

Torres Rojas, Genara

From: dmorris@tectonicengineering.com
Sent: Wednesday, August 06, 2014 2:33 PM
To: Duffy, Daniel; American, Heavyn-Leigh
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: David
Last Name: Morris
Company: Tectonic Engineering
Mailing Address 1: 160 Pehle Avenue, Suite 306
Mailing Address 2:
City: Saddle Brook
State: NJ
Zip Code: 07663
Email Address: dmorris@tectonicengineering.com
Phone: 2018430403
Required copies of the records: Yes

List of specific record(s):

Request for the WTC-744.235.01 Excavation and Foundation contract awarded to Yonkers Contracting Company, Inc. on 982010.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

September 26, 2014

Mr. David Morris
Tectonic Engineering
160 Pehle Avenue, Suite 306
Saddle Brook, NJ 07663

Re: Freedom of Information Reference No. 15169

Dear Mr. Morris:

This is in response to your August 6, 2014 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for a copy of "the WTC-744.235.01 Excavation and Foundation contract awarded to Yonkers Contracting Company, Inc." on 9/8/2010.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/15169-WTC.pdf>. Paper copies of the available records are available upon request.

Certain portions of the material responsive to your request are exempt from disclosure pursuant to exemptions (2.a.) and (4) of the Code.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy
FOI Administrator



THE PORT AUTHORITY OF NY & NJ

CW11324084

F.P.

Liberty Security Partners (LSP)

**WORLD TRADE CENTER -
VEHICLE SECURITY CENTER & TOUR BUS PARKING
FACILITY (VSC)**

EXCAVATION & FOUNDATION

**CONTRACT WTC-744.235.01
(REVISION #3.2)**

August 23, 2010

3/20/10



PROJECT: WORLD TRADE CENTER –
VEHICLE SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

CONTRACT: EXCAVATION & FOUNDATION
WTC-744.235.01

OWNER: PORT AUTHORITY OF NEW YORK AND NEW JERSEY
225 Park Avenue South
New York, New York 10003
(herein called "the Authority")

**CONSTRUCTION
MANAGER:** TISHMAN CONSTRUCTION CORPORATION OF NEW YORK
666 Fifth Avenue
New York, New York 10103
(herein called the "Construction Manager"
On Behalf Of "the Authority")

CONTRACTOR: YONKERS CONTRACTING COMPANY, INC.
969 Midland Avenue
Yonkers, New York 10704
(herein called the "Contractor")

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be
duly executed as of the day and year first above written.

ACCEPTED:

CONSTRUCTION MANAGER:

YONKERS CONTRACTING COMPANY, INC.

TISHMAN CONSTRUCTION CORP. OF N.Y.
(on Behalf of "the Authority")

(Contractor)

(Construction Manager)

BY:



(Signature)

BY:



(Signature)

John Kolaya, EVP

Martin Adelman, Vice President

(Print Name & Title)

(Print Name & Title)

DATE:

9/8/10

DATE:

SEPTEMBER 8, 2010



THE PORT AUTHORITY OF NY & NJ

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APPENDICES

- Rider "A", General Addendum, dated April 21, 2010 (Revision 2)
- Rider "B", List of Drawings and Specifications, dated April 30, 2010
- Rider "C", Alternatives & Unit Prices, March 5, 2010
- Rider "D", Insurance Rider, dated April 21, 2010
- Rider "DX", Owner Controlled Insurance Program Manual, dated September 30, 2009
- Rider "E", Proposal Award/Evaluation Criteria, dated May 4, 2010 (Revision 3A)
- Rider "F", Non-Disclosure and Confidentiality Agreement (Information Security Handbook) dated February 9, 2009 (incl. Exhibits A,B,C)
- Rider "G", [Intentionally Deleted]
- Rider "H", [Intentionally Deleted]
- Rider "I", Sales Tax Requirements, dated October 8, 2008
- Rider "J", Temporary Services For Construction Purposes, dated XXXX (NOT APPLICABLE TO THIS TRADE)
- Rider "K", Project Corruption Prevention Program, dated February 9, 2009
- Rider "L", Payment Procedures, dated February 17, 2010
- Rider "M", Downtown Restoration Program – Safety Program, dated June 4, 2008 (Revision 1)
- Rider "N", PANYNJ - WTC Site Rules and Regulations, dated January 1, 2006
- Rider "O", Available Documents, undated
- Rider "P", New York City Transit Safety Program, dated September 23, 2009
- Rider "Q", Site Logistics Plans, dated March 8, 2010
- Rider "R", Contractors Quality Program Requirements, dated February 17, 2010
- Rider "S", Site Security Requirements, dated January 28, 2010
- Rider "T", Milestone Dates and Liquidated Damages, dated December 16, 2009 (Revision 1)
- Rider "U", Additional Provisions, dated April 21, 2010 (Revision 1), includes the following documents;
- Procedure For The Approval Of Cranes & Derricks, dated March 8, 2010
 - W/MBE Notice and Forms, dated 12/17/2008
 - PANYNJ Subcontractor Approval Request Forms 2327B/03-09; 2327C/03-09
 - PANYNJ Cutting and Welding Permit 2133/03-06
 - Prevailing Wage Rates, dated February 1, 2020

INFORMATION FOR PROPOSERS

1. FORM AND SUBMISSION OF PROPOSALS

- A. The Port Authority of New York and New Jersey (hereinafter called "the Authority"), through its construction manager, Tishman Construction Corporation, Inc. (hereinafter called "Tishman" or "Construction Manager" or "CM"), invites proposals ("Proposals") in the annexed form.
- B. No effort is made to emphasize any particular provision of the Contract, but Proposers must familiarize themselves with every provision and its effect.
- C. Award will be made to the responsible firm whose proposal is most advantageous to the Authority as determined in the sole discretion of the Authority. In determining which proposal is most advantageous, the Authority will evaluate proposals to determine which proposal offers the greatest business value to the Authority based upon an analysis of the qualitative technical factors and price/cost in order to derive which proposal represents the "best value" to the Authority. In the event that two or more proposals are considered by the Authority to be basically equal in their technical merit, the evaluated cost or price becomes more important; in such a case, cost or price may ultimately be the deciding factor. Accordingly, the Authority may not necessarily make an award to the Proposer with the highest technical ranking nor award to the Proposer with the lowest price proposal ("Lump Sum Proposal") as set forth in the Form Of Proposal, if doing so would not be in the overall best interest of the Authority. The evaluation criteria to determine the "best value" award to the Authority is defined in Rider "E".

2. PAPERS ACCOMPANYING PROPOSALS

Each Proposal must be accompanied by the following papers, which, unless otherwise indicated, should be enclosed with the completed and signed Form of Proposal:

- A. If the proposer is a corporation, (a) a statement of the names and residences of its officers, and (b) a copy of its Certificate of Incorporation and, if applicable, all amendments thereto with a written declaration signed by the secretary of the corporation, with the corporate seal affixed thereto, that the copy furnished is a true copy of the Certificate of Incorporation and any such amendments as of the date of the opening of the Proposals; and if the Proposer is not incorporated under the laws of the state in which the service is to be performed, a certificate from the Secretary of State of said state evidencing the Proposer's legal qualification to do business in that state.

If the proposer is a partnership, a statement of the names and residences of its members, indicating which are general and which are special partners, which should be included on the page following the Proposal.

If the proposer is an individual, a statement of his residence, which should be included on the page following the Proposal.

Not Used.

B.

- 1.) Certified financial statements, including applicable notes, reflecting the bidder's assets, liabilities, net worth, revenues, expenses, profit or loss and cash flow for the most recent calendar year or the bidder's most recent fiscal year.
- 2.) Where such certified financial statements are not available, then either reviewed or compiled statements from an independent accountant setting forth the information described in Paragraph 1, above.
- 3.) Where neither certified financial statements nor financial statements from an independent accountant are available, then financial statements containing the information described in Paragraph 1, above, prepared directly by the bidder. However, such financial statements must be accompanied by a signed copy of the bidder's most recent Federal income tax return and a statement in writing, signed by a duly authorized representative of the bidder, that such statements accurately reflect the current financial condition of the bidder.

Where statements submitted pursuant to either Paragraph 1 or 2, above, show the position of the bidder as of a date more than forty-five (45) days prior to the date on which Proposals are opened, the bidder shall also submit a statement in writing signed by a duly authorized representative of the bidder, that the present financial condition of the bidder is at least as good as that shown on the statements submitted.
- 4.) A statement of work which the bidder has on hand, including any work on which a bid has been submitted, containing a description of the work, the dollar value, the location by city and state, the current percentage of completion and the expected date for completion.

- 5.) Fill in below the name and address of the bidder's chief banking representative handling the bidder's account.

Banking Institution: _____

Address: _____

Bank Representative: _____

Telephone Number: _____

- 6.) Fill in below the bidder's Federal Employer Identification Number (i.e., the number assigned to firms by the Federal Government for tax purposes); the bidder's Dun and Bradstreet number, if any; the name of any other credit service to which the bidder has furnished information and the number, if any, assigned by such service to the bidder's account.

Federal Employer Identification No.

Dun and Bradstreet No.

Other Credit Service

Account No

- C. The Form of Contract bound herewith. One copy of each addendum, if any, issued during the bidding period shall be initialed and attached to the Form of Proposal, but any Form of Proposal submitted without such addendum initialed and attached will nevertheless be construed as though such addendum had been initialed and attached.
- D. The proposer shall submit a completed Background Qualifications Questionnaire (BQQ), which is required for itself and all consultants, contractors, subcontractors, subconsultants and vendors providing services at the World Trade Center Site, known to the Proposer at the time of proposal submission (the BQQ will also be required for any consultants, contractors, subcontractors, subconsultants and vendors engaged after contract award). Said forms should also be submitted for all subcontractors and suppliers identified at the time of bid submission and whose subcontracts will meet the dollar thresholds requiring the certifications. This document and instructions for submitting the completed BQQ to the Authority's Office of Inspector General can be obtained at the Authority's website through the following link:
http://www.panynj.gov/wtcprogress/pdf/PANYNJ_OIG_WTC_BQQP.zip
- E. Items listed in Section C of the "Form Of Proposal" document, contained herein.

3. QUALIFICATION INFORMATION

At any time after the opening of Proposals, the Construction Manager may give oral or written notice to one or more proposers to attend a pre-award meeting and to furnish the Construction Manager with information relating to his qualifications to perform the Work, including the following, which information shall be furnished within seven (7) days thereafter:

- A. The proposers MBE/WBE Participation Plan submitted in accordance with Article 8 of this document (Reference Rider "U" – Schedule "C" contained within the "Notification Of MBE and WBE On-Line Directory and Forms", and a detailed list of the plant and equipment which the proposer proposes to use, indicating which portions it already possesses.
- B. Detailed information relating to work which the proposer has completed for others, including personal and corporate references, sufficient to the Construction Manager to determine the Contractor's responsibility, experience and capacity to perform the Work. If required by the Construction Manager, the foregoing information shall include information to demonstrate to the satisfaction of the Construction Manager that the contractor has within the past five years been a contractor on at least one contract of the same general type, extent and complexity as the Contract on which the Proposal has been submitted, and completed the work skillfully, in a satisfactory manner and on time.
- C. Information to supplement a) data shown in the financial statements and the statement of work on hand required to be submitted with the Proposal; and b) any statement submitted under the clause hereof entitled "Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Suspension, Debarment, Disqualification, Prequalification Denial or Termination, etc, Disclosure of Other Required Information", Certification of Participation in a State-Registered Apprenticeship Program or "Non-Collusive Bidding and Code of Ethics Certification; Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent Fee or Other Fee".
- D. Moreover, in the event that the proposer's performance on a past Construction Manager or Authority or PATH contract or contracts has been rated less than satisfactory, the Construction Manager may give oral or written notice to the proposer to furnish information demonstrating to the satisfaction of the Construction Manager that, notwithstanding such rating, such performance was, in fact, satisfactory, or that the circumstances which gave rise to such unsatisfactory rating have changed or will not apply to performance of the Contract, and that such performance will be satisfactory.
- E. If the proposer has performed a contract for the States of New York or New Jersey, or any governmental entity within such States and has filed a questionnaire or other document required to be submitted in order for the proposer to qualify to perform the contract, the proposer may be requested by the Construction Manager to submit the most recent completed questionnaire or other such document, or if the most recent completed questionnaire or other such document is not available, to submit a written statement indicating the approximate date of the contract and the name of the governmental entity which awarded them the contract.

- F. Any additional information relevant to the proposer's Proposal including information to supplement the proposer's initial analysis of proposal.
- G. Detailed information in writing setting forth the affirmative action which the proposer proposes to take to ensure equal employment opportunities as required by clause A of the clause of the Form of Contract entitled "No Discrimination In Employment", and subparagraph (1) of the section entitled "Equal Employment Opportunity" of Chapter VIII of the Form of Contract entitled "Department of Transportation Requirements". This action which for the purpose of convenience is referred to as an "affirmative action program", shall be in addition to the action required under clauses B through G of the "No Discrimination in Employment" clause and subparagraphs (2) through (7) of the section entitled "Equal Employment Opportunity" of Chapter VIII. Solely for the information of the proposer, and without in any way limiting or defining the affirmative action program to be proposed by the proposer, there are available for inspection in the office of the General Manager, Business and Job Opportunity, Office of Regional and Economic Development of the Port Authority of New York and New Jersey, copies of sample affirmative action programs.

In the event that any of the foregoing is requested and is not furnished within seven days thereafter or within such additional time as the Construction Manager, in his sole discretion, may allow, the Construction Manager may not be in a position to determine whether the proposer is qualified, whether the proposer understands the requirements of the contract or whether the proposal is responsive and may, in its sole discretion, reject the proposer's Proposal.

The giving of such notice to the proposer in connection with any of the foregoing lists, statement or information shall not be construed as an acceptance of his Proposal. However, the Construction Manager reserves the right in its sole and absolute discretion, to accept the Proposal of a proposer despite the fact that said proposer has not submitted any information, list or statement required pursuant to this Section within the above-stated time period.

4. ACCEPTANCE OR REJECTION OF PROPOSAL

Within one hundred eighty (180) days after the opening of the Proposals, the Construction Manager may, in its discretion, accept one of the Proposals, if Construction Manager accepts any. The acceptance of a Proposal will be only by mailing to or delivering at the office designated in the Proposal a notice in writing specifically indicating acceptance signed by Construction Manager. No other act of the Construction Manager shall constitute acceptance of a Proposal. Such notice will state whether or not the Construction Manager elects to require the proposer to furnish a Performance and Payment Bond. Rejection of a Proposal will be only by either (a) a notice in writing specifically stating that the Proposal is rejected, signed by Construction Manager and mailed to or delivered at the office designated in the Proposal or (b) omission of the Construction Manager to accept a Proposal within one hundred eighty (180) days after the opening of Proposals; and no other act of the Construction Manager shall constitute rejection of a Proposal, including any counter offer or other act of the Construction Manager.

The Construction Manager reserves the unqualified right, in its sole and absolute discretion, to reject all Proposals, seek modifications to one or more Proposals (negotiate), or to accept that Proposal if any, which in its judgment will under all the circumstances best serve the public interest and to waive defects

in any Proposal.

In the event that a successful proposer defaults upon the Contract by failing to furnish a satisfactory Performance and Payment Bond, if required, and the Construction Manager terminates the Contract, the Construction Manager reserves the option to accept the Proposal of any other proposer within one hundred eighty (180) days after the opening of Proposals, in which case such acceptance shall have the same effect as to such other proposer as though he were the originally successful proposer.

5. INTENTIONALLY DELETED

6. DISPOSAL OF CONTRACT DOCUMENTS

All recipients of Contract documents, including proposers and those who do not submit a proposal and their prospective Subcontractors and suppliers who may receive all or a part of the Contract documents or copies thereof, shall make every effort to ensure the secure and appropriate disposal of the Contract documents to prevent further disclosure of the information contained in the documents. Secure and appropriate disposal includes methods of document destruction such as shredding or arrangements with refuse handlers that ensure that third persons will not have access to the documents' contents either before, during, or after disposal. Documents may also be returned for disposal purposes to the Construction Manager.

7. AVAILABLE DOCUMENTS

Certain documents, specified in Rider O (Available Documents), are available for reference and examination by proposers by contacting Construction Manager at Construction Manager's office to review such documents during regular business hours. These documents were not prepared for the purpose of providing information for proposers upon the present Contract but they were prepared for other purposes, such as for other contracts or for design purposes for this or other contracts, and they do not form a part of this Contract. The Construction Manager makes no representation or guarantee as to, and shall not be responsible for their accuracy, completeness or pertinence, and, in addition, shall not be responsible for the conclusions to be drawn therefrom. They are made available to the proposers merely for the purpose of providing them with such information as is in the possession of the Construction Manager, whether or not such information may be accurate, complete or pertinent or of any value to the proposers. Proposers accept all risks of inaccurate or incomplete information.

8. MINORITY AND WOMEN'S BUSINESS ENTERPRISES PROGRAM (MBE/WBE)

The Construction Manager and the PANYNJ adopt the Authority's long-standing practice of making its contract opportunities available to as many firms as possible and has taken affirmative steps to encourage Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) to seek business opportunities with it.

"Minority-owned business" or "MBE" means a business entity which is at least fifty-one percent (51%) owned by one or more members of one or more minority groups, or, in the case of a publicly held corporation, at least fifty-one percent (51%) of the stock of which is owned and controlled by one or more members of one or more minority groups, and whose management and daily business operations are controlled by one or more such individuals who are citizens or permanent resident aliens.

"Women-owned business" or "WBE" means a business which is at least fifty-one percent (51%) owned by one or more women, or, in the case of a publicly held corporation, fifty-one percent (51%) of the stock of which is owned and controlled by one or more women, and whose management and daily business operations are controlled by one or more women who are citizens or permanent resident aliens.

"Minority group" means any of the following racial or ethnic groups:

- A. Black (all persons having origins in any of the black African racial groups not of Hispanic origin);
- B. Hispanic (all persons of Puerto Rican, Mexican, Dominican, Cuban, Central, or South American culture or origin, regardless of race);
- C. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands);
- D. Native American or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

To ensure meaningful participation of MBEs and WBEs on this Project, the Authority has set a combined goal of seventeen percent (17%) for firms owned and controlled by minorities, and firms owned and controlled by women. The MBE/WBE Participation Plan, described below, should meet or exceed these goals. If such goals are not met, Contractor shall be responsible for demonstrating its "good faith" efforts to achieve the goals.

Each Proposer's Proposal shall be accompanied by a complete Minority Business Enterprises/Women Business Enterprises Participation Plan ("MBE/WBE Participation Plan") on a form approved by Construction Manager. The MBE/WBE Participation Plan must be approved by Construction Manager before award of the Contract. The MBE/WBE Participation Plan shall include the following information:

- A. Name and telephone number of designated MBE/WBE contact person;
- B. Names and addresses of proposed MBE/WBE contractors; the proposed MBE/WBE contractors must be approved as described below in this Section 8;
- C. Description of work and approximate dollar value of work to be performed by each MBE/WBE contractor;
- D. Percent of participation in relationship to the cost of the overall Project for each MBE/WBE contractor.

Subsequent to contract award, the Contractor shall use and document every good faith effort to comply with its MBE/WBE Participation Plan and to permit its MBE/WBE Subcontractors to perform. Participation percentages shall be monitored throughout the performance of this Contract. Such good faith efforts shall include at least the following:

- A. Attendance at pre-proposal meetings, if any, scheduled by the Construction Manager;
- B. Utilization of the Authority's Directory of certified MBE/WBEs available on-line (see MBE/WBE Directory Letter in back of Contract Book) and/or proposing for certification other MBE/WBEs which appear to meet the Authority's criteria for MBE/WBE certification and which are technically competent to perform the Work which the proposer plans to subcontract;
- C. Active and affirmative solicitation of proposals for subcontracts from MBE/WBEs;
- D. Advertisement in general circulation media, trade association publications and minority-focused media for a reasonable period before proposals or Proposals are due;
- E. Dividing the work to be subcontracted into smaller portions or encouraging the formation of joint ventures, partnerships or similar arrangements among Subcontractors in order to increase the likelihood of achieving the MBE/WBE goals;
- F. Providing a sufficient supply of plans and specifications of prospective work to MBE/WBEs and providing appropriate materials to each in sufficient time to review;
- G. Utilizing the services of available minority and women's community organizations; contractor's groups; local, state and federal business assistance/development offices and other organizations that provide assistance to MBE/WBEs;
- H. Ensuring that progress payments are made in a timely fashion in accordance with the requirements of this Contract;
- I. Not requiring bonds from and/or providing bonds and insurance for Subcontractors where appropriate;
- J. Soliciting specific recommendations on methods for enhancing MBE/WBE participation from Construction Manager's staff responsible for such participation;
- K. Nominating Subcontractors for participation in business assistance programs sponsored by the Authority or the Regional Alliance of Small Contractors such as the Loaned Executive Assistance Program (L.E.A.P.);
- L. Establishment of impress funds to facilitate MBE/WBE cash flow; and
- M. Directing other contractors to solicit MBE/WBE subcontractor participation.

Subsequent to contract award, the Contractor shall also provide the Construction Manager, at its request, with a trade breakdown schedule showing when the Contractor's MBE/WBE Subcontractors are scheduled to perform. The Contractor shall also submit to the Construction Manager, on a monthly basis, a list of the names of MBE and WBE Subcontractors, suppliers and vendors and the Statement of Subcontractor's Payments in forms approved by Construction Manager.

In order to assure that the planned goals are being met, a monthly Statement of Payments Reports reflecting the actual payments to MBE/WBE contractors must be submitted throughout the duration of performance of the Contract.

In calculating the progress toward meeting the goal, Contractor shall receive credit for only sixty percent (60%) of the amounts paid to material/suppliers who are MBE/WBE firms, except in the case of firms who manufacture materials. Contractor shall receive one hundred percent (100%) credit for suppliers who manufacture products or make material changes to products before sale.

In the event that, prior to contract award and following review of the MBE/WBE Participation Plan submitted by the proposer pursuant to the clause hereof entitled "Qualification Information", the Construction Manager determines that the Contractor has not made a good faith effort to meet the MBE/WBE participation goals set forth above and that the Contractor has not demonstrated that a full or partial waiver of such goals is appropriate, the Construction Manager may advise the proposer that it is not responsible and may reject the proposer's Proposal.

If, during the performance of the Contract, the Contractor fails to demonstrate good faith in carrying out its MBE/WBE Participation Plan and in permitting its MBE/WBE Subcontractors to perform and the Contractor has not demonstrated that a full or partial waiver of the above referenced MBE/WBE participation goals is appropriate, then, upon receipt of a future Proposal or Proposals from the Contractor, the Construction Manager may advise the Contractor that it is not a responsible proposer and may reject such Proposal(s).

Either prior or subsequent to acceptance of the proposer's Proposal, the proposer may request a full or partial waiver of the above described MBE/WBE participation goals by providing a reasonable demonstration to the Construction Manager that its good faith efforts will not result in compliance with the goals set forth above because participation by eligible MBE/WBEs could not be obtained at a reasonable price or that such MBE/WBEs were not available or refused to perform as Subcontractors. The proposer shall provide such documentation to support its request as the Construction Manager may require.

Once approved, the MBE/WBE Participation Plan submitted by the proposer may be modified only with the written approval from the Construction Manager.

Following approval from the Construction Manager under the clause entitled "Assignments and Subcontracts" of one or more Subcontractors who are either MBEs or WBEs and listed in the MBE/WBE Directory or determined to be "eligible" by the Construction Manager in accordance with this numbered clause, Authority may, at its sole option, provide to said approved MBE/WBEs, without charge, whatever appropriate consultant services may be available under the L.E.A.P. Program; provided, however, that such consultant services will only be furnished pursuant to a request in writing from the Contractor to the General Manager, Small Business Programs, Office of Regional and Economic Development of the Port Authority of New York and New Jersey, 233 Park Avenue South - 4th Floor, New York, NY 10003.

Such services will be discontinued following a written request from the Contractor to the General Manager, Small Business Programs, Office of Regional and Economic Development of the Port Authority of New York and New Jersey, to discontinue them.

The L.E.A.P. services include advising on scheduling, purchasing, planning and other aspects of construction to firms to mitigate business or management problems which could negatively impact on their performance. These services do not include engineering or legal advice. The determination as to whether or not to follow the advice given lies solely with the MBE/WBE Subcontractor. Prior to being accepted as a participant in the L.E.A.P. Program, the MBE/WBE Subcontractor will be required to release the Construction Manager, Authority and the individuals furnishing consultant advice of all liability and responsibility in connection therewith.

The Authority has compiled and made available on-line an MBE/WBE Directory which specifies the firms the Authority has determined to be (1) MBEs/WBEs and (2) experienced in performing work in the trades and contract dollar ranges indicated in the Directory. The Construction Manager makes no representation as to the financial responsibility of such firms or their ability to perform Work required under this Contract. Subject to the following paragraph, only MBEs/WBEs listed in the Directory will count toward the required MBE/WBE participation.

If the Contractor wishes to perform a portion of the Work through a firm not listed in the Directory¹ but which the Contractor believes should be eligible because it is (1) an MBE/WBE, as defined above and (2) technically competent to perform portions of the Work or the Contractor believes it is such a firm, the Contractor shall submit to the General Manager, Small Business Programs, Office of Regional and Economic Development of the Port Authority of New York and New Jersey, a written request for a determination that the proposed firm is eligible. This shall be done by completing and forwarding a) the form labeled "Schedule A" and, if appropriate, "Schedule B" which are annexed hereto and form a part hereof and b) technical references of jobs completed of similar scope and complexity on the form annexed hereto and made a part hereof labeled "MBE/WBE Approval Request" and such other information as may be necessary to permit the Construction Manager to determine whether the firm is in fact an MBE/WBE and technically competent to perform portions of the Work.

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| 1. Queens Air Services Development
Office
JFK International Airport
Building #141
Federal Circle, First Floor
Jamaica, NY 11430
(718) 244-6852
Fax (718) 244-7371
www.asdoonline.com | 2. Chinatown Manpower Project, Inc.
70 Mulberry Street
New York, NY 10031
(212) 571-1690
www.cmpny.org |
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¹ The following organizations may be able to refer the Contractor to MBEs/WBEs who are technically competent to perform portions of the Work. Any referrals which are not listed in the Directory shall be submitted to the Construction Manager for a determination as to eligibility as provided above.

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| <p>3. Association of Minority Enterprises of NY, Inc.
135-20 Liberty Avenue
Richmond Hill, NY 11419
(718) 291-1641
Fax (718) 291-1641
www.ameny.org</p> | <p>4. Statewide Hispanic Chamber of Commerce of New Jersey
150 Warren Street, Suite 110
Jersey City, NJ 07302
(201) 451-9512
Fax (201) 451-9547
www.shccnj.org</p> |
| <p>5. Greater Newark Business Development Consortium
744 Broad Street, 26th Floor
Newark, NJ 07102
(973) 242-5563
www.gnbdc.org</p> | <p>6. Jamaica Business Resource Center
90-33 160th Street
Jamaica, NY 11432
(718) 206-2255
Fax (718) 206-3693
www.jbrdc.org</p> |
| <p>7. Council for Airport Opportunity
Newark Liberty International Airport Building 80
Newark, NJ 07014
(973) 961-4382
www.caonj.com</p> | <p>8. National Hispanic Business Group
1230 Avenue of the Americas,
7th Floor
New York, NY 10020
(212) 265-2664
www.nhbg.org</p> |
| <p>9. Greater Jamaica Development Corp.
90-04 161st Street
Jamaica, NY 11432
(718) 291-0282
Fax (718) 291-7918
www.gjdc.org</p> | <p>10. NYS Assn. Of Minority Contractors Brooklyn Navy Yard
Building 280, 4th Floor, Suite 414 Brooklyn, NY 11205
(212) 246-8380
Fax (718) 246-8376
www.nysamc.org</p> |
| <p>11. Professional Women in Construction
315 E. 56th Street, Suite 202
New York, NY 10022
(212) 486-7745
Fax (212) 486-0228
www.pwcusa.org</p> | <p>12. NY/NJ Minority Purchasing Council
330 Seventh Avenue, 8th Floor
New York, NY 10001
(212) 502-5663
www.nynjmsdc.org</p> |
| <p>13. National Minority Business Council
120 Broadway, 19th Floor
New York, NY 10271
(212) 693-5050
www.nmbc.org</p> | <p>14. Queens Overall Economic Development Office
120-55 Queens Boulevard, Suite 309 Kew Gardens, NY 11424
(718) 263-0546
Fax (718) 263-0594
www.queensny.org</p> |

15. York College Small Business Development Center
94-50 159th Street
York College,
Room S 107
Jamaica, NY 11451
(718) 262-2880
Fax (718) 262-2881
www.nyssbdc.org
16. Small Business Development Center - Rutgers University, University Heights
3 Bleeker Street
Newark, NJ 07102
(973) 353-1927
Fax (973) 353-1110
www.msbdc.newark.rutgers.edu
17. New Jersey Association of Women Business Owners (NJAWBO)
186 Princetown Hightstown Road
West Windsor, NJ 08550
(609) 799-5101
www.njawbo.org
18. New Jersey Air Services Development Office
Newark Liberty International Airport
Building #80 - Second Floor
Newark, NJ 07114
(973) 961-4278
Fax (973) 961-4282
www.asdonline.com
19. Caribbean-American Chamber of Commerce
Brooklyn Navy Yard
63 Flushing Avenue
Brooklyn, NY 11205
(718) 834-4544
Fax (718) 834-9774
www.caribbeantradecenter.com
20. Northeast Region – Small Business Resource Transportation Center
29-10 Thomson Avenue
Long Island City, NY 11101
(718) 482-5941
www.osdbu.dot.gov/regional/northeast.cfm
21. Asian Women in Business
42 Broadway, Suite 1748
New York, NY 10004
(212) 868-1368
Fax (212) 868-1373
www.awib.org
22. Asian American Business Development Center
80 Wall Street, Suite 418
New York, NY 10005
(212) 966-0100
Fax (212) 966-2786
www.aabdc.com

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| <p>23. New York State Federation of Hispanic Chambers of Commerce
2710 Broadway
New York, NY 10025
(212) 222-8300
Fax (212) 222-8412
www.nysfhcc.com</p> | <p>24. Orange County Chamber of Commerce
30 Scott Corners Drive
Montgomery, NY 12549
(845) 457-9700 Ext. 1101
www.orangenyc.com</p> |
| <p>25. Regional Alliance For Small Contractors
625 Eighth Avenue, 2nd Floor,
North Wing
New York, NY 10018
(212) 268-2991
www.regional-alliance.org</p> | <p>26. Women Builders Council
500 Hampton Avenue
Brooklyn, NY 11235
(212) 367-2130
www.wbcnyc.org</p> |

All such requests shall be in writing addressed to the Construction Manager. If any such firm is determined to be eligible it shall only be by writing over the name of the Construction Manager. In the event that such firm is found not to be eligible, the Construction Manager will only consider as a substitute for such firm, a firm listed in the Authority's MBE/WBE Directory available on-line.

Please note that the Contractor must submit the names of proposed MBEs/WBEs for work on this Contract if their names do not appear in the Authority's MBE/WBE Directory available on-line in accordance with the requirements of this clause and all other requirements of this Contract. MBEs/WBEs proposed as lessors of equipment or Materialmen shall be deemed "Subcontractors" for the purpose of this numbered clause and the clause hereof entitled "Assignments and Subcontracts" but shall not be deemed Subcontractors for any other purpose. However only sixty percent (60%) of the amounts paid by the Contractor to such Materialmen who are MBEs/WBEs, except in the case of firms who themselves manufacture materials for use under the Contract, shall be allowed in computing the percentages of the Lump Sum required to be paid to MBEs/WBEs hereunder.

Nothing herein shall be deemed to supersede or to otherwise modify the clause of the Form of Contract entitled "Assignments and Subcontracts".

9. INSPECTION OF SITE

Each proposer or its authorized representative must make proper arrangements with the Construction Manager before inspecting the construction site. To make such arrangements contact Construction Manager's Procurement Manager at (212)-812-1250 or adelman@tishman.com.

10. QUESTIONS BY PROPOSERS

Questions by prospective proposers concerning this Request for Proposals are to be addressed only to Construction Manager to the contact listed below. The listed individual is authorized only to direct the attention of prospective proposers to various portions of the Contract so that they may read and interpret such portions for themselves. Neither Construction Manager nor any other employee or representative of the Construction Manager is authorized to give interpretations of any portion of the Contract or to give information as to the requirements of the Contract in addition to that contained in the Contract.

Interpretations of the Contract or additional information as to its requirements, where necessary, shall be communicated to proposers only by written addendum, which addendum shall be considered part of this Contract. Accordingly, nothing contained herein and no representation, statement or promise, oral or in writing, of the Construction Manager, or Authority its Directors, officers, agents, representatives or employees shall impair or limit the effect of the warranties of the Contractor contained in the clause of the Form of Contract entitled "Contractor's Warranties" or elsewhere in this Contract. The provisions of this clause shall apply to questions addressed by prospective proposers both before and after their receipt of Contract documents.

Direct all inquiries regarding this RFP in writing to:

Tishman Construction
115 Broadway, 14th Floor
New York, NY 10006
Attn: Martin Adelman
Procurement Manager
Email: adelman@tishman.com

11. AUTHORITY SECURITY REQUIREMENTS

Proposer shall comply with the security requirements set forth herein both pre- and post-contract award, including, without limitation, the requirements set forth in Rider N - PANYNJ WTC Site Rules and Regulations.

The Authority has facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. Authority and Construction Manager reserve the right to impose multiple layers of security requirements on the Contractor, its staff and Subcontractors and their staffs depending upon the level of security required, as determined by Authority. This includes the Contractor's responsibility to perform Contractor/Subcontractor identity checks and background screening, including, but not limited to: inspection of not less than two forms of valid/current government issued identification (at least one having an official photograph) to verify staff's name and residence; screening federal, state, and/or local criminal justice agency information databases and files; screening of any terrorist identification files; multi-year check of personal, employment and/or credit history. The Contractor shall, and shall instruct its Subcontractors, to cooperate with Construction Manager's staff in adopting security requirements. These security requirements may include, but are not limited to the following:

- a. Access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning, or the like;
- b. Issuance of photo identification cards:

No person will be permitted on or about the construction site without a photo identification badge approved by the Construction Manager. The Construction Manager will provide such identification badges for Contractor and Subcontractor staff, and Materialmen, if necessary. All employees of the Contractor, Subcontractors and Materialmen shall wear identification badges in a conspicuous and clearly visible position whenever they are working at the construction site.

- c. Access control, inspection, and monitoring by security guards:

The Construction Manager may provide for construction site access control, inspection and monitoring by Construction Manager retained security guards. However, this provision shall not relieve the Contractor of its responsibility to secure its equipment and work at the construction site at its own expense.

- d. Neither the Contractor nor any Subcontractors shall issue or permit to be issued any press release, advertisement, or literature of any kind, which refers to Authority or the Authority or the Work performed in connection with this Contract without first obtaining the written approval of Authority. Such approval may be withheld if for any reason Authority believes that the publication of such information would be harmful to the public interest or is in any way undesirable.
- e. Under no circumstances shall the Contractor nor any Subcontractor communicate in any way with any consultant, department, board, agency, commissioner or other organization or any person whether governmental or private in connection with the Work to be performed hereunder, unless required by Law, except upon prior written approval and instructions of Authority, provided, however that data from manufacturers and suppliers of material may be obtained when such data is necessary to the performance of the Work.
- f. Neither the Contractor nor any Subcontractors shall provide access to the construction site to anyone other than their employees and others who are approved by Authority to be directly involved in performing Work at the construction site.
- g. Neither the Contractor nor any Subcontractor is permitted to take photographs or video recordings or make sketches at the construction site, except when necessary to perform the Work under this Contract. Upon request, any photograph, video recording or sketch taken at the construction site shall be submitted to Authority to ascertain compliance with this paragraph.

The Contractor shall be required to have its staff and that of its Subcontractors undergo a criminal history background check and shall furnish proof to Authority, in a form acceptable to Authority, that such check has been performed. No employee of the Contractor or any Subcontractor will be permitted at the construction site without proof that such check has been performed.

In addition, Authority or Construction Manager may increase and/or upgrade security requirements for the Contractor, its staff and Subcontractors and their staffs during the term of this Contract to address changing security conditions and/or new governmental regulations.

Should Authority or Construction Manager increase and/or upgrade security requirements after acceptance of the Contractor's Lump Sum Proposal, the Contractor will be compensated for the additional cost of such increase and/or upgrade in accordance with the clause of the Contract entitled, "Extra Work."

11A. PROTECTION OF SECURITY INFORMATION

1. The Contractor, Subcontractors and others requiring access to Confidential and Privileged (C&P) security information and Sensitive Security Information (SSI) shall also be required to implement uniform security procedures regarding the identification, handling, care and storage of C&P security information belonging to Authority or Construction Manager; and SSI as defined in 49 CFR Parts 15 and 1520. Authority or Construction Manager C&P security information is information that, if subject to unauthorized disclosure, access, alteration, loss or misuse would be detrimental to the public interest and/or might adversely affect, or compromise, public safety or security as it relates to Authority or Authority property, facilities, systems and/or operations, or which might otherwise adversely affect homeland security.

The Authority has developed requirements and other safeguards that are necessary both to prevent unauthorized disclosure of C&P security information and to control the authorized disclosure of this information for use internally within the Authority and when released by the Authority to outside entities for legitimate business purposes. These requirements and safeguards may be found in Rider F - Information Security Handbook, which will be made available to the Contractor and each Subcontractor. Each Contractor, Subcontractor and their staffs shall follow and implement the requirements and safeguards set forth in the aforementioned Handbook. Further, the staffs of the Contractor, Subcontractors and others requiring access to C&P security information and SSI shall also be required to sign a Non-Disclosure/Confidentiality Agreement (NDA), or an Acknowledgement thereof where an executed NDA is in place, prior to performing work activities in connection with this Contract, the form of which is set forth in Rider F - Information Security Handbook, Chapter 3 – Information Access, Non-Disclosure and Confidentiality Agreement.

2. The Contractor, each Subcontractor and others requiring access to C&P security information and SSI, shall appoint a senior management level employee to be the company's Security Information Manager (SIM). The SIM is responsible for implementing and maintaining the firm's Program For Protecting C&P security information and/or SSI. A deputy SIM (DSIM) shall also be appointed in case the SIM is unavailable for any reason.

3. The SIM shall prepare an Authorized Personnel Agreement Sub-Project List - a list of employees who are authorized to access C&P security information and the date each executed the NDA. A copy of this list shall be provided to Authority and the Construction Manager and updated monthly. This list will be used to verify that individuals have been briefed into the program and are certified for access to C&P security information.

Protection of C&P security information and SSI is a material obligation of the Contractor hereunder and failure to do so is grounds for termination for cause.

In addition, an individual's access to C&P security information and SSI may be contingent upon the satisfactory completion of a security background check for such individual and proof of the implementation of satisfactory procedures for safeguarding such C&P security information and/or SSI.

Unauthorized disclosure of SSI may be grounds for a civil penalty and/or other enforcement or corrective action by the United States Department of Transportation and/or the United States Department of Homeland Security against individuals or entities they deem appropriate including but not limited to the Contractor, its Subcontractors and their staffs.

Corrective action may include issuance of an order requiring retrieval of SSI to remedy unauthorized disclosure or an order to cease future unauthorized disclosure.

4. The Contractor must ensure that, when appropriate, its own staff and the staff of any subcontractors, suppliers and vendors sign Non-Disclosure Agreements (NDAs), or an Acknowledgment of an existing NDA, provided by the Authority as a condition of being granted access to Confidential Information categorized and protected as per *The Port Authority of New York & New Jersey Information Security Handbook*.

5. The Contractor shall include and require the inclusion of this numbered provision in all subcontracts and contracts for Work, services or supplying materials required for this Contract of every tier.

12. PREVAILING RATE OF WAGE CERTIFICATION

The proposers' attention is directed specifically to the clause of the Form of Contract entitled "Prevailing Rate of Wage" and to the fact that the Construction Manager requires a certification in writing from the successful proposer, in such form as may be required pursuant to such clause, that he has paid and caused his Subcontractors to pay at least the prevailing rate of wage and supplements required by such clause. This certification is required prior to his receipt of any payment from the Construction Manager hereunder as provided in the clauses of the Form of Contract entitled "Monthly Advances" and "Final Payment" or at any other time.

13. CERTIFICATION OF NO INVESTIGATION (CRIMINAL OR CIVIL ANTI-TRUST), INDICTMENT, CONVICTION, SUSPENSION, DEBARMENT, DISQUALIFICATION, PREQUALIFICATION DENIAL OR TERMINATION, ETC; DISCLOSURE OF OTHER REQUIRED INFORMATION

By proposing on this Contract, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, that the proposer and each parent and/or affiliate of the proposer has not (a) been indicted or convicted in any jurisdiction; (b) been suspended, debarred, found not responsible or otherwise disqualified from entering into contracts with any governmental agency or been denied a government contract for failure to meet prequalification standards; (c) had a contract terminated by any governmental agency for breach of contract or for any cause related directly or indirectly to an indictment or conviction; (d) changed its name and/or Employer Identification Number (taxpayer identification number) following its having been indicted, convicted, suspended, debarred or otherwise disqualified, or had a contract terminated as more fully provided in (a), (b) and (c) above; (e) ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Proposal; (f) been denied a contract by any governmental agency for failure to provide the required security, including proposal, payment or performance bonds or any alternative security deemed acceptable by the agency letting the contract; (g) failed to file any required tax returns or failed to pay any applicable federal, state or local taxes; (h) had a lien imposed upon its property based on taxes owed and fines and penalties assessed by any agency of the

federal, state or local government; (i) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency, including an inspector general of a governmental agency or public authority; (j) had any sanctions imposed as a result of a judicial or administrative proceeding with respect to any professional license held or with respect to any violation of a federal, state or local environmental law, rule or regulation; and (k) shared space, staff, or equipment with any business entity.

The foregoing certification as to "(a)" through "(k)" shall be deemed to have been made by the proposer as follows: if the proposer is a corporation, such certification shall be deemed to have been made not only with respect to the proposer itself, but also with respect to each director and officer, as well as, to the best of the certifier's knowledge and belief, each stockholder with an ownership interest in excess of 10%; if the proposer is a partnership, such certification shall be deemed to have been made not only with respect to the proposer itself, but also with respect to each partner. Moreover, the foregoing certification, if made by a corporate proposer, shall be deemed to have been authorized by the Board of Directors of the proposer, and such authorization shall be deemed to include the signing and submission of the proposal and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the proposer cannot make the foregoing certification, the proposer shall so state and shall furnish with the signed proposal a signed statement which sets forth in detail the reasons therefore. If the proposer is uncertain as to whether it can make the foregoing certification, it shall so indicate in a signed statement furnished with its proposal, setting forth an explanation for its uncertainty.

Notwithstanding that the certification may be an accurate representation of the proposer's status with respect to the enumerated circumstances provided for in this clause as requiring disclosure at the time that the proposal is submitted, the proposer agrees to complete Rider K confirm (Background Qualification Questionnaire) as part of its proposal, require all Subcontractors and Materialmen to complete Rider K confirm (Background Qualification Questionnaire) and to immediately notify the Construction Manager in writing of any change in circumstances during the period of irrevocability, or any extension thereof.

The foregoing certification or signed statement shall be deemed to have been made by the proposer with full knowledge that it would become a part of the records of the Construction Manager and that the Construction Manager will rely on its truth and accuracy in awarding this Contract. In the event that the Construction Manager determines at any time prior or subsequent to the award of the Contract that the proposer has falsely certified as to any material item in the foregoing certification; willfully or fraudulently submitted any signed statement pursuant to this clause which is false in any material respect; or has not completely and accurately represented its status with respect to the circumstances provided for in this clause as requiring disclosure, the Construction Manager may determine that the proposer is not a responsible proposer with respect to its proposal on this Contract or with respect to future proposals and may, in addition to exercising any other rights or remedies available to it, exercise any of the rights or remedies set forth in the clause of the Form of Contract entitled "Rights and Remedies of Authority". In addition, proposers are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g., New York Penal Law, Section 175.30 et seq.). Proposers are also advised that the inability to make such certification will not in and of itself disqualify a proposer, and that in each instance the Construction Manager will evaluate the reasons therefore provided by the proposer.

Under certain circumstances the proposer may be required as a condition of this contract award to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent Monitor to be selected by Authority. Said Monitor shall be charged with, among other things, auditing the actions of the proposer to determine whether its business practices and relationships indicate a level of integrity sufficient to permit it to continue business with Authority and the Authority.

As used in this clause, the following terms shall mean:

Affiliate - An entity in which the parent of the proposer owns more than fifty percent (50%) of the voting stock, or an entity in which a group of principal owners which owns more than fifty percent of the proposer also owns more than fifty percent (50%) of the voting stock.

Agency or Governmental Agency - Any federal, state, city or other local agency, including departments, offices, quasi-public agencies, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

Employer Identification Number - The tax identification number assigned to firms by the federal government for tax purposes.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting or investigative agency, including an inspector general of a governmental agency or public authority, and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or Federal, state, and local inquiries into tax returns.

Officer - Any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the proposer by whatever titles known.

