

6.5 MANUFACTURING/ERECTION SCHEDULE

We are still discussing the detailed schedule with our Sub-Contractor and will submit after finalization.

6.6 INSURANCE

Insurance to cover the following is included in the prices.

- 6.6.1 All Risks Builders Risk insurance in the amount of not less than 100% of the Contract value. Coverage will apply from arrival at job site until completion.
- 6.6.2 All Risks Marine Cargo Insurance, including war, riot, strike or civil commotion coverage (or the nearest available equivalent) will be provided on shipments by ocean transportation. In the case of road or rail transportation of components, normal transportation insurance is provided.
- 6.6.3 Comprehensive General Liability insurance providing a combined single limit of liability for bodily injury and property damage in the minimum amount of Five Million Dollars (\$5,000,000.00) for each occurrence and in the aggregate.
- 6.6.4 If the City requests in writing that insurance for risks other than those described above or other special hazards be included in the insurance policies, the Engineer will, if possible, include such insurance at an additional cost.
- 6.6.5 Each of the insurance policies referred to above will be taken out in the name of the Engineer, Sub-Contractor, Tenant, its officers, agents and employees, as well as the City of Long Beach, its Board of Harbor Commissioners, and their officers, and employees while acting within the scope of its authority as jointly named insured

6.7 PERMITS

The prices quoted are exclusive of the cost of permits to perform the Work in the Port. Should permits be required then the City will provide same to the Engineer and Sub-Contractor. The Engineer and Sub-Contractor will assist with information required for necessary permits.

6.8 WORKSITE

As agreed on December 10, 1991, with the Tenant, we have identified the Work site at the Terminal. The Tenant shall make available a space to be defined by the Engineer such that the Work can be performed by the Engineer and Sub-Contractor without interruption by the Tenant.

The Tenant shall also clear the route from the present crane locations to the Work site. Actual routing shall be agreed between the City, Tenant and Sub-Contractor to effect the most efficient moves.

The Engineer, through the Sub-Contractor, shall be responsible for receiving the fabrications for the Work at the Work site. The Tenant shall assist with crantage in the event that materials are delivered over water. Work Site security within the terminal shall be the responsibility of the Tenant.

6.9 THIRD PARTY INSPECTION

In the event that the City requires to perform third party inspection at the places of manufacture or the job site, then the costs for such inspections will be to the account of the City.

Reasonable notice of such inspection is requested to avoid delays or problems with vendors.

6.10 ENGINEER'S PROJECT MANAGER

Upon Agreement with the City, Engineer will nominate a Project Manager for the Work to be performed.

A similar arrangement is requested from the City to ensure ease of communication.

6.11 CHANGES

Changes to the Scope of this offer shall be subject to both price and delivery review. Payments for such changes, if any, shall be made by adjustment of the payment schedule in 6.3 above.

6.12 ENGINEER'S WARRANTY CLAUSE

Engineer warrants that products manufactured by Engineer shall be free from defects in material, workmanship and title, and shall be of the kind and quality specified or designated by Engineer. Engineer's obligations, set forth below, shall apply only to failures to meet the foregoing warranties (except as to title) occurring within twelve (12) months from date of delivery of which Engineer is given written notice within thirty (30) days of such occurrence and provided the product or part thereof is made available to Engineer as specified by Engineer.

If any product or part thereof fails to meet the foregoing warranties (except as to title), Engineer shall repair same or, at its option, replace same. Any such failure shall not be cause for the extension of the warranty specified in this Article. If such failure or defect cannot be corrected by Engineer's reasonable efforts, the parties shall negotiate an equitable adjustment.

Engineer's obligations under above paragraph shall not apply to any product, or part thereof, which

- (i) is normally consumed in operation, or
- (ii) has a normal life inherently shorter than the warranty period specified in the first paragraph, or
- (iii) is not properly modified other than pursuant to Engineer's instructions or approval, or
- (iv) has been subjected to any other kind of misuse or detrimental exposure, or has been involved in an accident.

With respect to any products not manufactured by Engineer (except for integral parts of Engineer's products to which the warranties set forth above shall apply), Engineer gives no warranty, and only the warranty, if any, given by the manufacturer shall apply.

This warranty clause sets forth the exclusive remedies for claims based upon defects in or non-conformity of the products whether the claim is in contract, warranty, tort (including negligence) or otherwise. The foregoing warranties are in lieu of all other warranties, whether oral, written, express, implied or statutory.

NO IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY.

In no event whether as a result of breach of contract, warranty, tort (including negligence or patent infringement) or otherwise, shall Engineer, or its Sub-Contractors or suppliers, be liable for any special, consequential, incidental, indirect or exemplary damages, including, but not limited to, loss of profit or revenue, loss of use of the products or any associated equipment, cost of capital, cost of substitute goods, facilities, services or replacement power, downtime costs or claims of Purchaser's customers for such damages. If Purchaser transfers title to, or suffers use by, any third party, Purchaser shall obtain from such third party a provision affording Engineer and its subcontractors and suppliers the protection of the preceding sentence.

If Engineer furnishes Purchaser with advice or other assistance which concerns any products supplied hereunder or any system or equipment in which any such product may be installed and which is not required by the terms of this instrument or pursuant to any agreement resulting hereto, /the furnishing of such advice or assistance shall not subject Engineer to any liability, whether in contract, warranty, tort (including negligence or patent infringement) or otherwise.

6.13 TERM

The term shall be deemed to start on the date the Engineer is given notice to proceed by the City. The formal Agreement shall be finalized in good faith by both parties.

6.14 FINAL AGREEMENT PRICE

Upon completion of the Work the final invoice shall be reduced by the amount already paid against Agreement HD 4984 between the Engineer and the City.