Parent - An individual, partnership, joint venture or corporation which owns more than fifty percent (50%) of the voting stock of the proposer.

Space Sharing - Space shall be considered to be shared when any part of the floor space utilized by the submitting business at any of its sites is also utilized on a regular or intermittent basis for any purpose by any other business or not-for-profit organization, and where there is no lease or sublease in effect between the submitting business and any other business or not-for-profit organization that is sharing space with the submitting business.

Staff Sharing - Staff shall be considered to be shared when any individual provides the services of an employee, whether paid or unpaid, to the proposer and also, on either a regular or irregular basis, provides the services of an employee, paid or unpaid, to one or more other business(es) and/or not-for-profit organization(s), if such services are provided during any part of the same hours the individual is providing services to the proposer or if such services are

provided on an alternating or interchangeable basis between the proposer and the other business(es) or not-for-profit organization(s). "The services of an employee" should be understood to include services of any type or level, including managerial or supervisory. This type of sharing may include, but is not limited to, individuals who provide the following services: telephone answering, receptionist, delivery, custodial, and driving.

Equipment Sharing - Equipment shall be considered to be shared whenever the proposer shares the ownership and/or the use of any equipment with any other business or not-for-profit organization. Such equipment may include, but is not limited to, telephones or telephone systems, photocopiers, computers, motor vehicles, and construction equipment. Equipment shall not be considered to be shared under the following two circumstances: when, although the equipment is owned by another business or not-for-profit organization, the proposer has entered into a formal lease for the use of the equipment and exercises exclusive use of the equipment; or when the proposer owns equipment that it has formally leased to another business or not-for-profit organization, and for the duration of such lease the proposer has relinquished all right to the use of such leased equipment.

14. NON-COLLUSIVE PROPOSING AND CODE OF ETHICS CERTIFICATION; CERTIFICATION OF NO SOLICITATION BASED ON COMMISSION, PERCENTAGE, BROKERAGE, CONTINGENT FEE OR OTHER FEE

By proposing on this Contract, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, that: (a) the prices in its proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor; (b) the prices quoted in its proposal have not been and will not be knowingly disclosed, directly or indirectly, by the proposer prior to the official opening of such proposal to any other proposer or to any competitor; (c) no attempt has been made and none will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition; (d) this organization has not made any offers or agreements, or given or agreed to give anything of value (see definition of "anything of value" appearing in the clause of the Form of Contract entitled "No Gifts, Gratuities, Offers of Employment, etc.") or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the individual named in the clause hereof entitled "Questions by Proposers"), nor does this organization have any knowledge of any act on the part of an Construction Manager employee or former Construction Manager employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code; (e) no person or selling agency, other than a bona fide employee or bona fide established commercial or selling agency maintained by the proposer for the purpose of securing business, has been employed or retained by the proposer to solicit or secure this Contract on the understanding that a commission, percentage, brokerage, contingent or other fee would be paid to such person or selling agency; the proposer has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Contract.

The foregoing certification as to "(a)", "(b)", "(c)", "(d)" and "(e)" shall be deemed to have been made by the proposer as follows: if the proposer is a corporation, such certification shall be deemed to have been made not only with respect to the proposer itself, but also with respect to each parent, affiliate, director and officer of the proposer, as well as, to the best of the certifier's knowledge and belief, each stockholder of the proposer with an ownership interest in excess of ten percent (10%); if the proposer is a partnership, such certification shall be deemed to have been made not only with respect to the proposer itself, but also with respect to each partner. Moreover, the foregoing certification, if made by a corporate proposer, shall be deemed to have been authorized by the Board of Directors of the proposer, and such authorization shall be deemed to include the signing and submission of the proposal and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the proposer cannot make the foregoing certification, the proposer shall so state and shall furnish with the signed proposal a signed statement which sets forth in detail the reasons therefor. If the proposer is uncertain as to whether it can make the foregoing certification, it shall so indicate in a signed statement furnished with its proposal, setting forth in such statement the reasons for its uncertainty.

As a result of such disclosure, the Port Authority shall take appropriate action up to and including a finding of non-responsibility.

Failure to make the required disclosures shall lead to administrative actions up to and including a finding of non-responsibility.

Notwithstanding that the proposer may be able to make the foregoing certification at the time the proposal is submitted, the proposer shall immediately notify the Construction Manager in writing during the period of irrevocability of proposals on this Contract or any extension of such period, of any change of circumstances which might under this clause make it unable to make the foregoing certification or required disclosure. The foregoing certification or signed statement shall be deemed to have been made by the proposer with full knowledge that it would become a part of the records of the Construction Manager and that the Construction Manager will rely on its truth and accuracy in awarding this Contract. In the event that the Construction Manager should determine at any time prior or subsequent to the award of this Contract that the proposer has falsely certified as to any material item in the foregoing certification or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certification required to be disclosed, the Construction Manager may determine that the proposer is not a responsible proposer with respect to its proposal on this Contract or with respect to future proposals on Construction Manager or Authority contracts and may, in addition to exercising any other rights or remedies it may have, exercise any of the rights or remedies set forth in the clause of the Form of Contract entitled "Rights and Remedies of Authority".

In addition, proposers are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g., New York Penal Law, Section 175.30 et seq.). Proposers are also advised that the inability to make such certification will not in and of itself disqualify a proposer, and that in each instance the Construction Manager will evaluate the reasons therefore provided by the proposer.

Under certain circumstances the proposer may be required as a condition of this contract award to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent Monitor to be selected by the Authority. Said Monitor shall be charged with, among other things, auditing the actions of the proposer to determine whether its business practices and relationships indicate a level of integrity sufficient to permit it to continue business with Authority and the Authority.

15. PROPOSER ELIGIBILITY FOR AWARD OF CONTRACTS – DETERMINATIONS BY AN AGENCY OF THE STATE OF NEW YORK OR NEW JERSEY CONCERNING ELIGIBILITY TO RECEIVE PUBLIC CONTRACTS

Proposers are advised that the Authority has adopted a policy, which Construction Manager and Authority adopt as set forth herein, to the effect that in awarding its contracts it will honor any determination by an agency of the State of New York or New Jersey that a proposer is not eligible to proposal on or be awarded public contracts because the proposer has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

The Authority policy permits a proposer whose ineligibility has been so determined by an agency of the State of New York or New Jersey to submit a proposal on a Authority contract and then to establish that it is eligible to be awarded the contract on which it has proposal because (i) the state agency determination relied upon does not apply to the proposer, or (ii) the state agency determination relied upon was made without affording the proposer the notice and hearing to which the proposer was entitled by the requirements of due process of law, or (iii) the state agency determination was clearly erroneous or (iv) the state agency determination relied upon was not based on a finding of conduct demonstrating a lack of integrity or a violation of a prevailing rate of wage law.

The full text of the resolution adopting the Authority policy may be found in the Minutes of the Authority's Board of Commissioners meeting of September 9, 1993.

16. CONSTRUCTION SKILLS 2000 – APPRENTICESHIP PROGRAM

The Authority is a participant in Construction Skills 2000, a cooperative program among New York City schools, unions and public agencies. Construction Skills 2000 creates career opportunities in the construction industry for high school graduates by providing a systematic pathway into union-sponsored, skilled trade apprenticeship programs. The Authority encourages Contractors and their Subcontractors to maximize the use of apprentices under the applicable collective bargaining agreements or as contained in the applicable program approved by the New York State Department of Labor. The Contractor's plan for utilizing apprentices will be discussed at the pre-construction meeting.

Each Subcontractor proposed for approval under the Contract whose total amount of subcontracts under this Contract is greater than \$1 Million Dollars and each proposer (except as set forth in the certification below) will be required to certify as to their participation in a New York State-registered apprenticeship program.

17. CERTIFICATION OF PARTICIPATION IN A STATE-REGISTERED APPRENTICESHIP PROGRAM

By proposing on this Contract, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, that the proposer participates in an apprenticeship program registered by the New York State Department of Labor. Participation in such an apprenticeship program shall mean that the proposer either (a) is a signatory to a collective bargaining agreement with a labor organization which sponsors an apprenticeship program registered with the New York State Department of Labor or (b) individually sponsors an apprenticeship program registered by the New York State Department of Labor and, in the case of both (a) and (b) above, such apprenticeship program shall be in the trade(s) in which Work is to be performed. This clause shall not apply to proposers who will perform all Work at the construction site through the use of Subcontractors.

The foregoing certification, if made by a corporate proposer, shall be deemed to have been authorized by the Board of Directors of the proposer, and such authorization shall be deemed to include the signing and submission of the proposal and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the proposer cannot make the foregoing certification, the proposer shall so state and shall furnish with the signed proposal a signed statement which sets forth in detail the reasons therefore. If the proposer is uncertain as to whether it can make the foregoing certification, it shall so indicate in a signed statement furnished with its proposal, setting forth an explanation for its uncertainty.

Notwithstanding that the certification may be an accurate representation of the proposer's status with respect to the enumerated circumstances provided for in this clause as requiring disclosure at the time that the proposal is submitted, the proposer agrees to immediately notify the Construction Manager in writing of any change in circumstances during the period of irrevocability, or any extension thereof.

The foregoing certification or signed statement shall be deemed to have been made by the proposer with full knowledge that it would become a part of the records of the Construction Manager and that the Construction Manager will rely on its truth and accuracy in awarding this Contract. In the event that the Construction Manager determines at any time prior or subsequent to the award of the Contract that the proposer has falsely certified as to any material item in the foregoing certification; willfully or fraudulently submitted any signed statement pursuant to this clause which is false in any material respect; or has not completely and accurately represented its status with respect to the circumstances provided for in this clause as requiring disclosure, the Construction Manager may determine that the proposer is not a responsible proposer with respect to its proposal on this Contract or with respect to future proposals and may, in addition to exercising any other rights or remedies available to it, exercise any of the rights or remedies set forth in the clause of the Form of Contract entitled "Rights and Remedies of Authority". In addition, proposers are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see, e.g., New York Penal Law, Section 175.30 et seq.).

18. PROTEST PROCEDURES

The following protest procedure is the sole administrative remedy for protesting procurement decisions.

Any Proposer submitting a proposal in response to a solicitation may protest the award or decision to award a contract by submitting by certified mail such protest setting forth the basis thereof in writing to the Construction Manager's Procurement Manager no later than ten calendar days after notice of award or announcement of the decision to award on Construction Manager's website or actual knowledge by the protester that a decision by the Construction Manager on behalf of the Port Authority to award to other than the protester has been made whichever occurs first, addressed as follows:

Tishman Construction Corp.
Procurement Manager
115 Broadway, 14th Floor
New York, NY 10006

The written protest should be received in the Construction Managers office not later than 5:00 p.m. on the tenth day. If the tenth day falls on a weekend or an official holiday, the ten-day period expires at 5:00 p.m. on the next regular workday.

The protest should contain, at a minimum, the following:

- 1.) Name and address of the protester including telephone and fax numbers and e-mail address;
- 2.) the solicitation title and number (if applicable);
- 3.) The contract or purchase order title and number, if available;
- 4.) A statement concerning the protester's interest in the award or non-award of the contract and/or purchase order;
- 5.) A detailed statement of the basis for the protest including any supportive documents and information;
- 6.) The relief requested and the reason therefore.

The Construction Manager's Procurement Manager will review the protest and supportive documents. The Construction Manager's Procurement Manager may take any action or make any requests he or she deems necessary in order to investigate the protest including extending the time to issue a decision in order to obtain all evidence and other pertinent information.

The protestor will be provided a copy of the written decision within seven (7) business days of receipt. This decision will be final unless within three (3) business days of receipt of the written decision the protestor appeals to the Construction Manager's Procurement Manager. The appeal should be in writing and sent certified mail to the Construction Manager's Procurement Manager as follows:

Tishman Construction Corp.
Procurement Manager
115 Broadway, 14th Floor
New York, NY 10006

Upon receipt of such appeal, a Appeals Officer will be designated. Appeals Officer will review the protest and supportive documents and will issue notice to the Port Authority of receipt of such appeal. Appeals Officer will draft a written decision and submit to the Port Authority for review and written approval

within five (5) business days of the receipt of the protest where feasible.

No evidence or information may be introduced in the appeal that has not been presented to the Construction Manager's Procurement Manager. The Appeals Officer will review the appeal and supportive documents and the decision of the Construction Manager's Procurement Manager and issue a written decision within five (5) business days of receipt if feasible. The Appeals Officer may take any action or make any requests he or she deems necessary including extending the time to issue a decision in order to render a decision on the appeal.

The decision shall be conclusive and final.

19. INTEGRITY MONITOR

The Authority has hired an Integrity Monitor in connection with the World Trade Center site, the contractor and any subcontractors shall cooperate fully with the Monitor and the Authority, which includes, but is not limited to, providing complete access to all personnel and records in any way related to the Work performed pursuant to this Agreement. Any failure to cooperate may result in the termination of this Agreement.

20. CONFLICTS OF INTEREST

A. Individual Conflict of Interest:

If the Proposer or any employee, agent or subcontractor of the Proposer may have a possible conflict of interest, or may give the appearance of a possible conflict of interest, the Proposer shall include in its proposal a statement indicating the nature of the conflict and submit a mitigation plan addressing that conflict. The Construction Manager reserves the right to disqualify the Proposer if, in its sole discretion, any interest disclosed from any source could create a conflict of interest or give the appearance of a conflict of interest. The Construction Manager determination, made in consultation with the Authority, regarding any questions of conflict of interest shall be final.

In the opinion of the Authority, any Proposer performing construction management, general contracting, design, environmental and/or management services in any capacity for the Authority or other WTC stakeholders/owners responsible for building portions of the WTC site, such as the Lower Manhattan Development Corporation (LMDC), the New York State Department of Transportation (NYSDOT), WTC Net Lessee, has a potential conflict of interest. However, a Proposer who has a business relationship as indicated above, and believes that it can provide a mitigation plan that would address the conflict of interest shall submit such plan for evaluation to the Authority with its Proposal.

It is envisioned and recommended that the following items/concepts be addressed in a proposed mitigation plan where a conflict or the appearance of a conflict of interest may in the future, or does currently exist:

- 1) A proposed organizational chart/structure/firewall designed to keep staff and resources separate, as specific by project, and to allow for no overlap between team members and resources including, but not limited to: equipment, materials, staffing, laydown areas, and office facilities on said projects.

- 2) Specific plan(s) intended to maintain the separation and integrity, as specific by project, of the following to include, but not be limited to: confidential and/or privileged information, documents, plans, drawings, estimates and other financial data.
- 3) Specific plan to maintain proper and independent billing procedure(s) designed to address the avoidance of double and improper billings.
- 4) Specific plan to educate employees, on all levels, of the importance of said mitigation plan to promote the awareness and importance of mitigation and its roll in preventing fraud, waste, and abuse, and verification of such education/training and individual understanding.
- 5) Specific plan to internally oversee and/or audit the above-listed plans and procedures to ensure compliance.
- 6) Specific contingency plan, notification, and approval process for cases where there is a necessary, reasonable, and business related purpose for overlap in and/or sharing of staff members and/or resources.
- 7) Specific contingency plan addressing a direct or suspected violation of said mitigation plan. All violations must be reported to the Port Authority, including its Inspector General.
- 8) The Contractor shall ensure that any subconsultant/subcontractor must cooperate with the Port Authority's Inspector General and its Integrity Monitor, in auditing the mitigation plan for compliance. This cooperation must include access to all necessary documentation and interviews of employees.

The Construction Manager reserves the right, in its sole discretion, to disqualify the Proposer if any interest disclosed from any source could create a conflict of interest or give the appearance of a conflict of interest. The Construction Manager's determination, made in consultation with the Authority, regarding any questions of conflict of interest will be final.

As used herein, "Integrity Monitor" shall mean a private firm hired to assist the Office of Inspector General in preventing and detecting fraud. There are two applications for an Integrity Monitor. First, an Integrity Monitor is assigned to prevent or detect fraud on a specific project - for example all Port Authority projects at the World Trade Center site have an integrity monitor. Second, the Port Authority has required contractors with integrity issues to retain at their own cost an Office of Inspector General-approved Integrity Monitor as a condition of being awarded contracts.

B. Organizational Conflict of Interest

The resultant contract to this RFP may give rise to a potential for an organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under the Agreement may, without some form of restriction on future activities, result in an unfair competitive advantage to the Proposer.

- 1) The Contractor shall have access to confidential and/or sensitive Authority information in the course of performing this Agreement. Additionally, the Contractor may be provided access to proprietary information obtained from other contracted entities during Agreement performance. The Contractor agrees to protect all such information from disclosure even after Contract

expiration or termination unless so authorized, in writing, by the Authority and to refrain from using such information for any purpose other than that for which it was furnished.

- 2) To the extent that the Contractor either (i) uses confidential and/or sensitive Authority information or proprietary information obtained from other Authority contractors to develop any form of document, report, or plan that is determined by the Authority to be the basis, in whole or in part, of any subsequent solicitation issued by the Authority or (ii) develops written specifications that are used in any subsequent solicitation issued by the Authority, the Contractor agrees that it shall not be eligible to compete for such subsequent solicitation(s) as a prime or principal contractor or as part of any teaming arrangement unless the Authority provides, in writing, a specific waiver of this restriction. The duration of any restriction imposed under this subparagraph shall not exceed the length of the initial performance period of any subsequently awarded contract for which the Contractor was ineligible to complete.

A Proposer, by submitting its proposal, agrees to the above stated conditions and terms and further agrees to perform all duties under the contract and, in doing so, agrees not to enter into contractual agreements with Authority prime contractors and first-tier subcontractors in such a way as to create an organizational conflict of interest.

If the Construction Manager determines that a Contractor has violated any term of this clause entitled "Organizational Conflict of Interest", the Construction Manager may take any appropriate action available under the law or regulations to obtain redress including, but not be limited to, requiring the Proposer to terminate any affiliation or contractual arrangement with an Authority prime contractor or first-tier subcontractor at no cost to the Authority or the Construction Manager, determining the Proposer ineligible to compete for or be awarded any subsequent or "follow-on" contracts that may be based upon the Proposer's actions under the resultant Contract or violations of this numbered clause, or terminating such contract, in whole or in part.

FORM OF PROPOSAL
WORLD TRADE CENTER-VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY,
TRADE: EXCAVATION & FOUNDATIONS

To The Port Authority of New York and New Jersey:
The undersigned²

PROPOSER'S NAME:

TYPE OF ENTITY (see Note "3" below):

(hereinafter called, "the Contractor") hereby offers to perform all the obligations and to assume all the duties and liabilities of the Contractor provided for in the annexed Contract on the terms and conditions contained therein, in all Riders referenced therein and all terms and conditions contained in these Instructions to Proposer Sections 1 through 19, at the lump sum price of:

(in words) and

\$ _____
(in figures)³, (the "Lump Sum Proposal")

This offer shall be irrevocable for one hundred eighty (180) days after the date on which the Construction Manager opens this Proposal.

To induce the acceptance of this Proposal, the undersigned hereby makes each and every certification, statement, assurance, representation and warranty made by the Contractor in said Contract. Moreover as a condition to receipt and consideration by the Construction Manager of the Proposal whether or not it is accepted, the undersigned agrees that all information of any nature whatsoever, regardless of the form of the communication, received from the undersigned (including its officers, agents, or employees) by the Construction Manager and the Port Authority of New York and New Jersey, its Directors, officers, agents or employees, and notwithstanding any statement therein to the contrary, has not been given in confidence and may be used or disclosed by or on behalf of the Construction Manager or The Port Authority of New York and New Jersey without liability of any kind except as may arise under letters patent of the undersigned, if any.

Unless expressly stated otherwise, the Instructions for Proposers and Form of Proposal, all papers required by it and submitted in connection herewith at any time, said Form of Contract, and all papers made part of the Contract by the terms of the Form of Contract are made part of this Proposal.

~~e-joint venture.~~

³ In the event of a conflict between the words and figures, the amount reflected in words shall prevail.

In accordance with the Contract Documents listed below and pursuant to the Instructions for Proposers 0, we submit our Proposal herewith:

- Rider "A", General Addendum, dated April 21, 2010 (Revision 2)
- Rider "B", List of Drawings and Specifications, dated April 30, 2010
- Rider "C", Alternatives & Unit Prices, March 5, 2010
- Rider "D", Insurance Rider, dated April 21, 2010
- Rider "DX", Owner Controlled Insurance Program Manual, dated September 30, 2009
- Rider "E", Proposal Award/Evaluation Criteria, dated May 4, 2010 (Revision 3A)
- Rider "F", Non-Disclosure and Confidentiality Agreement (Information Security Handbook) dated February 9, 2009 (incl. Exhibits A,B,C)
- Rider "G", [Intentionally Deleted]
- Rider "H", [Intentionally Deleted]
- Rider "I", Sales Tax Requirements, dated October 8, 2008
- Rider "J", Temporary Services for Construction Purposes, dated XXXX (NOT APPLICABLE TO THIS TRADE)
- Rider "K", Project Corruption Prevention Program, dated February 9, 2009
- Rider "L", Payment Procedures, dated February 17, 2010
- Rider "M", Downtown Restoration Program – Safety Program, dated June 4, 2008 (Revision 1)
- Rider "N", PANYNJ - WTC Site Rules and Regulations, dated January 1, 2006
- Rider "O", Available Documents, undated
- Rider "P", New York City Transit Safety Program, dated September 23, 2009
- Rider "Q", Site Logistics Plans, dated March 8, 2010
- Rider "R", Contractors Quality Program Requirements, dated February 17, 2010
- Rider "S", Site Security Requirements, dated January 28, 2010
- Rider "T", Milestone Dates and Liquidated Damages, dated December 16, 2009 (Revision 1)
- Rider "U", Additional Provisions, dated April 21, 2010 (Revision 1), includes the following documents;
 - Procedure For The Approval Of Cranes & Derricks, dated March 8, 2010
 - W/MBE Notice and Forms, dated 12/17/2008
 - PANYNJ Subcontractor Approval Request Forms 2327B/03-09; 2327C/03-09
 - PANYNJ Cutting and Welding Permit 2133/03-06
 - Prevailing Wage Rates, dated February 1, 2020

A. Lump Sum Proposal

Perform the following **Excavation & Foundation** work in strict accordance with the Contract Documents. The amount of the "Total Base Proposal", including any price adjustment resulting from Proposal Addenda, shall be filled in by the Proposer on the first page of the Form Of Proposal, and such amount shall be defined as the "Lump Sum" for purposes of this Contract. The amount must be given both in figures and in writing; in case of discrepancy the writing shall control.

Proposer shall include a breakdown of its Lump Sum Proposal in Section F below. The Construction Manager reserves the right to request additional details in an Analysis of Proposal form.

B. Proposed Value Engineering

(NOT APPLICABLE TO THIS BEST & FINAL LUMP SUM PROPOSAL)

C. Schedule

- 1. Time required from contract award to start of field work: Not More Than 4 Weeks
- 2. Time required from start of field work to completion: In Accordance With Rider "A" - Section E – Schedule

D. Proposer is to attach the Following Items to Proposal

- 1. Items listed in Rider "E" - Proposal Award / Evaluation Criteria
(NOT REQUIRED TO BE SUBMITTED IN THIS REVISED LUMP SUM PROPOSAL)
- 2. Completed Rider C – Alternates & Unit Prices
(NOT REQUIRED TO BE SUBMITTED IN THIS REVISED LUMP SUM PROPOSAL)

PRICING FOR THE FOLLOWING ALTERNATES ARE FOR INFORMATION PURPOSES ONLY

ALTERNATE NO. 3

In the event that this Contractor is directed to install a secant pile wall system, including all tie-backs, rock bolts, etc., in lieu of the east-west slurry wall across Washington Street. Assume design of wall to be the same as that along Greenwich Street.

ADD/DEDUCT \$.00

ALTERNATE NO. 4

In the event that this Contractor is directed to install a secant pile wall system, including all tie-backs, rock bolts, etc., in lieu of the east-west cast-in-place foundation wall and jet grout cutoff wall. Assume design of wall to be the same as that along Greenwich Street.

ADD/DEDUCT \$.00

E. Other Items

(NOT REQUIRED TO BE SUBMITTED IN THIS BEST & FINAL LUMP SUM PROPOSAL)

F. Lump Sum Proposal Breakdown

(NOT REQUIRED TO BE SUBMITTED IN THIS BEST & FINAL LUMP SUM PROPOSAL)

Note that proposals will be evaluated based on Lump Sum Proposal Amount provided in section 'A' above. The information requested in paragraph F are requested for informational purposes only. Proposer must provide the information in paragraph F within one (1) business day, upon the request by the Owner and/or Construction Manager.

SIGNATURE AND CERTIFICATE OF AUTHORITY⁴

Dated, _____, 2010

(Print legal name of entity submitting Proposal) _____

(Signature of authorized agent, partner or corporate officer) By⁵ _____

(Print name of authorized agent, partner or corporate officer) _____

(Acknowledgment of signature to be taken on proper form on following page(s))

CERTIFICATE OF AUTHORITY, IF BIDDER IS A CORPORATION

I, the undersigned, as Secretary of the corporation submitting the foregoing Proposal, hereby certify that under and pursuant to the by-laws and resolutions of said corporation, each officer who has signed said Proposal on behalf of the corporation is fully and completely authorized so to do.

(Corporate Seal) _____

⁴ If bidder is a joint venture, insert signatures as appropriate for one participant of the joint venture on this page and attach and complete an additional signature sheet in the same form as appears on this page for each other participant as required.

⁵ If Proposal is signed by an officer or agent, give title.

⁶ **NOTE:** The foregoing signature shall be deemed to have been provided with full knowledge that the foregoing Proposal, the accompanying Contract booklet, as well as any certification, statement, assurance, representation, warranty, schedule or other document submitted by the bidder with the Proposal will become a part of the records of the Authority and that the Authority will rely in awarding the Contract on the truth and accuracy of such Proposal and each such certification, statement, assurance, representation, warranty and schedule made therein by the Contractor. Knowingly submitting a false statement in connection with any of the foregoing may be the basis for prosecution for offering a false instrument for filing (see, e.g., N.Y. Penal Law, Section 175.30 et seq.).

ACKNOWLEDGMENT⁷

ACKNOWLEDGMENT OF PROPOSER, IF A CORPORATION

State of _____

SS:

County of _____

On this _____ day of _____, 20____, before me personally came and appeared _____, to me known, who, being by me duly sworn, did depose and say that he resides at _____, that he is the _____ of _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation; and that he signed his name thereto by like order.

(Notary Seal)

(Notary Signature)

ACKNOWLEDGMENT OF PROPOSER, IF A PARTNERSHIP

State of _____

SS:

County of _____

On this _____ day of _____, 20____, before me personally came and appeared _____, to me known and known to me to be one of the members of the firm of _____, described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Notary Seal)

(Notary Signature)

⁷ If proposer is a joint venture, insert signature as appropriate for one participant of the joint venture on this page and attach and complete an additional Acknowledgment sheet in the same form as appears on this page for each other participant as required. Also attach joint venture agreement.

ACKNOWLEDGMENT OF PROPOSER, IF AN INDIVIDUAL

State of _____

SS:

County of _____

On this _____ day of _____, 20____, before me personally came and appeared _____ to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

(Notary Seal)

(Notary Signature)

STATEMENT ACCOMPANYING PROPOSAL⁸

Names and Residences of Officers, If Proposer is a Corporation

Name	Title	Residence ⁹

Names and Residences of Partners, If Proposer is a Partnership

Name	General or Limited Partner	Residence ¹⁰

Bidder's Residence, If an Individual

⁸ If proposer is a joint venture, insert signature as appropriate for one participant of the joint venture on this page and attach and complete an additional Statement Accompanying Proposal sheet in the same form as appears on this page for each other participant as required.

⁹ Give Street and Number of Residence. Do not give business address.

¹⁰ Give Street and Number of Residence. Do not give business address.

CERTIFICATION REGARDING LOBBYING PURSUANT TO 31 U.S.C. 1352

The undersigned

(name of authorized officer)

certifies, to the best of my knowledge and belief, that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by, 31, U.S. C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Note: Pursuant to 31 U.S.C § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801, et seq., apply to this certification and disclosure, if any.

Executed this day _____ of _____, 200_____

By: _____ Signature of Authorized Official

1. Type of Federal Action:
- a. contract
 - b. grant
 - c. cooperative agreement
 - d. loan
 - e. loan guarantee
 - f. loan insurance

2. Status of Federal Action:
- a. bid//offer/application
 - b. Initial award
 - c. post-award

3. Report Type:
- a. initial filing
 - b. material change
- For Material Change Only:
Year _____ Quarter _____
date of last report _____

4. Name and Address of Reporting Entity:

- A. Prime Subawardee

Tier ____, *if known:*

Congressional District, *if known:*

5. If Reporting Entity in No.4 is a Subawardee, Enter Name and Address of Prime:

Congressional District, *if known:*

6. Federal Department/Agency:
N/A

7. Federal Program Name/Description:
N/A
CFDA Number, *if applicable:*

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*
\$ _____

10. a. Name and Address of Lobbying Registrant
(*if individual, last name, first name, MI*)

b. Individuals Performing Services (*including address if different from No.10a*):
(*last name, first name, MI*):

FORM OF CONTRACT**CHAPTER I
GENERAL PROVISIONS****20. DEFINITIONS**

To avoid undue repetition, the following terms whenever they occur in this Form of Contract or any of the other papers forming a part of the Contract shall be construed as follows:

"Catalog Cuts" shall mean all standard drawings, diagrams, illustrations, brochures, schedules, performance charts and instructions submitted by the Contractor pursuant to the requirements of the Specifications or the Engineer to illustrate some portion of the Work.

"Chief Engineer" shall mean the Chief Engineer of the Authority for the time being, or his successor in duties, acting personally within the scope of the particular authority vested in him.

"Construction Manager" shall mean Tishman Construction Corporation, a Delaware corporation, having an office at 666 Fifth Avenue, New York, New York 10103, acting as agent for the Director hereunder, and shall be generally responsible for the managing, supervision, coordination, and direction of all contractors in regards to the Work. The Port Authority Representative's authority with respect to the quality of Work includes, without limitation; interpreting the Contract Documents; determining the amount, quality, acceptability, and fitness of all parts of the Work; altering the Contract Documents; requiring performance of Work not required by such Contract Documents in their present form, even though the Work is of a totally different character from that now required; and varying, increasing, or diminishing the character, quantity, and quality of, or countermanding, any Work now or thereafter required, whether such variation, increase, diminution, or countermand is based on need or convenience; objecting to the employment of any equipment, materials, methods, men, or workers used in performance of the Work; and withholding permission to remove materials, equipment, or other facilities from the Project site, which permission Construction Manager must seek prior to any such removal.

"Construction Site" or words of similar import shall mean in Fulton Street, Greenwich Street and Liberty Street at the World Trade Center Site and the vicinity thereof in New York, New York.

"Contract" or "Contract Documents" shall mean, in addition to this Form of Contract, all Riders, the Information for Bidders, the Form Of Proposal, the Authority's acceptance, the Specifications and the Contract Drawings (including written addenda issued over the name of the Director), all of which are made part hereof as though herein set forth in full. The Contract as so defined shall constitute the complete and exclusive statement of the terms of the agreement between the parties and the Contract may not be explained or supplemented by course of dealing, usage of trade or course of performance.

"Contract Drawings" shall mean the Contract Drawings designated in the clause of the Specifications entitled "Contract Drawings" and, except as used in the phrase "Contract Drawings in their present form", shall include any future alterations and revisions of said drawings.

"Contractor" and "General Contractor" shall mean the contractor who is contracting hereby to perform the Work under this Contract and each of his officers, directors, employees, agents, successors, and assigns.

"Days" or "Calendar Days" in reference to a period of time shall mean consecutive calendar days, Saturdays, Sundays and holidays, included.

"Director" shall mean the Director, World Trade Center Construction for the time being, or his successor in duties,, acting either personally or through his duly authorized representatives acting within the scope of the particular authority vested in them.

"Director of Procurement" shall mean the Director of Procurement of the Authority for the time being, or her successor in duties, acting either personally or through her duly authorized representatives acting within the scope of the particular authority vested in them.

"Engineer" shall mean the Engineer of Construction for the time being, or his successor in duties,, acting either personally or through his duly authorized representatives within the scope of the particular authority vested in him.

"Engineer of Construction" shall mean the designated Engineer of Construction for the facility at which the Work is being performed or his successor in duties, acting personally. On behalf of the Director, the Engineer of Construction is responsible for administration of the Contract.

"Equipment" and "plant" shall include construction equipment and plant rented as agent for the Authority.

"Extra Work" shall mean Work required by the Director pursuant to the clause hereof entitled "Extra Work Orders" which is in addition to that required by the Contract Drawings and Specifications in their present form.

"Inspector" shall mean any representative of the Engineer designated by him as Inspector and acting within the scope of the particular authority vested in him.

"Lump Sum" shall mean the amount stipulated in the clause hereof entitled "General Agreement".

"Materialman" shall mean anyone who furnishes materials, plant or equipment to the Contractor or any subcontractor for use at or about the construction site in the performance of Work. "Materialman" or "subcontractor", however, shall exclude the Contractor or any subsidiary or parent of the Contractor or any person, firm or corporation which has a substantial interest in the Contractor or in which the Contractor or the parent or the subsidiary of the Contractor, or an officer or principal of the Contractor or of the parent or the subsidiary of the Contractor has a substantial interest, provided, however, that for the purpose of the clause hereof entitled "Assignments and Subcontracts" the exclusion in this paragraph shall not apply to anyone but the Contractor himself.

"Notice" shall mean a written notice unless otherwise specified

"Permanent Construction" shall include all construction, installation, structures, equipment and materials (including materials and equipment, if any, furnished by the Authority to be constructed, installed or left by the Contractor at or about the construction site (or elsewhere in the possession of the Authority after the completion of the Work (whether or not they are yet delivered or installed), even though they are subsequently to be removed by others. The terms, "permanent installation", "permanent structure", "permanent materials", and words of similar import shall have the same meaning as the term "permanent construction".

"Shop Drawings" shall mean all drawings, diagrams, illustrations, schedules, including supporting data, which are specifically prepared for this Contract and submitted by the Contractor pursuant to the requirements of the Specifications or the Engineer to illustrate some portion of the Work. The terms "shop drawings", "placing drawings" and "working drawings" are used interchangeably in this Contract.

"Subcontractor" shall mean anyone who performs Work (other than or in addition to the furnishing of materials, plant or equipment) at or about the construction site, directly or indirectly for or in behalf of the Contractor (and whether or not in privity of contract with the Contractor), but shall not include any person who furnished merely his own personal labor or his own personal services or who performs Work which consists only of the operation of construction equipment of which he is the lessor.

"VSC" shall mean World Trade Center Site Transportation Vehicular Security Center and Tour Bus Facility project.

"World Trade Center Construction (WTCC)" shall mean the Port Authority's World Trade Center Construction Department, which is principally responsible for the design and construction of the World Trade Center Site Transportation Hub.

"Work" shall mean all structures, equipment, plant, labor, materials (including materials and equipment, if any, furnished by the Authority) and other facilities and all other things necessary or proper for or incidental to performing construction of a deep basement structure including slurry wall and secant pile foundation systems, mini piles, tieback anchoring systems, excavation, rock removal, concrete foundations and related other Work in an area along Liberty Street between Church Street and West Street, and the vicinity thereof, in New York, New York; and "performance of Work" and words of similar import shall mean the furnishing of such facilities and the doing of such things. "Work required by the Contract Drawings and Specifications in their present form" or words of similar import shall include all Work required by the Specifications in their present form (whether or not shown upon the Contract Drawings), all Work shown upon the Contract Drawings in their present form (whether or not mentioned in the Specifications), and all Work involved in or incidental to the accomplishment of the results intended by the Specifications and Contract Drawings in their present form (whether or not mentioned therein or shown thereon).

"Workingman" or "workman" shall mean any employee of the Contractor or of a subcontractor who performs personal labor or personal services at the construction site.

Whenever the following words refer to the Work or its performance, "directed", "required", "permitted", "ordered", "designated", "prescribed" and words of similar import shall mean directed, required permitted, ordered, designated or prescribed by the Director; and "approved", "acceptable", "satisfactory" and words of similar import shall mean approved by or acceptable or satisfactory to the Engineer, and "necessary", "reasonable", "proper", "correct" and words of similar import shall mean necessary, reasonable, proper or correct in the judgment of the Engineer.

Whenever "including", "such as" or words of similar import are used, the specific things thereafter enumerated shall not limit the generality of the things preceding such words.

21. GENERAL AGREEMENT

The Contractor shall provide for the Project all the labor, supervision and materials hereinafter set forth in accordance with specifications hereto annexed or described herein and as shown on plans, drawings and details prepared by the Engineer, and/or otherwise set forth in Rider "A".. Such additional drawings as may be necessary to explain and detail the Work will be furnished by the Engineer, if requested by the Contractor, and will be conformed to by Contractor, except where inconsistent with original plans and specifications. The plans, drawings and details, and the specifications are intended to supplement one another, and any Work or materials shown, mentioned or reasonably implied in one and not in the others shall be furnished by the Contractor without extra charge. The enumeration of particular items in this Contract or in the other Contract Documents as hereinafter defined shall not be construed to exclude other items. The intention of the Contract Documents is to include all labor, materials, engineering, equipment, transportation, tools, plant, appliances, appurtenances and other facilities, whether specified herein or not, necessary for the proper execution and completion of the Work. This Contract includes, and this Contractor shall perform, all work commonly performed by this trade, whether or not shown on the plans and specifications in detail. The Contractor shall not receive any additional compensation by reason of any alleged incompleteness of the Contract Documents, or lack of coordination amongst the Contract Documents, or inconsistencies amongst the Contract Documents. Should there be any conflict or inconsistency in or among the Contract Documents, the Engineer shall have the right to resolve such conflict as it may elect in its sole discretion, which determination shall be binding upon Contractor, and the Authority shall have the right to the most costly or burdensome

alternative, without an increase to the Lump Sum. The furnishing of equipment and plant, however, shall be subject to the provisions of the clause hereof entitled "Agency for Rental of Construction Equipment".

The Authority agrees to pay to the Contractor and the Contractor agrees to accept from the Authority, in full consideration for the performance by the Contractor of his duties and obligations under this Contract and the whole thereof, a compensation of:

Sixty-Five Million, Three Hundred Seventy – Seven XX **Dollars**
Zero XX **Cents**
(\$ 65,377,000.00 XX **)**¹¹

(throughout this Contract called the "Lump Sum"), and such compensation only, subject only to the express provisions of this Contract specifically setting forth actual, defined additions to or deductions from such compensation.

The enumeration in this Form of Contract and in the Specifications of particular things to be furnished or done at the Contractor's expense, or without cost or expense to the Authority, or without additional compensation to the Contractor shall not be deemed to imply that only things of a nature similar to those enumerated shall be so furnished and done; but the Contractor shall perform all Work as required without other compensation than that specifically provided, whatsoever changes may be made in the Contract Drawings and Specifications, whatsoever Work may be required in addition to that required by the Contract Drawings and Specifications in their present form, and whatsoever obstacles or unforeseen conditions may arise or be encountered.

22. AUTHORITY ACCESS TO RECORDS

The Authority and the Construction Manager shall have access during normal business hours to all records and documents of the Contractor relating to any amounts for which the Contractor has been compensated, or claims he seeks to be compensated by the Authority by payment determined on any basis other than by payment of a lump sum or unit price amount agreed upon in writing by the Contractor and the Authority; provided, however, such access shall extend to certified payroll records as described in the clause of the Form of Contract entitled "Prevailing Rate of Wage" regardless of the method by which the Contractor is compensated under this Contract. The Contractor shall obtain for the Authority similar access to similar records and documents of subcontractors. Such access shall be given or obtained both before and within a period of six years after Final Payment to the Contractor.

No provision in this Contract giving the Authority a right of access to records and documents is intended to impair or affect any right of access to records and documents which the Authority would have in the absence of such provision.

To the extent that the Contractor is working on more than one construction project located at the World Trade Center, Contractor agrees that it shall maintain separate financial and time records for all labor and materials provided to each such project.

¹¹ For sales tax exemptions, see clause entitled "Exemptions from New York State and New York City Sales Taxes".

23. AGENCY FOR RENTAL OF CONSTRUCTION EQUIPMENT

A. General Provisions

The Contractor further agrees to act as the agent of the Authority, subject to the provisions of this numbered clause relating to such agency for the rental of all construction equipment necessary or desirable for or incidental to the performance of the Contract (other than construction equipment owned and also used by the Contractor or owned and also used by any subcontractor) and, in the exercise of such agency, to assume all the obligations and duties imposed upon him by this Contract. The Contractor may authorize any subcontractor to act as his subagent for rental of such equipment for use by such subcontractor, subject to all the provisions of this Contract. "Construction equipment" as used in this numbered clause shall include plant.

The Authority will pay the rental charges for said equipment directly to the lessors thereof, but the charges so paid shall be deducted from the compensation payable to the Contractor under the Contract; provided, however, that the Authority will pay such charges, and the Contractor is authorized by the Authority to act as such agent, to the extent only that the charges payable for such rental do not exceed the compensation payable to the Contractor under the Contract; and provided further that the Contractor performs all the obligations relating to said agency imposed upon him by this Contract.

The Authority will provide the Contractor with a statement to be furnished by him and the subcontractors to such lessors which will identify this Contract as the one under which the Contractor is authorized to rent said equipment and which will identify the site to which delivery must be made. The Contractor shall arrange for delivery of said equipment directly to the construction site. Payment of the rental charges therefore shall be made by the Authority on the basis of invoices made out to the Authority in which is contained the place of delivery and on which the Contractor has certified by endorsement that such construction equipment is being or has been used in the performance of the Contract, said invoices to be submitted through the Contractor to the Authority at the time said equipment is put into use at the construction site. In the event said invoices are not submitted promptly, at the time stated above, but are submitted at a time when, by reason of prior advances and payments to the Contractor or for his account, the amounts still payable to the Contractor in connection with the Contract are insufficient to pay said invoices, then the Authority shall not be liable to the lessors for any amounts in excess of said amounts still payable to the Contractor which remain in the possession of the Authority.

Notwithstanding the above agency arrangement, the Authority shall not be liable to lessors of construction equipment for any amounts except rental charges based on time of use of such equipment, and the Contractor's agency is limited accordingly. All obligations incurred by the Contractor or subcontractors for any other expenses, including repairs and damages for breach of the rental agreement, shall be obligations incurred by the Contractor or subcontractors as principal not as agent of the Authority. Moreover, as between the Authority and the Contractor, the Contractor shall be responsible for all amounts due to lessors of construction equipment notwithstanding the above agency arrangement.

The Contractor shall indemnify the Authority against any claim of any kind whatsoever made against the Authority by a lessor of construction equipment and the Contractor assumes the risk of all claims against him by any lessor of construction equipment, including in both cases, claims in connection with a subcontractor.

The agency provided for under this numbered clause shall not relieve the Contractor of any of his duties and obligations elsewhere provided for under this Contract.

B. Option Not to Act as Agent

Notwithstanding the provisions of A above, the Contractor shall have the right to elect not to act as the agent of the Authority for the rental of any particular item or items of said construction equipment, in which event, with regard to any such rentals by the Contractor as principal and not agent, the provisions of A of this numbered clause shall be inapplicable as well as those provisions of the clause of the Form of Contract entitled "Exemption From New York State and New York City Sales Taxes", which relate to rental of construction equipment.

24. SALES TAX EXEMPTION

The Contractor (and its subcontractors and consultants, if any) should familiarize itself with New York's tax laws and regulations ("NY Tax Law"), including Form ST-120.1, *Contractor Exempt Purchase Certificate* issued by the New York State Department of Taxation and Finance ("Department"), as they apply to the Work. Contractor should also seek guidance from its tax advisor or legal counsel to ensure that it fully understands the contractor's Sales Tax exemptions described in the NY Tax Law.

The Port Authority of New York and New Jersey ("Authority") is an Exempt Organization as defined in the NY Tax Law. The Authority is also the owner of the property upon which the Work is to be performed and of all improvements made or to be made thereon.

The NY Tax Law provides contractors certain exemptions from New York sales and compensating use tax ("Sales Tax") relating to their purchases of tangible personal property and services to improve real property owned by Exempt Organizations ("Exempt Purchases"), including the Authority.

Exempt Purchases include:

- (i) tangible personal property sold to a contractor to create a building or structure or to improve real property, or to maintain, service or repair a building, structure or real property owned by an Exempt Organization (e.g. the Authority) *when such tangible personal property will become an integral component part of such building, structure or real property;*
- (ii) certain trash removal services being performed for the Work; and
- (iii) tangible personal property to be installed in the Work but which remains tangible personal property after installation.

The Contractor shall **not** include Sales Tax for Exempt Purchases in its price proposal.

Tax exemption numbers and Form ST-119.1, *Exempt Organization Exempt Purchase Certificate* are not issued to the Authority or to other New York State governmental entities (see letter from the Department attached to Rider III). Contractor (and its subcontractors and consultants, if any) must execute and provide its vendors with a properly completed Form ST-120.1 *Contractor Exempt Purchase Certificate* when effectuating Exempt Purchases. This fully executed Contract and a properly completed and signed Form ST-120.1, evidences the tax exempt status of the Exempt Purchases.

The Contractor **shall** include in its price proposal Sales Tax applicable to purchases, other than Exempt Purchases, required under this contract.

The parties acknowledge that the Authority may choose to purchase property not to be incorporated into the Work and services (including the rental of equipment) for the Work exempt from Sales Tax through an agent that is properly appointed by it to act on its behalf. Contractor hereby agrees to accept such agency designation at the Authority's election, and to execute all forms and agreements necessary to accomplish the same. In such event, the Contractor will be required to execute a deduct change order with the Authority to reflect the change in the Contractor's price proposal after subtracting any Sales Tax and/or other costs not incurred by Contractor.

25. PERFORMANCE BOND

If the Authority shall in its sole discretion so elect at the time of accepting the Contractor's Proposal the Contractor shall furnish a bond for the faithful performance of all obligations imposed upon him by the Contract and also for the payment of all lawful claims of subcontractors, materialmen and workmen arising out of the performance of the Contract. Such bond shall be in the form bound herewith entitled, "Performance Bond", shall be in a penal sum equal to one hundred per cent (100%) of the Lump Sum and such bond shall be signed by one or more sureties¹² satisfactory to the Authority. The bond may be executed on a separate copy of such form not physically attached to this Contract booklet. In any case, both the form of bond bound herewith and any unattached executed copy thereof shall form a part of this Form of Contract as though herein set forth in full.

At any time after the opening of Proposals, the Authority may give notice to one or more bidders to advise the Authority as to the names of their proposed sureties. Within forty-eight hours thereafter each bidder so notified shall so advise the Authority. The giving of such notice to a bidder shall not be construed as an acceptance of his Proposal, and omission to give such notice shall not be construed as an election by the Authority not to require a bond.

The Contractor shall deliver such bond to the Authority within seven days after receipt by him of the acceptance of his Proposal, and the sureties thereon shall be as proposed by him, provided, that if the Authority has theretofore given notice to him that his proposed sureties or any of them are not satisfactory, the bond shall be executed by other sureties satisfactory to the Authority.

The Authority shall give notice to the Contractor within ten (10) days after receipt of the Performance and Payment Bond as to whether or not such bond is satisfactory.

In the event of a default by the Contractor in his obligation to furnish a satisfactory bond within seven (7) days after he received an acceptance of his Proposal, such default shall entitle the Authority in its discretion to terminate this Contract at any time within forty-five (45) days after the acceptance of the Proposal, without any liability on the part of the Authority. Inasmuch as the damages to the Authority resulting from a termination by it upon the failure of the Contractor to furnish a satisfactory bond will include items whose accurate amount will be difficult or impossible to compute, such damages shall be liquidated in the sum of the following amounts:

- A. The excess, if any, of the Lump Sum in the Proposal finally accepted over that in the Proposal of the Contractor; and

¹² Sureties must be corporations (commonly known as "surety companies"), authorized to do business as sureties in the state(s) in which the construction site is located, whose names appear on the current list of the Treasury Department of the United States in effect at the time of submission of the Performance and Payment Bond to the Authority as acceptable as sureties to the Treasury Department. In addition, the aggregate underwriting limitations on any one risk as set forth in the aforementioned list of the Treasury Department of the sureties shall equal or exceed the penal sum of the Performance and Payment Bond.

- B. The expense of such new advertisement of the Contract, if any, as may be deemed necessary by the Authority; and
- C. The sum of \$15,000 for each day after the receipt by the Contractor of the acceptance of his Proposal that the performance of the Contract is not commenced by reason of the failure of the Contractor to furnish the required bond.

In the recovery of the damages above specified, the Authority may proceed against the sum represented by the certified check deposited with it or against the Bid Bond and take such other action as it may deem best in the public interest.

If the Contractor furnishes a bond in accordance with the requirements of the Authority under this numbered clause, the Authority shall reimburse the Contractor for the net amount actually paid by him to the surety or sureties as the premium on such bond. The Contractor shall deliver to the Engineer receipts from the surety or sureties evidencing such payment and the amount thereof. Within fifteen days after receipt of such evidence satisfactory to the Engineer, the Authority shall pay to the Contractor by check the amount provided in this numbered clause.

If at any time the Authority shall be or become dissatisfied with any surety or sureties then upon any bond furnished in accordance with the requirements of the Authority, or if for any other reason such bond shall cease to be adequate security to the Authority, the Contractor shall, within five days after notice from the Authority so to do, substitute a new bond in such form and sum and signed by such other sureties as may be necessary in the opinion of the Authority to constitute adequate security.

26. PAYMENT BOND

The Contractor shall furnish a bond for payment of all lawful claims of subcontractors, materialmen and workmen arising out of the performance of this contract. Such bond shall be in the form bound herewith entitled, "Performance Bond", shall be in a penal sum equal to 100% of the Lump Sum and such bond shall be signed by one or more sureties¹³ satisfactory to the Authority. The bond may be executed on a separate copy of such form not physically attached to this Contract booklet. In any case, both the form of bond bound herewith and any unattached executed copy thereof shall form a part of this Form of Contract as though herein set forth in full.

At any time after the opening of Proposals, the Authority may give notice to one or more bidders to advise the Authority as to the names of their proposed sureties. Within forty-eight hours thereafter each bidder so notified shall so advise the Authority. The giving of such notice to a bidder shall not be construed as an acceptance of his Bid, and omission to give such notice shall not be construed as an election by the Authority not to require a bond.

The Contractor shall deliver such bond to the Authority within seven days after receipt by him of the acceptance of his Bid, and the sureties thereon shall be as proposed by him, provided, that if the Authority has theretofore given notice to him that his proposed sureties or any of them are not satisfactory, the bond shall be executed by other sureties satisfactory to the Authority.

¹³ Sureties must be corporations (commonly known as "surety companies"), authorized to do business as sureties in the state(s) in which the construction site is located, whose names appear on the current list of the Treasury Department of the United States in effect at the time of submission of the Performance and Payment Bond to the Authority as acceptable as sureties to the Treasury Department. In addition, the aggregate underwriting limitations on any one risk as set forth in the aforementioned list of the Treasury Department of the sureties shall equal or exceed the penal sum of the Performance and Payment Bond.

The Authority shall give notice to the Contractor within ten (10) days after receipt of the Performance Bond as to whether or not such bond is satisfactory.

In the event of a default by the Contractor in his obligation to furnish a satisfactory bond within seven (7) days after he received an acceptance of his Bid, such default shall entitle the Authority in its discretion to terminate this Contract at any time within forty-five (45) days after the acceptance of the Bid, without any liability on the part of the Authority. Inasmuch as the damages to the Authority resulting from a termination by it upon the failure of the Contractor to furnish a satisfactory bond will include items whose accurate amount will be difficult or impossible to compute, such damages shall be liquidated in the sum of the following amounts:

- A. The excess, if any, of the Lump Sum in the Proposal finally accepted over that in the Bid of the Contractor; and
- B. The expense of such new advertisement of the Contract, if any, as may be deemed necessary by the Authority; and
- C. The sum of \$15,000 for each day after the receipt by the Contractor of the acceptance of his Bid that the performance of the Contract is not commenced by reason of the failure of the Contractor to furnish the required bond.

In the recovery of the damages above specified, the Authority may proceed against the sum represented by the certified check deposited with it or against the Bid Bond and take such other action as it may deem best in the public interest.

If the Contractor furnishes a bond in accordance with the requirements of the Authority under this numbered clause, the Authority shall reimburse the Contractor for the net amount actually paid by him to the surety or sureties as the premium on such bond. The Contractor shall deliver to the Engineer receipts from the surety or sureties evidencing such payment and the amount thereof. Within fifteen days after receipt of such evidence satisfactory to the Engineer, the Authority shall pay to the Contractor by check the amount provided in this numbered clause.

If at any time the Authority shall be or become dissatisfied with any surety or sureties then upon any bond furnished in accordance with the requirements of the Authority, or if for any other reason such bond shall cease to be adequate security to the Authority, the Contractor shall, within five days after notice from the Authority so to do, substitute a new bond in such form and sum and signed by such other sureties as may be necessary in the opinion of the Authority to constitute adequate security.

**CHAPTER II
ADJUSTMENTS AND PAYMENTS**

27. ADJUSTMENTS OF LUMP SUM

If any Work required by the Contract Drawings and Specifications in their present form shall be countermanded or reduced by the Director in his sole discretion, the Director shall have full authority on behalf of both parties to make such adjustment by way of reduction in the Lump Sum as he may in his sole discretion deem equitable and reasonable, and in making such adjustment, no allowance to the Contractor shall be made for anticipated profits.

Notwithstanding the foregoing, the Director may, in his sole discretion, elect and shall have authority to agree in writing with the Contractor for adjustments by way of reduction in the Lump Sum in lieu of those for which provision is heretofore made in this numbered clause.

28. COMPENSATION FOR EXTRA WORK

The Director shall have authority to agree in writing with the Contractor on behalf of the Authority upon lump sum or other compensation for Extra Work in lieu of the compensation for which provision is hereinafter made in this numbered clause. The amount set forth in any change order shall be the full compensation to Contractor for all Extra Work required regarding the change order, including without limitation all acceleration, delay, loss of efficiency, inconvenience, additional supervision, or any other costs or expenses.

If such agreement on compensation is not made, and Extra Work be performed, the Contractor's compensation shall be increased by the following amounts and such amounts only:

- A. In the case of Extra Work performed by the Contractor personally, an amount equal to the direct cost in money of the labor and materials required for such Extra Work, plus an amount equal to a reasonable percentage, as determined by the Engineer of Construction, not to exceed fifteen percent (15%), applied to the Engineer's final estimate of the direct cost in money for labor and materials as required for such Extra Work, plus such rental for equipment (other than small tools) required for such Extra Work as the Engineer of Construction deems reasonable.
- B. In the case of Extra Work performed by a subcontractor, an amount equal to the direct cost in money of the labor and materials required for such Extra Work, plus an amount equal to a reasonable percentage, as determined by the Engineer of Construction, not to exceed fifteen percent (15%), applied to the Engineer's final estimate of the direct cost in money for labor and materials for such work, plus such rental for equipment (other than small tools) required for such Extra Work as the Engineer of Construction deems reasonable, plus an amount equal to a reasonable percentage, as determined by the Engineer of Construction, not to exceed five percent (5%) of the sum of the foregoing cost, percentage of cost, and rental. In no case shall the amount of the aggregate markup for the Contractor and all of its Subcontractors at every tier exceed 20.75% of the direct cost of the Extra Work.

"Labor" means foremen, surveyors, laborers, mechanics and other employees below the rank of superintendent, exclusive of timekeepers, directly employed at the construction site, whether employed by the Contractor or by the subcontractors, subject to the Engineer of Construction's authority to determine what employees of any category are "required for Extra Work" and as to the portion of their time allotted to Extra Work; and "cost of labor" means the wages actually paid to and received by such employees; however, all wages actually paid that are in excess of the prevailing wages in the performance of Extra Work shall be subject, on each occasion, to the initial and continuing approval of the Engineer of Construction in advance of the performance of such Extra Work; plus a proper proportion of (a) vacation allowances and union dues and assessments which the employer actually pays pursuant to contractual obligation upon the basis of such wages, and (b) taxes actually paid by the employer pursuant to law upon the basis of such wages. "Employees" as used above means only the employees of one employer.

"Materials" means temporary and consumable materials as well as permanent materials; and "cost of materials" means the price (including taxes actually paid by the Contractor pursuant to law upon the basis of such materials) for which such materials are sold for cash by the manufacturers or producers thereof, or by regular dealers therein, whether or not such materials are purchased directly from the manufacturer, producer or dealer (or if the Contractor is the manufacturer or producer thereof, the reasonable cost to the Contractor of the manufacture and production), plus the reasonable cost of delivering such materials to the construction site in the event that the price paid to the manufacturer, producer or dealer does not include delivery and in case of temporary materials, less their salvage value, if any.

"Work day" in reference to an item of equipment means a day other than a Saturday, Sunday or legal holiday except that if the particular item of equipment is actually utilized at the construction site by the Contractor or subcontractors under this or any other Contract with the Authority on a Saturday, Sunday or legal holiday said day shall be deemed a work day.

The rental for equipment, whether owned by the Contractor or subcontractors or rented from others and notwithstanding the actual price of any rental or actual costs associated with such equipment, shall be computed by the Engineer of Construction on the basis of the following:

A

- 1.) Hourly rental for those items of equipment listed in the "Rental Rate Blue Book" (published by Machinery Information Division, K-III Directory Corporation, 1735 Technology Drive, Suite 410, San Jose, California 95131-2398), (hereinafter called "the Blue Book") shall be 100% of the applicable rates as listed in said book, reduced to an hourly basis (see formula below) except that such applicable rates shall be reduced by 50% for all hours of rental payable hereunder in excess of 8 hours each day. The edition of this publication to be used shall be the one in effect on the date of the actual rental of the equipment. The "Estimated Operating Cost per Hour" as set forth for such item of equipment in the Blue Book shall be added to the hourly rental for each hour that such equipment is actually engaged in performing Extra Work. No amount for operating cost will be allowed during periods when such equipment is not actually engaged in performing Extra Work (i.e. standby rental time). None of the provisions of the Blue Book shall be deemed referred to or included in this Contract except as specifically set forth in this Section.
- 2.) If no listing of rental rate and/or hourly operating cost for the item of equipment is in the Blue Book, the Engineer shall determine the reasonable rate of rental and/or hourly operating cost of the particular item of equipment by such other means as he finds appropriate.

- 3.) In the event the Contractor is directed by the Engineer to immediately perform Extra Work within 24 hours of the direction to proceed, the Engineer shall determine the reasonable rate of rental and/or hourly operating cost of the items of equipment necessary to perform such Extra Work by such means as he finds appropriate. However, if the equipment is owned by the Contractor or owned by a subsidiary of the Contractor, the Blue Book rates will apply as set forth in this clause.
- B. When utilizing the rental rates appearing in the Blue Book, the Engineer shall determine the applicable rate and the hourly rental determined therefrom by applying the following criteria:
 - 1.) The rate to be applied for an item of equipment used on a particular Extra Work order shall be the monthly rates from the foregoing publication.

The pro rata portion which one hour bears to the applicable rate shall be determined in accordance with the following formula:

Hourly rate based on monthly rental.	1/176 of monthly rental from Blue Book
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- 2.) The rental rate shall be multiplied by the applicable regional adjustment factor shown for such item of equipment in the Blue Book. The adjustment factor shall not apply to the hourly operating cost.
- 3.) If the Engineer should determine that the nature or size of the equipment used by the Contractor in connection with Extra Work is larger or more elaborate, as the case may be, than the size or nature of the minimum equipment determined by the Engineer to be suitable for the Extra Work, the reasonable rental will not be based upon the equipment used by the Contractor but will be based on the smallest or least elaborate equipment determined by the Engineer to have been suitable for the performance of the Extra Work.
- C. In the case of equipment utilized only for Extra Work: (a) in addition to amounts determined as provided in subparagraphs A and B above, there will be added to the rental as computed above the reasonable cost of transporting such equipment to and from the construction site, including applicable tolls, and (b) notwithstanding the number of hours during which such equipment is utilized, the minimum rental therefore will be for a period of eight hours.

In computing the Contractor's compensation insofar as it is based upon Extra Work, and notwithstanding any provision to the contrary appearing in the Blue Book, no consideration shall be given to any items of cost or expense not expressly set forth above, it being expressly agreed that the costs and percentage additions hereinbefore provided cover items of cost and expense to the Contractor of any type whatsoever, including administration, overhead, taxes (other than those enumerated above), clean-up, consumables including gas and oil, drafting (including printing or other reproduction), coordination, field measurements, maintenance, repairs, insurance, profit to the Contractor and small tools.

Whenever any Extra Work is performed (whether by the Contractor directly or through a subcontractor), the Contractor shall, at the end of each day, submit to the Construction Manager (a) daily time slips showing the name and number of each workman employed on such Work, the number of hours which he is employed thereon, the character of his duties, and the wages to be paid to him, (b) a memorandum showing the state and federal taxes based on such wages, and vacation allowances and union dues and assessments which the employer actually pays pursuant to contractual obligation upon the basis of such wages (c) a memorandum showing the amount and character of the materials furnished for such Work, from whom they were purchased and the amount to be paid therefor, and (d) a memorandum of equipment used in the performance of such Work, listing the actual hours of operation for each piece of equipment, together with the rental claimed therefor. Such memoranda and time slips are for the purpose of enabling the Engineer to determine the amounts to be paid by the Authority under this numbered clause; and accordingly, they shall constitute a condition precedent to such payment and the failure of the Contractor or his subcontractors to furnish Construction Manager with respect to any Work shall constitute a conclusive and binding determination on his part that such Work is not Extra Work and shall constitute a waiver by the Contractor of claims for payment for such Work. The Contractor's compensation for Extra Work shall be subject to audit review by the Authority. The Engineer or Construction Manager will notify the Contractor that an audit review will be conducted no later than 90 days from the date of such notification. The Engineer or Construction Manager will also provide the Contractor with an estimated duration of the audit. During the audit review, the Contractor shall provide records to substantiate the memorandum and time slips submitted to the Construction Manager. Failure to provide such Contractor or subcontractor records may result in a reduction or total denial of material, equipment and labor costs for Extra Work. Upon completion of the audit review, the Contractor will be provided with the audit findings of the Authority. If the Contractor disagrees in whole or in part with the audit findings, the Contractor shall notify the Authority of such disagreement in writing within 30 days of receipt of said audit findings or the Authority will deem the audit findings to be final and acceptable to the Contractor. In the event that the Director and the Contractor shall agree in writing upon a lump sum or other compensation for Extra Work in lieu of compensation as provided in the second paragraph of this clause, the daily time slips and memoranda required by this paragraph shall not be required subsequent to the date on which such agreement has been reached.

29. COMPENSATION FOR PREMIUM TIME

Where the Engineer or Construction Manager directs that the Contractor perform Work at times other than those elsewhere specified in the Contract, and the Contractor directly or through a subcontractor is obligated by the provisions of its applicable collective bargaining agreement to pay premium time rates for such Work then, the Contractor shall be compensated for the cost differential between regular time rates and premium time rates at an amount equal to the total of the following:

- A. For premium time rates paid by the Contractor to its own forces, an amount equal to the premium time portion of the salaries and wages which the employer is required to pay and actually pays to its employees pursuant to the terms of its applicable collective bargaining agreement for the overtime period or periods described above, plus a proper proportion, if any, computed upon the basis of premium time salaries and wages of (1) taxes actually paid by the employer pursuant to law, (2) vacation allowances, other fringe benefits and union dues and assessments which the employer actually pays pursuant to contractual obligations, and (3) increased premiums paid by the Contractor personally, specifically allocable to the insurance required by this Contract, plus an amount not to exceed five per cent (5%) of such premium portion.

- B. For premium time rates paid by a subcontractor, an amount equal to the premium time portion of the salaries and wages which the employer is required to pay and actually pays to its employees pursuant to the terms of its applicable collective bargaining agreement for the overtime period or periods described above, plus a proper proportion, if any, computed upon the basis of premium time salaries and wages of (1) taxes actually paid by the employer pursuant to law, (2) vacation allowances, other fringe benefits and union dues and assessments which the employer actually pays pursuant to contractual obligations, and (3) increased premiums paid by a subcontractor, specifically allocable to the insurance required by this Contract, plus an amount not to exceed five per cent (5%) of such premium portion, plus an amount not to exceed two per cent (2%) of the foregoing cost.

All additions to the Contractor's compensation provided for in this clause require the prior written approval of the Engineer and are conditioned on the Contractor's verifiable by the Authority payment of such amounts to his subcontractor.

The additions to the Contractor's compensation provided in this clause shall not apply where the Engineer or Construction Manager directs the Contractor to perform work at times other than those specified elsewhere in the Contract and also determines that such work is required to mitigate previous delays in the Contractor's performance of Work or other problems caused by the Contractor, its Subcontractors or others for whom the Contractor is legally responsible.

30. COMPENSATION FOR EMERGENCY DELAYS

If the Contractor is specifically directed by the Engineer or Construction Manager to suspend his operations as stipulated in the Specifications entitled "Conditions and Precautions" or if the Contractor is specifically directed not to start his operations at a time when operations are permitted to start as stipulated in such Section, and if solely because of such suspension or direction not to start any of the Contractor's or subcontractor's employees or equipment then engaged in or about to start such Work are necessarily kept idle at the construction site, during the hours when they would otherwise be engaged in the performance of the Work, then the Contractor's compensation shall be increased by an amount equal to the salaries and wages in amounts approved by the Engineer which the employer is required to pay and actually pays to such employees for the period or periods of such idleness, plus a proper proportion of (a) taxes actually paid by the employer pursuant to law upon the basis of such salaries and wages, and (b) vacation allowances and union dues and assessments which the employer actually pays pursuant to contractual obligations upon the basis of such salaries and wages, and in addition thereto such rental as the Engineer deems reasonable for such equipment during the period or periods of such idleness. The rental for idle equipment shall be computed by the Engineer in accordance with the provisions of the clause of the Form of Contract entitled "Idle Salaried Men and Equipment".

In the event that the Contractor deems that any payment should be made pursuant to this numbered clause, he shall give prompt written notice to the Construction Manager stating the reasons why he believes such payments should be made and shall moreover, furnish to the Construction Manager at the end of each day, a memorandum showing the name, payroll title, salary rate and employer of each of the workingmen, and description, owner and claimed rental rate for each item of equipment claimed to have been kept idle. Said notice and memorandum are for the purpose of enabling the Construction Manager to verify the Contractor's claim at the time. Accordingly, notwithstanding any other provisions hereof, the failure of the Contractor to furnish such notice and memorandum shall constitute a conclusive binding determination on his part that he is not entitled to compensation as provided herein and shall constitute a waiver by the Contractor of all claims for such payment, such notice and memorandum being conditions precedent to payment under this numbered clause.

31. PROGRESS PAYMENTS

The Director shall (upon receipt from the Contractor of such information as he may require, including a certification in writing, in such form as may be required pursuant to the clause hereunder entitled "Prevailing Rate of Wage", that he has paid and caused his subcontractors to pay at least the prevailing rate of wage and supplements required by such clause) estimate and certify to the Authority the approximate amount of Work performed and compensation earned by the Contractor up to that time showing separately:

- A. The amount of Work (other than Extra Work) performed by the Contractor up to that time and a sum bearing the same proportion to the Lump Sum as the Work performed (other than Extra Work) bears to the Work performed and to be performed (other than Extra Work).
- B. The increases, if any, in the Contractor's compensation for which provision is specifically made elsewhere in this Contract.

The Contractor shall submit to the Construction Manager an acknowledgment of payment to the date of the last payment, the Authority's form of partial waiver and release of liens and claims, as well as a statement of any back charges and credits to which the Authority is entitled, a sworn statement of any claim for charges or extras due to the Contractor (such claim not to be valid unless made at the time and in the manner set forth in this Contract). Provided that the Contractor has submitted all such documentation to the Construction Manager, as an aid to the Contractor and to facilitate his performance, the Authority shall, within fifteen days after the receipt of each such monthly certificate, direct Construction Manager, as agent of the Authority, to pay to the Contractor from the Authority's funds by check the sums so certified, minus, however, either ten per cent (10%) of the sum certified pursuant to subparagraph A of this numbered clause or five percent (5%) of the Lump Sum, whichever is less, and minus all prior payments to the Contractor or for his account and minus payments by the Authority to lessors of construction equipment.

Within seven days of receipt of any sum attributable to Work performed by a subcontractor or materialman or within such later period as is provided in the subcontract or purchase agreement, the Contractor shall advance to the subcontractor or materialman said sum, less such amount, if any, as the Contractor is authorized to retain under the subcontract or purchase agreement.

Notwithstanding the above, the Authority shall have the right, at its sole discretion, to directly pay the subcontractors and material suppliers who perform Work for or furnish materials to the Contractor in connection with the Work of this Contract.

Prior to certifying any amount for payment hereunder, the Contractor shall also submit a certification accurately and fully setting forth the total amount due and payable to each subcontractor and supplier for Work performed or materials provided by such subcontractor or supplier in connection with the Work of this Contract as part of its progress payment application. Any payment made by the Authority to a subcontractor or supplier pursuant to the provisions of this numbered clause shall be made in reliance upon such certification and all such payments shall be considered as advances to the Contractor of the compensation payable hereunder. No such payment shall relieve the Contractor of any of its obligations hereunder.

Furthermore, within fifteen (15) days of the Contractor's receipt of the Authority acceptance of the Contractor's Proposal, the Contractor shall submit to the Construction Manager a listing of all subcontract and material supply agreements entered into by the Contractor for the performance of Work required by this Contract. Such listing shall include the names and addresses of each such subcontractor and supplier and the amounts payable under each such agreement. As and when any modifications are made to such agreements or any additional subcontracts or supply agreements are entered into, the Contractor shall inform the Engineer of such and shall indicate the amounts payable there under.

Nothing contained herein shall be deemed to create any additional rights in such subcontractors or suppliers or to alter the rights of the Authority as such are set forth in the clause hereof entitled "Withholding of Payments". Contractor acknowledges and agrees that Construction Manager is acting only as agent for the Authority and Construction Manager is not liable to Contractor for payment hereunder.

Contractor shall meet the requirements of Rider L.

32. RELEASE OF MONIES PREVIOUSLY WITHHELD FROM MONTHLY ADVANCES UPON RENDITION OF A CERTIFICATE OF SUBSTANTIAL COMPLETION

After the rendition of the Certificate of Substantial Completion and with the approval of the Engineer, an amount up to 80% of the total amount of monies withheld from the Contractor's monthly advances in accordance with the preceding clause may be released to the Contractor. If, in the Engineer's judgment, no monies, or less than 80% of the total amount of monies withheld should be released it will be based on, but not limited to, the estimated value of the remaining Work, unresolved claims by subcontractors, the estimate of possible audit adjustments and an assessment of the risks to the Authority in making such a release of monies. This clause does not create a right to such a release of monies or to any specific percentage release, all of which shall remain purely the discretionary decision of the Engineer.

Prior to the release of any amount withheld from the Contractor's monthly advances by the Authority, the Contractor shall submit to the Construction Manager a certification of all unresolved requests for additional compensation including all items in dispute and potential claims which the Contractor had actual knowledge of or by reasonable inspection and inquiry should have known of, to the date of the certification. Any such items not made known to the Authority by inclusion in the certification of additional compensation requests submitted by the Contractor will be deemed to have been released by the Contractor. Notwithstanding the above provisions, before making any release of monies the Engineer may require the Contractor to submit further information for the Engineer's review and analysis, and shall require the Contractor to execute a separate written release of claims as described above in a form acceptable to the Authority.

Nothing contained herein shall be deemed to alter or diminish the rights of the Authority as such are set forth in the clauses hereof entitled "Withholding of Payments", "Final Payment", "Monthly Advances" or under any other clause of this Contract relating to compensation to the Contractor, any release of monies hereunder being purely at the discretion of the Engineer.

33. FINAL PAYMENT

After the rendition of the Certificate of Final Completion and upon receipt from the Contractor of such information as may be required, including without limitation, (i) all Contractor's "as built" drawings, copies of all test data, records and related data; (ii) final surveys, operation and maintenance manuals, all guaranties and warranties to which the Authority is entitled hereunder or elsewhere in the Contract Documents; (iii) all permits, licenses, approvals, certificates and authorizations required by any authority having jurisdiction; (iv) a general release from the Contractor on the Authority's form in favor of the Authority and Construction Manager; (v) final releases and waivers of lien from all subcontractors, vendors and union fringe benefit funds; (vi) consent of surety to final payment; and (vii) proof satisfactory to Authority and the Construction Manager that all claims, including taxes, regarding the Work performed hereunder and any liens filed or recorded regarding the Work, have been released., the Director shall certify in writing to the Authority and to the Contractor the total compensation earned by the Contractor. As a condition precedent to certification by Director, the Contractor shall deliver to Authority all spare material, finishing materials, "attic stock," and equipment required to be furnished under the Contract.

The Contractor shall (i) certify to the Authority in writing, in such form as may be required pursuant to the clause hereunder entitled "Prevailing Rate of Wage", that he has paid and caused his subcontractors to pay at least the prevailing rate of wage and supplements required by such clause and (ii) furnish to the Authority and the Construction Manager a detailed sworn statement of all claims, just and unjust, of subcontractors, materialmen and other third persons then outstanding and which he has reason to believe may thereafter be made on account of the Work.

Within thirty days after issuance of such certificate of total compensation earned (or within thirty days after receipt of the documents provided for in the immediately preceding paragraph, if required), the Authority shall direct the Construction Manager, as agent of the Authority, to pay to the Contractor from the Authority's funds by check the amount stated in said certificate, less all other payments and advances whatsoever to or for the account of the Contractor. All prior estimates and payments shall be subject to correction in this payment, which is throughout this Contract called the Final Payment. as agent of Authority, to advance to the Contractor from the Authority's funds

The acceptance by the Contractor, or by anyone claiming by or through him, of Final Payment shall be and shall operate as a release to the Authority of all claims and of all liability to the Contractor and Construction Manager for all things done or furnished in connection with the Contract and for every act and neglect of the Authority and others relating to or arising out of the Contract, including claims arising out of breach of contract and claims based on claims of third persons, excepting only his claims for reimbursement for certain sales taxes as hereinbefore provided. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligations in connection with this Contract or the Performance or Payment Bonds.

The Contractor's agreement as provided in the immediately preceding paragraph above shall be deemed to be based upon the consideration forming part of this Contract as a whole and not to be gratuitous; but in any event even if deemed gratuitous and without consideration, such agreement as provided in the immediately preceding paragraph above shall nevertheless be effective.

Such release shall include all claims, whether or not in litigation and even though still under consideration by the Authority or the Engineer.

Such release shall be effective notwithstanding any purported reservation of right by the Contractor to preserve such claim. The acceptance of any check designated as "Final Payment" or bearing any similar designation shall be conclusively presumed to demonstrate the intent of the Contractor that such payment was intended to be accepted as final, with the consequences provided in this numbered clause, notwithstanding any purported reservation of rights.

The Contractor agrees that he shall not be entitled to, and hereby waives any right he might otherwise have to, and shall not seek any judgment whether under this Contract or otherwise for any such Final Payment or for an amount equivalent thereto or based thereon, or for any part thereof, if such judgment would have the effect of varying, setting aside, disregarding or making inapplicable the terms of this numbered clause or have the effect in any way of entitling the Contractor to accept such Final Payment or an amount equivalent thereto or based thereon or any part thereof other than in the same fashion as a voluntary acceptance of a Final Payment subject to all the terms of this Contract including this numbered clause, unless and until the Contractor should obtain a judgment on any claim arising out of or in connection with this Contract (including a claim based on breach of contract) for an amount not included in said Final Payment. In any case in which interest is allowable on the amount of the Final Payment, such interest shall be at the rate of 6% per annum for the period, if any, in which such interest is due.

34. WITHHOLDING OF PAYMENTS

If (1) the Contractor fails to perform any of his obligations under this Contract or any other agreement between the Authority and the Contractor (including his obligation to the Authority to pay any claim lawfully made against him by any materialman, subcontractor or workman or other person which arises out of or in connection with the performance of this Contract or any other agreement with the Authority) or (2) any claim (just or unjust) which arises out of or in connection with this Contract or any other agreement between the Authority and the Contractor is made against the Authority or its agent or (3) any subcontractor under this Contract or any other agreement between the Authority and the Contractor fails to pay any claims lawfully made against him by any materialman, subcontractor, workman or other third person which arises out of or in connection with this Contract or any other agreement between the Authority and the Contractor or if in the opinion of the Chief Engineer or Construction Manager any of the aforesaid contingencies is likely to arise, then the Authority shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payment has already been certified as due) such sums as the Chief Engineer may deem ample to protect it against delay or loss or to assure the payment of just claims of third persons, and to apply such sums in such manner as the Chief Engineer may deem proper to secure such protection or satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Authority to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of such payment, shall not be deemed to indicate that the Authority does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Authority to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such rights by the Authority shall create any obligation of any kind to such materialmen, subcontractors, workmen or other third persons.

Until actual payment to the Contractor, his right to any amount to be paid under this Contract (even though such amount has already been certified as due) shall be subordinate to the rights of the Authority under this numbered clause.

In the event that wages and/or supplements have been paid in an amount less than as required by this Contract, the Authority shall also have the right to withhold from the Contractor out of any payment, final or otherwise, on this, or any other open contract that the Contractor has with the Authority, so much as may be necessary to pay to laborers, mechanics, architects, draftsmen, engineers and technical workers, and others employed on the Work, the difference between the sums such persons should have received as wages and/or supplements and the amounts they actually received, and to pay such sums over to such persons. All such payments shall be deemed to be payments for the Contractor's account. In addition, the Contractor shall be required to pay to the Authority an amount equal to the Authority's cost of any investigation conducted by or on behalf of the Authority, that discovers a failure to pay wages and/or supplements as required by this Contract by the Contractor or its subcontractors, the cost of such investigation to be determined by the Chief Engineer personally. If the Contractor fails or refuses to pay for the cost of any such investigation after demand by the Authority, the Authority may deduct from any amount payable to the Contractor by the Authority, under the Contract or under any other open contract between the Contractor and the Authority, an amount equal to the cost of such investigation.

If, however, the payment of any amount due to the Contractor shall be improperly delayed by the fault of the Authority, the Authority shall pay the Contractor interest thereon at the rate of six percent (6%) per annum for the period of delay, it being agreed that such interest shall be in lieu of and in liquidation of any damages to the Contractor because of such delay.

**CHAPTER III
PROVISIONS RELATING TO TIME**

35. TIME FOR COMPLETION AND DAMAGES FOR DELAY

The Contractor's obligations for the performance and completion of the Work within the time or times provided for in this Contract are of the essence of this Contract. In the event that the Contractor fails to satisfactorily perform all or any part of the Work required hereunder in accordance with the requirements set forth in Rider A – subsection E: Schedule-Time Of Performance (as the same may be modified in accordance with provisions set forth elsewhere herein) then, inasmuch as the damage and loss to the Port Authority for such failure to perform includes items of loss whose amount will be incapable or very difficult of accurate estimation, the damages for such failure to perform shall be liquidated as set forth in Rider T.

The Contractor shall commence the Work in accordance with the written Notice to Proceed from Authority or Construction Manager and shall diligently and continuously prosecute and complete the Work and coordinate the Work with the other work being performed on the Project, in accordance with the Project Schedules as may be issued from time to time during the performance of the Work and any other scheduling requirements listed in this Contract, so as not to delay, impede, obstruct, hinder or interfere with the commencement, progress or completion of the whole or any part of the Work or other work on the Project.

Even though the Contractor has received a Notice to Proceed, the Contractor shall not commence the performance of the Work until the later of the following dates:

- A. The date of receipt by him of notice from the Authority that the Performance and Payment Bond furnished by him is satisfactory;
- B. The date of receipt by him of notice from the Authority that the insurance procured by him pursuant to said clause is satisfactory, as evidenced by the certificate to be furnished in accordance with said clause.

The time for completion shall not be extended on account of the time required to furnish the documents referred to in subparagraphs A and B above, but the Authority shall give notice to the Contractor within ten days after receipt of the Performance and Payment Bonds or certificate of insurance as to whether or not such bonds or insurance is satisfactory.

The Contractor recognizes that the Work under this Contract is part of a program of construction, including the work of many others, to renovate and develop the Project, which is situated in an existing structure with dated and connected installations and concealed conditions that may affect the Work. Given the complexity of the Project, the nature of the Site, and high-quality of the work required of all entities, among other factors, the Contractor agrees to afford the Authority the discretion to modify the Project Schedule without any increase to the Contract Price, consistent with the prompt and cost-efficient completion of the entire Project as determined by the Authority, consistent with the Contract Documents, but subject, however, to all of the aforementioned conditions and considerations that may or will affect the progress of the Work.

The Contractor's obligations for the performance and completion of the Work within the times provided for in this Contract are of the essence of this Contract. The Contractor guarantees that he can and will complete the performance of the Work within the times hereinbefore stipulated, or within the later

time or times if extended in accordance with the provisions of the Clause 36 of the Contract entitled "Extensions of Time". Inasmuch as the damage and loss to the Authority which will result from delay in completing the performance of the Work within the times herein stipulated will include items of loss whose amount will be incapable or very difficult of accurate estimation, the damages to the Authority for each calendar day by or in which the Contractor does not complete the performance of the Work within the times stipulated or within such times as extended in accordance with the provisions of the Clause 36 of the Contract entitled "Extensions of Time" may be liquidated and if so in the sum of the amounts, if any, as shown in Rider A – General Addendum / Scope of Work. Any such liquidated damages shall be cumulative and are not the sole remedy for delays.

Inasmuch as the completion of the Project within the prescribed limit of time is dependent largely upon the close and active cooperation of all those engaged therein, it is therefore expressly understood and agreed that the Contractor shall lay out and install all work at such time or times and in such manner as not to delay or interfere with the carrying forward of the work of other contractors. In the event of any dispute arising as to possible or alleged interference between the various contractors which may retard the progress of the work, the dispute shall be adjudicated by the Director, whose decision as to the party or parties at fault and as to the manner in which the matter may be adjudicated, shall be binding and conclusive on all parties.

36. EXTENSIONS OF TIME

The time above provided for completion of any part of the Contract shall be extended (subject, however, to the provisions of this numbered clause) only if in the opinion of the Engineer the Contractor is necessarily delayed in completing such part by such time solely and directly by a cause which meets all the following conditions:

- A. Such cause is beyond the Contractor's control and arises without his fault.
- B. Such cause comes into existence after the opening of Proposals on this Contract and neither was nor could have been anticipated by investigation before such opening.

There will be no Extensions of Time granted to the extent the Contractor is deemed responsible for a concurrent delay.

Variations in temperature and precipitation shall be conclusively deemed to have been anticipated before opening of such Proposals on this Contract except to the extent that the actual monthly average temperature varies from a temperature which is 10 per cent (10%) above or below the monthly normal temperature and except to the extent that the actual number of days of precipitation (of 0.1 inch or more) per month exceeds a number equal to two plus the normal number of days of precipitation per month.

In any case, the variations in temperature and precipitation described in the immediately preceding sentence will be cause for an extension of time only if occurring between the actual time of commencement of the Work at the construction site and the time for completion stipulated in the clause hereof entitled "Time for Completion and Damages for Delay" (or such time as extended as provided for herein). In the case of portions of months the number of days will be pro-rated by the Engineer. Temperature and precipitation shall be as recorded by the U. S. Weather Bureau in its publications, including that entitled "Local Climatological Data with Comparative Data", which is applicable to the area in which the Work is to be performed, and in the case of precipitation, the normal number of days of precipitation (of 0.1 inch or more) per month as abstracted from the aforementioned publications are as follows:

Month	Normal number of days per month on which precipitation exceeds 0.1 inch
January	7
February	7
March	8
April	7
May	6
June	6
July	5
August	7
September	6
October	6
November	7
December	7

In any event, even though a cause of delay meets all the above conditions, an extension shall be granted only to the extent that (i) the performance of the Work is actually and necessarily delayed and (ii) the effect of such cause cannot be anticipated and avoided or mitigated by the exercise of all reasonable precautions, efforts and measures (including planning, scheduling and rescheduling), whether before or after the occurrence of the cause of delay, and an extension shall not be granted for a cause of delay which would not have affected the performance of the Contract were it not for the fault of the Contractor or for other delay for which the Contractor is not entitled to an extension of time.

Any reference herein to the Contractor shall be deemed to include its subcontractors and materialmen, whether or not in privity of contract with the Contractor, and employees and others performing any part of the Contract and all the foregoing shall be considered as agents of the Contractor.

Delays shall not automatically result in an extension of the time inasmuch as a delay may not necessarily affect existing critical activities or cause non-critical activities to become critical. The period of any extension of time shall be granted only to the extent that the time adjustments to the activity or activities affected by the delays extends the critical path, it being understood and agreed that any float in the Project Schedule is for the use of either party, for the benefit of the Project as determined by the Engineer. The Engineer may defer all or part of his decision on an extension and any extension may be rescinded or shortened if it subsequently is found that the delays can be overcome or reduced by the exercise of reasonable precautions, efforts and measures.

As a condition precedent to an extension of time, the Contractor shall give written notice to the Engineer and Construction Manager within 48 hours after the time when he knows or should know of any cause which might under any circumstances result in delay for which he claims or may claim an extension of time (including those causes which the Authority is responsible for or has knowledge of), specifically stating that an extension is or may be claimed, identifying such cause and describing, as fully as practicable at the time, the nature and expected duration of the delay and its effect on the various portions of the Contract. Since the possible necessity for an extension of time may materially alter the scheduling, plans and other actions of the Authority, and since, with sufficient opportunity, the Authority might if it so elects attempt to mitigate the effect of a delay for which an extension of time might be claimed, and since merely oral notice may cause disputes as to the existence or substance thereof, the giving of written notice as above required shall be of the essence of the Contractor's obligations and failure of the Contractor to give timely written notice as above required shall be a conclusive waiver of an extension of time.

It shall in all cases be presumed that no extension, or further extension, of time is due unless the Contractor shall affirmatively demonstrate to the satisfaction of the Engineer that it is. To this end the Contractor shall maintain adequate records supporting any claim for an extension of time, and in the absence of such records, the foregoing presumption shall be deemed conclusive.

37. IDLE HOURLY MEN AND EQUIPMENT

If any hourly men or equipment of the Contractor or any subcontractor are necessarily kept continuously idle and wholly unoccupied at the construction site for a full day on each of two or more full days on which they would be engaged in the performance of the Work but for causes due solely to acts or omissions of the Authority or the Director occurring after the opening of Proposals on this Contract, and if such idleness is not due to any cause within the control of the Contractor or of any of his subcontractors or materialmen or his or their employees, then the Authority shall pay to the Contractor and the Contractor shall accept (in addition to any sums otherwise payable under this Contract, and in full satisfaction of and in liquidation of all claims for damages because of such act or omission of the Authority or the Director) an amount equal to that which the employer actually pays such hourly employees during such full days of idleness, plus a proper proportion of vacation allowances and union dues and assessments actually paid by the employer pursuant to contractual obligations on the basis of such salaries, and a proper proportion of the taxes actually paid by the employer pursuant to law upon the basis of such salaries and plus such rental for such idle equipment as the Director deems reasonable. The rental for idle equipment shall be computed by the Engineer in accordance with the provisions of the clause of the Form of Contract entitled "Compensation for Extra Work"; provided, however, that the amount not to exceed five percent (5%) of the rental to be paid in accordance with said clause in the case of equipment utilized by subcontractors shall not be payable in connection with such idle equipment; and provided further that the provisions of subparagraph C of said clause shall not be applicable to such idle equipment.

The Contractor shall give written notice to the Engineer before the end of the second of the above mentioned 2 or more full days (whether or not the Authority is aware of the existence of any circumstances which might constitute a basis for payment under this numbered clause), specifically stating that hourly men or equipment have been kept idle under circumstances which might result in payment under this numbered clause; and he shall furnish with such notice, for all the days that have occurred, and shall in addition furnish at the end of each additional day of the above mentioned 2 or more full days, (a) a memorandum showing the name, payroll title, salary rate and employer of each of the salaried men claimed to have been kept idle at the construction site, and taxes based upon their

salaries and the holiday and vacation allowances and union dues and assessments which the employer must actually pay pursuant to contractual obligations based on their salaries, and (b) a memorandum of the equipment claimed to be kept idle, together with the amount claimed as rental therefor. Said notice and memoranda are for the purpose of enabling the Engineer to verify the Contractor's claim at the time, and of enabling him to take such steps as may be necessary to remedy the conditions upon which the claim is based. The furnishing of such notice and memoranda shall be a condition precedent to payment under this numbered clause, so that the day on which notice is given shall be counted as not later than the second of the above mentioned 2 or more full days and no subsequent day shall be counted for which the above memoranda are not furnished at the end of such day.

38. DELAYS TO CONTRACTOR

As between the Contractor and the Authority, the Contractor assumes the risk of all suspensions of or delays in performance of the Contract, regardless of the length thereof, arising from all causes whatsoever, whether or not relating to this Contract, including wrongful acts or omissions of the Authority and Construction Manager, their respective officers, agents, employees and contractors, except only to the extent, if any, that compensation or an extension of time may be due as expressly provided for elsewhere in this Contract for such suspension or delays and except to the extent, if any, that compensation may be agreed to by the Director in writing pursuant to the clause hereof entitled "Compensation for Extra Work" for impact costs incurred by the Contractor in connection with the performance of Extra Work. Subject only to such exceptions, the Contractor shall bear the burden of all costs, expenses and liabilities which he may incur in connection with such suspensions or delays, and all such suspensions, delays, costs, expenses and liabilities of any nature whatsoever, whether or not provided for in this Contract, shall conclusively be deemed to have been within the contemplation of the parties.

Notwithstanding any provisions of this Contract, whether relating to time of performance or otherwise, the Authority makes no representation or guaranty as to when the construction site or any part thereof will be available for the performance of the Contract or as to whether conditions at the construction site will be such as to permit the Contract to be performed thereon without interruption or by any particular sequence or method or as to whether the performance of the Contract can be completed by the time required under this Contract or by any other time.

Wherever in connection with this Contract it is required, expressly or otherwise, that the Authority shall perform any act relating to the Contract, including making available or furnishing any real property, materials, or other things, no guaranty is made by the Authority as to the time of such performance and the delay of the Authority in fulfilling such requirement shall not result in liability of any kind on the part of the Authority except only to the extent, if any, that an extension of time or compensation may be due as expressly provided for elsewhere in this Contract.

39. CANCELLATION FOR DELAY

If the performance of the Contract or any portion of it shall, in the opinion of the Director, be materially delayed, whether or not through the fault of the Contractor, by any cause which affects the Contractor's ability to perform the Contract without affecting to the same degree the Authority's own ability to perform it, either directly or through others, the Authority shall have the right at any time during the existence of such delay to cancel this Contract as to any portion not yet performed, without prejudice to the rights, liabilities and obligations of the parties under this Contract arising out of portions already performed, provided, however, that such right of cancellation shall not exist if the delay be due to any wrongful act or omission of the Authority. In the event of such cancellation, no allowance shall be made for anticipated profits.

39.1 TERMINATION FOR CONVENIENCE

The Director may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in the Authority's best interest. Upon receipt of the notice of termination, Contractor shall:

- A. Stop Work on the date and to the extent specified in the notice of termination;
- B. Place no further purchase orders or subcontracts for materials, service or facilities except as may be necessary for completion of such portion of the Work as is not terminated;
- C. Unless directed otherwise by Engineer or the Construction Manager, terminate all purchase orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
- D. Assign to Authority, in the manner, at the times, and to the extent directed by Engineer, all of the right, title and interest of Contractor under the purchase orders and subcontracts so terminated, in which case the Authority shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such purchase orders and subcontracts;
- E. To the extent required and approved by Authority, settle all outstanding liabilities and all claims arising out of such termination of purchase orders and subcontracts;
- F. Transfer title to Authority and deliver in the manner, at the time, and to the extent, if any, directed by the Authority (i) the fabricated or unfabricated parts, Work in process, completed Work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the Work terminated, and (ii) return to the Authority the completed or partially completed plans, drawings, information, and other property which, if the Work had been completed, would have been required to be furnished;
- G. Use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Authority, any property of the types referred to in clause (F) above provided, however, that the Authority (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed and at a price or prices approved by Authority; and provided, further, that the proceeds of any such transfer or disposition shall be applied to reduce any payments to be made by Authority to the Contractor or shall otherwise be credited to the price or cost of the Work or paid in such other manner as the Authority may direct;
- H. Complete performance of such part of the Work as shall not have been terminated; and

- I. Take such action as may be necessary, or as Authority may direct, for the protection and preservation of the property related to the Contract which is in the possession of Contractor and in which Authority has or may acquire an interest.

The Contractor will be compensated for work performed in accordance with the terms of the contract up to the date of termination. The Contractor will also be compensated for reasonable contract termination costs subject to acceptance and written pre-approval by the Director of such termination costs. In no case shall the Contractor be compensated for anticipated profit, i.e.: profit on work not performed by the Contractor prior to termination. Any Authority property in the Contractor's possession at the time of termination shall be turned over to the Authority as or disposed of by the Contractor as the Director directs. If the Authority terminates this Contract for cause and it is ultimately decided by the Chief Engineer that Contractor should not have been terminated for cause, then such termination shall be treated as a Termination for Convenience pursuant to this section and Contractor's rights and remedies regarding said termination shall be limited to those set forth in this section.

**CHAPTER IV
CONDUCT OF CONTRACT**

40. AUTHORITY OF DIRECTOR

Inasmuch as the public interest requires that the project to which this Contract relates shall be performed in the manner which the Authority, acting through the Director, deems best, the Director shall have absolute authority to determine what is or is not necessary or proper for or incidental to the portion thereof specified in the clause hereof entitled "General Agreement" and the Contract Drawings and Specifications shall be deemed merely his present determination on this point. The absolute authority of the Director shall include but not be limited to approval of all compensation due to this Contractor under this Contract including the authorization of Extra Work and schedule modifications.

If at any time it shall be, from the viewpoint of the Authority, impracticable or undesirable in the judgment of the Director, to proceed with or continue the performance of the Contract or any part thereof, whether or not for reasons beyond the control of the Authority, the Director shall have authority to suspend performance of any part or all of the Contract until such time as the Director may deem it practicable or desirable to proceed. Moreover, if at any time it shall be, from the viewpoint of the Authority impracticable or undesirable in the judgment of the Director to proceed with or continue the performance of the Contract or any part thereof whether or not for reasons beyond the control of the Authority, the Director shall have authority to cancel this Contract as to any or all portions not yet performed and as to any materials not yet installed even though delivered. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed, but no allowance shall be made for anticipated profits.

In the event the Director cancels this Contract as to any or all portions not yet performed and as to any materials not yet installed even though delivered under his authority set forth above, such cancellation shall be deemed a Termination for Convenience, pursuant to and in accordance with Clause 39.1 of Chapter III, entitled "Termination for Convenience" of this Contract.

41. AUTHORITY OF CHIEF ENGINEER

In the performance of the Contract, the Contractor shall conform to all orders, directions and requirements of the Engineer and shall perform the Contract to the satisfaction of the Engineer at such times and places, by such methods and in such manner and sequence as he may require, and the Contract shall at all stages be subject to his inspection. The Engineer shall determine the amount, quality, acceptability and fitness of all parts of the Work and shall interpret the Contract Drawings and Specifications. The Contractor shall employ no equipment, materials, methods or men to which the Engineer objects, and shall remove no materials, equipment or other facilities from the construction site without permission. Upon request, the Engineer shall confirm in writing any oral order, direction, requirements or determination.

In the exercise of this authority, the Engineer, acting on the behalf of the Director, shall have power to alter the Contract Drawings and Specifications; to require the performance of Work not required by them in their present form, even though of a totally different character from that now required; and to vary, increase and diminish the character, quantity and quality of, or to countermand, any Work now or hereafter required. Such variation, increase, diminution or countermanding need not be based on necessity but may be based on convenience.

The Contractor is requested to orally advise the Engineer of questions as they arise. Although such advice will not substitute for the written notice and information for which requirements are set forth elsewhere herein, it is anticipated that it will facilitate prompt decisions on the part of the Engineer and others.

The enumeration herein or in the Specifications of particular instances in which the opinion, judgment, discretion or determination of the Engineer shall control or in which the Contract shall be performed to his satisfaction or subject to his inspection, shall not imply that only the matters of a nature similar to those enumerated shall be so governed and performed, but without exception the entire Contract shall be so governed and so performed.

To resolve all disputes and to prevent litigation the parties to this Contract authorize the Chief Engineer to decide all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Contract or any subcontract, purchase or other agreement entered into by the Contractor for the performance of Work required by this Contract, (including claims in the nature of breach of Contract or fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal and claims of a type which are barred by the provisions of this Contract) and his decision shall be conclusive, final and binding on the parties. In connection with any subcontract, purchase or other agreement entered into by the Contractor for the performance of Work required by this Contract, the Chief Engineer will resolve disputes only if such dispute has a monetary value greater than ten percent (10%) of the compensation provided for in the subcontract, purchase or other agreement and only after the Contractor and the subcontractor, materialman or other contracting party have made a reasonable attempt to resolve such dispute. The Chief Engineer, in his sole discretion, will determine if "a reasonable attempt to resolve such dispute" has been made. The Chief Engineer's decision may be based on such assistance as he may find desirable. The effect of his decision shall not be impaired or waived by any negotiations or settlement offers in connection with the question decided, whether or not he participated therein himself, or by any prior decision of the Engineer, Director or others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Contract.

All such questions shall be submitted in writing by the Contractor to the Chief Engineer for his decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. In any action against the Authority relating to any such question the Contractor must allege in his complaint and prove such submission, which shall be a condition precedent to any such action. No evidence or information shall be introduced or relied upon in such an action that has not been so presented to the Chief Engineer.

This numbered clause shall be governed by and construed in accordance with the law of the State of New York, without giving effect to its choice of law provisions.

Notwithstanding the fact that a dispute, controversy or question shall have arisen in the interpretation of any provision of this Contract, the performance of any Work, the delivery of any material, the

payment of any moneys to the Contractor, or otherwise, the Contractor agrees that it will not directly or indirectly stop or delay its Work pending the determination of such dispute or controversy.

The Contractor shall be required to insert this provision in all his subcontracts, purchase and other agreements for the performance of Work required by this Contract.

42. NOTICE REQUIREMENTS

No claim against the Authority shall be made or asserted in any action or proceeding at law or in equity, and the Contractor shall not be entitled to allowance of such claim, unless the Contractor shall have complied with all requirements relating to the giving of written notice of the information with respect to such claim as provided in this numbered clause. The failure of the Contractor to give such written notice and information as to any claim shall be conclusively deemed to be a waiver by the Contractor of such claim, such written notice and information being conditions precedent to such claim. As used herein "claim" shall include any claim arising out of, under, or in connection with, or in any way related to or on account of, this Contract (including claims in the nature of breach of Contract or fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal and claims of a type which are barred by the provisions of this Contract) for damages, payment or compensation of any nature or for extension of any time for performance of any part of this Contract.

The requirements as to the giving of written notice and information with respect to claims shall be as follows:

- A. In the case of any claims for Extra Work, extension of time for completion, idle salaried men and equipment, or any other matter for which requirements are set forth elsewhere in this Contract as to notice and information, such requirements shall apply.
- B. In the case of all other types of claim, notice shall have been given to the Engineer, personally, as soon as practicable, and in any case, within 48 hours, after occurrence of the act, omission, or other circumstance upon which the claim is or will be based, stating as fully as practicable at the time all information relating thereto. A copy of such notice shall also be submitted to Construction Manager. Such information shall be supplemented with any further information as soon as practicable after it becomes or should become known to the Contractor, including daily records showing all costs which the Contractor may be incurring or all other circumstances which will affect any claim to be made, which records shall be submitted to the Engineer, personally.

The above requirements for notices and information are for the purpose of enabling the Authority to avoid waste of public funds by affording it promptly the opportunity to cancel or revise any order, change its plans, mitigate or remedy the effects of circumstances giving rise to a claim or take such other action as may seem desirable and to verify any claimed expense or circumstances as they occur, and the requirements herein for such notice and information are essential to this Contract and are in addition to any notice required by statute with respect to suits against the Authority.

The above referred to notices and information are required whether or not the Authority is aware of the existence of any circumstances which might constitute a basis for a claim and whether or not the Authority has indicated it will consider a claim.

No act, omission, or statement of any kind shall be regarded as a waiver of any of the provisions of this numbered clause or may be relied upon as such waiver except only either a written statement signed by the Executive Director of the Authority or a resolution of the Commissioners of the Authority expressly stating that a waiver is intended as to any particular provision of this numbered clause, and more particularly no discussion, negotiations, consideration, correspondence, or requests for information with respect to a claim by any Commissioner, officer, employee or agent of the Authority shall be construed as a waiver of any provision of this numbered clause or as authority or apparent authority to effect such a waiver.

Since merely oral notice or information may cause disputes as to the existence or substance thereof, and since notice, even if written, to other than the Authority representative above designated to receive it may not be sufficient to come to the attention of the representative of the Authority with the knowledge and responsibility of dealing with the situation only notice and information complying with the express provisions of this numbered clause shall be deemed to fulfill the Contractor's obligation under this Contract.

43. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, sex, color or national origin. Such action shall be taken with reference, but not be limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- B. The Contractor shall send to each labor union or representative of workers with which he has or is bound by a collective bargaining or other agreement or understanding, a notice, to be provided by the State Commission for Human Rights, advising such labor union or representative of the Contractor's agreement under clauses A through H (hereinafter called "non-discrimination clauses"). If the Contractor was directed to do so by the Authority as part of the bid or negotiation of this Contract, the Contractor shall request such labor union or representative to furnish him with a written statement that such labor union or representative will not discriminate because of race, creed, sex, color or national origin and that such labor union or representative either will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under this Contract, shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the Contractor shall promptly notify the State Commission for Human Rights of such failure or refusal.
- C. The Contractor shall post and keep posted in conspicuous places, available to employees and applicants for employment, notices to be provided by the State Commission for Human Rights setting forth the substance of the provisions of clauses A and B and such provisions of the State's laws against discrimination as the State Commission for Human Rights shall determine.

- D. The Contractor shall state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, sex, color or national origin.
- E. The Contractor shall comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, shall furnish all information and reports deemed necessary by the State Commission for Human Rights under these non-discrimination clauses and such sections of the Executive Law, and shall permit access to his books, records and accounts by the State Commission for Human Rights, the Attorney General and the Industrial Commissioner for the purposes of investigation to ascertain compliance with these non-discrimination clauses and such sections of the Executive Law and Civil Rights Law.
- F. This Contract may be forthwith canceled, terminated or suspended, in whole or in part, by the Authority upon the basis of a finding made by the State Commission for Human Rights that the Contractor has not complied with these non-discrimination clauses, and the Contractor may be declared ineligible for future contracts made by or on behalf of the State, the Authority or other public authority or agency of the State, until he has satisfied the State Commission for Human Rights that he has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commission for Human Rights after conciliation efforts by the Commission have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the Commission, notice thereof has been given to the Contractor by the Commission and an opportunity has been afforded him to be heard publicly before the State Commissioner of Human Rights or his designee. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided by law.
- G. The Contractor shall include the provisions of clauses A through F in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to operations to be performed within the State of New York. The Contractor shall take such action in enforcing such provisions of such subcontract or purchase order as the Authority may direct, including sanctions or remedies for non-compliance. If the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Authority, the Contractor shall promptly so notify the General Counsel to the Authority, requesting him to intervene and protect the interests of the Authority.
- H. The provisions of this numbered clause which refer to the State Commission for Human Rights, the Attorney General and the Industrial Commissioner are inserted in this Contract for the benefit of such parties, as well as for the benefit of the Authority, and said Commission, Commissioner and the Attorney General shall have a direct right of action against the Contractor to effectuate the intent of this clause.

43A. AFFIRMATIVE ACTION REQUIREMENTS

The Contractor shall comply with the provisions set forth hereinafter. These provisions are modeled on the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance in 1978.

Each bidder, contractor or subcontractor (hereinafter called the Contractor) must fully comply with the clause entitled 'Equal Employment Opportunity' and these bid conditions. The Contractor commits itself

to the goals for minority and female utilization set forth below and all other requirements, terms and conditions of these bid conditions by submitting a properly signed bid.

The Contractor shall appoint a company executive to assume the responsibility for the implementation of the requirements, terms and conditions of these bid conditions.

- I. The goals for minority and female participation, expressed in percentage terms, for the Contractor's workforce at the construction site under this Contract are as follows:

Minority, except laborers	30%
Minority, laborers	40%
Female, except laborers	6.9%
Female, laborers	6.9%

These goals are applicable to all construction Work performed at the construction site under the Contract.

The Contractor's compliance with this Section shall be based on its implementation of the clause entitled 'Equal Employment Opportunity', and specific affirmative action obligations required herein of minority and female employment and training must be substantially uniform throughout the length of the Contract and in each trade. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the Contract. Compliance with the goals will be measured against the total work hours performed.

J.

- 1.) The Contractor shall provide written notification to the Director, Office of Business and Job Opportunity of the Port Authority of New York and New Jersey, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under this Contract. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
- 2.) The Contractor shall submit a Workforce Projection Schedule, which shall be correlated to the progress schedule, within thirty days after acceptance of the proposal, for the approval of the Engineer. The Contractor shall maintain and periodically update it at intervals as required by the Engineer. The Workforce Projection Schedule shall include the time period in which each trade shall be utilized, the average number of workers required per trade on a weekly basis, the peak period for each trade, and the number of workers required per trade for the peak period on a weekly basis.

K.

- 1.) As used in these specifications:
 - a. Omitted
 - b. "Manager" means General Manager, Business and Job Opportunity, Office of Regional and Economic Development of the Authority;

- c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941;
- d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic persons of Puerto Rican, Mexican, Dominican, Cuban, Central or South American culture or origin, regardless of race;
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- 2.) Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the Work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 such provisions as are necessary for the Contractor to achieve the aggregate goals set forth above.
- 3.) Omitted.
- 4.) The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p hereof. The goals set forth above are expressed, as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in the total workforce at the construction site under the Contract including employees of the Contractor and the subcontractors. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified. These goals may be achieved through utilization of journey workers and apprentices. In the event they are not achieved through the utilization of journey workers, the maximum number of apprentices provided for in the applicable collective bargaining agreement may be utilized to achieve said goals.
- 5.) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations hereunder.
- 6.) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

- 7.) The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these provisions shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- a. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - b. Develop maximum job opportunities for apprentices appropriate to the conditions of the Work and subject to the applicable collective bargaining agreement, in conjunction with training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7a above.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore; along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Manager when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- g. Review, at least annually, the company's EEO policy and affirmative action obligations hereunder with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth.
- k. Tests and other selection requirements shall comply with 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations hereunder are being carried out.
- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

- 8.) Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p hereof provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.
- 9.) Goals for minorities and for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is under-utilized).
- 10.) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- 11.) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 12.) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the clause entitled "Equal Employment Opportunity", including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Authority. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.
- 13.) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Authority shall proceed accordingly.

- 14.) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports, including the Monthly Employment Utilization Report, relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- 15.) Nothing herein provided shall be construed as a limitation upon the application of any laws, which establish standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

44. PREVAILING RATE OF WAGE

The Contractor shall pay or provide (and shall cause all subcontractors to pay or provide) to his or their workmen, laborers and mechanics (who are employed by him or them to work on an hourly or daily basis at any trade or occupation at or about the construction site) at least the prevailing rate of wage and supplements for others engaged in the same trade or occupation at the time and in the locality in which the Work is being performed as determined by the Engineer and notwithstanding that such rate may be higher than the rate in effect on the date of opening of Proposals.

For purposes of this Contract, the Engineer has determined that the prevailing rates of wage and supplements are those established by the Commissioner of Labor of the State of New York for the locality and for the period of time in which the Work is performed. The currently prevailing rates of wage and supplements are set forth in the Prevailing Rate Schedule annexed hereto and made a part hereof. These rates are subject to annual adjustment effective July 1st of each year and a Prevailing Rate Schedule reflecting all adjustments will be available for the Contractor's inspection on or about July 15th of each year on the 3rd Floor, 3 Gateway Center, Newark, New Jersey 07102 during regular business hours.

The provisions of this numbered clause are inserted in this Contract for the benefit of such workmen, laborers and mechanics as well as for the benefit of the Authority; and if the Contractor or any subcontractor shall pay or provide any such workman, laborer or mechanic less than the rates of wages and supplements above described, such workman, laborer or mechanic shall have a direct right of action against the Contractor or such subcontractor for the difference between the wages and supplements actually paid or provided and those to which he is entitled under this clause. If such workman, laborer or mechanic is employed by any subcontractor whose subcontract does not contain a provision substantially similar to the provisions of this clause (requiring the payment or provision of at least the above referenced minimum, and providing for a cause of action in the event of the subcontractor's failure to pay or provide such wages and supplements) such workman, laborer or mechanic shall have a direct right of action against the Contractor. The Authority shall not be a necessary party to any action brought by any workman, laborer or mechanic to obtain a money judgment against the Contractor or any subcontractor pursuant to this numbered clause.

Nothing herein contained shall be construed to prevent the Contractor or any subcontractor from paying higher rates of wages or providing higher supplements than the minimum hereinbefore prescribed; and nothing herein contained shall be construed to constitute a representation or guarantee that the Contractor or any subcontractor can obtain workmen, laborers and mechanics for the minimum herein before prescribed. All wages actually paid that are in excess of the prevailing wages in the performance of Extra Work and Net Cost Work, if applicable, shall be subject, on each occasion, to the initial and continuing approval of the Engineer in advance of the performance of such Extra Work and Net Cost Work, if applicable.

The Contractor shall post at the Work site, in a place that is prominent, accessible and visible to all employees of the Contractor and its subcontractors during the daily time period that the Contractor and/or subcontractor performs Work at the site, the appropriate prevailing wage and supplement schedules. The Contractor must inform all employees, including those of its subcontractors, that they may obtain a copy of the prevailing wage and supplement schedule from the Contractor.

The Contractor and every subcontractor shall make and maintain weekly payroll records during the course of the Work and for the period set forth in the clause hereof entitled "Authority Access to Records" for all employees employed in the Work. Such records shall contain the name, address and last four digits of the social security number of each such employee (Contractors and subcontractors must maintain the full social security number of each employee and shall provide them upon request to the Port Authority Inspector General), the employee's correct payroll classification, rate of pay and supplements, daily and weekly number of hours worked, deductions made and actual wages and supplements paid. The Contractor shall submit these weekly payroll records to the Authority (on forms furnished by the Authority) of all his payroll records and those of each for his subcontractors as the Authority may require with the Contractor's monthly payment application, together with an affidavit by the Contractor and by each subcontractor to the effect that such payroll records are correct and complete, the wage and supplement rates contained therein are not less than those required by the provisions of this Contract, and the classifications set forth for each employee conform with the work performed. Such copies and summaries and the original payroll records shall be available for inspection by the Authority (including its Inspector General), and the Contractor and its subcontractors shall permit such representatives to interview employees during working hours on the job site.

The Engineer may at any time request the Contractor to prepare a daily report on the Authority form entitled *Contractor Daily Sign-In Sheet*, copies of which can be obtained from the Engineer. The *Contractor Daily Sign-In Sheet* shall be completed as follows:

- 1.) At the beginning of each workday the Contractor shall:
 - a. fill in the top of the *Contractor Daily Sign-In Sheet*, including the location, date, contractor/subcontractor name and contract number;
 - b. ensure that each employee, including those of subcontractors, has printed and signed his or her name and indicated his or her work classifications, the last four digits of his or her social security number, and his or her starting time;
- 2.) At the end of each workday, the Contractor shall:
 - a. ensure that each employee, including those of subcontractors, has signed out and indicated his or her ending time;
 - b. sign the Certification Statement at the bottom of the form to indicate that the information contained in the *Contractor Daily Sign-In Sheet* is true and accurate; and
 - c. submit the original completed form to the Engineer's representative.

In an area of his office at the construction site which is accessible to his employees, the Contractor shall display such printed material as may be provided by the Engineer setting forth information for the employees of the Contractor and his subcontractors concerning the wage and supplemental benefit requirements set forth in this numbered clause. The Contractor shall also cause each of his subcontractors to display such material in a similarly accessible place in any office which the subcontractor maintains at the Site of the Work.

The Contractor's failure to comply with any provision of this numbered clause shall be deemed a substantial breach of this Contract.

45. EXTRA WORK ORDERS

No Extra Work shall be performed except pursuant to written orders of the Director expressly and unmistakably indicating his intention to treat the Work described therein as Extra Work; and, exclusive of Extra Work expressly authorized by or pursuant to a resolution of the Commissioners of the Authority or its Committee on Construction, the Director shall have authority to order any item of Extra Work, if the cost thereof to the Authority together with the cost of all other Extra Work previously ordered and not expressly authorized as aforesaid will not in the aggregate be in excess of the sum specified in the letter of acceptance of the Contractor's Proposal as the limit on such authority to order Extra Work; provided, however, that Extra Work in excess of such aggregate amount may be ordered as above provided to the extent expressly authorized in a writing signed by the Executive Director of the Authority delegating authority vested in him pursuant to the By-Laws or a resolution of the Commissioners of the Authority or its Committee on Construction.

In the absence of such an order signed by the Director in the case of Extra Work, if the Engineer shall direct, order or require any Work, whether orally or in writing, which the Contractor deems to be Extra Work, the Contractor shall nevertheless comply therewith, but shall within five days give written notice thereof to the Director and the Engineer with a copy to the Construction Manager, stating why he deems it to be Extra Work, and shall moreover furnish to the Engineer time slips and memoranda as required by the clause hereof entitled "Compensation for Extra Work". Said notice, time slips and memoranda are for the purpose of affording to the Director an opportunity to verify the Contractor's claim at the time and (if he desires so to do) to cancel promptly such order, direction or requirement of the Engineer, of affording to the Engineer an opportunity of keeping an accurate record of the materials, labor and other items involved, and generally of affording to the Authority an opportunity to take such action as it may deem desirable in light of the Contractor's claims. Accordingly, the failure of the Contractor to serve such notice or to furnish such time slips and memoranda shall be deemed to be a conclusive and binding determination on his part that the direction, order or requirement of the Engineer does not involve the performance of Extra Work, and shall be deemed to be a waiver by the Contractor of all claims for additional compensation or damages by reason thereof, such written notice, time slips and memoranda being a condition precedent to such claims.

Upon issuance of a Notice of Extra Work by the Engineer to the Contractor, the Contractor shall submit to the Engineer a Change Order Proposal indicating the Extra Work revisions to the Contract work and all costs and schedule for performing the Extra Work. The Change Order Proposal shall include accurate and current documentation for each item of the Change Order Proposal to demonstrate reasonableness of the Change Order Proposal to the satisfaction of the Engineer. Such documentation shall contain cost breakdowns of all submitted claimed expenses, including but not limited to material cost, labor cost, labor rates by trade and work classification, and overhead and profit rates used in preparation of the Change Order Proposal.

46. PERFORMANCE OF EXTRA WORK

The provisions of this Form of Contract relating generally to Work and its performance shall apply without exception to any Extra Work required and to the performance thereof. Moreover, the provisions of the Specifications relating generally to the Work and its performance shall also apply to any Extra Work required and to the performance thereof, except to the extent that a written order in connection with any particular item of Extra Work may expressly provide otherwise.

47. TITLE TO MATERIALS

All materials to become part of the permanent construction shall be and become the property of the Authority upon delivery at the construction site or upon being especially adapted for use in or as a part of the permanent construction, whichever may first occur, subject however to the Contractor's assumption of risk under the clause hereof entitled "Risks Assumed by the Contractor", subparagraph A.

The Contractor shall promptly furnish to the Authority such bills of sale and other instruments as may be required by it, properly executed, acknowledged and delivered, assuring to it title to such materials, free of encumbrances and shall mark or otherwise identify all such materials as the property of the Authority.

48. ASSIGNMENTS AND SUBCONTRACTS

Any assignment or other transfer by the Contractor of this Contract or any part hereof or of any of his rights hereunder or of any monies due or to become due hereunder and any delegation of any of his duties hereunder without the express consent in writing of the Authority shall be void and of no effect as to the Authority, provided, however, that the Contractor may subcontract portions of the Work to such persons as the Engineer may, from time to time, expressly approve in writing. For each individual, partnership or corporation proposed by the Contractor as a subcontractor, the Contractor shall submit to the Authority a certification or, if a certification cannot be made, a statement by such person, partnership or corporation to the same effect as the certification or statement required from the Contractor pursuant to the clauses of the "Information For Bidders" entitled "Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Suspension, Debarment, Disqualification, Prequalification Denial or Termination, Etc; Disclosure of Other Required Information", "Non-Collusive Bidding and Code of Ethics Certification; Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent Fee or Other Fee" and "Certification of Participation in a State-Registered Apprenticeship Program". For each proposed subcontractor, the Contractor shall ensure that the Background Qualification Questionnaire ("BQQ") Package, available at http://www.panynj.gov/wtcprogress/pdf/PANYNJ_OIG_WTC_BQQP.zip, is completed. The Certification of Participation in a State-Registered Apprenticeship Program shall only be applicable to each subcontractor whose total amount of subcontract under this Contract is greater than \$1 Million Dollars. Notwithstanding the aforementioned, for any subcontract or supply contract greater than \$25,000, the Contractor shall obtain certifications and any necessary disclosure forms from all subcontractors and suppliers as set forth in Chapter VII. Paragraph 68 (Certification - Debarment and Suspension) and for any subcontract or supply contract greater than \$100,000, the Contractor shall obtain certifications and any necessary disclosure forms from all subcontractors and suppliers as set forth in Chapter VII, Paragraph 69 (Certification - Lobbying Restrictions –Contracts Exceeding \$100,000) and forward the originals to the Director of Procurement, Procurement Department, Port Authority of New York & New

Jersey, One Madison Avenue, 7th Floor New York, New York 10010. All further subcontracting by any subcontractor shall also be subject to such approval of the Engineer. Approval of a subcontractor may be conditioned on (among other things) the furnishing, without expense to the Authority, of a surety bond guaranteeing payment by the subcontractor of claims of materialmen, subcontractors, workmen and other third persons arising out of the subcontractor's performance of any part of the Work.

No consent to any assignment or other transfer, and no approval of any subcontractor, shall under any circumstances operate to relieve the Contractor of any of his obligations; no subcontract, no approval of any subcontractor and no act or omission of the Authority or the Engineer shall create any rights in favor of such subcontractor and against the Authority; and as between the Authority and the Contractor, all assignees, subcontractors, and other transferees shall for all purposes, except in regard to acting as an agent of the Authority for sales tax purposes, be deemed to be agents of the Contractor. Moreover, all subcontracts and all approvals of subcontractors shall be and, regardless of their form, shall be deemed to be conditioned upon performance by the subcontractor in accordance with this Contract; and if any subcontractor shall fail to perform the Contract to the satisfaction of the Engineer, the Engineer shall have the absolute right to rescind his approval forthwith and to require the performance of the Contract by the Contractor personally or through other approved subcontractors.

The Authority shall have the right to assign this Contract in whole or in part without the consent of the Contractor to third party or parties following advance written notice to the Contractor.

49. CLAIMS OF THIRD PERSONS

The Contractor and its surety undertakes to promptly pay all claims lawfully made against him by subcontractors, materialmen and workmen, and all claims lawfully made against him by other third persons for labor or services performed or materials, supplies, machinery equipment, rentals, fuels, oils, tools, appliances, insurance and other items furnished, used or consumed in connection with the prosecution of the Work provided for in this Contract and any and all modifications thereof, and shall indemnify and save harmless Authority and Construction Manager of and from all liability loss, damage and expense, including interest, costs and attorney fees, which Authority and/or Construction Manager may sustain by reason of Contractor's or its Surety's failure to do so.

50. CERTIFICATES OF PARTIAL COMPLETION

If at any time prior to the rendition of the Certificate of Final Completion, any portion of the permanent construction has been satisfactorily completed, and if in the judgment of the Director such portion of the permanent construction is not necessary for the operations of the Contractor but will be immediately useful to and is needed by the Authority for other purposes, the Engineer may render to the Authority and to the Contractor a certificate in writing to that effect (herein called a Certificate of Partial Completion), and thereupon or at any time thereafter the Authority may take over and use the portion of the permanent construction described in such Certificate and exclude the Contractor therefrom.

The rendition of a Certificate of Partial Completion shall not be construed to constitute an extension of the Contractor's time to complete the portion of the permanent construction to which it relates in the event that he has failed to complete the same in accordance with the terms of this Contract. Moreover, the acceptance of a Certificate of Partial Completion by the Authority shall not operate to release the Contractor or his sureties from any obligations under or upon this Contract or the Performance and Payment Bonds. Except as provided by this Section, Contractor acknowledges that beneficial occupancy shall not apply to this Contract and Contractor agrees to waive all claims regarding beneficial occupancy.

51. CERTIFICATE OF SUBSTANTIAL COMPLETION

Prior to the rendition of the Certificate of Final Completion, the Director may deem the entire Work to be substantially completed when, in the judgment of the Engineer, the permanent construction has been satisfactorily completed to the point where the Work is fit for its intended purpose and use. The Engineer may, if such a determination of substantial completion is made and at such time, render to the Authority and to the Contractor a certificate in writing to that effect (herein called the Certificate of Substantial Completion), and thereupon or at any time thereafter the Authority may take over and use the permanent construction described in such Certificate and exclude the Contractor therefrom except for access to complete punch list items. Whether to make a determination of a substantial completion as to any portion of the Work, and whether to render such a Certificate, shall be the discretionary determination of the Engineer based upon an examination and appraisal of the completed Work, and no right to such a determination or certification is established in the Contractor by this provision.

The rendition of such Certificate of Substantial Completion shall not relieve the Contractor of his obligation hereunder to complete the Work of this Contract nor shall it be construed to constitute an extension of the Contractor's time to complete the portion of the permanent construction to which it relates in the event that he has failed to complete the same in accordance with the terms of this Contract. Moreover, the acceptance of a Certificate of Substantial Completion by the Authority shall not operate to release the Contractor or his sureties from any obligations under or upon this Contract or the Performance and Payment Bonds.

When the Contractor is of the opinion that the Work is substantially complete as described above (except for minor punch list items), the Contractor may submit to the Engineer a written request that the Engineer inspect the Work so as to determine, in the Engineer's sole opinion, whether substantial completion has been achieved. The Contractor's written request shall list the specific punch list items of Work that are incomplete. Upon such a request, the Engineer will respond within 30 days with a Certificate of Substantial Completion or provide a written explanation of the reasons why the Work is not substantially complete including a list of open items necessary to achieve substantial completion. Nothing contained herein shall be deemed to preclude the Engineer from making a determination of substantial completion in the absence of a request therefor by the Contractor.

52. CERTIFICATE OF FINAL COMPLETION

After the satisfactory completion of all Work whatsoever required and the making of such tests and inspections as may be necessary or desirable, the Director shall render to the Authority and to the Contractor a certificate in writing (herein called the Certificate of Final Completion) certifying that in his opinion all Work under this Contract, including Extra Work, has been completed in accordance with the Contract Drawings and Specifications and the requirements of the Engineer, and certifying the date as of which it was so completed.

The rendition of the Certificate of Final Completion shall not be construed to constitute an extension of the Contractor's time for performance in the event that he has failed to complete the Work in accordance with the terms of this Contract. Moreover, the acceptance of the Certificate of Final Completion by the Authority shall not operate to release the Contractor or his sureties from any obligations under or upon this Contract or the Performance and Payment Bonds.

53. NO GIFTS, GRATUITIES, OFFERS OF EMPLOYMENT, ETC.

During the term of this Contract, the Contractor shall not offer, give or agree to give anything of value either to an Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Authority, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Authority of duties involving transactions with the Contractor on behalf of the Authority, whether or not such duties are related to this Contract or any other Authority contract or matter. Any such conduct shall be deemed a material breach of this Contract.

As used herein "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by the Contract or any other Authority contract), etc., which might tend to obligate the Authority employee to the Contractor, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Contract or any other Authority contract.

Where used in this clause, the term "Authority" shall be deemed to include all subsidiaries of the Authority. Currently, those subsidiaries are the Port Authority Trans-Hudson Corporation (PATH), the Newark Legal and Communications Center and the New York and New Jersey Railroad Corporation.

In addition, during the term of this Contract, the Contractor shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Authority).

The Contractor shall include the provisions of this clause in each subcontract entered into under this Contract.

**CHAPTER V
WARRANTIES MADE AND LIABILITY
ASSUMED BY THE CONTRACTOR**

54. CONTRACTOR'S WARRANTIES

The Contractor represents and warrants:

- A. That he is financially solvent, that he is experienced in and competent to perform the type of services contemplated by this Contract, that the facts stated or shown in any papers submitted or referred to in connection with his Proposal are true, and, if the Contractor be a corporation, that it is authorized to perform this Contract;
- B. That he has carefully examined and analyzed the provisions and requirements of this Contract and inspected the construction site, that from his own investigations he has satisfied himself as to the nature of all things needed for the performance of this Contract, the general and local conditions and all other matters which in any way affect this Contract or its performance, and that the time available to him for such examination, analysis, inspection and investigations was adequate;
- C. That the Contract is feasible of performance in accordance with all its provisions and requirements and that he can and will perform it in strict accordance with such provisions and requirements;
- D. That no Commissioner, officer, agent or employee of the Authority is personally interested directly or indirectly in this Contract or the compensation to be paid hereunder; and
- E. That, except only for those representations, statements or promises expressly contained in this Contract, no representation, statement or promise, oral or in writing, of any kind whatsoever by the Authority, its Commissioners, Construction Manager and their respective officers, agents, employees or consultants has induced the Contractor to enter into this Contract or has been relied upon by the Contractor, including any with reference to: (1) the meaning, correctness, suitability, or completeness of any provisions or requirements of this Contract; (2) the nature, existence or location of materials, structures, obstructions, utilities or conditions, surface or subsurface, which may be encountered at the construction site; (3) the nature, quantity, quality or size of the materials, equipment, labor and other facilities needed for the performance of this Contract; (4) the general or local conditions which may in any way affect this Contract or its performance; (5) the price of the Contract; or (6) any other matters, whether similar to or different from those referred to in (1) through (5) immediately above, affecting or having any connection with this Contract, the bidding thereon, any discussions thereof, the performance thereof or those employed therein or connected or concerned therewith.
- F. Contractor shall keep itself informed of the conditions at the Site, so as not to delay, including without limitation, the delivery of materials or the installation of the Work called for in this Contract and shall cooperate with other contractors working at the Site and afford all other contractors reasonable opportunity for the introduction and storage of their materials and execution of their work. The Contractor recognizes that efficient construction of the Project requires that all the Work thereon be coordinated and therefore agrees to accept the determination of the Authority and/or Construction Manager as to the time when Work of the Contractor shall begin and the manner in which it shall progress in connection with other work involved in the said construction.

It further agrees that the direction of the Authority and/or Construction Manager with respect thereto shall be complied with fully and promptly at no additional cost.

Moreover, the Contractor accepts the conditions at the construction site as they may eventually be found to exist and warrants and represents that he can and will perform the Contract under such conditions and that all materials, equipment, labor and other facilities required because of any unforeseen conditions (physical or otherwise) shall be wholly at his own cost and expense, unless specifically provided for elsewhere in this Contract.

Nothing in the Contract Drawings or Specifications or any other part of the Contract is intended as or shall constitute a representation by the Authority as to the feasibility of performance of this Contract or any part thereof. Moreover, the Authority does not warrant or represent either by issuance of the Contract Drawings and Specifications or by any provision of this Contract as to time for performance or completion or otherwise that the Contract may be performed or completed by the times required herein or by any other times.

The Contractor further represents and warrants that he was given ample opportunity and time and by means of this paragraph was requested by the Authority to review thoroughly all documents forming this Contract prior to opening of Proposals on this Contract in order that he might request inclusion in this Contract of any statement, representation, promise or provision which he desired or on which he wished to place reliance; that he did so review said documents, that either every such statement, representation, promise or provision has been included in this Contract or else, if omitted, that he expressly relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Contract without claiming reliance thereon or making any other claim on account of such omission.

The Contractor further recognizes that the provisions of this numbered clause (though not only such provisions) are essential to the Authority's consent to enter into this Contract and that without such provisions, the Authority would not have entered into this Contract.

55. RISKS ASSUMED BY THE CONTRACTOR

The Contractor assumes the following distinct and several risks, whether they arise from acts or omissions (whether negligent or not) of the Contractor, of the Authority, including the Commissioners, officers, representatives and employees and/or the Construction Manager, or of third persons, or from any other cause, and whether such risks are within or beyond the control of the Contractor, excepting only risks which arise solely from affirmative acts done by the Authority subsequent to the opening of Proposals on this Contract with actual and willful intent to cause the loss, damage and injuries described in subparagraphs A through D below:

- A. The risk of loss or damage to the permanent construction prior to the rendition of the Certificate of Final Completion (other than loss or damage to the portions of the permanent construction with respect to which Certificates of Partial Completion have been issued), and the Contractor shall forthwith repair, replace and make good any such loss or damage to the permanent construction without cost to the Authority;

- B. The risk of loss, damage to or alterations of the structures to be demolished occurring prior to completion of demolition by the Contractor (such structures being still included, however, in the term "Work"). In the event of such loss, damage or alterations, the Contractor shall nevertheless complete the performance of the Work, including the demolition, without additional cost to the Authority and without compensation for lost salvage value;
- C. The risk of claims, fines or penalties, just or unjust, made by third persons or assessed by courts or governmental agencies or entities against the Contractor or the Authority or Construction Manager on account of injuries (including wrongful death), loss, damage or liability of any kind whatsoever arising or alleged to arise out of or in connection with the performance of the Work (whether or not actually caused by or resulting from the performance of the Work) or out of or in connection with the Contractor's operations or presence at or in the vicinity of the construction site or Authority premises, including claims against the Contractor or the Authority for the payment of workers' compensation, whether such claims, fines or penalties are made or assessed and whether such injuries, damage, loss and liability are sustained at any time both before and after the rendition of the Certificate of Final Completion;
- D. The risk of loss or damage to any property of the Contractor, and of claims made against the Contractor or the Authority or the Construction Manager for loss or damage to any property of subcontractors, materialmen, workmen and others performing the Work, occurring at any time prior to completion of removal of such property from the construction site or Authority premises or the vicinity thereof.

The Contractor shall indemnify the Authority, , including the Commissioners, the MTA and the Construction Manager as well as their respective officers, agents, servants or employees, and affiliates, parents and subsidiaries and the FTA against all claims described in subparagraphs C and D above and for all expense incurred by it in the defense, settlement or satisfaction thereof, including expenses of attorneys, except where indemnity would be precluded by New York State General Obligations Law, Section 5-322.1 or by other applicable law. If so directed, the Contractor shall defend against any claim described in subparagraphs C and D above, in which event he shall not without obtaining express advance permission from the General Counsel of the Authority raise any defense involving in any way jurisdiction of the tribunal, immunity of the Authority, governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority. Unless a claim is one which the Contractor is not required to indemnify the Authority against as described in the first sentence of this paragraph, such defense shall be at the Contractor's cost.

The provisions of this numbered clause shall also be for the benefit of the Commissioners, officers, agents and employees of the Authority, so that they shall have all the rights which they would have under this numbered clause if they were named at each place above at which the Authority is named, including a direct right of action against the Contractor to enforce the foregoing indemnity, except, however, that the Authority by action of its Board of Commissioners may at any time in its sole discretion and without liability on its part cancel the benefit conferred on any of them by this numbered clause, whether or not the occasion for invoking such benefit has already arisen at the time of such cancellation.

Neither the issuance of a Certificate of Completion nor the making of Final Payment shall release the Contractor from his obligations under this numbered clause. Moreover, neither the enumeration in this numbered clause nor the enumeration elsewhere in this Contract of particular risks assumed by the Contractor or of particular claims for which he is responsible shall be deemed (a) to limit the effect of the provisions of this numbered clause or of any other clause of this Contract relating to such risks or claims, (b) to imply that he assumes or is responsible for risks or claims only of the type enumerated in this numbered clause or in any other clause of this Contract, or (c) to limit the risks which he would assume or the claims for which he would be responsible in the absence of such enumerations.

The Contractor and its subcontractors of all tiers waive claims against the Authority and the Construction Manager for any consequential, indirect, special or punitive damages that may arise out of the Work performed pursuant to this Contract. For the avoidance of doubt, no third party beneficiary shall have any right against Authority or Construction Manager for such damages. The waiver includes, but is not limited to, damages incurred for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit.

56. NO THIRD PARTY RIGHTS

Nothing contained in this Contract is intended for the benefit of third persons, except to the extent that the Contract specifically provides otherwise by use of the words "benefit" or "direct right of action".

57. INSURANCE PROCURED BY THE AUTHORITY

Reference Rider D – Insurance Rider (Section II) for the Insurance Procured By The Authority for the Project.

58. INSURANCE PROCURED BY CONTRACTOR

Reference Rider D – Insurance Rider (Section I) for the Insurance Procured By Contractor, and all the requirements are included in the Lump Sum Contract.

**CHAPTER VI
RIGHTS AND REMEDIES**

59. RIGHTS AND REMEDIES OF AUTHORITY

The Authority shall have the following rights in the event the Director shall deem the Contractor guilty of a breach of any term whatsoever of this Contract:

- A. The right to take over and complete the Work or any part thereof as agent for and at the expense of the Contractor, either directly or through other contractors.
- B. The right to cancel this Contract as to any or all of the Work yet to be performed.
- C. The right to specific performance, an injunction or any other appropriate equitable remedy.
- D. The right to money damages.
- E. The right to suspend the Work or any part thereof.

For the purpose of this Contract, breach shall include but not be limited to the Contractor's failure to procure insurance satisfactory to the Authority within the time limit specified in Paragraph 59 of Chapter VI entitled "Insurance Procured by Contractor" and the following, whether or not the time has yet arrived for performance of an obligation under this Contract: a statement by the Contractor to any representative of the Authority indicating that he cannot or will not perform any one or more of his obligations under this Contract; any act or omission of the Contractor or any other occurrence which makes it improbable at the time that he will be able to perform any one or more of his obligations under this Contract; any suspension of or failure to proceed with any part of the Work by the Contractor which makes it improbable at the time that he will be able to perform any one or more of his obligations under this Contract; any false certification at any time by the Contractor as to any material item certified pursuant to the clauses of the Information For Bidders entitled "Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Suspension, Debarment, Disqualification, Prequalification Denial or Termination, Etc; Disclosure of Other Required Information", "Non-Collusive Bidding and Code of Ethics Certification; Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent Fee or Other Fee", and "Certification of Participation in a State-Registered Apprenticeship Program" any false certification at any time by the Contractor or a subcontractor pursuant to the clause "Prevailing Rate of Wage Certification" set forth in the Information for Bidders, or the willful or fraudulent submission of any signed statement pursuant to such clauses which is false in any material respect; or the Contractor's incomplete or inaccurate representation of its status with respect to the circumstances provided for in such clauses.

The enumeration in this numbered clause or elsewhere in this Contract of specific rights and remedies of the Authority shall not be deemed to limit any other rights or remedies which the Authority would have in the absence of such enumeration; and no exercise by the Authority of any right or remedy shall operate as a waiver of any other of its rights or remedies not inconsistent therewith or to estop it from exercising such other rights or remedies.

60. RIGHTS AND REMEDIES OF CONTRACTOR

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract which may be committed by the Authority, the Contractor expressly agrees that no default, act or omission of the Authority or the Construction Manager, shall constitute a material breach of this Contract, entitling him to cancel or rescind it or (unless the Director shall so direct) to suspend or abandon performance.

61. PERFORMANCE OF WORK AS AGENT FOR CONTRACTOR

In the exercise of its right to take over and complete Work as agent for the Contractor, for which provision is made in the clause hereof entitled "Rights and Remedies of Authority", the Authority shall have the right to take possession of and use or permit the use of any and all plant, materials, equipment and other facilities provided by the Contractor for the purpose of the Work and the Contractor shall not remove any of the same from the site of the Work without express permission. Unless expressly directed to discontinue the performance of all Work, the Contractor shall continue to perform the remainder thereof in such manner as in no way will hinder or interfere with the portions taken over by the Authority.

In the certificate of total compensation earned, for which provision is made in the clause hereof entitled "Final Payment", the Director will separately state the amount of Work performed by the Authority as agent for the Contractor, credit to the Authority the cost thereof, and credit to the Contractor the compensation earned thereby; and the difference between them shall be payable by the Contractor to the Authority, or vice versa as the case may be. If such difference is in its favor, the Authority may deduct it from any moneys due the Contractor, and if such moneys be insufficient, the balance thereof shall be payable to it on demand; if in the Contractor's favor, it shall constitute part of the Final Payment.

The exercise by the Authority of its right to take over the Work shall not release the Contractor or his sureties from any of his or their obligations or liabilities under this Contract or the Performance and/or the Payment Bond.

62. NO ESTOPPEL OR WAIVER

The Authority shall not be precluded or estopped by any acceptance, certificate or payment, final or otherwise, issued or made under this Contract or otherwise issued or made by it, the Director, the Construction Manager or any officer, agent or employee of the Authority or Construction Manager, from showing at any time the true amount and character of Work performed, or from showing that any such acceptance, certificate or payment is incorrect or was improperly issued or made; and the Authority shall not be precluded or estopped, notwithstanding any such acceptance, certificate or payment, from recovering from the Contractor any damages which it may sustain by reason of any failure on his part to comply strictly with this Contract, and any moneys which may be paid to him or for his account in excess of those to which he is lawfully entitled.

Neither the acceptance of the Work or any part thereof, nor any payment therefore, nor any order or certificate issued under this Contract or otherwise issued by the Authority, the Director, or any officer, agent or employee of the Authority or the Construction Manager, nor any permission or direction to continue with the performance of Work, nor any performance by the Authority of any of the Contractor's duties or obligations, nor any aid lent to the Contractor by the Authority in his performance of such duties or obligations, nor any other thing done or omitted to be done by the Construction Manager, the Authority, its Commissioners, or the officers, agents or employees of the Authority or Construction Manager shall be deemed to be a waiver of any provision of this Contract or of any rights or remedies to which the Authority may be entitled because of any breach thereof, excepting only a resolution of its Commissioners, providing expressly for such waiver. No cancellation, rescission or annulment hereof, in whole or as to any part of the Work, because of any breach hereof, shall be deemed a waiver of any money damages to which the Authority may be entitled because of such breach. Moreover, no waiver by the Authority of any breach of this Contract shall be deemed to be a waiver of any other or any subsequent breach.

CHAPTER VII MISCELLANEOUS

63. SUBMISSION TO JURISDICTION

The Contractor hereby irrevocably submits himself to the jurisdiction of the Courts of the State of New York in regard to any controversy arising out of, connected with, or in any way concerning the Proposal or this Contract. The Contractor agrees that service of process on the Contractor in relation to such jurisdiction may be made, at the option of the Authority, either by registered or certified mail addressed to the applicable office as provided for in the clause hereof entitled "Service of Notices on the Contractor", by registered or certified mail addressed to any office actually maintained by the Contractor or by actual personal delivery to the Contractor if the Contractor be an individual, to any partner if the Contractor be a partnership or to an officer, director or managing or general agent if the Contractor be a corporation.

Such service shall be deemed to be sufficient when jurisdiction would not lie because of the lack of basis to serve process in the manner otherwise provided by law. In any case, however, process may be served as stated above whether or not it might otherwise have been served in a different manner.

64. PROVISIONS OF LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included therein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

65. INVALID CLAUSES

If any provision of this Contract shall be such as to destroy its mutuality or to render it invalid or illegal, then, if it shall not appear to have been so material that without it the Contract would not have been made by the parties, it shall not be deemed to form part thereof but the balance of the Contract shall remain in full force and effect.

66. NON-LIABILITY OF THE AUTHORITY REPRESENTATIVES

Neither the Commissioners of the Authority nor any officer, agent, or employee of the Authority or of the Construction Manager shall be charged personally by the Contractor with any liability or held liable to him under any term or provision of this Contract, or because of its execution or attempted execution, or because of any breach hereof.

67. SERVICE OF NOTICES ON THE CONTRACTOR

Whenever provision is made in this Contract for the giving of any notice to the Contractor, its deposit in any post office or post office box, enclosed in a postpaid wrapper addressed to the Contractor at his office, or its delivery to his office, shall be sufficient service thereof as of the date of such deposit or delivery, except to the extent, if any, otherwise provided in the clause entitled "Submission to

Jurisdiction". Until further notice to the Authority the Contractor's office will be that stated in his Proposal. Notices may also be served personally upon the Contractor; or if a corporation, upon any officer, director, or managing or general agent; or if a partnership upon any partner.

68. MODIFICATION OF CONTRACT

No change in or modification, termination or discharge of this Contract, in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith or his duly authorized representative, provided, however, that any change in or modification, termination or discharge of this Contract expressly provided for in this Contract shall be effective as so provided.

The authority of any person to order Extra Work or to alter the Contract Drawings and Specifications does not include the power to cancel, modify or waive any provision of the Form of Contract, and no officer or other representative of the Authority shall have the power so to do unless and until hereafter so authorized by or pursuant to a resolution of the Commissioners of the Authority or by or pursuant to a resolution of their appropriate Committee.

69. PUBLIC RELEASE OF INFORMATION

The Contractor and all his subcontractors shall not issue or permit to be issued any press release, advertisement, or literature of any kind, which refers to the Authority or the services performed in connection with this Contract, without first obtaining the written approval of the Director. Such approval may be withheld if for any reason the Director believes that the publication of such information would be harmful to the public interest or is in any way undesirable. This provision shall survive termination or expiration of this Contract.

70. INTERACTION WITH THE MEDIA AND PUBLIC

The Authority reserves the right to review and approve all Authority-related copy prior to publication. The Contractor shall not allow Authority-related copy to be published in the Contractor's advertisements or public relations programs until submitting the Authority-related copy to and receiving prior approval from the Director. The Contractor shall ensure that all published information shall be factual and shall in no way imply that the Authority endorses the Contractor's firm, service, or product.

The Contractor shall not respond to inquiries from the news media, but shall refer all questions to the Director.

The Contractor shall designate a staff person to keep the Director informed of all impacts on the community resulting from construction.

If the Contractor receives a complaint from a citizen or the community, it shall immediately inform the Director and advise what action has been taken to alleviate the situation.

If the Authority plans to conduct a site tour of the construction area, the Director will coordinate the tour with the Contractor.

71. WAIVER OF CLAIMS

The Contractor acknowledges and agrees and will, as part of each subcontract, require its subcontractors to acknowledge and agree (i) that the role of the Construction Manager is to function solely on behalf of and for the benefit of the Authority and (ii) that the Contractors and its subcontractors of all tiers waive all claims, whether in contract, tort or otherwise, they may have against the Construction Manager.

72. IMMIGRATION AND NATIONALITY ACT

The Immigration and Nationality Act as amended by the Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for employers to knowingly hire persons who are not authorized to work in the United States. For all employees, employers are required to complete an Employment Eligibility Verification form I-9 which requires the prospective employee to produce documentation that establishes identity and employment eligibility. For more information visit www.uscis.gov, or speak to your attorney. The Contractor and its subcontractors of all tiers are to be in compliance with federal requirements regarding the use E-Verify, an Internet-based system that allows an employer, using information reported on an employee's Form I-9, to determine the eligibility of that employee to work in the United States. Each Contractor is solely responsible for properly completing Employment Eligibility Verifications for their own employees and for ensuring that its subcontractors of all tiers have a properly completed Form I-9 for each of their employees.

Contractor acknowledges represents and warrants that Contractor is aware of and understands IRCA, that Contractor is in compliance with IRCA, and that Contractor and its subcontractors of all tiers are not knowingly employing workers who are not authorized to work in the United States. Contractor agrees that Contractor and its subcontractors of all tiers will not employ any worker performing work under this Contract for whom Contractor or its subcontractor has not completed and maintained I-9 verification including the use of E-Verify. Contractor agrees that if Contractor acquires knowledge (constructive or otherwise, including receipt of a "no match" letter from Social Security Administration) indicating that one of Contractor's or its subcontractors' workers on this project may not be authorized to work in the United States, despite I-9 verification, that Contractor and its subcontractors will exercise due diligence as required by law to confirm authorization status and take appropriate action which may include termination of employment. Contractor represents and warrants that they will not subcontract to or utilize labor sources that it knows or has reason to know violate IRCA.

73. CONTRACTOR OBLIGATIONS

The Contractor, hereby accepts and assumes exclusive liability for and shall indemnify, protect and save harmless Construction Manager and the Authority from and against the payment of:

- A. All contributions, taxes or premiums (including interest and penalties thereon) which may be payable under the Unemployment Insurance Law of any State, Federal Social Security Act, Federal, State, County and/or Municipal Tax Withholding Laws, or any other law, measured upon the payroll of or required to be withheld from employees, by whomsoever employed, engaged in the Work to be performed and furnished under this Contract.

- B. All sales, use, personal property and other taxes (including interest and penalties thereon) required by any Federal, State, County, Municipal or other law to be paid or collected by the Contractor or any of its subcontractors or vendors or any other person or persons acting for, through or under it or any of them, by reason of the performance of the Work or the acquisition, ownership, furnishing or use of any materials, equipment, supplies, labor, services or other items for or in connection with the Work.
- C. All pension, welfare, vacation, annuity and other union benefit contributions payable under or in connection with labor agreements with respect to all persons, by whomsoever employed, engaged in the Work to be performed and furnished under this Agreement.

In furtherance of, and in addition to the agreements, duties obligations and responsibilities of the Contractor with respect to the payment of sales, use, personal property and other taxes set forth, the Contractor agrees to reimburse and otherwise indemnify Authority and the Construction Manager for any expenses, including legal fees and litigation arising from, or related to the Contractor's failure to pay any sales, use, personal property or other taxes based upon labor, services, materials, equipment or other items acquired, performed, furnished or used for or in connection with the Work.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned¹⁴ Contractor and surety company (or companies), as principal and surety (or sureties), respectively,

Contractor

Surety

¹⁴ Insert names of the Contractor and surety company (or companies) in the appropriate columns. If space is insufficient add rider.

If the Contractor is a corporation, give the state of incorporation, using also the phrase "a corporation organized under the laws of _____".

If the Contractor is a partnership, give full names of partners, using the phrase "co-partners doing business under the firm name of _____".

If the Contractor is an individual using a trade name, give individual name, using also the phrase "an individual doing business under the trade name of _____".

are hereby held and firmly bound unto The Port Authority of New York and New Jersey (herein called the "Authority") in the penal sum of _____ Dollars and _____ Cents (_____), for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, representatives, executors, administrators, successors and assigns. Each surety, however, if there is more than one, shall be jointly and severally liable for said penal sum.

Signed this _____ day of _____ 20

The condition of the above obligation is that

WHEREAS, the above named principal has entered into a Contract in writing with the Authority, a copy of which is hereby made a part of this bond as though herein set forth in full and which is designated Contract WTC-754.235.01 VSC Excavation and Foundations, and

WHEREAS, the Authority has required this bond for the faithful performance of all obligations imposed by said Contract;

NOW, if the said principal shall well and faithfully do and perform the things agreed by him to be done and performed according to the terms and true intent and meaning of said Contract, then this obligation shall be void, otherwise the same shall remain in full force and effect; it being expressly understood and agreed that, provided the sureties shall comply with the provisions hereof, the aggregate liability of all sureties for any and all claims hereunder shall in no event exceed the penal amount of this obligation as hereinbefore stated.

This undertaking is for the benefit of the Authority and all subcontractors, materialmen and workmen having lawful claims arising out of the performance of said Contract, and all such subcontractors, materialmen and workmen (as well as the Authority itself) shall have a direct right of action upon this bond; but the rights and equities of such subcontractors, materialmen and workmen shall be subject and subordinate to those of the Authority.

The sureties, for value received, hereby stipulate and agree that the obligations of said sureties and their bond shall be in no way impaired or affected by any extensions of time, modification, omission, addition or change in or to the said Contract or the construction to be performed thereunder, or by any supervision or inspection or omission to supervise or inspect the construction, or by any payment thereunder before the time required therein, or by any waiver of any provision or condition thereof (whether precedent or subsequent), or by any assignment, subletting or other transfer thereof or of any part thereof or of any construction to be performed or any moneys due or to become due thereunder; and said sureties do hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby expressly stipulate and agree that any and all things done and omitted to be done by and in relation to assignees, subcontractors and other transferees shall have the same effect as to said sureties as though done by or in relation to said principal.

The sureties shall give the General Counsel of the Authority the following notices:

- D. Written notice of an intent to pay any claim of a subcontractor, materialman or workman hereunder;
- E. Written notice within five days of the institution of an action by a subcontractor, materialman or workman hereunder.

The sureties shall not pay the claim of any subcontractor, materialman or workman hereunder until the expiration of thirty days after receipt by said General Counsel of notice under either subparagraph A or B above, describing the claim to be paid.

IN WITNESS WHEREOF, the principal and the sureties have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

(Seal)

Principal
By ¹⁵ _____

Surety
By ¹⁶ _____

APPROVED AS TO ACCEPTABILITY OF SURETIES:

Credit Manager
_____ 20

¹⁵ If bond is signed by an officer or agent, give title; if signed by a corporation, affix corporate seal.

¹⁶ Add signatures of additional sureties, if any.

ACKNOWLEDGMENT OF PRINCIPAL, A CORPORATION

State of _____

SS:

County of _____

On this _____ day of _____, before me personally came and appeared _____, to me known and known to _____ of _____, a corporation, described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Notary Seal)

(Notary Signature)

(Seal)

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____

SS:

County of _____

On this _____ day of _____, 20____, before me personally came and appeared _____, to me known, and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Seal)

(Notary Signature)

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____

SS:

County of _____

On this _____ day of _____, 20____, before me personally came and appeared _____, to me known, and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Seal)

(Notary Signature)

ACKNOWLEDGMENT OF SURETY COMPANY

CONTRACT WTC- 264.597

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned¹⁷ Contractor and surety company (or companies), as principal and surety (or sureties), respectively,

Contractor

Surety

¹⁷ Insert names of the Contractor and surety company (or companies) in the appropriate columns. If space is insufficient add rider.

If the Contractor is a corporation, give the state of incorporation, using also the phrase "a corporation organized under the laws of _____".

If the Contractor is a partnership, give full names of partners, using the phrase "co-partners doing business under the firm name of _____".

If the Contractor is an individual using a trade name, give individual name, using also the phrase "an individual doing business under the trade name of _____".

are hereby held and firmly bound unto The Port Authority of New York and New Jersey (herein called the "Authority") in the penal sum of _____ Dollars and _____ Cents (_____), for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, representatives, executors, administrators, successors and assigns. Each surety, however, if there is more than one, shall be jointly and severally liable for said penal sum.

Signed this _____ day of _____ 20

The condition of the above obligation is that

WHEREAS, the above named principal has entered into a Contract in writing with the Authority, a copy of which is hereby made a part of this bond as though herein set forth in full and which is designated Contract WTC- 754.235.01 VSC Excavation and Foundations , and

WHEREAS, the Authority has required this bond for the payment of all lawful claims of subcontractors, materialmen and workmen arising out of the performance of said Contract;

NOW, if all lawful claims of subcontractors, materialmen and workmen arising out of the performance of said Contract are paid, then this obligation shall be void, otherwise the same shall remain in full force and effect; it being expressly understood and agreed that, provided the sureties shall comply with the provisions hereof, the aggregate liability of all sureties for any and all claims hereunder shall in no event exceed the penal amount of this obligation as hereinbefore stated.

This undertaking is for the benefit of the Authority and all subcontractors, materialmen and workmen having lawful claims arising out of the performance of said Contract, and all such subcontractors, materialmen and workmen (as well as the Authority itself) shall have a direct right of action upon this bond; but the rights and equities of such subcontractors, materialmen and workmen shall be subject and subordinate to those of the Authority.

The sureties, for value received, hereby stipulate and agree that the obligations of said sureties and their bond shall be in no way impaired or affected by any extensions of time, modification, omission, addition or change in or to the said Contract or the construction to be performed thereunder, or by any supervision or inspection or omission to supervise or inspect the construction, or by any payment thereunder before the time required therein, or by any waiver of any provision or condition thereof (whether precedent or subsequent), or by any assignment, subletting or other transfer thereof or of any part thereof or of any construction to be performed or any moneys due or to become due thereunder; and said sureties do hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby expressly stipulate and agree that any and all things done and omitted to be done by and in relation to assignees, subcontractors and other transferees shall have the same effect as to said sureties as though done by or in relation to said principal.

The sureties shall give the General Counsel of the Authority the following notices:

- A. Written notice of an intent to pay any claim of a subcontractor, materialman or workman hereunder;
- B. Written notice within five days of the institution of an action by a subcontractor, materialman or workman hereunder.

The sureties shall not pay the claim of any subcontractor, materialman or workman hereunder until the expiration of thirty days after receipt by said General Counsel of notice under either subparagraph A or B above, describing the claim to be paid.

IN WITNESS WHEREOF, the principal and the sureties have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

(Seal)

Principal
By ¹⁸ _____

Surety
By ¹⁹ _____

APPROVED AS TO ACCEPTABILITY OF SURETIES:

Credit Manager
_____, 20

¹⁸ If bond is signed by an officer or agent, give title; if signed by a corporation, affix corporate seal.

¹⁹ Add signatures of additional sureties, if any.

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of _____

SS:

County of _____

On this _____ day of _____, before me personally came and appeared _____, to me known and known to _____, a corporation, described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Notary Seal)

(Notary Signature)

(Seal)

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____

SS:

County of _____

On this _____ day of _____, 20____, before me personally came and appeared _____, to me known, and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Seal)

(Notary Signature)

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____

SS:

County of _____

On this _____ day of _____, 20____, before me personally came and appeared _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

(Seal)

(Notary Signature)

AFFIX ACKNOWLEDGMENT AND JUSTIFICATION OF SURETY

SPECIFICATIONS

DIVISION 1

GENERAL PROVISIONS

74. CONSTRUCTION REQUIRED BY THE SPECIFICATIONS

These Specifications relate generally to performing construction of a deep basement structure including slurry wall and secant pile foundation systems, tieback anchoring systems, excavation, rock removal, Concrete foundations and related other Work in an area along Liberty Street between Church Street and West Street, and the vicinity thereof, in New York, New York.

These Specifications require the doing of all things necessary or proper for or incidental to the Work referred to in the immediately preceding paragraph, as shown on the Contract Drawings in their present form. In addition, all things shown on the Contract Drawings even though not expressly mentioned in these Specifications, all things mentioned in these Specifications even though not shown on the Contract Drawings, and all things not specified either on the Contract Drawings, or in the Specifications but involved in carrying out their intent and in the complete and proper execution of the matter referred to in the immediately preceding paragraph are required by these Specifications; and the Contractor shall perform the same as though they were specifically delineated, described and mentioned herein.

In case of a conflict between the requirements contained within the Contract Documents, the order of precedence of contractual obligation is the following;

1. Division 1 of the Specifications.
2. Contract Drawings
3. Contract Specifications
4. Rider "A" – General Addendum

In case of any other conflict between or among the Contract Documents, including conflicting sections of this Agreement, the Authority shall have the right to resolve such conflict at it may elect in its sole discretion, which determination shall be binding upon Contractor, and Authority shall have the right to the most costly or burdensome alternative, without an increase in the Contract Sum.

Some Sections of the Specifications make cross references to construction specified in other Sections of the Specifications, including cross references intended to avoid duplication by the bidders in quoting prices and to point out some of the necessity for coordination. Such cross references are not intended to be complete or all inclusive, and the Contractor shall ascertain for himself both the nature and the extent of all construction which may be related to that under each Section of the Specifications whether or not expressly referred to.

Some Sections of the Specifications contain a general description of the construction under such Sections. Such description is merely a very general one and is not intended to outline the construction required by the Specifications and Contract Drawings. Accordingly, such description shall be construed as in aid of and supplemental to, but in no case limiting, impairing or decreasing, the requirements elsewhere set forth with respect to the construction to be performed.

The Contractor's compensation for all construction whatsoever referred to in the Specifications and Contract Drawings in their present form, even though the need for certain items of such construction may be contingent upon future occurrences or determinations or upon other circumstances, shall be deemed to be included in the Lump Sum stated in the Form of Contract unless the Specifications or Contract Drawings expressly state that compensation in addition to such price shall be payable for such items of construction. The express statement in some cases to the effect that certain construction shall be without additional cost to the Authority shall not impair the application of this paragraph in other cases.

The distribution of various parts of the construction among the Divisions and Sections of the Specifications or among the Contract Drawings is not intended as a representation of the most effective or logical method of organizing, scheduling, or subcontracting the construction, and the Contractor shall ascertain for himself how to do so unless otherwise expressly prescribed in this Contract.

In all cases the provisions of the second paragraph of this numbered Section shall control.

75. AVAILABLE PROPERTY

Subject to the conditions elsewhere stated herein, those areas to be occupied by the permanent construction will be made available to the Contractor.

Any additional property which the Contractor desires for his operations shall be obtained by him at his own expense.

The Contractor will be permitted to use only so much of the aforesaid areas as is necessary for the performance of the Contract, and he must at all times so conduct his operations as not to encroach upon or block the portions used by others. The Engineer may at any time make joint or exclusive assignments of particular portions thereof, either to the Contractor or to others, and may take over and use for other purposes any portions which, in the opinion of Engineer, are not required for the performance of the Work.

The Contractor shall daily clean up the areas made available to him so that they are free at all times of refuse, rubbish, scrap material or debris.

76. DAMAGE TO ADJACENT IMPROVEMENTS

The Contractor shall protect, and shall ensure that all Subcontractors protect, from damage: utilities, foundations, walls or other parts adjacent, abutting or overhead buildings, structures, surface and subsurface structures at or near the construction site, and shall be responsible for ensuring that any damage to such facilities resulting from failure to comply with the requirements of this Contract or the failure to exercise reasonable care in the performance of the Work is repaired and restored at no additional cost or expense to the Authority. The Contractor shall indemnify the Authority for any such damage, and this provision shall survive the expiration or earlier termination of this Contract. If the Contractor fails or refuses to cause any such damage to be promptly repaired, the Authority may have the necessary work performed by Authority forces or others and the expense of the Work will be charged to the Contractor. The amount of such expense shall be deducted from any moneys due or becoming due to the Contractor.

77. OPERATIONS OF OTHERS

During the time that the Contractor is performing the Contract, other persons will be engaged in other operations on or about the construction site including without limitation the World Trade Center Transportation Hub construction, the construction on One World Trade Center, Towers Two, Three and Four, the Memorial, West Street (NYSDOT), Greenwich Street Corridor construction, and West Street construction all of which shall remain uninterrupted.

The Contractor shall so plan and conduct his operations as to work in harmony with others engaged at the construction site and not to delay, endanger or interfere with the operations of others (whether or not specifically mentioned above), all to the best interests of the Authority and the public and as may be directed by the Engineer.

78. LABOR ACTIONS

Whenever any labor strike, slowdown, work stoppage, picketing or other labor action which might interfere with the performance of the Contract, or of other Authority or PATH contracts or the operation of any Authority or PATH facility occurs at the construction site or at any other Authority or PATH facility as a result of the Contractor's (or its subcontractor's) utilization of particular means, methods or manpower to perform the Work required by the Contract, the Contractor shall pursue all remedies which are appropriate and available to him to avoid such interference at its sole cost and expense.

79. CONTRACTOR'S MEETINGS

The Contractor shall conduct job progress and coordination meetings with Subcontractors in his field office every two weeks, or as frequently as job conditions require or the Engineer may request. The Engineer shall be notified and, at his option, may attend these meetings. The Contractor shall prepare and distribute minutes to the Engineer and the subcontractors within forty-eight (48) hours of the day following the meetings.

The Contractor shall attend separate job progress and coordination meetings with the Engineer every two weeks, or at times otherwise requested by the Engineer.

80. CONTRACT DRAWINGS

The Contract Drawings which accompany and form a part of these Specifications bear the general title "The Port Authority of NY & NJ - World Trade Center - WTC Vehicular Security Center and Tour Bus Parking Facility" and are separately numbered and listed in Rider B

The Contract Drawings do not show all of the details of the Work and are intended only to illustrate the character and extent of the Work to be performed. Accordingly, they may be supplemented during the performance of the Work by the Engineer or by the Contractor subject to the approval of the Engineer, to the extent necessary to further illustrate the Work. The Authority shall not be held liable for the accuracy of such Contract Drawings

An indication on the Contract Drawings of the existence, nature or location of any utilities, structures, obstructions, conditions or materials does not constitute a representation as to the conclusions to be drawn therefrom nor a representation that no others exist in addition to those shown, even in the same location; nor does the absence of any indication on said drawings of the existence, nature or location of any utilities, structures, obstructions, conditions or materials constitute a representation that none exist.

After the Contract has been executed, the Contractor will be furnished six (6) copies of the Specifications and Contract Drawings without charge.

81. REFERENCE DRAWINGS

The documents, called Reference Documents, listed in Rider B were not prepared by the Authority or by others for use in connection with this Contract, but they were prepared for other purposes, such as for other contracts or for design purposes for this or other contracts, and are furnished to the Contractor to give him such information as may be in the possession of the Authority. The Authority shall not be held liable for the accuracy of such Contract Drawings.

An indication on the Reference Documents of the existence, nature or location of any utilities, structures, obstructions, conditions or materials does not constitute a representation as to the conclusions to be drawn there from nor a representation that no others exist in addition to those shown, even in the same location; nor does the absence of any indication on said drawings of the existence, nature or location of any utilities, structures, obstructions, conditions or materials constitute a representation that none exist.

82. SHOP DRAWINGS, CATALOG CUTS AND SAMPLES

The Contractor shall specifically prepare for this Contract all Shop Drawings which may be required in addition to the Contract Drawings or in addition to any other drawings which the Director may issue in supplementing the Contract Drawings.

The specific requirements elsewhere set forth in the Specifications for furnishing Shop Drawings, Catalog Cuts and samples for any particular portion of the Contract shall not limit the obligation of the Contractor to furnish Shop Drawings, Catalog Cuts and samples for any other portion when so required by the Engineer.

The Contractor shall submit a general "Submittal Schedule" for the Engineer's and the Construction Manager review and approval listing the planned transmittal date and estimated number in each specification section category of Shop Drawings, Catalog Cuts, pages of calculations and samples within 30 days after receipt by the Contractor of the acceptance of the Proposal. A more detailed schedule shall be submitted no less than 30 calendar days prior to the actual date of the first submittal.

After checking and verifying all field measurements and after complying with applicable procedures specified hereunder, the Contractor shall submit to the Engineer for review and approval, in accordance with the approved schedule of Shop Drawing submissions, or for other action if so indicated by the Engineer, four copies and two reproducible, unless otherwise requested, of all Shop Drawings which will bear a specific written indication that the Contractor has reviewed the submission for conformance to the requirements of the Contract Drawings and Specifications.

The Port Authority uses Primavera Expedition software to track the status of submittals provided by the Contractor. In order to facilitate this electronic tracking, the Contractor shall use the transmittal form that is provided at the pre-construction meeting, and shall forward it to the Engineer via a MAPI compliant e-mail system (e.g. Microsoft Outlook, CC mail, Lotus notes, etc.).

The Contractor's transmittals of Submittal data shall fully comply with the numbering and naming conventions and other procedures that will be provided by the Construction Manager to the Contractor at the pre-construction meeting.

All submissions shall be identified as the Engineer may require. In general, submissions shall specifically reference Contract Drawing numbers or Specification section numbers for which the item pertains. The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, conformance to the specified performance and design criteria, materials, test results and similar information to enable the Engineer to review the submittal as required.

The Contractor shall also submit nine copies to the Engineer, through the Construction Manager for review and approval pursuant to the approved submittal schedule, of all Catalog Cuts and samples for conformance to the requirements of the Contract Drawings and Specifications. All Catalog Cuts and samples shall have been reviewed by the Contractor and shall be accompanied by a specific written indication that the Contractor has reviewed the submittal for conformance with the Contract Drawings and Specifications and shall be identified clearly as to material, supplier, manufacturer's procedures and pertinent data such as catalog numbers and the use for which intended.

Before submission of each Shop Drawing, Catalog Cut and sample, the Contractor shall have determined and verified all quantities, dimensions, conformance to the specified performance and design criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed and coordinated each Shop Drawing or Catalog Cut with other Shop Drawings and Catalog Cuts and with other requirements of the Work.

At the time of each submission, the Contractor shall give the Engineer specific written notice of each variation in any Shop Drawing, Catalog Cut and sample from the requirements of the Contract Drawings or Specifications and, in addition, shall cause a specific notation of each such variation to be made on each submittal to the Engineer, for review and approval of each such variation.

The Engineer's review and approval of Shop Drawings, Catalog Cuts or samples shall not relieve the Contractor from responsibility for any variation from the requirements of the Contract Drawings or Specifications unless the Contractor has in writing called the Engineer's attention to each such variation at the time of submission as required hereunder and the Chief Engineer has given written approval of each by an express specific written notation thereof incorporated in or accompanying the Shop Drawing, Catalog Cut or sample approval. Approval of Shop Drawings, Catalog Cuts and samples which are inconsistent with the requirements of the Contract Drawings and Specifications shall not be deemed to waive or change such requirements or to relieve the Contractor of his obligations to perform such requirements unless the Chief Engineer shall expressly and specifically state that he is waiving or changing such requirements, as stated above.

Where a Shop Drawing, Catalog Cut or sample is required no related Work shall be performed prior to the Engineer's review and approval of the submission.

In preparing the Shop Drawings, the Contractor may adopt a sheet of any reasonable size which best suits his needs, but having adopted such size, all sheets thereafter of a similar nature shall be of the same size as that adopted. Each drawing shall have a margin on the top, bottom and right-hand side of one-half inch and on the left hand side a margin of one and one-half inches.

Upon receipt of the submittal, the Engineer will review the Shop Drawing, Catalog Cut or sample for conformance to the design information and materials shown on the Contract Drawings and contained in the Specifications. Approval by the Engineer shall not constitute a complete review or approval of the means, methods, techniques, sequences or procedures of construction, except where a specific means, method, technique, sequence or procedure of construction is specifically delineated in or required by the Contract Drawings or Specifications, and the approval shall not constitute a review and approval in regard to safety precautions or programs incident thereto. The review and approval of a separate item will not in itself indicate approval of the assembly in which the item functions. Any design shown on the Shop Drawings and prepared by the Contractor, his subcontractors, their detailers, or their professional engineers is the complete responsibility of the Contractor.

Within the number of working days hereinafter specified after receipt of the Shop Drawing prints, the Engineer shall approve or not approve the same or require corrections or additions to be made thereon. When a Shop Drawing is not approved or if additions or corrections are required, the Engineer shall return within this period one of the four copies submitted and the Contractor shall make the revisions, corrections or additions shown thereon to be made. He shall resubmit four prints and one brown-line (reproducible) showing the drawing corrected as required. The Contractor shall direct specific attention in writing to revisions other than the corrections called for by the Engineer on the previous submittal. Each drawing shall be corrected as required until the approval of the Engineer is obtained. After each resubmission, the Engineer shall have the number of working days hereinafter specified in which to approve revisions or corrections.

The number of working days within which the Engineer shall advise the Contractor as to whether the Shop Drawings are approved, not approved, or require corrections or additions to be made thereto shall be as follows, except that 20 working days shall be required for the Engineer to review shop drawings submitted with design calculations.

No. of Dwgs. Submitted Within 5 Consecutive Working Days for Each Discipline(*)	No. of Working Days for Engineer To Review each Shop Drawing
Up to 50	10
51 to 75	15
More than 75	20

* Disciplines shall be defined as follows: Structural, Architectural, Civil, Geotechnical, Mechanical, Electrical, Traffic and Environmental.

Failure of the Contractor to provide 30 calendar days advance notice to the Engineer of any submittal shall result in a five (5) working day extension of the number of working days stated in the chart above. In no event shall an extension of the Engineer's review time provided for in this section relieve the Contractor from its duty to meet all contractual Milestone dates as defined in section 106.

As soon as approval has been given to any Shop Drawing or Catalog Cut, the Contractor shall within five days send to the Engineer, through the Construction Manager, six prints, except that when the Engineer specifically so directs, nine prints shall be sent. After approval thereof, no change will be permitted thereon unless approved in writing by the Engineer.

Before final payment for the Work is made, the Contractor shall furnish to the Engineer, through the Construction Manager, one set of Shop Drawings, which have previously been prepared by the Contractor in accordance with requirements elsewhere specified in these Specifications, all clearly revised, completed and brought up to date showing the permanent construction as actually made. These drawings shall be marked "RECORD DRAWING – NOT FOR REVIEW", dated and signed by the Contractor and be in the form of Mylar reproducible, from which clear prints can be made. By signature, the Contractor is verifying that the drawing reflects the as-constructed condition.

All drawings, data, calculations and other papers of any type whatsoever, whether in the form of writing, figures or delineations, which are prepared in connection with this Contract and submitted to the Authority shall become the property of the Authority. The Authority shall have the non-exclusive right to use or permit the use of all such drawings, data and other papers and any ideas or methods represented thereby for any purpose and at any time without additional compensation. No such papers shall be deemed to have been given in confidence. Any statement or legend to the contrary in connection with such drawings, data or other papers and in conflict with the provisions of this paragraph shall be void and of no effect.

83. SUBSTITUTION

Where a proprietary item or make is specified or mentioned herein or called for or mentioned on the Contract Drawings and the phrases "similar and equal to" or "approved equal" are used in connection therewith, the utilization of any other item or make will be deemed a substitution. Substitution for the proprietary item or make specifically named may be made only in accordance with the Section hereof entitled "Workmanship and Materials" and in accordance with the following.

Whenever materials or equipment are specified or described in the Contract Drawings or Specifications by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of another supplier or manufacturer may be accepted by the Engineer if sufficient information and proof is submitted by the Contractor to permit the Engineer to determine that the material or equipment proposed is equivalent or equal to that named and the Engineer approves the substitution. The procedure for review by the Engineer will include the following. Requests for review of substitute items of material and equipment will not be accepted by the Engineer from anyone other than the Contractor. If the Contractor wishes to furnish or use a substitute item of material or equipment, the Contractor shall make a timely written application to the Engineer for approval thereof, certifying that the proposed substitution will perform at least the identical functions and achieve at least the identical results called for by the specified product and otherwise be equal to the specified product with regard to, including but not limited to, durability, maintenance, strength, energy costs and record of proven performance. The application shall state that the evaluation and approval of the proposed substitution shall not delay the Contractor's completion of the Work as required by the Contract, whether or not approval of the substitution will require a change in the construction and, in no event will the Contractor be granted an extension of time for completion of any portion of the Work for reasons related directly or indirectly to the evaluation of the proposed substitution or to the proposed substitution itself. Any variations of the proposed substitution from that specified shall be identified in the application, and maintenance, repair and replacement services for the substitution shall be indicated. The Engineer in its discretion may require the Contractor to furnish at the Contractor's expense additional laboratory test data concerning the proposed substitution.

Such submission to the Engineer shall be made only by including the requested substitution in the list of materials required to be submitted to the Engineer, through the Construction Manager in accordance with the Section hereof entitled "Inspections and Rejections" within forty-five calendar days after the receipt of the acceptance of the Contractor's Proposal. After the approval of said list, no substitutions will be permitted, except that a brand or make named in the Specifications may be submitted for approval in lieu of a brand or make on said list. Any such submission shall not imply, or impose on the Engineer, any obligation whatsoever to discuss, disclose or justify the reasons for his opinion, approval, acceptance or rejection.

The Engineer shall be the sole judge of as to whether a proposed substitution will be approved, and no substitution shall be ordered or utilized without the Engineer's prior written approval. The Engineer may require Contractor to furnish at Contractor's expense a special performance guarantee or other assurance with respect to any approved substitution. Furthermore, the approval of any substitute proprietary item or make shall not in any way entitle the Contractor to additional compensation therefore.

Notwithstanding such approval, however, the Contractor assumes the risk that such approved substitute item or make is not equal to that shown or specified and if at any time the substitution shall appear not to be so equal as determined by the Engineer he shall replace the substitution with that originally shown on the Contract Drawings or called for in the Specifications at his own cost and reimburse the Authority for any loss occurring on account of the substitution failing to be equal, notwithstanding that it had been previously approved for use by the Engineer.

The construction called for by the Contract Drawings and Specifications may be adapted for a particular proprietary item or make of material or equipment. Therefore, if any construction not required by the Contract Drawings or Specifications in their present form is necessary or desirable because of the use of a substitute item or make of material or equipment (even though such other item or make is approved by the Engineer), such construction shall be furnished or performed by the Contractor at his expense and subject to the approval of the Engineer.

84. WORKMANSHIP AND MATERIALS

Workmanship and materials shall in every respect be free from defects of any kind and shall be in accordance with the best modern practice and whenever the Contract Drawings, Specifications or directions of the Engineer admit of a doubt as to what is permissible or fail to note the quality of any construction the interpretation which calls for the best quality is to be followed. Workmanship shall conform to applicable Specifications, manufacturer's instructions and recommendations for installation of products for the applications shown on the Contract Drawings, all of which shall be subject to the provisions of the Section of Division 1 GENERAL PROVISIONS entitled "Inspections and Rejections".

All items provided in this Contract that use dates in the recording, storing or processing of information shall use such dates correctly at all times including using such dates correctly in the recording, storing or processing of information after January 1, 2000 (Year 2000 Compliant).

Materials and equipment incorporated into the Work shall be new except as may be otherwise herein specifically required, and shall comply with make, size, type and quality specified, or as specifically approved in writing by the Chief Engineer in accordance with the Section of Division 1 GENERAL PROVISIONS entitled "Substitution".

Reference to standards of any society, institution, association, or governmental authority in the Specifications or on the Contract Drawings, whether specific or by implication, shall mean for such standards which are part of the building code in effect for Work of this Contract the edition date published in such code; and such references which are not part of the building code, shall mean the latest edition date in effect at the time of opening of Proposals upon the present Contract unless specifically stated otherwise.

If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment to be employed by the Contractor in performing the Work. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the approved instructions of the applicable supplier except as otherwise provided in the Contract Drawings or Specifications.

In case of a discrepancy between a description or requirement in the Contract Drawings and Specifications for any material or equipment and a catalog number or other designation for the same material or equipment (even though stated to be acceptable), the description or requirements shall control.

In various paragraphs of these Specifications, references may be made to certain standard or tentative specifications or requirements of various organizations. Unless otherwise stated, these references are to be construed as referring to the specifications and requirements in effect on the date set for opening bids upon the present Contract.

All inventions, ideas, designs and methods contained in the Specifications and Contract Drawings in which the Authority has or may acquire patent, copyright or other property rights are hereby expressly reserved for the exclusive use of the Authority. The Specifications and Contract Drawings contain confidential information which is disclosed only to enable this Contract to be performed. Said Specifications and Drawings must not be used for any purpose detrimental to the interest of the Authority and must not be produced or copied in whole or in part or used for furnishing information to others without the written consent of the Authority, provided, however, that the Contractor may, when the performance of the Contract so requires, furnish said information to others for the purpose of engaging or informing subcontractors and materialmen.

If, in accordance with this Contract, the Contractor furnishes research, development or consultative services in connection with the performance of the Contract and if in the course of such research, development or consultation patentable subject matter is produced by the Contractor, its officers, agents, employees, subcontractors or materialmen, the Authority shall have, without cost or expense to it, an irrevocable, non-exclusive, royalty-free license to make, have made, and use, either itself or by anyone on its behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by the Authority even after expiration or termination of this Contract. Promptly upon request by the Authority, the Contractor shall furnish or obtain from the appropriate person a form of license satisfactory to the Authority, but as between the Contractor and the Authority the license herein provided for shall nevertheless arise for the benefit of the Authority immediately upon the production of said subject matter and shall not await formal exemplification in a written license agreement as provided for above. Such license may be transferred by the Authority to its successors, immediate or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by the Authority, but such license shall not be otherwise transferable.

The right to use all material, software, firmware, compositions of matter, manufactures, apparatus, appliances, processes of manufacture or types of construction required in connection with this Contract and to which a patent, copyright or other intellectual property right applies or may apply shall be obtained by the Contractor without separate or additional compensation whether the same is patented, copyrighted or otherwise protected as an intellectual property right before, during or after the performance of the Contract.

The Contractor shall indemnify the Authority against and save it harmless from all loss and expense including reasonable attorney's fees incurred in the defense, settlement or satisfaction of any claims in the nature of patent, copyright or other intellectual property right infringement arising out of or in connection with the Authority uses, in accordance with the preceding two paragraphs of this numbered clause, of such subject matter or material, software, firmware, compositions of matter, manufactures, apparatus, appliances, processes of manufacture or types of construction to which a patent, copyright or other intellectual property right applies or may apply. If requested by the Authority in writing the Contractor shall conduct all negotiations with respect to and defend such claim without expense to the Authority. If the Authority be enjoined from using any of the facilities which form the subject matter of this Contract and as to which the Contractor is to indemnify the Authority against patent, copyright, trademark infringement or other intellectual property right claims, the Authority may, at its option and without thereby limiting any other right it may have hereunder or at law or in equity, require the Contractor to supply, temporarily or permanently, facilities not subject to such injunction and not infringing any patent, copyright or other intellectual property right or to remove all such facilities and refund the cost thereof to the Authority or to take such steps as may be necessary to ensure compliance by the Authority with such injunction, all to the satisfaction of the Authority and all without cost or expense to the Authority. In addition, the Contractor shall promptly and fully inform the Director in writing of any intellectual property rights disputes, whether existing or potential, of which it has knowledge, relating to any idea, design, method, material, equipment or any other matter related to the subject matter of this Agreement or coming to its attention in connection with this Contract

85. INSPECTIONS AND REJECTIONS

All Work and all construction, processes of manufacture and methods of construction involved in or related to the performance of the Work shall be at all times and places subject to the inspection of the Engineer, acting personally or through his Inspectors and/or Construction Manager, and the enumeration in these Specifications of particular portions of such Work, construction, processes of manufacture or methods of construction which will or may be inspected by the Engineer or such Inspectors shall not be deemed to imply that only such Work, construction, processes of manufacture and methods of construction will or may be so inspected. The Engineer shall be the judge of the quality and suitability of the Work, construction, processes of manufacture and methods of construction for the purposes for which they are used or to be used. Should they fail to meet his approval they shall be forthwith reconstructed, made good, replaced or corrected, as the case may be, by the Contractor at his own expense. Rejected material shall be removed immediately from the site. The fact that the Inspectors have approved the materials and workmanship shall not relieve the Contractor from his obligation to supply other material and workmanship when so ordered by the Engineer.

The Contractor, at his own expense, shall furnish such facilities and give such assistance for inspection as the Engineer may direct. In the case of materials required by the Specifications to be inspected in the factory or plant, and in the case of any other items which the Engineer may designate, the Contractor shall secure for the Engineer and his Inspectors free access to all parts of such factories or plants and shall furnish to the Engineer three copies of purchase orders, two copies of mill shipping statements and four copies of shipping statements. Moreover, in the case of such materials to be factory or plant inspected, the Contractor shall give at least ten days' notice to the Engineer of his intention to commence the manufacture or preparation of such materials.

Other than the materials and equipment specifically required to be inspected at the manufacturer's factory or plant, all materials will be inspected at the construction site and any portions thereof which are rejected by the Engineer shall be immediately removed from the construction site by the Contractor and shall be replaced with new materials by the Contractor at his own expense.

In the case of materials to be inspected at the construction site, the Contractor shall submit a list of all such materials in triplicate to the Engineer for his approval prior to ordering same. The list shall be submitted within forty-five calendar days after receipt of the notice of acceptance of bid and shall contain the following information:

- A. Classification of submittal in accordance with the following:
 - Class I - A submittal for record of an expressly specified item.
 - Class II - A submittal of an item which conforms to an express generic specification or a submittal which is deemed by the Contractor to be identical to an expressly specified item.
 - Class III - A submittal which is deemed by the Contractor to be functionally equivalent but not identical to a specified item.
- B. In the case of Class II and Class III, the Contractor shall supply adequate information to the Engineer to enable the Engineer to compare the specified item and the proposed substitution. Information shall include, but need not be limited to, technical specifications, Catalog Cuts, drawings, references to existing installations and test data, or any other data required by the Engineer.
- C. In the case of fabricated materials for which Shop Drawings are to be prepared, a brief description of the material and the statement "see Shop Drawings".
- D. In the case of materials or equipment listed in manufacturer's catalogs, the list shall contain the vendor's name, the manufacturer's name, brand name, style designation, catalog number and, where the Specifications require catalog cuts, the statement "see catalog cut".
- E. In the case of materials or equipment for which Shop Drawings are not to be prepared, and which are not listed in any catalog, the list shall contain a complete description of the material or equipment, which shall be in sufficient detail to describe completely the materials or equipment and quality therefore.

The Engineer shall advise the Contractor whether said list is approved or requires corrections or additions within the number of working days indicated in the chart below:

Type of Submittal	No. of Working Days for Engineer to Approve/Disapprove Items
Class I Material submittals	10
Portland Cement mix designs that require confirmation of the 28-day properties	35
Changes in asphalt mix designs that need to be confirmed with a batch mix at the plant	35

Class II Material submittals	20
Class III Material submittals	30

Failure of the Contractor to provide 30 calendar days advance notice to the Engineer of any submittal shall result in a five (5) working day extension of the number of days stated in the chart above. In no event shall an extension of the Engineer's review time provided for in this section relieve the Contractor from its duty to meet all contractual Milestone dates as defined on section 101.

Within ten working days after receipt of said list, the Engineer shall notify the Contractor of which items are approved and which disapproved. Within two working days thereafter, the Contractor shall resubmit a new list covering those items which were disapproved. After each such re-submission the Engineer shall have a similar period of ten days in which to approve or disapprove.

Should any material or equipment be delivered to the construction site without having been placed on the aforementioned list and approved, it shall be immediately removed from the construction site by the Contractor at his own expense.

86. MANUFACTURERS' CERTIFICATION

Where materials and equipment are required by these Specifications to conform to certain standard or tentative specifications or requirements of any organizations, including American Society for Testing and Materials, American National Standards Institute, Association Rules for Grading Lumber, Federal Specifications, National Electrical Manufacturers Association, American Association of State Highway and Transportation Officials, American Water Works Association and the International Municipal Signal Association, the Contractor shall furnish to the Engineer the manufacturer's written certification that each of the materials or equipment conforms to the foregoing standard or tentative specifications. The certification shall be delivered to the Engineer prior to installation of the materials to which it refers. Such certifications shall not be binding or conclusive on the Authority and may be rejected at any time by the Engineer if incorrect, improper or otherwise unsatisfactory in his opinion.

87. NO RELEASE OF CONTRACTOR

Any provision of this Contract for testing, inspection or approval, and any actual testing, inspection or approval, of any materials, workmanship, plant, equipment, drawings, program, methods of procedure, or of any other thing done or furnished or proposed by the Contractor to be done or furnished in connection with the Contract is for the benefit of the Authority not the Contractor. Any approval of such things shall be construed merely to mean that at that time the Engineer knows of no good reason for objecting thereto. No such provision for testing or inspection, no omission of testing or inspection, and no such approval shall release the Contractor from his full responsibility for the accurate and complete performance of the Contract in accordance with the Contract Drawings and Specifications or from any duty, obligation or liability imposed upon him by the Contract or from responsibility for injuries to persons or damage to property.

88. ERRORS AND DISCREPANCIES

If, in the performance of the Contract, the Contractor discovers any errors or omissions in the Contract Drawings or Specifications, or in the marks, lines and elevations furnished by the Authority in the construction undertaken and executed by him, he shall immediately notify the Engineer and the Engineer shall promptly verify the same.

If with the knowledge of such error or omission and prior to the correction thereof, the Contractor proceeds with any construction affected thereby, he shall do so at his own risk and the construction so done shall not be considered as construction done under and in performance of this Contract unless and until approved and accepted.

89. DIFFERING SUBSURFACE CONDITIONS

If during the performance of Work, the Contractor becomes aware of any unanticipated subsurface conditions or has cause to suspect the presence of such condition, then the Contractor shall immediately notify the Engineer, or designee thereof verbally, to be followed immediately by written notification. The Contractor shall specify the nature, location, and impact on the Work of such conditions. The Contractor shall immediately stop Work in and secure the area against injury to persons or damage to property pending further instructions from the Engineer.

The Contractor shall then conduct all necessary investigations and testing of the subsurface conditions as directed by the Engineer to identify the character and extent of the unanticipated subsurface conditions and/or to satisfy applicable Federal, State and local laws, codes and ordinances and regulations and shall notify the Engineer accordingly. The investigation program shall be submitted to the Engineer for review and approval.

In the event the Contractor discovers such subsurface conditions during the performance of the Work and (i) special handling of such condition is necessary and required for the performance of the Work as determined by the Engineer; (ii) such special handling cannot be avoided or mitigated by the exercise of reasonable measures by the Contractor; and (iii) the Contractor actually incurs increased costs caused by such condition that could not have been reasonably anticipated from the Contract Drawings, Reference Drawings and Specifications and inspection of the construction site; then in such event, as approved by the Engineer, the Contractor shall, notwithstanding any provision in this Contract to the contrary, be compensated for such costs for special handling, including the necessary investigations and testing of subsurface conditions, in accordance with the provisions of the clause entitled "Compensation for Extra Work".

90. ACCIDENTS AND FIRST AID PROVISIONS

The Contractor shall promptly report in writing to the Engineer and to the Authority Manager, Claims Administration all accidents whatsoever arising out of or in connection with the performance of the Contract, whether on or adjacent to the construction site, which result in death, injuries or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damage is caused, the accident shall be reported immediately by telephone to both of the said representatives of the Authority.

The Contractor shall provide at the construction site such equipment and medical facilities as are necessary to supply first aid service, in case of accident, to any who may be injured in the progress of the Contract. He shall have standing arrangements for the removal and hospital treatment of any person who may be injured while engaged in the performance of the Contract.

If any claim is made by any third person against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the fact in writing to the aforementioned representatives of the Authority, giving full details of the claim.

91. SAFETY PROVISIONS

In the performance of the Contract, the Contractor shall exercise every precaution to prevent injury to workers and the public or damage to property.

He shall, at his own expense, provide temporary structures, place such watchmen, design and erect such barricades, fences and railings, give such warnings, display such lights, signals and signs, exercise such precaution against fire, adopt and enforce such rules and regulations, and take such other precautions as may be necessary, desirable or proper, or as may be directed.

The temporary structures, other than those shown on the Contract Drawings, will be permitted only after the approval from the Engineer is requested and obtained in writing. Temporary structures shall be equipped with all OSHA facilities-washroom, potable water, eating area, first aid kit, eyewash and means of communications. All pertinent telephone numbers must be posted at site.

The Contractor shall employ for Work of the Contract a competent person conforming to the requirements of the Code of Federal Regulations 29 CFR 1926.32(f) who shall be designated by the Contractor as authorized to perform the duties required by 29 CFR 1926 et seq. as applicable for Work of this Contract.

The Contractor shall obtain and submit to the Engineer one copy of material safety data sheet (MSDS) conforming to the requirements of 29 CFR 1910.1200(g) for each hazardous chemical utilized for permanent and consumable materials employed for Work of this Contract. The Contractor is responsible for full compliance with OSHA Hazard Communication Standard of New York State Right to Know Law.

The Contractor shall, in its performance of the Work, comply with all Federal, state and Local environmental statues and regulations, including but not limited to, the requirements of the Air Pollution Prevention and Control Act (42 U.S.C 7401 et seq.), Section 318 of the Water Pollution Prevention and Control Act (33 U.S.C. 1251 et seq.), and the New York State Environmental Conservation Law, and with all regulations and guidelines issued there under.

Any hazardous waste shall be disposed of in accordance with applicable law and implementing regulations.

A minimum of two (2) days prior to any excavating, the Contractor must notify the Engineer. The Contractor shall notify the NYC One Call Center to allow member agencies to mark locations of underground utilities prior to any excavating and confirm such notification with the Engineer.

In the case of emergency involving danger to life, person, or property, the Engineer may order continuous work with an increased force for such time, as he may deem necessary to eliminate the emergency.

The Contractor is responsible to guard, maintain and protect the wires, cables, ducts, manholes, posts and poles, signals, fire hydrants and alarm boxes of the NYC Fire Department and not cause the interruption of the Fire Department Fire Alarm Telegraph Service. In case any such wires, cables, ducts, manholes, posts and poles, signals, fire hydrants and alarm boxes shall be disturbed, it shall be restored to its original condition.

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss, including but not limited to:

- A. All employees on the Work, the public, and other persons and entities who may be affected thereby;
- B. All the Work, materials and equipment to be incorporated therein, whether in storage on or off the site; and
- C. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.

The Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and the Contractor has removed all workers, material and equipment from the construction site, or the issuance of the Certificate of Final Completion, whichever shall occur last.

Until fire protection needs are supplied by permanent facilities under this Contract, install and maintain temporary fire protection facilities. Comply with requirements of National Fire Protection Association NFPA 10 "Standard for Portable Fire Extinguishers" and NFPA 241 "Standard for Safeguarding Construction, Alteration and Demolition Operations".

The Contractor shall employ only such men as are physically fit and are free from contagious or communicable diseases.

The Contractor shall use only machinery and equipment adapted to operate with the least possible noise, and shall so conduct his operations that annoyance to occupants of nearby property and the general public will be reduced to a minimum.

The bringing of intoxicating substances onto the construction site and the use or consumption of intoxicating substances at the construction site are prohibited. It shall be the responsibility of the Contractor to insure that all employees of the Contractor and of all subcontractors, materialmen and any other persons under contract to or under the control of the Contractor shall comply with the provisions of this paragraph.

The Contractor shall daily clean up all refuse, rubbish, scrap materials and debris caused by his operations, to the end that at all times the construction site shall present a neat, orderly and workmanlike appearance. Before the Certificate of Final Completion of Work will be issued, the Contractor shall remove all surplus materials, falsework, temporary fences and other temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations and shall put the construction site in a neat, orderly condition.

In the event the Contractor encounters at the construction site, material reasonably believed to be asbestos, polychlorinated biphenyl (PCB) or any other hazardous material, the Contractor shall immediately stop Work in the area affected and report the condition in writing to the Engineer. Work in the affected area shall not thereafter be resumed by the Contractor except upon the issuance of a written order to that effect from the Engineer.

15 days prior to the commencement of Work, the Contractor shall submit to the Engineer, for his review and approval, the Contractor's Safety Program which shall comply with all applicable federal, state, municipal and local and departmental laws and shall include, among other things, the designation by the Contractor of a qualified individual to administer such Safety Program.

This safety program shall address the safety requirements for performing work at or about the WTC site as defined in the Authority's WTC Site Safety Program entitled "WTC Transportation Hub Site Safety Program", which is attached hereto as an Appendix.

92. RECYCLING OF CONSTRUCTION DEBRIS MATERIAL

The Contractor shall remove from Authority property all construction debris, demolition debris and other debris material generated from the performance of the Work of this Contract unless the material is deemed acceptable by the Engineer for on-site re-use or recycling in accordance with the technical requirements of this Contract and remains at the Work site. The Contractor shall transport to recycling facilities or re-use and recycle on-site for this Contract, as applicable, no less than 75% by weight of the following types of designated debris material, to the extent arising from the Work of this Contract:

- Asphalt Concrete
- Portland Cement Concrete
- Steel
- Excess Unrestricted Soil

During the process of removal of all such designated debris material from Authority property, the Contractor shall submit to the Engineer on a monthly basis a Designated Debris Material Assessment Summary indicating the actual types and quantities by weight of the designated debris material removed for this Contract up to that point in time. In addition, the Designated Debris Material Assessment Summary shall also include types and quantities by weight of designated debris material actually re-used or recycled on-site in this Contract or, if shown on the Contract Drawings, are stockpiled for future use by the Authority. The Designated Debris Material Assessment Summary shall be accompanied by written verification from recycling and landfill destinations identifying the originating Work site, quantity of material delivered and type of debris material for all designated debris material removed from the Work site.

Within 15 days of the acceptance of his Proposal, the Contractor shall submit to the Engineer for review the Contractor's Designated Debris Material Assessment Plan indicating the anticipated types and anticipated quantities by weight and the intended destinations for all such designated debris material to be removed from the Work site. The Designated Debris Material Assessment Plan shall also indicate anticipated types and anticipated quantities by weight of all such designated debris material to remain at the Work site for re-use or recycling in this Contract as applicable.

All removals shall be completed promptly upon the completion of construction under this Contract.

93. DAILY PROGRESS, EQUIPMENT AND LABOR REPORTS

The Contractor shall furnish to the Engineer, through the Construction Manager at the end of each day Work is performed at the construction site, a memorandum showing for that day (a) the construction performed, (b) the type of equipment used identifying each piece of equipment as owned by the Contractor or rented from others; (c) a statement of any unusual happening that occurred, and (d) the names and number of workers in each trade classification that were employed at the construction site. Such memorandum shall not be deemed to be a substitute for the notices, time slips, memoranda or other data required under the clauses of the Form of Contract relating to compensation for Extra Work.

94. LAWS AND ORDINANCES

In order to effectuate the policy of the Authority, the Contractor shall comply with all provisions of federal, state, municipal, local and departmental laws, ordinances, rules, regulations and orders which would affect the Contract and the performance thereof and those engaged therein if said Contract were being performed for a private corporation, except where stricter requirements are contained in the Specifications or Contract Drawings, in which event the latter requirements shall apply. However, the Contractor shall not apply for any permits, licenses or variances in the name of or on behalf of the Authority, but shall do so in his own name where required by law, regulation or order or by the immediately preceding sentence. Nor shall the Contractor apply for any variance in his own name without first obtaining the approval of the Authority.

The Authority has applied and received the following Letter of Approval in connection with this Contract in its own name:

- A. The City of New York – Department of Environmental Protection – PATH Tunnel E & World Trade Center Discharge – File Case #C-3192.

The Contractor shall comply with all provisions of the said Letter of Approval, which is attached hereto and made a part hereof as an Appendix.

95. IDENTIFICATION

No person will be permitted on or about the construction site without a pass, permit or identification badge approved by the Engineer. The Contractor shall provide such passes, permits or identification badges for his employees, subcontractors and materialmen whenever necessary. Identification badges shall be worn in a conspicuous and clearly visible position by all employees of the Contractor whenever they are working at the construction site.

96. SIGNS

No advertisement or sign, other than the name and address of the Contractor, will be permitted on any fences, temporary structures or elsewhere on the construction site and such advertisement will be permitted only upon the condition that it is first approved by the Engineer. In any event, the advertisement shall not exceed six feet by eight feet in overall dimensions.

97. CONTRACTOR'S FIELD OFFICE AND REPRESENTATIVE

At a readily accessible point on or near the construction site, the Contractor shall maintain a field office provided with a telephone.

During the performance of any Work at the construction site, the Contractor shall have a representative thereat who shall be authorized by the Contractor to receive and put into effect promptly all orders, directions and instructions from the Engineer. The Contractor's representative shall be provided, at all times, with a conformed copy of this Contract and a set of the Contract Drawings.

Orders and directions may be given orally by the Engineer and shall be received and promptly obeyed by the Contractor or his representative or any superintendent, foreman or other employee of the Contractor who may have charge of the particular part of the Work in relation to which the orders or directions are given. A confirmation in writing of such orders or directions will be given by the Engineer when so requested by the Contractor.

98. SURVEYS

The Engineer will establish a bench mark and a base line at or adjacent to the location of the Contractor's operations. The Contractor shall perform all surveys which may be required for the performance of the Contract. He shall carefully preserve any base line and bench mark which may be established by the Engineer.

The Contractor shall, in addition, furnish to the Engineer, without additional compensation therefore, any or all information and data regarding points, lines, grades, elevations and other survey information established by the Contractor during the performance of the Contract.

Surveys and measurements of quantities for purposes of computing Contractor's compensation shall be made by the Contractor as directed by and in the presence of, or jointly with, the Engineer, at the Engineer's option. Computations of quantities for payment shall be made by the Contractor and shall be subject to the approval of the Engineer.

99. TEMPORARY STRUCTURES

Unless otherwise provided in this Contract, the Contractor shall determine the need for and shall design, furnish and construct all barricades, fences, staging, falsework, formwork, shoring, scaffolding and other temporary structures required in the performance of the Contract, whether or not of the type enumerated in the Specifications or on the Contract Drawings, including those which would be required by law or regulation if this Contract were being performed for a private corporation. All such temporary structures shall be of adequate strength for the purposes for which they are constructed and shall be provided with graphics, warning signs and warning lights as required to inform personnel and the public of the hazards being protected against, and the Contractor shall maintain them in satisfactory condition. The design and drawings for such structures shall be prepared by the Contractor utilizing a professional engineer licensed in the state where the structure will be constructed, and when requested by the Engineer they shall be submitted for his review before being used.

The Contractor shall ensure that each temporary structure is inspected by the professional engineer who designed the temporary structure prior to initial use and submit a schedule of periodic inspections to be performed by such professional engineer to the Engineer for review. The number of periodic inspections of temporary structures to be performed by the professional engineer shall be the minimum required by law or regulation if this Contract were being performed for a private corporation. The Contractor shall also submit a signed and sealed statement of inspection from the professional engineer performing the inspection of the temporary structure, including a statement of fitness for use for the intended purpose of the temporary structure, to the Engineer for review.

Neither such approval, however, nor any requirements of the Engineer, the Specifications or the Contract Drawings shall relieve the Contractor of his responsibility for the design, construction and use of the temporary structures or from any obligations and risks imposed on him under this Contract, and any such approval or requirements shall be deemed merely to relate to minimum standards and not to indicate that the temporary structures are adequate or that they meet the Contractor's obligations under this Contract.

Temporary structures shall be painted with an approved dark color paint and shall be repainted whenever necessary during the period that the Contract is being performed. Upon completion of all Work under this Contract, the temporary structures shall be removed from the construction site.

100. PERMIT AND REQUIREMENTS FOR WELDING

Prior to the commencement of any cutting or welding operations at the construction site, the Contractor shall notify the Engineer, through the Construction Manager, and obtain an Authority cutting and welding permit. The Authority will issue this permit without payment of a fee, and application forms may be obtained from any Resident Engineer of the Authority, at his office at the facility. Unless otherwise approved by the Engineer, all cutting and welding operations shall be performed in accordance with the conditions which form a part of said permit. The permit application must be filled out and submitted in duplicate to the Engineer at least forty-eight hours prior to commencing welding or cutting operations at the construction site.

101. FINAL INSPECTION

When, in the opinion of the Contractor, the construction is completed and ready for final inspection, he shall so notify the Engineer in writing and the Engineer will give said construction (including any portions with respect to which Certificates of Partial Completion have been issued) a minute and thorough inspection. Before any Certificate of Final Completion will be issued, any defects or omissions noted on this inspection must be corrected by the Contractor.

102. WARRANTIES

The Specifications may provide for certain warranties of portions of the Work. These warranties are intended for the greater assurance of the Authority and not as a substitute for rights which the Authority might otherwise have. Although such warranties shall be enforceable as provided, neither any requirement of this Contract with respect to warranties by the Contractor nor any guarantee or warranty given to the Contractor or the Authority by any manufacturer shall be deemed to be a limitation upon any rights which the Authority would have, either expressed or implied, in the absence of such guarantees or warranties.

103. UTILITY RECORD DRAWINGS

The Contractor shall prepare, on mylar sheets 22" x 34" or other size approved by the Engineer, drawings showing the exact locations and elevations of underground utility construction including manholes, catch basins, inlets, pipe lines and structures for carrying gases (including air) and fluids including water, storm drainage, sewage, oil, chemicals, electrical duct runs, cables and conduits, for new construction or extension of existing utilities installed underground under this Contract.

The Contractor shall submit to the Engineer, for verification and approval, tabulation of the data to be used in the preparation of the utility record drawings. Do not build-in, backfill or fill over or around or in any way cover underground structures, piping, conduit, cable or duct banks until such submitted data has been verified and approved by the Engineer.

Indicate the exact locations, including changes of direction and curves, by the use of offset distances from nearby permanent structures and, in addition, by the use of coordinates which shall be based on the system of coordinates used at the construction site, the origin of which is shown on the Contract Drawings. Base elevations on the datum used at the construction site as is shown on the Contract Drawings.

Submit prints of these drawings to the Engineer for verification, check of the accuracy, and for approval. Make indicated corrections and additions to the drawings, until the approval of the Engineer has been obtained. After these drawings have been approved by the Engineer, each of the original corrected mylar sheets shall be marked "RECORD DRAWING – NOT FOR REVIEW", dated and signed by the Contractor and turned over to the Engineer before issuance of the Certificate of Final Completion, and such original drawings shall become the property of the Authority. By signature, the Contractor is verifying that the drawing reflects the as-constructed condition.

104. TEMPORARY UTILITY SERVICES

The Contractor shall operate and maintain temporary services and facilities in a safe and efficient manner. The Contractor shall modify as required throughout progress of the Contract, and remove from Authority property when no longer required, or replaced by the use of completed permanent facilities as approved by the Engineer.

Heat is not available at the construction site. Provide temporary heat as required to maintain environmental conditions to facilitate progress of the Work and to protect materials and finishes from damage due to temperature and humidity. Temporary heating units shall be vented self-contained units with individual space thermostatic control, shall be UL tested and approved for the fuel being consumed, shall be installed in accordance with ANSI A10.10 "Safety Requirements for Temporary and Portable Space Heating Devices and Equipment Used in the Construction Industry", and shall be approved by the Engineer. Use of gasoline burning space heaters, open flame, or salamander type heating units is prohibited. The Contractor shall pay costs of installation, maintenance, operation, removal and for fuel consumed.

Electricity is not available at the construction site. The Contractor shall provide electricity for construction purposes and artificial light by use of portable generator(s) or arrangement with the local utility company. The Contractor shall pay all costs of installation, maintenance, operation, removal and for service and power used.

Water for construction purposes is available at the construction site, subject to such conditions and precautions upon its use as may be imposed by the Engineer. The Authority will pay the cost for water used. The Contractor shall provide connections to existing facilities, and extend with branch piping, taps and hoses as required. The Contractor shall protect piping and fittings against freezing. The Contractor shall pay all costs of installation, maintenance, operation and removal for temporary service connections.

105. TEMPORARY SANITARY FACILITIES

The Contractor shall make arrangements for securing and pay all costs for temporary toilets, wash facilities and drinking water including toilet tissue, paper towels, paper cups and similar disposable materials for use by the Contractor, subcontractors, materialmen or other persons over whom the Contractor has control. Comply with regulations and health codes, which would be applicable if the Authority were a private corporation, for the type, number, location, operation and maintenance of fixtures and facilities. Install facilities where directed by the Engineer, and remove from Authority property when no longer required.

106. PROGRESS SCHEDULE

A. Schedule Requirements

- 1.) The Contractor shall, at its own expense, prepare, maintain and update detailed electronic progress schedules for the Engineer's review and approval as hereinafter defined. All submittals required herein shall be in the form and content stipulated in this Section. Each progress schedule shall bear the signature of the Contractor's authorized representative. The progress schedules/graphics required by this Contract shall be produced using Primavera Project Manager (P6), Version 6.2.
- 2.) Progress schedules shall be sufficiently detailed to accurately depict all the Work (including any design, key submittals, procurement and construction activities performed by the Contractor) and shall graphically represent the logical sequence and duration of activities, all in accordance with the requirements of the Contract. The information provided in progress schedules shall also include, but not be limited to, the interdependencies between the Contractors' Activities and all other Activities required for the successful completion of the Contract, e.g., those to be performed by utility companies or by other contractors or agencies. All Milestone dates specified in the Contract shall be represented in the schedule by Milestone activities that are logically interrelated to the work that must be accomplished in order to achieve the Milestone.
- 3.) Contractor shall coordinate with Port Authority staff as directed by the Engineer in developing a Work Breakdown Structure that can be standardized and integrated into the Program Integrated Master Schedule. Contractor shall include INTERPROJECT and INTRAPROJECT MILESTONES as directed by the Engineer to facilitate the logical linking of schedules.
- 4.) The Progress Schedule must identify the cost to perform work utilizing summary activities for each major component of the work and construction discipline. The sum of the costs assigned to all summary activities must equal the Contract Value. Once the cost loaded Progress Schedule is approved by the Engineer, it will constitute the Schedule of Values from which monthly progress payments will be made.
- 5.) The submittal of Progress Schedules under this section shall not be deemed to be a substitute for the reporting requirements of the Section of Division 1 entitled "Daily Progress, Equipment and Labor Reports."

B. Schedule Terminology

Schedule terminology used in this Contract shall have the meaning described below:

- 1.) **Activity:** A discrete item of Work with a Duration that can be clearly defined; a synonym for task. Unless otherwise permitted in writing by the Engineer, an activity's duration shall be not more than 20 calendar days
- 2.) **Activity Codes:** Activity Codes allow each activity in a project to be grouped into specific classifications such as area, responsibility, phase, system, or location. The codes consist of specific values and descriptive titles that are entered into the data dictionary of the scheduling software. Activities are assigned specific Activity Codes as appropriate.
- 3.) **Alternative Solutions:** An analysis of the various options for dealing with encountered or anticipated Contract problems. An alternative solution is developed to assist in determining the best method(s) of preventing or correcting any impediments to the progress of the Work. Alternative Solutions analysis shall indicate impacts on scheduling and resources.
- 4.) **Analysis Report:** A report that displays the impacts of all variances reported in the Current Progress Schedule. The Analysis Report focuses attention on the impacts of variances between planned and actual performance, so as to support an assessment of such impacts. The Analysis Report shall include Alternative Solutions.
- 5.) **Bar Chart:** A schedule display designed to complement the Network Diagram. The Bar Chart is a traditional Gantt chart, to which the Early Start Dates, Early Finish Dates, Late Start Dates, Late Finish Dates, and Critical Path have been added.
- 6.) **Calendar:** A calendar defines when work on an activity can occur (i.e. Mon – Fri for a standard work week). Activities shall be assigned to a Calendar that represents the planned work days and hours of work.
- 7.) **Constraint:** A constraint is a restriction imposed on the start or finish of an activity or project. An example of the use of constraints is the imposition of a "finish no later than" constraint²⁰ on the project completion Milestone that is equal to the Contract Completion date. This constraint facilitates the identification of activities that control or do not support the completion date. Constraints shall be limited to start and finish constraints on Milestone activities that represent critical Contract dates, unless otherwise approved by the Engineer in writing.
- 8.) **Critical Path:** The longest path through the network in estimated total elapsed time from the start of the first Activity through the completion of the last Activity. The Critical Path consists of a series of Activities which must be completed on their scheduled completion dates in order for the Contract to be completed on schedule.
- 9.) **Current Progress Schedule:** The most recent progress schedule which has been approved by the Engineer. The Baseline Schedule shall be referred to as "Revision 0". Each time a different Current Progress Schedule is accepted by the Engineer, the revision number must be increased by 1, and the old schedule must be electronically archived, so as to permit an audit trail.
- 10.) **Duration:** The estimated and/or actual length of time required to fully perform a specific Activity. The Duration is expressed in work days. Activity duration shall be based on the labor, equipment and materials required to perform each activity given the available hours of work. No construction activity shall have a duration over 20 (twenty) working days.

²⁰sh or "finish no later than" constraint limits the latest time an activity can complete

- 11.) **Early Finish Date:** The date upon which an Activity can be completed if it is begun on the Early Start Date.
- 12.) **Early Start Date:** The earliest date upon which an Activity can begin.
- 13.) **WBS Summary:** A WBS Summary activity summarizing the early and late dates of a set of activities is used for reporting durations of groups of important activities. An activity shall be designated as a WBS Summary by selecting WBS Summary as the activity type in the Primavera activity details form.
- 14.) **Lag:** The interval between the completion of a Predecessor Activity and the start of a Successor Activity. For example, ten days of positive Lag will cause the Successor Activity to begin ten days after the Predecessor Activity has been completed. Negative Lag will cause the Activities to overlap. The amount of Lag between each Activity shall be clearly represented on the Network Diagram.
- 15.) **Late Finish Date:** The latest date by which an Activity must be completed if the succeeding Activity is to be started on schedule.
- 16.) **Late Start Date:** The latest date by which an Activity must be started to allow completion by the Late Finish Date.
- 17.) **Milestone:** A significant point in the performance of the Work. A milestone has no Duration, and represents the start of a portion of the Work or the completion of a portion of the Work. A milestone may also represent either the beginning or the completion of a task or action being performed by entities other than the Contractor (e.g., obtaining a permit, notification to proceed with certain Work, etc.).
- 18.) **Negative Float:** The amount of time that the planned completion date of an Activity is later than its required (Late Finish) date. An Activity with Negative Float must be completed ahead of schedule if the Work is to be completed on time. Negative Float usually indicates the need for corrective and/or preventive action to complete the Work on schedule.
- 19.) **Network Diagram:** A logic diagram prepared according to the Precedence Diagram Method, which displays each Activity required for the performance of the Contract in the sequence in which it is to be performed with appropriate logic ties between activities displayed.
- 20.) **Baseline Schedule:** The detailed progress schedule first approved by the Engineer as provided for in the Contract.
- 21.) **Precedence Diagram Method (PDM):** A particular type of graphic representation of all Activities and Constraints. The Activities are represented by nodes; the Constraints are represented by lines between nodes. A sample PDM Network Diagram appears in this Section.
- 22.) **Predecessor Activity:** An Activity which is a prerequisite to commencement of another Activity.
- 23.) **Preliminary Progress Schedule:** A detailed progress schedule for Work to be performed within one hundred days after the acceptance of the Contractor's Proposal.
- 24.) **Relationship:** a logic tie between two activities representing restrictions on the start or completion of the subsequent activity. Relationships may cause either positive or negative lag. The four basic types of relationships are finish to start, start to start, finish to finish, and start to finish.
- 25.) **Successor Activity:** An Activity which cannot be started or completed without the prior completion or partial completion of a Predecessor Activity.

- 26.) **Total Float:** The amount of time by which an Activity or series of Activities may be delayed without affecting the date of completion of the Work
- 27.) **Free Float** – the amount of time that an activity's early start can be delayed without delaying the early start of a successor activity. The Contractor acknowledges and agrees that if an activity with Free Float is delayed for any reason, the Contractor will not thereby be entitled to an extension of time.

C. Schedule Submittal, Review & Approval Process

1.) Baseline Schedule

- a. Within twenty (20) calendar days of the acceptance of the Contractor's Proposal, the Contractor shall submit a proposed Baseline Schedule containing the Contractor's projected plan and schedule to complete all Work required by the Contract within the time(s) for completion required by the Contract. A schedule showing time(s) for completion other than those required by the Contract will not be accepted. Schedules containing more than 2 (two) "open end" activities (an activity which has no successor or predecessor relationship to other activities) will not be accepted.
- b. The Engineer will review the proposed Baseline Schedule and return it to the Contractor with comments, or accept it as the official Baseline Schedule, within five (7) calendar days. The Contractor shall participate in any meetings called to resolve issues with the schedule.
- c. If it is not accepted, the Contractor shall revise the Baseline Schedule in accordance with the Engineer's comments and resubmit three printed reports and one diskette for the Engineer's approval, within ten (7) calendar days of the receipt by the Contractor of the Engineer's comments. Until such time as the Engineer accepts it, the Contractor shall resubmit his proposed Baseline Schedule as requested by the Engineer within the same time frame and in the same format as required by this paragraph for the initial resubmission.
- d. After the approval of any progress schedule required by this Section no changes shall be made therein without the written approval of the Engineer. No other act or omission on the part of the Engineer shall be deemed to constitute such approval. The Contractor shall not be entitled to any damages by reason of the failure of the Engineer to give timely approval or comments on any progress schedule submitted hereunder.

2.) Progress Schedule Updates

- a. The Contractor shall submit to the Engineer not less frequently than once a month, on the 7th calendar day of the month (or first business day thereafter if the 7th calendar day falls on a weekend), an update of the current Progress Schedule. Schedule updates shall status the actual performance and progress of the Work and depict any changes.
- b. Within seven (7) calendar days after receipt by the Engineer of an updated progress schedule, the Contractor shall meet with the Engineer for the purpose of reviewing and obtaining the Engineer's approval of it.
- c. The Engineer may require the Contractor to furnish a revised update which shall include any other information he may request to assist him in evaluating the Contractor's progress, including but not limited to manpower loading charts and equipment schedules; "what-if" analysis performed in a copy of the current progress schedule, etc.
- d. In the event that the Engineer requests the Contractor to revise the updated schedule submitted, and/or to submit such additional information, the Contractor shall make the requested revisions and/or submit the updated schedule to the Engineer for approval along with the additional information requested within seven (7) calendar days of the Engineer's request.

D. Schedule Reporting Requirements

- 1.) The preliminary schedule submittal shall include one computer diskette and three copies of the following output reports:
 - a. A time-scale logic diagram in PDM format containing all activities displaying Activity ID, Activity Description, Calendar, original and remaining durations, percent complete, Early and Late Dates, and Total Float, and sorted by:
 - (i) Early Start, Early Finish, Total Float
 - (ii) Total Float, Early Start (Critical path report)
 - (iii) Late Start, Late Finish (if required by the Engineer)
 - b. A tabular Predecessor and Successor standard report showing the relationships between all activities in the schedule and sorted by ES, TF (if required by the Engineer)
 - c. Any other information which may be requested by the Engineer to assist him in the evaluation
- 2.) The baseline schedule submittal shall include one computer diskette and six copies of the following output reports:
 - a. A Schedule narrative that generally describes the Contractor's approach to meeting the project goals, lists the Critical Path Activities and compares Early and Late Dates with Contract Times and Milestone Dates. The basis for any constrained dates shall be explained.
 - b. A one-page time scaled Summary Schedule consisting of 20-40 WBS Summary activities or summary bars that show the entire project broken down into major portions of work, as agreed to by the Contractor and Engineer.
 - c. A time-scale logic diagram in PDM format containing all activities displaying Activity ID, Activity Description, Calendar, original and remaining durations, percent complete, Early and Late Dates, and Total Float, and sorted by:
 - (i) Early Start, Early Finish, Total Float
 - (ii) Total Float, Early Start (Critical path report)
 - (iii) Late Start, Late Finish (if required by the Engineer)
 - d. A tabular Predecessor and Successor standard report showing the relationships between all activities in the schedule and sorted by ES, TF (if required by the Engineer).
 - e. Supporting data showing all activities with their associated cost, budgets or estimates
 - f. Any other information that may be requested by the Engineer to assist him in evaluation of the Contractor's progress. Such information may include, but not be limited to, the following:
 - (i) Cost Loading
 - (ii) Manpower loading charts
 - (iii) Equipment schedules
 - g. The Contractor shall electronically archive all accepted schedules.
- 3.) In addition to the reports required for the Baseline Schedule submittal, all progress Schedule Update Reports shall include the following:

- a. A narrative comparing the current dates to the respective Milestone Dates, describing the physical progress during the current report period, explaining plans for continuing the work during the next report period and describing and explaining changes in crewing and construction equipment. The narrative shall also explain changes in Activity durations, logic ties and Activity Values and the reason why the change was made.
- b. Whenever there is any delay or negative float prediction in the schedule, the Contractor shall submit an alternative solutions report that describes the delay, explains when it started and finished or is expected to finish and the basis for those dates, lists the affected schedule activities by activity ID, and discuss who the contractor feels is responsible. Any revisions to durations or the logical sequence of Activities made to reflect these delays must be explained. The report shall propose appropriate schedule recovery such as multiple shifts or overtime to mitigate any potential delay to the overall project completion date, or request an extension of time, as appropriate.
- c. A revised Network Diagram sorted by Early Start and Early Finish indicating actual start and finish dates and the remaining duration and percent complete of activities in progress. The critical path of the project shall be clearly shown.
- d. An Analysis Report indicating Activities and/or Milestones which are behind schedule by at least 30 calendar days (commonly evidenced by Negative Float).
- e. A report that compares the Current Progress Schedule update with the Baseline and prior month's accepted schedule update and lists all changes made to the schedule.

E. General Schedule Provisions

- 1.) Should the Contractor fail to comply with any provision of this Section, The Engineer shall have the right in its discretion to withhold out of any payment (final or otherwise and even though such payment has already been certified as due) such sums as it deems necessary or desirable, all as more fully provided in the clause of the Form of Contract entitled "Withholding of Payments".
- 2.) Neither the acceptance, review or approval of any progress schedule or other data submitted by the Contractor pursuant to this Section, nor any other action on the part of the Engineer under this Section shall in any way be deemed as a representation by the Engineer that the Contractor can or will be permitted to follow a particular schedule or sequence of operations or that by following any such schedule or sequence he can or will complete the Work by the time(s) required by the Contract or by any other time(s). Nor shall the approval of any progress schedule or other such data relieve the Contractor of his obligation to complete the Contract by the time(s) required in the Contract, even though the schedule may be inconsistent with such completion.
- 3.) Any approval under this Section shall be construed merely to mean that the Engineer knew of no good reason at that time to object thereto. No acceptance, review or approval or any other action under this Section shall limit, affect or impair the Contractor's obligation to perform all Work by time(s) required by the Contract and in accordance with all other provisions of the Contract.
- 4.) The performance of the Work by the time(s) required in the Contract, after taking into account extensions to which the Contractor may be entitled under the clause "Extensions of Time", may require the use by the Contractor of overtime labor, additional shifts or additional plant and equipment and/or other measures at no additional cost to the Authority. The Contractor shall anticipate, avoid and mitigate the effects of all delays.

- 5.) The Engineer shall have the right at any time when in his judgment the Work is not proceeding in accordance with the approved progress schedule or at any time when it is likely that the Work might not be completed by the time(s) required in the Form of Contract even though the Contractor is proceeding in accordance with the approved progress schedule, to order the Contractor without additional compensation, to employ additional shifts to increase the number of men employed, to use additional plant or equipment, or to take such other steps as may be necessary or required to assure the completion within the time(s) shown in the accepted schedule.
- 6.) No action on the part of the Contractor pursuant to this Section shall be construed as a request by him for an extension of the time(s) for completion required by the Contract. A request for an extension of time shall be deemed made only if it complies with the requirements of the clause of the Form of Contract entitled "Extensions of Time". No extension of the time(s) for completion shall be inferred because of any action, omission to act, or statement on behalf of the Engineer pursuant to this Section. Extension of time, if any, shall be granted only pursuant to the clause of the Form of Contract entitled "Extensions of Time".
- 7.) The Contractor acknowledges and agrees that he is not entitled to an extension of time for impacts that do not extend the contractual end date of the project.
- 8.) Schedule float time disclosed or implied is not for exclusive use or benefit of the Authority or contractor but is available to all parties as needed to meet contract Milestones and the contract completion dates.
- 9.) Techniques such as preferential sequencing, special lead/lag logic restraints, extended activity times or imposed dates that tend to sequester float shall be cause for rejection of the detailed Project Schedule and any revisions or updates

MANDATORY ACTIVITY CODES

- 1.) Responsibility (Owner, Contractor)
- 2.) Area (building, floor or area)
- 3.) Trade/CSI code (concrete, steel, etc as required)
- 4.) Elevation (EL 240, 254, 274, 285 etc)
- 5.) Phase of Work, if applicable
- 6.) Change Order work, if applicable
- 7.) Other, as required by the Engineer

107. DELETED

108. CONDITIONS AND PRECAUTIONS

A. Construction Site Conditions:

- 1.) Notwithstanding restrictions specified elsewhere herein, during the time the Contractor is performing the Work, it may at times be necessary, because of emergency conditions, to suspend the Contractor's operations or to postpone the time at which a work area becomes available for performance of Work. Should the Contractor be specifically directed to suspend operations in a work area specified herein to be available for operations of the Contractor, or should such work area not be available by the times specified elsewhere in the Contract, and if solely because of such suspension of operations or late availability of the work area, the Contractor is necessarily kept idle at the construction site, the Contractor will be compensated as stipulated in the provisions of the Contract concerning compensation for emergency delays.
- 2.) 1. At least 7 days but not more than 10 days prior to performing excavation, call 1-800-272-4480 and provide the information required for excavation(s) in New York and call 1-800-272-1000 and provide the information required for excavation(s) in New Jersey.
- 3.) No vehicles of the Contractor, employees of the Contractor, subcontractors, materialmen or others over whom the Contractor has control will be permitted to park in or on Authority property, except for construction vehicles which will be permitted to park at the area of Work during the times when the Work is being performed. All vehicles, including construction vehicles and company vehicles will be required to pay the appropriate tolls for each passage or crossing of Authority facilities, or parking at Authority lots.
- 4.) Securely fasten material or construction which must be left in place between working periods in a manner acceptable to the Construction Manager so as not to be a hazard.
- 5.) Take all precautions necessary for protection of persons, traffic and property during dust or fragment generating operations, concrete mixing or placing, or other operations which may stain, soil or damage property or injure persons. Provide and erect waterproof, fire-resistant, UL labeled tarpaulins with flame-spread rating of 15 or less, or other protective enclosures as approved by the Engineer.
- 6.) Smoking is strictly prohibited. There are no designated areas to smoke within the WTC Project Site.
- 7.) Do not burn or bury debris of any type on Authority property, or wash waste materials down sewers or into waterways.
- 8.) Provide sound suppression devices on gasoline and diesel powered construction equipment and pneumatic tools as required to maintain noise exposures below the limits specified in the Code of Federal Regulations (CFR) 29 CFR 1926 Occupational Safety and Health Regulations for Construction (OSHA). Maintain such sound suppression devices in proper operating condition throughout the time of their use, and adjust and repair as required to maintain noise within exposure levels stipulated in 29 CFR 1926.52, Table D-2.

B. Hours Of Work:

- 1.) Perform work only during the times specified under this Contract.
- 2.) Do not perform Work outside these time periods.

- C. No requirement of or omission to require any precautions under this Contract shall be deemed to limit or impair any responsibility or obligation assumed by the Contractor under or in connection with this Contract and the Contractor shall at all times maintain adequate protection to safeguard the public and all persons engaged in the Work and shall take such precautions as will accomplish such end, without undue interference with the public or the operations of the Authority.
- D. **Security Plan**
- The Contractor shall implement and maintain a security plan for the work site in accordance with the requirements in the Authority's WTC Site Security Plan. The Security Plan includes the standards and requirements for, but not limited to, fencing, guards, access control, lock and key controls, which support overall WTC Site security, the separation of public and non-public areas, and site safety. The Authority will monitor conformance to the plan and may require modifications to the plan throughout the construction period.
- E. **Traffic Management Plan**
- The Contractor shall implement and maintain a traffic management plan while performing work at the WTC site in accordance with the requirements in the Authority's Traffic Management Plan. The Traffic Management Plan will include the standards and requirements for primary and secondary access points, direction of traffic flow, and procedures for access for the Contractor, subcontractors, construction and company vehicles, deliveries, materials being transported, and pedestrian access through the Work site as required to keep the NYCT and PATH Station operational. The Authority will monitor conformance to the plan and may require modifications to the plan throughout the construction period.
- F. **WTC Site Rules & Regulations**
- The Contractor, its subcontractors, and all employees supporting the construction activity are required to comply with the Rules and Regulations of the WTC Site, and any updates as required by the Authority. A copy of the WTC Site Rules and Regulations will be provided to each employee upon his or her eligibility to receive a WTC Site Identification Badge and/or Vehicle Pass. Any person not complying with the WTC Site Rules and Regulations shall have their access privileges to the WTC Site and any WTC Site Identification Badge and/or Vehicle Pass revoked.

109. HOURS OF WORK AND CONSTRUCTION STAGING

A. Hours of Work

- 1.) Subject to all requirements stated elsewhere herein, the Work shall be performed in accordance with the following hours of Work. Time period designated below is defined as one "shift":
 - a. Perform all work between the hours of 7:00AM and 9:00PM Each day, Monday through Friday, and 7:00AM to 8:00PM on Saturday and Sunday.
- 2.) The Contractor shall not perform Work at the construction site on a Federal legal holiday or a holiday of the state(s) in which Work is being performed, unless otherwise permitted by the Engineer.
- 3.) The Contractor shall submit to the Engineer, through the Construction Manager, , at least one week in advance, scheduled hours of Work for each week.

B. Construction Staging

- 1.) For Construction Staging areas, see Attached VSC Construction Logistics Documents ID#s 261 and 262 Drawings C201-CS208.
- 2.) No stockpiles of material or construction equipment shall remain in the work area at the end of each shift.

110. CONDUCT OF WORK PLAN

- A. The Contractor shall prepare and submit a written Conduct of Work Plan (COWP) which addresses construction staging and planning; field office needs; parking requirements during performance of the Work; storage of construction equipment; use of public roadways and Authority property; coordination of the Work with PATH and New York City Transit (NYCT) operations; utility disruptions; protection of PATH and adjacent properties; diesel emissions, fugitive dust and noise monitoring and mitigation; hazardous material handling and remediation; storm water drainage management; temporary facilities and structures; traffic management; vibration monitoring and control; emergency procedures and notification site; access and logistics; public protection and worker safety; site and document security; and maintenance and protection of Work site.

111. ENVIRONMENTAL PERFORMANCE CRITERIA

A. Air Quality: Diesel Emission Mitigation

The Contractor shall minimize all air-borne pollutants generated by diesel-powered equipment and vehicles at all times during the performance of Work under this Contract. All Non-Road diesel-powered equipment (e.g., backhoes, bull dozers, cranes, excavation machines, loaders, etc.), including stationary equipment (e.g., generators, compressors, etc.), shall incorporate diesel emission reduction strategies that include the use of ultra low sulfur diesel fuel. For equipment with a rated horsepower of 50 (50HP) or greater, best available technology for emission controls shall be applied. In addition, all such equipment and engines shall comply with all Federal, State and Local regulations applicable to exhaust emission controls and safety.

- 1.) Ultra Low Sulfur Diesel (ULSD) Fuel

All diesel-powered Non-Road equipment to be used in the performance of Work under this Contract shall use Ultra Low Sulfur Diesel (ULSD) fuel that is certified to contain an average sulfur content of no more than 15 parts per million (ppm) as determined over a six month period. In the event that the Contractor can clearly demonstrate that ULSD fuel with an average sulfur content of not more than 15 ppm is not available, a written waiver may be granted by the Engineer until such time that the ULSD fuel has become available, or an approved equal is determined by the Engineer to satisfy the intent of this Section. The Engineer shall collect monthly samples of the ULSD fuel used during the period directly from the fuel tanks of the Non-Road diesel-powered equipment used on the construction site. The Testing Standards shall include, but are not limited to: ASTM D6920 – 03 “Total Sulfur in Naphthas, Distillates, Reformulated Gasolines, Diesels, Biodiesels, and Motor Fuels by Oxidative Combustion and Electrochemical Detection” or ASTM D6428-99 “Test Method for Total Sulfur in Liquid Aromatic Hydrocarbons and Their Derivatives by Oxidative Combustion and Electrochemical Detection.”

The ULSD fuel shall be obtained from any distributor capable of meeting the requirements of this Section. All ULSD fuel shall be dispensed directly on the construction site from either a dedicated on-site fuel storage facility or segregated truck delivery. In the case of on-site storage, all such facilities shall comply with all applicable jurisdictional Codes pertaining to the storage and dispensing of fuel. The details of which must be submitted and approved by the Engineer prior to implementation.

A listing of ULSD fuel suppliers is included on the following Web page.

ULSD fuel Suppliers:

http://www.epa.gov/otaq/retrofit/cont_fuels.htm

a. Diesel Emissions Control Technologies

All Non-Road diesel-powered equipment with a rated horsepower of 50 HP or greater shall be retrofitted with Emissions Control Devices (devices) utilizing the best available technology. The retrofit devices shall consist of Diesel Particulate Filters (DPFs) or other measures with equivalent particulate matter (PM) removal efficiency wherever the implementation of such a device is feasible. In cases where DPFs are not feasible for safety considerations, mechanical reasons, or where the technology would not function properly, the Contractor shall submit a request for a waiver to the Engineer for review and approval prior to the use of such equipment. If the Engineer grants a waiver, Diesel Oxidation Catalysts (DOCs) shall be used. Only in the following cases will the use of diesel engines greater than 50 HP without tailpipe reduction measures be permitted by the Engineer.

- Where for technical reasons neither DPFs or DOCs can be used effectively, and the operation cannot be performed by another engine or other means;
- To immediately remedy safety and health hazards;
- In response to emergencies.

Such reductions are to be targeted primarily toward the reduction of PM and secondarily on the reduction of nitrogen oxides (NOX), and shall in no event result in an increase in the emissions of either pollutant. The devices shall be contained in the U.S. Environmental Protection Agency (EPA) Verified Retrofit Technology List, the list of California Air Resources Board (CARB) Verifications, Europe’s Verified Technology List (VERT), or as otherwise approved by the Engineer to provide the maximal level of pollutant reductions intended under this Section. For more information, refer to the following websites:

U.S. Environmental Protection Agency Verified Technology List:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>

California Air Resources Board Verified Technology List:

<http://www.arb.ca.gov/diesel/verdev/level3/level3.htm>

Europe' Verified Technology List:

<http://www.akpf.org/pub/vertfilterliste.pdf>

Vendors of such technologies include: Cleaire, DCL International, Engelhard, Johnson-Matthey, Fleetguard Emission Solutions, Donaldson, Engine Control Systems, or other approved equal.

b. Diesel Construction Equipment Age Requirements

In order to facilitate the application of verified emission control devices as well as provide lower baseline emissions, all equipment used for the performance of Work under this Contract must use post-1995 fuel injection engines which meet Tier II engine emissions standards, as defined in 40 CFR Section 89.112. Exceptions will be made only for specific engines that are not yet commercially available as Tier II, and where the task cannot be reasonably accomplished using alternative engines or means which do comply with these demands. In such cases, the Contractor shall submit a request for a waiver to the Engineer for review and approval prior to the use of such equipment.

c. Contractor Diesel Emissions Mitigation Plan for Non-Road and On-Road Engines/Equipment

- (i) A Diesel Emission Mitigation Plan (the "DEM Plan") shall be prepared by the Contractor and submitted to the Engineer for review and approval prior to the use of any diesel-powered engines, including all Non-Road equipment and On-Road vehicles (i.e., diesel-powered trucks). The DEM Plan shall identify all diesel-powered equipment and vehicles to be utilized in the performance of Work under this Contract, whether owned by, operated by or on the behalf of the Contractor, including that rented by the Authority as the rental agency of the Contractor. No Work shall proceed under this Contract until a DEM Plan is submitted and approved by the Engineer. Once approved, no changes in or deviations from the DEM Plan will be permitted unless approved by the Engineer. The DEM Plan shall address the control of emissions from all diesel-powered equipment and vehicles including equipment and vehicles not retrofitted with devices. The contents of this plan shall specifically address the following requirements:
- (ii) Work Zone Creation
The Contractor shall establish On-Road vehicle (i.e., diesel-powered trucks) staging zones for the off-loading and loading of materials to and from the construction site. Such zones shall be located to minimize the impact of pollutants from diesel engines and vehicles on sensitive receptors and the general public. In addition, the Contractor shall ensure that all diesel-powered engines and vehicles are located away from the fresh air intakes of sensitive receptors as determined by the Engineer.
- (iii) Diesel Engine Idling Policy
The idling time of Non-Road and On-Road Vehicles shall be limited to three (3) consecutive minutes as determined by the Engineer except as follows:
 - (a.) When an On-Road Vehicle is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;
 - (b.) When it is necessary to operate heating, cooling or auxiliary equipment installed on the vehicle when such equipment is necessary to accomplish its intended use;

- (c.) To bring the vehicle to the manufacturer's recommended operating temperature. In this event, the temperature requirements must be indicated in the DEM Plan as an exception;
 - (d.) When the outdoor ambient temperature is below twenty (20) degrees Fahrenheit;
 - (e.) When the vehicle is being actively worked on for repairs or maintenance.
- d. **Electrification**
 The Contractor shall develop and implement a plan to distribute temporary electrical power throughout the construction site. The plan shall identify all diesel-powered equipment intended to be used for the performance of construction, and indicate the availability of alternate electrically powered versions. In cases where electrically powered versions are available, only the electrically powered version shall be used. At a minimum, all stationary equipment (e.g., air compressors, grout plants, mixers, pumps, welding machines, etc.) required for the performance of work that can be practically replaced with an electrically powered version shall be powered electrically in lieu of diesel engines.
- e. **Limited Work Zone**
 Adjacent to the Route 9A walkway/bikeway in the vicinity of the east-west pedestrian concourse, the modeled concentration of particular matter (PM 2.5) over the 24-hour period could exceed the National Ambient Air Quality Standards. Therefore, to ensure that such potential exceedances are mitigated, the Contractor shall not operate Non-Road diesel-powered equipment in this "Limited Work Zone" during periods of extreme meteorological conditions without the approval of the Engineer.

2.) **Submittals**

The submittals required under this Section are as follows:

- a. **Inventory List: Non-Road Diesel Equipment and Engines, and Verified Emission Control Devices**
 No Work shall commence utilizing diesel-powered Non-Road equipment rated at 50 HP or greater until the Contractor submits a comprehensive and complete inventory list inclusive of all such equipment and vehicles including the specifics of each as detailed in the following subparagraph, and same is approved by the Engineer:
 In the event that the Contractor clearly demonstrates to the Engineer that no emission control device is available for a particular engine or vehicle, or the retrofit of such a device may endanger the operator or those working nearby, the Engineer may grant a waiver to permit the use of such an engine or vehicle. Nonetheless, the equipment or vehicle must be included on the inventory list, and the Contractor must continue to demonstrate a reasonable effort to determine the availability of a substitute of equivalent performance.

The inventory list shall be provided in an electronic format (e.g., Microsoft Word, Access or Excel), and shall include the following:

- (i) The owner whether the Contractor, subcontractor, or rental firm. The firm name, address, telephone number and contact person familiar with the operation and maintenance of the equipment and the emission control technologies;
- (ii) The number, type, make, year of manufacture, manufacturer and serial number;

- (iii) The engine type, make, horsepower rating, year of manufacture, and serial number;
- (iv) The approximate fuel consumption rate per shift;
- (v) The anticipated function, duration of use, and days and hours of operation;
- (vi) Retrofit type, make, model, manufacturer, installation date, EPA, VERT or CARB verification number or supporting documentation related to emission control devices.

b. On-Going Equipment Updates and ULSD Fuel Deliveries:

The Contractor shall submit a weekly update to the Engineer of the inventory list of all diesel-powered Non-Road equipment. This update shall include the baseline inventory list, and a compilation of all ULSD fuel deliveries during the week, including delivery tickets.

c. Ultra Low Sulfur Diesel Fueling Plan

The Contractor shall submit his fueling plan, identifying the proposed ULSD fuel supplier, independent test results of sulfur content of the proposed supplier's fuel as determined by the Testing Standards referenced in the preceding Section entitled "Ultra Low Sulfur Diesel (ULSD) Fuel", and a description of segregated truck delivery or on-site fuel distribution plans.

B. Air Quality: Dust Control

The Contractor shall control fugitive dust at all times including non-working days, weekends and holidays. The requirements for controlling fugitive dust emissions within the construction site during the performance of Work under this Contract, such as earth moving and demolition activities, shall include the following:

The spraying of a (non-hazardous, biodegradable) dust suppressing agent;

The physical containment of fugitive dust particles through the use of tarps or other wind protection devices;

The adjustment for meteorological conditions, as appropriate;

Wheel washing of all Non-Road and On-Road vehicles leaving the site including the containment and treatment of wash water;

The wetting and covering of all trucks loads containing materials delivered to or removed from the site that may generate fugitive dust;

The routine wetting and cleaning of streets and access roads within the construction site.

1.) Submittals:

The Contractor shall comply with all Federal, State and Local regulations applicable to the control and mitigation of fugitive dust dispersion. The Contractor shall submit a Dust Control Plan ("DC Plan") to the Engineer for review and approval to address the specific measures contained in this Section. A copy of this DC Plan shall also be provided to each subcontractor who shall be obliged to comply in the provisions of his subcontract with the Contractor. The DC Plan shall include contact information for responsible individual(s) from the Contractor with 24 hour, 7 days per week availability, and who have been vested with the authority to implement all controls and mitigation measures identified in the DC Plan. The DC Plan must detail all dust control procedures for all such controls and measures as approved by the Engineer, and be job specific to address all anticipated Work activities that may generate fugitive dust dispersions (e.g., demolition, saw-cutting, pavement milling, haul roads, etc.).

C. Noise Abatement

The Contractor shall control and mitigate noise during all hours of construction. All construction activities shall be controlled to comply with the following noise levels.

Table 1: Noise Limitation Thresholds For Sensitive Receptor Sites – Resultant noise at sensitive receptor sites shall not exceed to the following levels:

TIME	8-hour Leq (dBA) Limit
Weekdays, 7AM to 6 PM	80
All Other Times	70

The Contractor shall use equipment that ensures that the noise generated during all construction activities does not exceed to the threshold levels indicated in Table 1. In addition, the following specific noise mitigation measures indicated in Table 2 shall be implemented during the use of impact wrenches, pavement breakers and pneumatic grout drills, to ensure that the noise threshold limits of Table 1 are not exceeded:

Table 2: Noise Criteria For Specific Equipment

Equipment	Noise Mitigation Measure
Impact wrenches	Use impact wrenches with a noise emission level of 82 dBA at 50 feet
Pavement breakers	Install mufflers on pavement breaker cylinders
Pneumatic grout drills	Place drills inside acoustic enclosures

Other than the specific equipment and mitigation measures listed in Table 2, and in the event that the Engineer determines that the Contractor has exceeded the noise thresholds specified in Table 1, the Engineer may direct the Contractor to implement, at his own cost, abatement measures deemed appropriate by the Engineer and/or as specified and approved in the Contractor's Noise Control And Abatement Plan (the "NCA Plan):

Where practicable, the Contractor shall schedule all construction activities to avoid and minimize any adverse acoustic noise that could impact sensitive receptors as determined by the Engineer. Acoustical sensitive receptors presently include 90 West Street, the Millennium Hotel on Church Street, Embassy Suites on Vesey Street, Multi Family Residential Structure on the corner of Park Place and West Broadway, 114 Liberty Street and the World Financial Center. Sensitive receptors may be added as deemed appropriate by the Engineer.

2.) Contractor Noise Control And Abatement Plan

- a. The Contractor shall comply with all appropriate Federal, State and Local regulations applicable to noise control and mitigation. The Contractor shall develop and submit to the Engineer for review and approval an NCA Plan that describes his intended mitigation procedures and methods to control and mitigate noise generated during the performance of Work under this Contract. The NCA Plan shall specifically address the following:
- b. Means and methods for the implementation of all control and mitigation measures including all calculations and supporting documentation;
- c. Design drawings of noise abatement enclosures and barriers, signed and sealed by a Licensed Professional Engineer in the State of New York;

- d. Description of physical noise mitigation materials, including the name of manufacturer and its specifications. All such materials shall be fire resistant;
- e. Catalog cuts and technical data sheets of construction equipment to be employed during Work of this Contract;
- f. Baseline background noise measurements taken prior to the start of construction;
- g. Construction noise assessment. The method for predicting the construction noise impact shall be the FHWA prediction method, or similar.

3.) Construction Noise Monitoring

To ensure compliance with this Section, the Contractor shall identify and submit to the Engineer for review and approval the qualifications of an acoustical firm to provide assistance in the development and implementation of the NCA Plan. The acoustical firm shall also provide noise monitoring services on the Site. The qualifications of the firm shall be as follows:

- a. The firm shall have within the preceding five years provided noise measurement, monitoring and analysis consulting services on at least three projects of similar size and complexity that included specific noise control and abatement initiatives, preferably in the City Of New York;
- b. The entity designing the noise mitigation measures and performing the noise assessment shall be a member in good standing with the National Council of Acoustical Consultants;
- c. The firm shall have a Noise Control Engineer (NCE) on staff or under Contract either certified by the Institute of Noise Control Engineers (INCE), or have earned a baccalaureate or higher degree from an accredited college or university in engineering, physics, acoustics or architecture which devoted courses to the principles of acoustics. The NCE shall be fully familiar with the means, methods, materials, equipment and designs associated to noise control and abatement;
- d. Each employee of the firm who will actually perform measurements or monitoring in the field shall be a Noise Control Officer (NCO). The NCO shall have been trained in the review and mitigation of community noise issues, and the standard methods for noise measurement and monitoring, including the use of all associated equipment and data collection. Training shall have been from a certified NCE certified by the Institute of Noise Control Engineers (INCE) or by other NCO(s) with a minimum of three (3) years experience. The NCO shall possess a working knowledge of all applicable standards.

Upon the approval by the Engineer of an acoustical firm, the Contractor shall immediately procure the services of the firm to perform baseline background noise measurements at the site and near the sensitive receptors identified above. The background noise monitoring shall be performed to determine the "noise signature" or "noise level trend" for the site and the immediate vicinity.

A complete construction noise assessment for the project shall be conducted. The method for predicting the construction noise impact shall be the FHWA prediction method, or similar approved by the Engineer. The NCA shall be submitted to the Engineer for review a minimum of one month prior to the commencement of work unless otherwise directed by the Engineer.

The Contractor shall measure the noise levels and submit a written report to verify compliance with the allowable noise thresholds on a weekly basis, or as otherwise deemed necessary by the Engineer, throughout the duration of construction activities to ensure compliance. Readings shall be taken on a continuous basis during any construction activity, including but not limited to, the delivery of materials and movement of construction equipment. The Authority may monitor noise levels at known sensitive receptors or other locations as deemed appropriate by the Engineer to verify compliance. When noise level measurements exceed the allowable thresholds, the Contractor shall cease all construction activities, and immediately implement the mitigation procedures indicated in the approved NCA Plan. If applicable procedures are not included in the NCA Plan, revised procedures are to be developed and implemented. Such revised work procedures are to be incorporated in the NCA Plan as a revision, and submitted to the Engineer for review and approval. In the event of a conflict between the Contractor's noise level measurements and those taken by the Authority, the of Authority's noise level measurements shall prevail.

4.) Submittals:

- a. A NCA Plan shall be submitted for the review and approval by the Engineer prior to the commencement of any construction work. The submittal shall include all revisions, and a copy of the approved NCA Plan revisions shall be provided to each subcontractor prior to the commencement of his work. The subcontractor shall be specifically obliged to comply with the requirements of the approved NCA Plan in the provisions of his subcontract.
- b. The name and qualifications of the acoustical firm, the name and qualifications of the firms NCE's and NCO's.
- c. A weekly report summarizing the noise measurement readings taken at the site. All events that exceed the limits indicated in Tables 1 or 2 shall be clearly indicated and the corrective action taken to address the cause.

D. Vibration Abatement

The Contractor shall control and mitigate vibration during all hours of construction. The Contractor shall develop and implement specific construction vibration mitigation measures to protect historic properties from increased vibration levels associated with construction activities at the site (see Section 5 Historic Resource Protection). In conjunction with the protection of historic properties, overall construction vibration abatement and monitoring shall be addressed as follows:

1.) Contractor Vibration Control And Abatement Plan

The Contractor shall comply with all appropriate Federal, State and Local regulations applicable to vibration control and mitigation. The Contractor shall develop and submit to the Engineer for review and approval a Vibration Control And Abatement Plan (the "VCA Plan") that describes his intended mitigation procedures and methods to control and mitigate vibration during the performance of Work under this Contract. The VCA Plan shall specifically address the following:

- a. Means and methods for the implementation of all control and mitigation measures including all calculations and supporting documentation;
- b. Baseline background vibration measurements taken prior to the start of construction;
- c. Construction vibration assessment. The method for predicting the construction vibration levels to be approved by the Engineer.

2.) Construction Vibration Monitoring:

To ensure compliance with this Section, the Contractor shall identify and submit to the Engineer for approval the qualifications of a firm to provide assistance in the development and implementation of a VCA Plan, and to provide vibration monitoring on the Site. The qualifications of the firm shall be as follows:

- a. The firm shall have within the preceding five years provided vibration measurement and analysis consulting services on at least three projects of similar size and complexity that included specific noise control and abatement initiatives, preferably in the City Of New York.
- b. Each employee of the firm who will actually perform measurements or monitoring in the field shall possess appropriate training, and have demonstrated experience in the measurement and implementation of mitigation techniques for similar types of construction projects.

Upon the approval by the Engineer of a vibration control firm, the Contractor shall immediately procure the services of the firm to perform baseline vibration measurements at the site and near the Historic properties identified above, and submit a report to the Engineer including a review and assessment of the existing vibration levels relative to the allowable threshold.

On a weekly basis, or at other intervals deemed appropriate by the Engineer, the Contractor shall submit a written report to verify compliance with the allowable vibration threshold based on vibration measurements taken continuously at site and near the Historic properties for the duration of construction activities. The Authority may also monitor vibration levels at locations deemed appropriate by the Engineer to verify compliance. When vibration level measurements exceed the allowable threshold, the Contractor shall immediately cease all construction activities, notify the Engineer and implement the mitigation procedures described in the approved VCA Plan. If applicable procedures are not included in the VCA Plan, revised procedures are to be developed and implemented only with the approval of the Engineer. Such revised work procedures are to be incorporated in the VCA Plan as a revision, and resubmitted to the Engineer for review and approval. In the event of a conflict between the Contractor's vibration level measurements and those taken by the Authority, the Authority's measurements shall prevail.

3.) Submittals:

A VCA Plan shall be submitted for the review and approval by the Engineer prior to the commencement of any construction work. The submittal shall include all revisions, and a copy of the approved VCA Plan and all revisions shall be provided to each subcontractor prior to the commencement of the subcontractor's work. The subcontractor shall be specifically obliged by the Contractor to comply with the requirements of the approved VCA Plan in the provisions of its subcontract.

E. Historic Resource Protection

2.) Protection of Historic Resources from Construction Vibration

The Contractor shall develop and implement specific mitigation measures (as discussed in Section 4 Vibration Abatement) to protect the following Historic properties which list may be amended by the Engineer in his discretion from increased vibration levels associated with construction activities at the site. Such measures shall reduce vibration to a level below the threshold criterion of 0.12 in/sec (approximately 95 VdB):

- 3.) 90 West Street
- 4.) Beard Building, 125 Cedar Street
- 5.) 114-118 Liberty Street

- 6.) St Paul's Chapel and Graveyard
- 7.) Former East Street Savings Bank, 26 Cortlandt Street

F. Monitoring Program

a. Periodic Monitoring:

Prior to construction, the Contractor shall meet with the Engineer to establish a program to periodically inspect and examine all protection measures in place to verify compliance with the above noted threshold criterion. The Contractor shall develop and submit a written monitoring program for the review and approval of the Engineer. The program shall include an Emergency Remediation Plan (the "ERP") identifying the emergency contacts and outlining the procedures to be followed should an unforeseen condition or unanticipated damage arise that compromises or places at risk any historic elements on the WTC Site. Once approved by the Engineer, the Contractor shall set aside the materials, products and equipment in a safe and accessible location on the WTC site to ensure an immediate response to any such occurrence.

b. Routine Monitoring

During the progress of construction, the Engineer will routinely review (inspect) all protection measures in place to verify compliance with the above noted threshold criterion. Upon the completion of the Engineer's review, a meeting will be conducted with the Contractor to discuss and document the following:

- (i) The progress achieved since the previous inspection;
- (ii) An assessment of the performance of the protection measures in place, and a determination of the adjustments or modifications;
- (iii) A review of the upcoming scheduled work activities, a determination of the required protection measures, and a verification that the existing protective measures are adequate for such activities. If necessary, there will be a determination of supplemental measures to be implemented for compliance.

c. Emergency Remediation

Should any condition arise or damage occur during construction that compromises the integrity of the in-place protection measures, or adversely affects any historic elements on the WTC Site, the Contractor shall stop all work in the affected area immediately, notify the Engineer and implement the relevant measures outlined in the approved ERP. At a minimum, the notification to the Engineer shall include a description of the following:

- (i) The situation that arose;
- (ii) Its cause, if known;
- (iii) Response measures implemented;
- (iv) Recommendations for further intervention, if any.

At the time of notification, the Engineer, will determine whether or not the Contractor may resume work in the affected area. If not, the Contractor shall repair and/or furnish and install all supplemental remediation and mitigation measures deemed appropriate by the Engineer. All repair work shall be done in such a manner as to minimize the adverse impact to the affected historic elements. The Contractor shall not remove any damaged, marred or otherwise unsalvageable historic elements from the WTC Site unless otherwise approved by the Engineer.

G. Archaeological Resources

Consistent with the Stipulations of the executed Memorandum of Agreement (MOA) pursuant to Section 106 of the National Historic Preservation Act, the area within the WTC site bounded by West Street, Liberty Street, Washington Street and Cedar Street as well as the roadbeds of Liberty, Washington and Cedar Streets, have been determined to be sensitive historic archaeological resources.

Unless specifically required by Contract, under no conditions shall the Contractor perform any construction activities that may cause a subsurface disturbance at or in the vicinity of the above areas without the approval of the Engineer.

H. Discoveries Of Archaeological Resources And Effects On Historical Resources

In the event that archaeological deposits or features are encountered during the performance of construction activities, the Contractor shall stop all work immediately, flag or fence off the archaeological discovery location, provide site security and immediately notify the Engineer. The Contractor shall not recommence Work until so directed by the Engineer.

I. Construction Protection Plan

The Contractor shall develop and submit to the Engineer for review and approval a comprehensive Construction Protection Plan (CPP) to address the implementation, enforcement and monitoring of the Environmental Performance Commitments (EPCs) as outlined in the previous Sections A through H of this Specification for Air Quality: Diesel Emission Mitigation and Dust Control, Noise and Vibration Abatement, Historic Resource Protection, Archaeological Resources and Discoveries. The CPP shall be submitted to the Engineer for review and approval within thirty (30) calendar days of acceptance by the Authority of the Contractor's proposal. No Work shall commence until the CPP is approved by the Engineer. The CPP will be organized to address each EPC Section, and shall include the following plans:

- 1.) Diesel Emission Mitigation (DEM) Plan (as per Section A);
- 2.) Dust Control (DC) Plan (as per Section B);
- 3.) Noise Control and Abatement (NCA) Plan (as per Section C);
- 4.) Vibration Control And Abatement (VCA) Plan (as per Section D);
- 5.) Emergency Remediation (ERP) Plan (as per Section E);
- 6.) Maintenance and Protection of Traffic (MPT) Plan - A plan for the management of traffic and truck/vehicle delivery routes to and from the site for each major construction phase. Included in the MPT plan are to be specific measures to minimize impacts to the intersection of Route 9A and Liberty Street for the maintenance of an acceptable Level of Service (LOS "B"). The plan shall also include the mapping of all existing businesses in the area to determine conflicts between construction activities and access for customers and deliveries, and specific measures to minimize such impacts including but not limited to the furnishing and installation of temporary signage to enhance way finding.
- 7.) Health & Safety Plan (the "HASP") - A plan shall be developed and implemented in accordance with the requirements of the current document entitled "The World Trade Center – Site Safety Program – Health And Safety Requirements";
- 8.) Soil Management Plan – A plan to address the means and methods to be used in the handling, staging, disposal, transportation and decontamination of equipment and personnel in accordance with all jurisdictional codes and rules and regulations.

- 9.) Common Fuel Storage Coordination Plan - This plan shall require the Contractor to coordinate its ULSD fuel storage system on site with other agencies on the WTC Site. This may require the development of agreements to operate and maintain a common fueling station on site with agency roles and responsibilities defined. The plan shall consider the minimum number of fueling sites to keep construction activities moving and will be temporarily designed in accordance with State and City permit requirements for on site open fuel storage. The Contractor shall submit a location plan; installation plan and operations plan for the ULSD refueling station on site.
- 10.) Ground Water Invasion Plan – A Groundwater (GW) Invasion Plan to minimize or prevent GW intrusion into the site through the slurry (basement) walls.
- 11.) Storm Water/Ground Water Management Plan – A storm water and ground management plans with other agencies on the WTC Site. The plan shall consider coordinated or co located temporary and permanent systems as required to realize the necessary State and New York City permits for the project. Coordination, monitoring and maintenance will require coordination with other agencies that include, but are not limited to Silverstein Properties, Lower Manhattan Development Corporation, Metropolitan Transportation Authority, New York State Department of Transportation, & New York City.
- 12.) Material Recycling Plan – The Contractor Shall recycle materials to the maximum extent practicable and shall maintain a refuse plan to maintain the construction site in an orderly manner. The Contractor shall submit a plan to address recycling and refuse control to the Engineer for review and approval within 15 days of notice to proceed. The Contractor shall develop a monthly reporting system to identify adherence to the approved plan.
- 13.) Sustainability Construction Plan – The Contractor shall support the environmental objectives of the Authority, and consider the following items during construction:
 - a. Sustainability/green guidelines;
 - b. Environmental reporting to funding agencies;
 - c. Section 106 reporting to funding agencies;
 - d. Environmental justice reporting;
 - e. Protection of the WTC Site from flooding.

J. Available Documents

The following documents are available for reference in regard to the above stated requirements:

- 1.) Permanent WTC PATH Terminal – Final Environmental Impact Statement, dated May 2005;
- 2.) WTC Vehicular Security Center and Tour Bus Parking Facility Environmental Assessment and Section 4(f) Evaluation, dated November 2006
- 3.) Memorandum Of Agreement Among The Federal Transit Administration, The New York State Historic Preservation Office, Advisory Council On Historic Preservation And The Port Authority Of New York And New Jersey Regarding The World Trade Center Vehicular Security Center and Tour Bus Parking Facility In New York City, executed April 20, 2006;
- 4.) Finding of No Significant Impact, WTC Vehicular Security Center and Tour Bus Parking Facility, dated January 26, 2007;

- 5.) Downtown Restoration Program – The World Trade Center And Transportation Hub-Site Safety Program – Health And Safety Requirements dated October 2005.

K. Noncompliance

The Contractor will be issued a written Notice of Non-Compliance by the Engineer in the event that, emissions reductions, dust suppression, noise abatement, vibration abatement or cultural and historic resources protection measures fail to comply with the requirements of this Section. All notices of non-compliance shall be remedied within twenty-four (24) hours of the Contractor's receipt of notice from the Engineer. The failure of the Contractor to perform corrective action within this period shall constitute grounds for the Engineer to invoke the provisions of the Form of Contract entitled "Withholding of Payments."

112. SITE ACCESS AND STAGING RESTRICTIONS

E. General

- 1.) The Contractor shall progress the Work in an orderly manner in accordance with the conditions of the Contract and applicable codes.
- 2.) The Contractor shall isolate the work areas in a safe manner in accordance with the limits set forth in the Contract to maintain, other WTC site contractor NYSDOT and Lower Manhattan Development Corp contractors and pedestrian and vehicle traffic flows.
- 3.) The Contractor shall submit detailed construction execution plans showing and describing actual sequences of the various activities and the means and methods by which the work is to be performed. The submittals shall be sufficiently detailed and comprehensive and shall include as a minimum barricades, temporary supports and shoring, shielding, equipment locations, and sphere of action, pedestrian and vehicle flows, construction personnel, materials and equipment deliver and routing, and interface with other temporary and permanent construction in the area. The Engineer's review and approval of these submittals shall merely be to verify that the requirements set forth in the Contract drawings associated with the Work can be satisfied and shall not release the Contractor from any of his obligations under this Contract.
- 4.) Street and lane closures and any work related to delivery, movement and handing of materials and equipment on the streets, roads and public ways around the site shall conform to requirements specified in the Contract.
- 5.) Contractor shall also stage its work to accommodate other contractors performing work at the WTC site. Portions of the construction site shall remain accessible to other contractors.
- 6.) Contract shall stage work at the WTC site to allow weather tight pedestrian access (including ADA access) from street to platforms and vice versa to be maintained at all times. The Contractor's material, equipment and personnel shall be confined within barricaded areas.
- 7.) Demolition shall proceed in a systematic and orderly manner to support the reconstruction. Existing structures in this area will be demolished by others. Storage of materials and equipment demolished will not be allowed on site. Debris must be removed on a continuous basis. The contractor shall submit a demolition plan for the Engineer's review and approval.

The Contractor shall minimize all air-borne pollutants generated by diesel-powered equipment and vehicles at all times during performance of Work under this Contract.

113. MAINTENANCE OF TRAFFIC AND WORK AREA PROTECTION

A. Definitions

As used in this numbered Section, and this Section only, the terms used herein shall have the following meaning:

- 1.) The terms "Traffic Lane", "Lane", "Active Roadway", "Street", and "Roadway" shall mean, in addition to the normally traveled pavement areas, other areas including but not limited to ramp terminal gore areas, roadway shoulders, and all other areas that may foreseeably be occupied by moving vehicles.
- 2.) "Nighttime Hours" shall mean the local time period between 1/2 hour after sunset to 1/2 hour before sunrise.
- 3.) "Work Area" shall mean the area immediately surrounding the Work in progress, typically where workers are afoot, and/or the space within a Roadway where Work on the Roadway is being done by the Contractor.

B. General Requirements

Conform to requirements of this numbered Section, the Contract Drawings and the following:

- 1.) Portions of the latest editions, including all amendments thereto, of the Federal Highway Administration (FHWA): "Manual on Uniform Traffic Control Devices" (MUTCD) Part VI as hereinafter specified and applicable portions of the companion "Traffic Control Devices Handbook" (TCDH); "Standard Highway Signs"; "Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects"; and, the "Standard Color Tolerance Charts".
- 2.) American Association of State Highway and Transportation Officials (AASHTO): "Roadside Design Guide", Chapter 9: Safety Appurtenances for Work Zones; and "Standard Specifications for Highway Bridges", as hereinafter specified.
- 3.) The requirements of the Americans with Disabilities Act (ADA) laws in all respects as specified in the "ADA Accessibility Guidelines for Buildings and Facilities" (ADAAG).
- 4.) American Traffic Safety Service Associations (ATSSA): "Guidelines for the Use of Portable Changeable Message Signs".
- 5.) Maintenance of traffic and Work area protection features included herein and as shown on Contract Drawings.
- 6.) In the event of a technical conflict between a requirement in the publications referenced herein and the Contract documents, the requirements of the Contract documents shall control, unless otherwise directed by the Engineer.

C. Contractor-Furnished Materials and Equipment

- 1.) Provide and maintain in good working order all materials, equipment, temporary construction signs and facilities required for proper maintenance of traffic and Work Area protection, as specified herein. All said equipment/devices shall remain the property of the Contractor unless otherwise shown on the Contract Drawings.
- 2.) All items provided under paragraph C.1 shall be new or undamaged previously used materials in serviceable condition conforming to requirements specified herein.

D. General Work Area Protection

- 1.) Prior to commencement of each day's Work:

- a. Ensure that construction material and equipment not removed from areas of Work during non-working periods are protected in such a manner that they shall not constitute a traffic hazard.
- b. Do not park any vehicles other than construction vehicles required for construction operations within the demarcated protected areas of Work.
- 2.) Throughout progress of Work of this numbered Section:
 - a. Maintain visual and physical accessibility to fire hydrants. Provide 24 hour advance notice to the Engineer in the event of hydrant obstruction.
 - b. Conduct Work area protection operations so that Traffic Lane ingress and egress to intersecting Roadways, adjacent structures or property, and bus and taxi stops, if any, can be maintained. Obtain the approval of the Engineer and provide 24 hours advance notice to the Engineer in the event that Work area protection operations obstruct access to work areas.
- 3.) Use temporary Vehicle-strong barriers at all times when materials and/or equipment are left in the Work Area without the presence of workers, unless otherwise shown on the Contract Drawings or when otherwise directed by the Engineer.
- 4.) Vehicles used by the Contractor during performance of Work shall be considered as equipment vehicles and when not protected by a Vehicle-strong barrier, said vehicle shall be protected by a back-up truck, unless otherwise shown on the Contact Drawings.
- E. Notwithstanding provisions herein requiring or permitting the Authority to approve or disapprove of any traffic control or delineation and guiding device provided by the Contractor, the Contractor shall be responsible for the suitability and performance of all such traffic control devices such that inconvenience to the traveling public is held to an absolute minimum.

114. SAFETY REQUIREMENTS FOR PERFORMING WORK ON TRANSIT PROPERTY

The safety requirements set forth in the provisions of the clause entitled "Safety Provisions" are also applicable to the Work performed on Transit property under this Contract. In addition, the following Transit-specific requirements are applicable to Work performed on Transit property.

A. The Contractor's Safety Program shall include an Emergency Preparedness and Response Plan addressing the identification of and potential for environmental accidents and emergencies associated with site-specific construction activities, and addressing the appropriate security, control, response, drill, training and notification measures to be implemented.

B. The Contractor's Safety Program shall include descriptions of safety hazards at the work site, proposed measures to minimize/eliminate the safety hazards, project-specific safety procedures, and site security measures.

C. The Contractor's Safety Program shall include a provision for maintenance of safety records and their retention for at least two years beyond Final Completion of the Work.

D. Regarding requirements for reporting of injuries, accidents and any associated claims, the Contractor shall provide copies of all required documentation to the Engineer, for injuries and accidents on Transit property.

E. Regarding requirements for submittal of material safety data sheets (MSDS), the Contractor shall provide copies of all required documentation to the Construction Manager prior to hazardous chemicals/materials being brought onto Transit property. The Contractor is advised that additional Transit requirements apply to work on or adjacent to Transit subway tracks. Should the need for work on or adjacent to tracks arise, the Contractor shall request and obtain the additional requirements from the Engineer and include them in the Contractor's Safety Program.

115. ASBESTOS AND OTHER HAZARDOUS MATERIALS

If during the performance of Work, the Contractor becomes aware of any unanticipated asbestos or other hazardous material or has cause to suspect the presence of such materials, then the Contractor shall immediately notify the Director, or the Construction Manager or designee thereof verbally, to be followed by written notification. The Contractor shall specify the nature, location and impact on Work of such materials. The Contractor shall immediately stop Work in and secure the area against injury to persons or damage to property pending further instruction from the Director, or the Construction Manager or designee.

116. SITE ACCESS AND STAGING RESTRICTIONS

1. The Contractor shall progress the work in an orderly manner in accordance with the conditions of the Contract Work Package and applicable codes.

2. The Contractor shall isolate the work areas in a safe manner in accordance with the limits set forth in the Contract Work Package to maintain PATH and Transit Operations, other WTC site contractor activities and pedestrian and vehicle traffic flows.

3. The Contractor shall submit detailed construction execution plans showing and describing actual sequences of the various activities and the means and methods by which the work is to be performed. The submittals shall be sufficiently detailed and comprehensive and shall include as a minimum barricades, temporary supports and shoring, shielding, equipment locations, and sphere of action, pedestrian and vehicle flows, construction personnel, materials and equipment deliver and routing, and interface with other temporary and permanent construction in the area. The Engineer's review and approval of these submittals shall merely be to verify that the requirements set forth in the Contract drawings associated with the Work can be satisfied and shall not release the Contractor from any of his obligations under this Contract.

4. Activities on or over platforms, or tracks shall not proceed unless the Engineer has approved the respective outages.

5. Street and lane closures and any work related to delivery, movement and handing of materials and equipment on the streets, roads and public ways around the site shall conform to requirements specified in the Contract Work Packages.

6. The Contractor shall stage work at the WTC site to accommodate PATH and Transit patrons. The Work packages may contain requirements for the Authority's right to recover liquidated damages if the Contractor does not return to service any portions of Work required for PATH and Transit operations as specified in such Work packages.

7. The Contractor shall also stage its work to accommodate other contractors performing work at the WTC site.

8. The Contractor shall stage work at the WTC site to allow weather tight pedestrian access (including ADA access) from street to platforms and vice versa to be maintained at all times. The Contractor's material, equipment and personnel shall be confined within barricaded areas.

9. Demolition, Construction, Excavation and Rock Removal shall proceed in a systematic and orderly manner to support the construction. Storage of materials, equipment, excavated material and demolished elements will not be allowed on site. Debris, Soil Excavation and Rock Removal must be removed on a continuous basis. The Contractor shall submit a demolition plan(s) to the Construction Manager for the Engineer of Records review and approval.

117. PATH OPERATIONS AND CONDITIONS

A. Construction Site Conditions:

1. Schedule and perform the Work in the sequence shown on the Contract Drawings, if any, in such a manner as not to delay, endanger, or interfere with PATH operations. To the extent feasible the scheduled sequence, if any, and the times of the Contractor's operations, once approved, will be adhered to and operations of PATH and others will be scheduled so as to cause the least interference with the Contractor's operations. However, should the Engineer deem that any portion of the area in which the Contractor is working is required by PATH, the Contractor will be required to suspend operations and remove personnel, and obstructing plant, equipment and materials from such areas, within ½ hour of notice to suspend operations and stand by, if necessary, until directed by the Engineer or Construction Manager to resume operations in such areas.

2. To enable the Contractor to plan Work of the Contract, and to enable PATH to plan train service operations, maintenance operations, and operations of others, prepare and submit for approval in accordance with section H, "Coordination" hereof, a weekly schedule of operations for Work of the Contract.

3. At least 7 days but not more than 10 days prior to performing excavation, call 1-800-272-4480 and provide the information required for excavation(s) in New York and call 1-800-272- 1000 and provide the information required for excavation(s) in New Jersey.

4. Take all precautions necessary for protection of persons and property during dust or fragment generating operations, concrete mixing or placing, painting or other operations which may stain, soil or damage property, or injure persons. Provide and erect waterproof, fire-resistant, UL labeled tarpaulins with flame spread rating of 15 or less or other protective enclosures as approved by the Engineer.

5. The Contractor, employees of the Contractor, subcontractors, materialmen or other persons over whom the Contractor has control (hereinafter in this Section "Contractor's Personnel") shall conform to the following:

a. Do not park any vehicles, including construction vehicles, company vehicles or personal vehicles within any area of PATH property without prior approval of the Engineer, and no representation is made that parking, if approved, will be available throughout the Work of the Contract. Company vehicles are to be clearly marked.

b. Do not enter upon PATH right-of-way unless a Port Authority Construction Management Engineer In Charge (EIC) and PATH flaggers assigned to the Contractor are present.

- c. Do not permit material, equipment or other objects to lie within or project into the PATH right-of-way.
 - d. Do not permit the use of the PATH employee facilities in the station.
 - e. Do not permit access to the station for or during the performance of the work without prior approval of the Engineer.
6. Provide sound suppression devices on gasoline and diesel powered construction equipment and pneumatic tools as required to maintain noise exposure below the limits specified in the Code of Federal Regulations (CFR) 29 CFR 1926 Occupational Safety and Health Regulations for Construction (OSHA). Maintain such sound suppression devices in proper operating condition throughout the time of their use and make adjustments and repair as required to maintain noise within exposure levels stipulated in 29 CFR 1926.52, Table D-2.
7. Do not store combustible products or flammable materials at areas of Work.
8. Smoking is strictly prohibited. There are no designated areas to smoke within the WTC Project Site.
9. At all times while performing Work, require workers to wear tear away reflective safety vests, eye protection, hard hats and boots with non-slip type soles. Reflective safety vests shall have a visible reflective surface of not less than 100 square inches on front and back.
10. Do not burn or bury debris of any type on PATH property, or wash waste materials down sewers or into waterways.
11. In the event of damage to or disruption of existing construction, the Contractor shall repair, replace or reinstall such construction to the satisfaction of the Engineer. Should the Contractor fail to perform such repair or replacement, PATH reserves the right to perform such Work and deduct from the Contractor's compensation an amount representing the cost of such Work, as determined by the Director or the Construction Manager.
12. In addition to the requirements of the Section of Division I GENERAL PROVISIONS entitled "Safety Provisions", provide and maintain at areas of Work, two "Pyrene 95P20M" extinguishers as manufactured by RC Industries, Inc., Linden, N.J., or approved equal UL rated 20A-80BC 20 pound dry chemical multi-purpose fire extinguishers.

B. Construction Site Conditions in Tunnels and Stations:

- 1. The use of propane heaters and gasoline or diesel powered construction equipment within tunnels or at underground stations is prohibited.
- 2. Use of liquids having a flashpoint below 73 degrees F and boiling point below 100 degrees F is prohibited, unless specifically approved by the Engineer.
- 3. Provide and operate air moving equipment when fume generating operations are in progress. During such operations provide air monitoring and test for toxicity (PPM), oxygen deficiency and combustible gas (% LEL).

4. Work will be permitted in only one tunnel at anyone time unless otherwise shown on the Contract Drawings or specifically approved by the Engineer.

5. The Contractor shall take all necessary precautions to protect the existing traction, utility, signal, communication services and station finishes.

C. Access To Areas of Work:

Work of this Contract is at areas that are accessible by road. Transportation for personnel, material, equipment or debris removal shall be via road transportation provided by the Contractor. The Contractor shall not transport materials or equipment through an operational station without prior approval of the Engineer.

D. Hours of Work:

1. PATH System operates service 24 hours per day 7 days a week. Work is to be scheduled and performed in a sequence that will not delay, endanger or interfere with PATH operations.

2. Perform work only during the times specified by the Engineer in the Work package.

3. Do not perform Work outside these time periods.

E. PATH Rail Transportation:

1. Under no circumstances will the Contractor be permitted to use PATH passenger trains for transporting Contractor's personnel, material or equipment of any kind in connection with performance of the Work.

2. Work trains are not permitted.

F. PATH Flagger Service:

1. PATH will provide flaggers without charge to the Contractor and their use is required for the following operations in connection with performance of the Work:

a. Work within or closer than ten (10) feet to the right-of way and within 4 feet of the edge of the platform adjacent to an in service or energized track.

b. Work that requires crossing or obstruction of tracks.

c. Work that in any way interferes with or interrupts PATH train service operations.

d. Work which, in the sole discretion of the Engineer, requires flaggers for safety purposes.

2. Make arrangements for PATH flagger service in accordance with section H, "Coordination" hereof.

G. Traction Power and Existing Utilities:

1. The Contractor's attention is called to the fact that there will be high voltage electric lines and rails for PATH traction power at or adjacent to the areas of Work and no representation is made that such lines and rails will be deenergized during performance of the Work of the Contract. The Contractor shall take all necessary precautions to protect its personnel and others affected by its operations from injury from such high voltage electric lines and rails. Such lines and rails will remain energized for PATH operations except where shut-off is approved by the Engineer.

2. Maintain operation of existing utility services such as compressed air, water, sewers, electricity, ventilation or fire protection and PATH surveillance cameras, signal and communication systems during performance of Work of the Contract, except as absolutely necessary for cutoff, cutover or other change of the affected systems, as approved by the Engineer. Coordinate with the Engineer prior to interrupting or otherwise affecting any operating system, utility or service.

3. Removal and restoration of traction power or existing utility, signal or communication service will be performed by PATH.

4. The Contractor shall not connect to, tie into or use the existing compressed air, stand pipe or traction power.

5. Notify the Engineer of such removal or restoration requirements in accordance with "Coordination" hereof.

6. The Contractor shall not cut the PATH contact (third) rail to furnish a gap for the construction. Any damage to the track or contact rail structures due to the Contractor's activities will be repaired by PATH at the expense of the Contractor.

H. Coordination:

1. The progress schedule required under the Section of Division 1 GENERAL PROVISIONS entitled "Progress Schedule" shall contain, but not be limited to, the following items:

a. Description of operations, location of Work per track and/or in tunnels, if any

b. Start and completion dates of each operation

c. Dates and times of Work that:

(i) Require closing of PATH tracks, station areas, or tunnels

(ii) Require crossing or obstruction of tracks

(iii) Is within or closer than ten (10) feet to right-of-way and within 4 feet of the edge of the platform adjacent to an in service or energized track

(iv) Interferes with or interrupts PATH train service operations

2. Submit written notification to the Engineer not later than 4:00 P.M. Monday of the week preceding each day that the following services are required:

- a. PATH flagger services
- b. Work to be performed within PATH tracks, tunnels and station.
- c. Power Railman

3. Written notification shall include, but not be limited to, the following items:

- a. For PATH flagger and Power Railman services:
 - (i) The dates, times and locations of areas of Work
 - (ii) Description of operations to be performed at areas of Work

4. Where specific shut-off services of PATH traction power or other utility or service are permitted, notify the Engineer not less than 3 Work days prior to the anticipated need for such services. Each notification shall be written and shall include:

- a. The dates, times and locations of areas of Work involved.
- b. Description of what utility or service shut-off is required.
- c. Duration of shut-off times.

I. Coordination Rescheduling or Cancellation:

I. When the Contractor obtains approval under section H, "Coordination" hereof for the use of PATH services, Work in PATH tunnels, or the closing of an area of the PATH station for a particular day or days, and should the Contractor thereafter require a rescheduling or cancellation of such services for the approved days, submit written notification of such rescheduling or cancellation to the Engineer not less than 48 hours in advance of each day for which approval was given.

2. Notification not less than two weeks prior to erection or installation of permanent construction, temporary construction, scaffolding, platforms or other construction aids within PATH tunnels or at locations above or adjacent to the right-of-way, construct frangible mock-up which duplicates edge and end profiles of such proposed erection or installation. The mock-up shall be structurally adequate to resist without displacement the positive and negative wind loads imposed by passing PATH train operations but not cause damage to or create a hazard for PATH trains in the event that such end and edge profiles obstruct required PATH railway clearances.

3. When directed by the Engineer, dismantle mock-up and remove from PATH property.

J. No requirement of or omission to require any precautions under this Contract shall be deemed to limit or impair any responsibility or obligation assumed by the Contractor under or in connection with this Contract and the Contractor shall at all times maintain adequate protection to safeguard the public and all persons engaged in Work and shall take such precautions as will accomplish such end, without undue interference with the public or the operations of PATH.

K. PATH requires that all Contractor personnel who may enter the track area at any time be certified by successfully completing the "PATH ON-TRACK SAFETY PROGRAM", in compliance with the Rules and Regulations set forth in Federal Railroad Administration (FRA) Regulation 49 CFR PART 214, Subpart C, entitled "RAILROAD WORKER PROTECTION". Contractor personnel not certified under this program will not be permitted to enter the PATH track area. On a monthly basis, PATH will provide a four hour certification class, which includes a certification test for supervisory staff representing the Contractor. There will be no compensation to the contractor by the Authority or its affiliates for any required training. The Contractor's supervisory staff will then be required to train and certify all additional Contractor personnel that may be performing Work of the Contract. A letter certifying that the listed Contractor personnel have been trained on the "PATH ON-TRACK SAFETY PROGRAM" and, that they fully understand and will comply with all requirements of FRA rules, shall be filed with PATH's Manager, System Safety and Security Division, at One PATH Plaza, Jersey City, NJ 07306, Tenth Floor, within 48 hours of such training. Only the persons specified in such letter will be permitted to enter the track area.

118. TRANSIT OPERATIONS

The Contractor shall perform Work In accordance with the following Transit requirements:

A. If any portion of the subway structure or finish is damaged, it shall be repaired or replaced with the same materials in place, subject to the approval of the Engineer, at the sole expense of the Contractor.

B. Subway emergency exits must be kept clear at all times except as permitted by explicit written directive of the Engineer.

C. In working over or near the subway structure, special care shall be exercised so that the thin concrete protection of the subway waterproofing is not damaged.

D. Welding to or drilling through existing Transit steel structures will not be permitted unless specifically shown on the structural Contract Drawings.

E. There shall be no machine excavation within 3 feet of power duct lines or any other Transit facilities until they have been carefully exposed by hand excavation. Any interference with duct lines shall be identified by the Contractor to the Engineer. The Engineer will verify any interference with Transit. When a duct line containing cables is to be broken out, or when masonry adjacent thereto is to be removed, penetrated, or drilled, the work shall be done with hand labor entirely, using hammer and chisel. Jackhammers, bull points or other power equipment shall not be used.

F. Construction work done near vent gratings, hatches and manholes shall include the following additional requirements:

1. Protective shields must be provided over vent gratings. Shields shall not restrain the flow of air.

2. No building material, vehicles or construction equipment is to be stored or run over vent gratings, hatches or emergency exits.

3. Details of associated reconstruction around vent gratings, hatches and emergency exits are to be submitted to the Engineer for approval.

4. Manholes shall be protected and raised or lowered as required, to match the new street grade.

5. If manhole covers are raised or lowered, cables in manhole shall be protected by wood sheeting of 2" nominal thickness.

6. Prior to the start of construction operations affecting manholes and duct lines, seven days notice must be given to the Engineer, for the Engineer's transmittal of such notice to Transit.

G. Before the start of any work, the Contractor shall make an examination, in the presence of Transit, The Port Authority of NY & NJ and the Authority's Construction Manager, of the interior and exterior of the Transit subway or other structure adjacent to the proposed work. The person or persons authorized by the Contractor to make these examinations shall be approved by the Engineer. The Contractor shall take all photographs as may be necessary or ordered to indicate the existing condition of the Transit structure. One copy of each photograph, eight inches by ten inches in size, and the negative is to be submitted to the Engineer through the Construction Manger before the start of construction.

H. At least seven working days prior to the start of construction operations (within 25 feet of Transit facilities), notification must be given in writing by the Contractor to the Engineer, for the Engineer's transmittal of such notification to Transit. The Contractor shall give notice in writing to the Engineer at least 40 calendar days in advance of the times of any planned work which may directly or indirectly in any manner interfere with or affect the safe, convenient, unobstructed and free use or access to any concession or appurtenance thereof by any concessionaire and employees, passengers, the public, Transit or its employees or any and all other persons. Such concession or appurtenance includes, but is not limited to stores, shops, newsstands, vending stands, booths, advertising panels, telephone, and dispensing equipment.

I. Excavation embankments are to be shored and braced in accordance with shop drawings submitted by the Contractor to the Engineer for approval.

J. Construction such as underpinning, shoring, bracing and erection of suitable barricades and/or canopies and shields shall be in accordance with the following requirements:

1. When construction is to be performed adjacent to the subway structure, boring data, layouts and specifications are to be submitted by the Contractor to the Engineer for approval. Vibration monitoring is to be in accordance with Contract Documents.

K. All dewatering operations within the vicinity of the subway structures must be in accordance with shop drawings to be submitted by the Contractor to the Engineer for approval.

L. Protection of Subway Facilities

1. The Engineer, at his discretion, reserves the right to require the Contractor to close or maintain and protect existing subway entrances, ventilators, etc. adjacent to the project during construction. Such construction may include underpinning, shoring, bracing and erection of suitable barricades and/or canopies and shields. Such protection shall be in accordance with shop drawings submitted by the Contractor to the Engineer for approval.

2. If shields are to be installed to protect Transit facilities and/or the public, then plans showing the location, type and method of attachment to the Transit structure must be submitted by the Contractor to the Engineer for approval.

3. All lumber and plywood used for protection of subway facilities at street level must be fire retardant; below street level, use fireproof material.

M. Horizontal and vertical control survey data by a Licensed Surveyor is to be taken of the existing Transit structure to monitor that there is no horizontal and vertical movement of the tunnel box.

N. Tractors, cranes, excavators, etc. used in the vicinity of Transit structures shall be isolated from the ground. Since Transit structure is used as a negative return path, with a consequent potential between it and the ground, any contact between the structure and grounded equipment could result in burning of the steel.

O. Temporary construction sheds, barricades or plywood partitions must be a minimum of 5'-0" from the edge of finished platform.

P. Stairway/Entrance Closings: The general requirements for Stairway/Entrance closings are as follows:

1. Only one stairway at each station will be permitted to be closed at the same time unless otherwise directed by the Engineer. Also, the Contractor must not close or barricade any area unless manpower and materials are immediately available to commence work.

2. The Contractor must notify the Engineer one week prior to the closing and reopening of any stairway entrance. The Engineer, in turn, shall notify Transit of such closings and re openings.

3. Ample signage must be supplied and posted in advance, to advise the riding public of the proposed subway stair closing as required by the Engineer.

4. Contractor's name, contact number and 24 hour telephone number must be posted on all barricades. Barricades are to be painted and kept graffiti free at all times. In addition, requirements specified in Division 1 Section III entitled "Signs" and Section 114 entitled, "Temporary Structures" shall be adhered to by the Contractor.

5. All materials are to be properly stored and secured away from passenger traffic.

6. The Contractor must remove all waste material and barricades from all station areas when construction is completed.

7. Inspection of the area under construction by authorized Transit employees shall not be inhibited.

Q. If new concrete construction is joined to existing concrete, dowels and keyways are to be used in accordance with the Contract Documents.

R. Wherever a new sidewalk is being placed adjacent to Transit structures, the following is required:

1. The top of the new sidewalk shall be flush with the subway vent gratings, hatches and emergency exits.

2. The slope of the new sidewalk shall be such that the drainage be away from these structures.

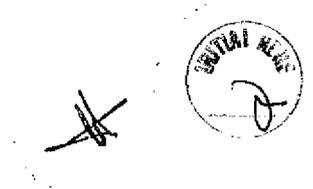
3. A 1/2" pre-molded filler shall be installed between the new sidewalk and Transit structure.

4. Where sidewalk elevations are being changed, details of proposed work around Transit structures are to be submitted by the Contractor to the Engineer for approval.

S. Subway entrances (ventilators, etc.) are to be underpinned, or shored and braced, if directed by the Engineer.

T. At the close of the work involving construction or alterations to Transit facilities, one set of vellums not sepia, three sets of 35mm microfilm and three copies of all approved shop drawings must be forwarded by the Contractor to the Engineer

END OF SECTION

A handwritten signature in black ink is located to the left of a circular stamp. The stamp contains the text "CENTRAL AREA" around the perimeter and a stylized signature or initials in the center.

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Notwithstanding anything in the other Contract Documents to the contrary, all provisions of this addendum shall supersede any conflicting provisions of other Documents. All other provisions of the Contract shall remain in full force and effect.

A. GENERAL CONDITIONS

1. **General.** The Contractor represents that it is familiar with, and has expertise in the Work of this Scope. The Contractor further agrees that it will provide all Work for the Scope as may be required to make a complete job of that which may not be fully defined in the Contract documents.
2. **General.** The Contractor has visited and carefully examined the premises upon which the Work is being performed and has familiarized itself with the existing conditions and difficulties that may affect the execution of its Work. The Contractor is aware that its Work is being performed next to the operational PATH train, the 1 Subway, Washington St, Greenwich Street, Liberty Street, and West Street. The roadways and adjacent occupied buildings are under repair. The Contractor agrees that it will take all necessary steps to avoid damage to new and existing construction, sidewalk shed and signage. This Contractor, at no additional cost, will repair any damage it causes. The Contractor is cautioned that due to the location of this job it may encounter certain areas of special coordination involving traffic congestion, building access, material delivery, etc, all of which may change from time to time. Contractor understands that delivery routes and times will be dictated and controlled by various government agencies and that all adjacent streets, the 1 Subway Line, N & R Subway Line, NYS Route 9A (West Street), WTC Path Station, MTA Transit Center, and other structures in and adjacent to the WTC site are under construction and has considered these restrictions with respect to delivering, loading materials and equipment, and hauling of demolition and excavation debris. The Contractor is aware of these conditions and will not attempt to seek and shall not be entitled to additional time or monies for hardships that may arise due to its having to take special measures and precautions regarding same.
3. **General.** The Contractor has visited the site and the Contract documents and reviewed with the Construction Manager the designated areas of access, delivery, and storage for the Contractor's use. The Contractor agrees that such areas are satisfactory and sufficient for its needs in the prosecution of its Work. Changes in such areas shall not be permitted without the approval of the Construction Manager, which if approved, shall be at no additional cost. Site Logistics Plan(s) are general in nature, and may change from time to time, and do not exactly indicate all aspects of the site logistics which may arise out of Adjacent Construction Sites (Route 9A, Site 26, WTC Memorial, WTC Tower 4, etc.) or the Port Authority restrictions PATH railroad operations and maintenance schedules, and/or other governing agencies causing unforeseen revisions to the site logistics. There shall be no additional cost for modifications to Site Logistics Plans.



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4. **Office Trailer/Shanty.** The Contractor shall provide and pay for, place, relocate (**two relocations** per each trailer or shanty, in addition to those relocations required by this Contractor is to be included in the Base Contract) and remove any and all of its required office trailer(s) or shanties when and where directed by the Construction Manager. Structures shall be trailers, suitably modified "Conex" boxes, or "knock-down" type construction, built using fire resistant materials. It is understood that the Contractor is responsible for acquisition, maintenance, and subsequent removal of all utility and telephone services required for its office trailer(s). The Contractor will be responsible to provide and maintain its own storage rooms, including protection and security. Each structure this Contractor maintains must contain a minimum of one (1) fire extinguisher for every 200sf, or portion thereof, of shanty/storage space floor area.
5. **Building regulations.** It is understood that all Work of the Contractor shall be in strict accordance with the rules and regulations of the Port Authority. Where the rules and regulations of the Port Authority do not address a specific condition, the Building Code of the City of New York and any rules and regulations of the Building Department of the City of New York, and any other governmental or quasi-governmental agencies or regulatory bodies having jurisdiction shall govern. The Work of the Contractor shall also comply with The Port of New York & New Jersey "Tenant Construction Review Manual," dated March 2003, and "World Trade Center Site Rules and Regulations," effective January 1, 2006, as may be amended from time to time, a copy of which is attached. Where there is any conflict in any provisions, the most stringent shall apply.
6. **Building regulations.** The Contractor shall comply with all of the legal regulations, including OSHA safety regulations and regulations of municipal, city, local, The Port Authority, and other government agencies having jurisdiction concerning the Work of this Contractor. The Contractor shall give all notices and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the Work. If the Contractor performs any Work which is contrary to such laws, ordinances, codes, rules, and regulations, it shall make all changes to comply therewith and bear all costs arising there from.
7. **Building regulations.** The Contractor is aware of the requirements of the Department of Transportation's Bureau of Traffic, the Port Authority, New York State Department of Transportation, and any other agency having jurisdiction over regulating restricted vehicle lengths and times of operation in the geographical area in which the Project is situated. In addition, the Contractor's logistics plan must be in conformance with the Construction Manager's requirements and as approved by the Mayor's Office of Construction, Mitigation, and Coordination (OCMC). The Contractor agrees there shall be no additional costs as a result of these restrictions.

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8. ***Coordination/building regulations.*** For purposes of complying with the requirements of the Building Code of the City of New York and the Port Authority, which calls for a Certificate of On-Site Inspection, the Contractor shall furnish to the Construction Manager information on the position of cranes, derricks, guy lines, etc., along with pertinent loads from the operation of such equipment certified as to accuracy and location by a Professional Engineer licensed to practice in the State of New York, engaged by the Contractor. The New York City Department of Cranes and Derricks on this site will be performing inspections on this site. The Contractor shall be prepared to satisfy the requirements of The New York City Department of Cranes and Derricks and the Port Authority of New York & New Jersey. The Contractor shall retain and pay for a third party Professional Engineer licensed to practice in the State of New York to certify the assembly and operation of any equipment. The Contractor is aware of the limited structural capacities of existing slab and sidewalk areas to be used for its equipment and material storage and shall not exceed rated capacities without taking appropriate steps to compensate for the imposition of any construction loads which may exceed the design criteria of the new structure or the capacity of the existing roadways, sidewalks and curbs. Any modification to the building structure required to support the Contractor's equipment will be made by the Contractor at its cost and reviewed and approved by the Engineer of Record. All costs incurred by the Engineer of Record to review the Contractor's proposed modifications shall be reimbursed to the Owner by the Contractor. Any permanent modifications will be made only with the Owner's written approval. The Contractor shall furnish, place and remove any temporary foundations, supports, and bracing required to stabilize the structure or existing conditions due solely to its Work. All costs associated with the above requirements are included in the Lump Sum Proposal. Submittals for cranes provided by the Concrete Contractor shall be by the Concrete Contractor.

In the event that crane locations are required to sit on property outside of the confines of the project site and the property of the Port Authority of NY and NJ, all NYC DOT and NYC DOB rules and regulations shall apply. These regulations also apply to cranes that are assembled offsite and will therefore travel across property under the jurisdiction of NYC DOT and/or NYC DOB.

9.

Exemption (4)

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10. ***Building regulations/environmental.*** The Contractor shall comply with all federal and local laws regarding noise control. Mufflers, whisperized compressors, and other noise abatement and protection devices shall be used throughout the Contractor's Work. Contractor will adhere to noise restrictions, with specific attention to Work performed prior to 8:00 AM, after 4:00 PM and on weekends.
11. ***Environmental.*** Contractor shall meet the Sustainable Construction Requirements and Environmental Performance Commitments (EPC's) as attached in a separate Rider.
12. ***General/environmental.*** All vehicles shall pass through a wheel wash to remove debris from tires and vehicle bodies prior to leaving the site.
13. ***Coordination:***
Synchronization of Activities
 - a. Contractor acknowledges that Construction Manager shall award contracts to other contractors, including, without limitation, trade contracts to other Contractors, to perform construction or operations related to the Project ("Other Contractors"). Contractor further acknowledges that the Other Contractors may perform their work on the Project site during the same time that Contractor performs its Work on the Project site; or that Contractor's Work and the work of Other Contractors, though provided for under separate contracts, may be interconnected in some manner or interdependent, one depending upon timely or proper performance of the other.
 - b. This Contractor shall cooperate, as directed by the Construction Manager, with Other Contractors at the site, including, but not limited to, Foundation Contractor, Superstructure Concrete Contractor and Above Grade Superstructure Steel Contractor.
 - c. This Contractor shall cooperate with the Port Authority, all Public Transit Companies and any other government authorities having jurisdiction.
 - d. In order to synchronize all of the activities described in Section A above and have such activities occur in a harmonious and proper manner, the Contractor agrees that it shall (i) cooperate with Construction Manager in coordinating Contractor's Work and labor force with the Other Contractors' work and labor forces, and (ii) provide for coordination of Contractor's Work and labor force with those of the Other Contractors.
 - e. In order to maintain synchronization and harmony with respect to all of the construction and operations on the Project site, Contractor agrees to do the following when so requested: (i) review the construction schedules of Other Contractors in order to make internal revisions to Contractor's own schedule such that Contractor's schedule will coordinate with the schedules of others, or (ii) participate in a joint review among relevant parties of the schedules of Contractor and the Other Contractors, each schedule being reviewed in terms of the others, in order to coordinate all such schedules; and, after such joint review, revise Contractor's schedule as mutually agreed upon and to the extent necessary in order to coordinate Contractor's activities with those of the Other Contractors.

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- f. The Contractor understands that it is essential that many of its activities be performed in close coordination with, at the same time as, or in close sequence with the work of Other Contractors. If Construction Manager directs that certain parts of the Work be performed following a specific sequence or on certain days or times of the day, Contractor shall perform such Work accordingly. The Contractor understands that the work of this Other Contractor will not be continuous and that work will be required to be performed out of sequence. Any changes in sequence and out of sequence work will be performed at no additional cost to Construction Manager and Owner..
- g. Contractor acknowledges that the Other Contractors are subject to certain of the same types of obligations and have certain of the same rights as Contractor. Contractor agrees to coordinate its Work and to cooperate with the Other Contractors in order that all parties may perform their respective obligations and exercise the rights to which they are entitled.
- h. Contractor shall (i) afford the Other Contractors reasonable opportunity for introduction, storage, and access to their materials and work; and (ii) accommodate the Other Contractors to the extent Construction Manager so directs with respect to such endeavors.
- i. Contractor shall inspect portions of Work already performed to determine that such portions are in proper condition to receive subsequent work, if any, by the Other Contractors.
- j. The Contractor shall cooperate with the testing and inspection agencies hired by the Construction Manager or Owner. Contractor shall provide to the testing agencies, at no additional cost, all manpower, facilities, scaffolds, calibrated torque wrenches, etc., to assist the testing agency personnel in their testing and inspection duties. It shall be the responsibility of Contractor to notify the testing agencies prior to commencement of the Contractor's Work. The Contractor shall also notify the Construction Manager that inspection services have been requested. Contractor shall not perform any Work requiring testing, unless such testing agency personnel are present. It shall be the responsibility of the Contractor to notify the testing agencies in sufficient time to allow for travel arrangements prior to commencement of the Contractor's Work. The Contractor shall perform any corrective work recommended by the inspection firms. The corrective work shall be included in the Lump Sum Proposal. Costs incurred for re-inspections for rejected materials or failed inspections will be born solely by the Contractor.

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- k. Any temporary openings or leaveouts required for subsequent installation of Contractor's Work must be brought to the attention of the Construction Manager prior to the start of the pertinent work in the area of the opening or leaveout needed. Failure to request access will result in the Contractor assuming all costs involved in providing, rebuilding and refinishing the required access. It may be necessary for this Contractor to leave openings in its Work or omit portions of Work temporarily in order that Other Contractors can perform their work. It is understood that the work of filling in openings or completing such undone portions of the Work may be required to be performed at different times and intervals including those after the Contractor has completed its primary Work, except if the work is noted in Work Not In Contract section of "Rider A". All of the foregoing shall be done within the Lump Sum Proposal.
- l. The Contractor shall attend any job progress meetings scheduled by the Construction Manager. As a minimum, meetings will be held weekly. When requested by the Construction Manager, a principal of the Contractor's firm shall also attend the meetings.
- m. The Contractor shall have the capability to send and receive electronic mail (e-mail) to and from the Construction Manager. Contractor shall provide to the Construction Manager the e-mail addresses of their Project team.
- n. The Contractor shall maintain a competent Superintendent or Foreman at the site during any time that this Contractor is working at the site. The Superintendent or Foreman shall be approved by the Construction Manager. Contractor shall issue to its key personnel, radios that are on the same frequency as one of the Construction Manager's channels to ensure proper communication in the event of a requirement to notify all site personnel. All costs for this communication requirement shall be included in the Lump Sum Proposal.

Claims Involving Construction or Operations of Other Contractors

- a. If performance of Contractor's Work, or a portion thereof, depends upon the construction or operations of any of the Other Contractors for proper execution of such Work in accordance with the Contract documents, then prior to proceeding with that portion of the Work and within forty-eight (48) hours of such discovery by Contractor, Contractor shall provide notice to Construction Manager of any apparent discrepancy or defect in the Other Contractor's work that would render such work unsuitable for the proper execution of or would result in a defect in Contractor's Work.
- b. Failure of Contractor to provide notice as provided for and within the timeframe set forth in the Section above shall constitute an acknowledgment by Contractor that the Other Contractor's work, whether partially or wholly completed, is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.
- c. Construction Manager shall be reimbursed promptly by Contractor for costs incurred by Construction Manager that are payable to one of the Other Contractors because of delays, improperly timed activities, or defective construction of Contractor.

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- d. Contractor promptly shall remedy damage wrongfully caused by Contractor to completed or partially completed construction or to any property belonging to the Other Contractors, Construction Manager, the Port Authority, or for which the Other Contractors, Construction Manager, the Port Authority is responsible.

Cutting and Patching Construction Performed by Other Contractors

- a. Contractor shall be responsible for the necessary cutting, fitting, or patching of its Work in order to make its parts fit together properly and accommodate any subsequent work by the Other Contractors in accordance with the Contract documents.
- b. Contractor shall not damage or endanger a portion of the work, or a fully or partially completed construction of any of the Other Contractors, by excavation or by cutting, patching, or otherwise altering such construction. Contractor shall not cut or otherwise alter such construction by Owner or Construction Manager or any of the Other Contractors except by prior written consent from Construction Manager.
14. **General/ Survey.** The Contractor shall be fully responsible for all layout of its Work. Property line offsets, one north-south axis line, one east-west axis line, and bench marks will be established by the Construction Manager at every Floor Level. All subsequent layouts required by this Contractor to perform its work shall be included in the Contract.
15. **Temporary services.** All temporary light, power and water will be provided by this Contractor.
16. **Permits.** All permits required for any part of the Contractor's Work shall be procured and paid for by the Contractor.
17. **Manpower.** Sufficient manpower shall be provided at all times to maintain progress of the Work. A labor shortage within the industry shall not be accepted as an excuse for not manning the job.
18. **Manpower/trades.** The cost of the Master Mechanic, Maintenance Engineer, Teamster Foreman, Operating Engineers and Standby trades shall be borne solely by this Contractor, including all overtime/premium time/holiday time/etc., required to perform the Contract work. Costs for the Master Mechanic, Maintenance Engineer and Teamster shall be deducted from the allowances listed below.

Overtime costs (beyond normal working hours, as defined below) for Master Mechanic, Labor Foreman, Teamster, Maintenance Engineer, Site Safety Manager, and other standby trades caused by this Contractor's failure to meet schedule, operations etc., will be charged to this Contractor as follows:

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- a. From **7:00 A.M. to 9:00 P.M.**, Monday through Friday **and 7:00 A.M. to 8:00 P.M. Saturday**, excluding holidays, there shall be no charge for the following Standby labor. After or before these hours (except for pre-scheduled work stated above), this Contractor, along with any Other Contractors working shall be charged the prorated share for the Standby costs for the following trades:
 1. Labor Foreman (Local 79) **(\$130.00/Hour)**
 2. Site Safety Manager **(\$125.00/Hour)**
19. **Manpower/trades.** Employment of all standby trades shall be based on the BCA Collective Bargaining Agreements, or the GCA Collective Bargaining Agreements, whichever triggers the labor first.
20. **Manpower/trades.** Should any questions of union jurisdiction arise, the Contractor shall immediately take steps to settle such disputes and will use such labor as may be determined to have jurisdiction, at no additional cost. The Contractor agrees that it shall participate and be bound by decisions of "The New York Plan for the Settlement of Jurisdictional Disputes" as administered by the BTEA. Should this Contractor fail to take expeditious action, it will be responsible for any time lost because of delays arising from such a dispute.
21. **Rigging, Hoisting, Storage and Site Deliveries**

All hoisting and hoisting requirements for this Contractor's materials and equipment are this Contractor's responsibility.

On-Site Storage of Equipment and Materials

- a. The Contractor must take special care in stocking its material to allow Other Contractors free access to their work and not to overload any structures. The Contractor will refer to the Contract Drawings as they pertain to permissible slab loads and shoring requirements, submit detailed floor loading plans indicating material loading layouts, weights, stacking heights, and other pertinent information for review by the Design Team's Structural Engineer.
- b. Construction Manager shall approve all of the Contractor's storage/stocking placement locations. Contractor will deliver amounts of material to the site that will not exceed the loading capacities of the floors or cause unnecessary stockpiling of material on the site. Because of the limited site access, the Contractor will be responsible for any and all off-site storage or staging areas that may be required.
- c. No material shall be stored outside of the construction fence without the Construction Manager's approval.

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- d. The Contractor shall place its equipment, additional bracing, shoring, and other appurtenances, in locations approved by Construction Manager. Contractor utilizing equipment shall provide design drawings and calculations required to support Contractor's equipment, additional bracing, shoring, and other appurtenances, signed and sealed by a professional engineer licensed in the State of New York and reviewed by the Engineers of Record for structure for effects on the permanent structure. Any bracing, shoring, and other appurtenances, shall be relocated as required as the Project progresses if required by the Construction Manager so as to avoid interference with work of Other Contractors. Any modification to the existing structure required to support the Contractor's equipment shall be made by the Contractor at its cost and approved by the Engineer of Record for structure. All fees and costs invoiced by the Engineers of Record to review the Contractor's proposed modifications shall be reimbursed to Owner by the Contractor.

Deliveries

- a. The Contractor is aware of the requirements of the Department of Transportation Bureau of Traffic regulations regarding restricted vehicle lengths and times of operation in the geographical area in which the Project is situated. In addition, the Contractor must submit a logistics plan. The plan must be in conformance with the Construction Manager's requirements. The Contractor agrees that there shall be no additional costs as a result of these restrictions.
- b. The Contractor is cautioned that due to the location of this job it may encounter certain areas of special coordination involving traffic congestion, building access, material delivery, special security measures, etc. It is understood that the Contractor is aware of these conditions and the Contractor will not attempt to seek and shall not be entitled to additional monies for hardships that may arise due to its having to take special measures and precautions regarding same.
- c. The Contractor shall include all costs required to provide all necessary protection, flagman, barricades, cones, etc., to control vehicular traffic, protect the public from potential hazards, and control pedestrian traffic during all of its delivery and hoisting operations. If special Police details or assistance is needed, the cost for same shall be included in the Lump Sum Proposal.
- d. The Lump Sum Proposal includes all off-hours deliveries, if required. Contractor shall schedule all off-hours deliveries with the Construction Manager. If Contractor makes off-hours deliveries the Contractor shall pay for all Standby costs due to off-hours deliveries.
- e. The Contractor shall place its hoisting equipment in locations approved by Construction Manager. Schedule all off-hours deliveries with the Construction Manager. If Contractor makes off-hours deliveries the Contractor shall pay for all Standby costs due to off-hours deliveries.

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22. **Submittal procedure.** In the event that the Contract documents are revised, the Contractor must notify the Construction Manager in writing of any proposed change to Lump Sum Proposal within ten (10) calendar days from receipt of said documents. If said notification of proposed change is not made within the above-stated time period, then said revised Documents will become part of contractual obligations with no change in Lump Sum Proposal.
23. **Submittal procedure.** Unless stated specifically elsewhere, only the members of Construction Manager's staff with the title "Construction Manager's Project Director" or "Senior Project Manager" are authorized to approve additional work or time and material work prior to the commencement of such work. All time and material work tickets verifying performance of changes and extras must be countersigned and coded for cost control purposes by the Construction Manager's Project Director or Senior Project Manager. The Contractor agrees that any time and material work tickets signed by an employee of the Construction Manager, not authorized to countersign time and material work tickets, have a value of (\$0) zero dollars. It is the Contractor's responsibility to obtain proper authorization for time and material and additional work in accordance with the Contract.
24. **Submittal procedure.** Unit prices defined in Rider C shall apply to additional work which is not included in the Contract and to deductions to work included in the contract and not performed by this Contractor. Modification of Work scope shall be only as requested and approved in writing by Construction Manager.
25. **Submittal procedure.** The Contractor shall direct field foreman to complete and return a Daily Report Form supplied by the Construction Manager, on a daily basis. Daily Report Forms shall be forwarded to the Construction Manager no later than the next business day. As a minimum the Daily Report Forms shall list the work completed the prior day, the manpower utilized on the prior day and equipment utilized on the prior day. Failure to supply the Daily Report Forms is grounds for withholding payment.
26. **Protection.** The Contractor shall provide and maintain all protection specific to its Work above and beyond that shown, which is required by the New York City Building Code, the Port Authority, , Transit Authority, Department of Highways, OSHA and all governing authorities for persons, adjacent properties and the Work. Such protection shall be maintained during day and night periods, including weekends, holidays and bad weather shutdowns.
27. **Protection.** The Contractor will provide protection necessary to safeguard its own Work, as well as the work of Other Contractors, from damage by its own operations.
28. **Protection.** The Contractor is aware that some perimeter protection has been installed by others within or bounding the work area. Should the Contractor, if required for installation of its Work, remove protection, Contractor shall replace such protection or provide a suitable substitute in accordance with OSHA or other jurisdictional requirements at the end of the workday or immediately after working in the area. Should the Contractor fail to replace the protection as stated, the Contractor shall be charged for the replacement work as well as all associated costs, including violations, penalties and legal costs.

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TRADE: EXCAVATION AND FOUNDATION

A. GENERAL CONDITIONS – continued

29. *Security and Site Access:*

a. DELETED

b. Construction workers will not be allowed to park on the site or on streets in the adjacent neighborhood. These areas will be spot checked to ensure workers are complying with this policy. Violators may be discharged from employment on the site at the discretion of the Construction Manager. This Contractor shall provide a Plan for Parking and transportation of its personnel. The plan will include the following at a minimum:

(i) Require workers to utilize public mass transit or Contractor provided shuttle bus service.

(ii) No Contractor vehicles will be allowed to park on-site. This requirement shall not extend to material delivery vehicles, and this Contractor's vehicles which are required to perform the Work of this Contract, which shall be permitted to park in designated loading and unloading areas only at specific pre-arranged times.

c. Prior to working in or around the PATH track area, Contractor's workforce shall be required to attend a three-hour safety course provided by the Port Authority. In addition, a competent individual from the Contractor's workforce shall undergo instructor-level training to train other workers regarding track safety. These courses are only offered at the Port Authority facilities in Jersey City, New Jersey. The cost of time, travel, and transportation expended attending the course shall be the responsibility of the Contractor.

30. ***Security procedure.*** Contractor shall comply with the Project's confidentiality requirements in accordance with Rider F. Contractor's employees shall sign individual acknowledgements of confidentiality and security procedures pertaining to handling the Contract documents. Contractor shall have these files available upon request.

31. ***General/advertising.*** Contractor, its Subcontractors, suppliers, etc. shall not use the site, the Project name or their affiliation with Construction Manager or Owner for publicity or advertisement of any kind whatsoever without first obtaining the written approval of Owner. Signs will not be permitted on the site without the prior written consent of Owner.

32. ***General/housekeeping.*** The Contractor shall provide its own labor to clean all debris from its work areas on a daily basis and to pile such debris in one location as directed by the Construction Manager. The Contractor shall also keep all street loading/staging areas, shanty areas etc., clean on a daily basis. All debris created by lunch, mid-morning, mid-afternoon breaks, etc. must be discarded in the waste receptacles provided, especially at the shanty areas, work areas, where breaks are occurring and at the street-level perimeter of the building.

Each Contractor should be aware that this Project has a zero tolerance policy with respect to these requirements for the handling of one's own debris.

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Failure to comply with this provision will result in back-charges for labor costs incurred to clean up related debris, including all overtime required (at the discretion of the Construction Manager) and associated exterminating costs.

33. **General.** Workers shall not use loud and/or abusive language and offenders shall be dismissed. Workers shall not deface any portion of the site or any temporary facilities and offenders will be dismissed. Smoking is prohibited at the site.
34. **Removal Of Finished Work:** The Contractor shall obtain written approval from the Construction Manager prior to removal by the Contractor of any finished work, such as but not limited to sheetrock, spray-on fireproofing, ceilings, concrete, structural steel and other building components, required for the installation of its work. Failure to obtain such approval or removing more of the area that was approved will result in the cost for all required repairs being deducted from the Lump Sum Proposal.
35. **Recognition of September 11:** This Contractor is aware of the significance of the September 11th date for this Project, and has been notified that no on-site work will be performed on this date. In addition, this Contractor may be required to perform work to accommodate site requirements in preparation of September 11 events if required by the Owner. (i.e. temporary acceleration or leave-outs of work which are not specifically identified at the time of the award)
36. **Conditions For Payment Of Off-Site Stored Materials.** In order to mitigate the risks and uncertainties of material and equipment cost escalation based on the fabrication time and duration of work, the Contractor may elect to accept deliveries of equipment and materials at an off-site storage/warehouse facility prior to the required on-site delivery dates.

In such instances, upon confirmation of the delivery the Contractor shall be reimbursed for the costs associated with the furnishing only of the associated equipment and materials along with the monthly warehousing costs.

Payment on stored materials shall be contingent upon the following:

- Bill of Sale to PA for new sales tax language
- Segregated Storage area and clearly marked and identifiable as "**the property of Port Authority Of New York and New Jersey**" Offsite storage Insurance for each and every location
- Bonded warehouse for non bonded contracts
- Performance testing submitted and accepted by CMD MEU as appropriate
- Certification submitted and accepted by CMD MEU as appropriate
- Mill certificates submitted and accepted by CMD MEU as appropriate
- Inspection Verification by CMD MEU as appropriate
- Verification by CMD MEU as appropriate
- Actual Invoice Cost of the material without overhead and profit

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Exemption (4)

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C. WORK NOT IN CONTRACT

1. Cost of 100% Performance and 100% Labor and Material Payment Bonds. (See Rider "C", Alternate No. 1.)
2. Furnishing insurance provided by Owner under the wrap-up insurance policy. (See Rider "C", Alternate No. 2)
3. Deleted.
4. Final removal of construction fence.
5. Sidewalks and curbs except as indicated in Contract Documents.
6. Disposal of hazardous material, contaminated material, and petroleum contaminated waste.
7. Furnishing of miscellaneous metal embeds to be installed by this Contractor except for those items specifically noted as to be furnished by this Contractor.
8. Controlled inspection of building foundation.
9. Crack and vibration monitoring of adjacent buildings. Vibration monitoring for blasting remains part of this Contract.
10. Controlled inspection of retainage and support systems not designed by this Contractor's licensed Professional Engineer. Controlled inspection for retainage and support systems designed by this Contractor's licensed Professional Engineer remain part of this Contract.
11. Railroad Protective Insurance.
12. Street connections for incoming utilities except as specifically included in Rider "A", Section B Scope of work.
14. Excavation, sheeting, shoring and backfilling for street utility work as indicated on Drawings and documents except as specifically included in Rider "A", Section B Scope of work.
15. Removal of hoist and crane pads.
16. Removal and disposal of raker braces.

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D. SHOP DRAWINGS AND SUBMITTALS

The Contractor shall immediately expedite the submission of shop drawings and ordering of materials and equipment so that work of this Contract shall be installed in sufficient time to comply with the Project Construction Schedule. This Contractor agrees that the following specific scheduling intervals shall be maintained by it and coordinated with other trades provided that the work of others has advanced sufficiently to permit the sequencing as called for:

1. Work under this Contract shall commence immediately upon receipt of instructions from the Construction Manager and shall proceed when and where directed, with sufficient labor and material, to allow the entire project to be completed in accordance with the Project Construction Schedule. The work under this Contract shall be coordinated with the work of other trades in order not to delay the progress of the job. The Contractor shall follow all interim schedules that may be issued by the Construction Manager, as the job conditions require.
2. A submittal schedule log indicating a description and submission dates of all drawings, schedules, literature, samples, certifications, etc., as required by the specifications and terms of this Contract shall be completed and submitted for approval within two (2) weeks of Contract award.
3. Shop drawings and detail drawings shall be provided by this Contractor, utilizing the most modern detailing practices applicable to this Project, incorporating speed and economy in fabrication and erection methods.
4. It is agreed that for purposes of scheduling the various operations of the Contractor's work, the Architect shall require ten (10) working days, or fourteen (14) calendar days, whichever is longer, for the approval of shop drawings, from time of Architect's receipt to time of Architect's return to Construction Manager.
5. All required shop drawings and submittals shall be submitted in a uniform flow as drawings for each area of the building are completed. This Contractor shall establish a steady flow of shop drawings for approval and not accumulation of an excessive quantity of shop drawings in a single submission.
6. The Contractor shall submit and maintain record documents (shop drawings, as-built, etc.) in accordance with the Contract Documents.
7. All submissions will be submitted with a stamp indicating that Contractor has reviewed the submittal for conformance with the Contract Documents, coordinated with the work of other trades, and approved by the Contractor.

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D. SHOP DRAWINGS AND SUBMITTALS – continued

8. Shop drawings and detail drawings shall be provided by this Contractor, utilizing the most modern detailing practices applicable to this Project, incorporating speed and economy in fabrication and installation methods. All shop drawings shall be prepared using latest version of AutoCAD and record as-builts shall be provided to Owner at Substantial Completion in both disk format and hard copy prints.
9. The Contractor shall furnish to the Construction Manager copies of all material orders (without pricing), cutting lists, shop tickets and acknowledgments of such orders.
10. Shop drawings for embedded items and separate layout drawings indicating the locations of these embedded items shall be submitted within three (3) weeks after Contract award, or sooner, if required by the Construction Manager.
11. The Contractor shall furnish to the Construction Manager Transparencies and/or prints of erection plans and shop drawings in such quantities as determined by the Architect, which shall be used for approval of the Contractor's work.
12. Contractor shall utilize the Construction Manager's electronic document control system if so directed.
13. This Contractor will be required to develop a composite trench plan shop drawing to be coordinated with the approved shop drawings of other Contractor's shop drawings for below slab on grade utilities

E. SCHEDULE-TIME OF PERFORMANCE

1. With the bid, this Contractor is to submit the following to the Construction Manager:
 - a. Construction progress schedule
 - b. Shop drawing submittal schedule logically tied to construction schedule
 - c. Name and resume of trade Contractor's superintendent to be assigned to this project, for review and approval by Construction Manager.
 - d. Worker's Compensation Employee Modification Ratio.
 - e. Logistics plan (if different from the Construction Manager's) showing location and sequencing of ramps, delivery areas, storage areas, equipment locations, fence relocations, sidewalk crossings and/or closings.
2. Within two weeks of contract award, this Contractor is to submit the following to the Construction Manager:
 - a. Trade payment breakdown
 - b. Labor rate sheets
 - c. Certificate of insurance

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E. SCHEDULE-TIME OF PERFORMANCE – continued

- d. Begin submission for approval of all drawings, schedule, literature, samples, certifications, etc., as required by the Specifications. Shop drawings shall be completed for approval within eight (8) weeks of Contract award.
 - e. Material procurement logs.
 - f. Bar Chart Schedule.
 - g. Cash Flow.
3. Within two (2) weeks of Contract award, the Contractor shall submit a detailed CPM schedule indicating the aforementioned activities and their interdependencies, as well as any additional activities the Construction Manager may request at a later date, to more accurately reflect actual project conditions.
 4. In order to maintain synchronization and harmony with respect to all of the construction and operations on the Project site, Contractor agrees to do the following when so requested:
 - a. Review the construction schedules of Other Contractors in order to make internal revisions to Contractor's own schedule such that Contractor's schedule will coordinate with the schedules of others, or
 - b. Participate in a joint review among relevant parties of the schedules of Contractor and the Other Contractors, each schedule being reviewed in terms of the others, in order to coordinate all such schedules; and, after such joint review, revise Contractor's schedule as mutually agreed upon and to the extent necessary in order to coordinate Contractor's activities with those of the Other Contractors.
 5. The Contractor shall be prepared to commence the engineering phase of the work immediately. The field work shall be performed in three (3) major phases, [**Phase 1**] that west of the existing Deutsche Bank site, [**Phase 2**] that east of the first phase and to a depth of EL +253'-0" and [**Phase 3**], that east of Phase 1 and below Phase 2. The Contractor understands that these phases may or may not overlap, depending on progress of other trades work in both areas of work. This Contract shall include all mobilization, demobilization and remobilization costs that may be incurred due to this. This Contractor shall be prepared to begin its fieldwork in Phase 1 on or about **the 3rd Quarter 2010**, or at such later date as directed by Construction Manager provided that the work of others has advanced sufficiently to permit such a start. This Contractor shall be prepared to begin its fieldwork in Phase 2 on or about **the 1st Quarter 2011**, or at such later date as directed by Construction Manager provided that the work of others has advanced sufficiently to permit such a start. This Contractor shall be prepared to commence its field work in Phase 2 concurrently with its field work in Phase 1. This Contractor shall be prepared to begin its fieldwork in Phase 3 immediately following the completion of Phase 2, or at such later date as directed by Construction Manager provided that the work of others has advanced sufficiently to permit such a start. The Contractor will provide multiple equipment, work in shifts, weekend work, expedite

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E. SCHEDULE-TIME OF PERFORMANCE – continued

material procurement, expedite material delivery, shop drawing overtime, and any other cost to accomplish the following milestone dates:

- a The Contractor shall be prepared to complete all Phase 1 field installation **7 months**, by the **First Quarter, 2011**, or at a later date if required by the progress of other trades at no additional cost. The Contractor shall be prepared to complete all Phase 2 field installation **9 months**, or at a later date if required by the progress of other trades at no additional cost. The Contractor shall be prepared to complete all Phase 3 field installation **5 months**, or at a later date if required by the progress of other trades at no additional cost.
- b The Lump Sum Proposal includes all overtime costs, both direct and indirect, weekend and holiday work, multiple shift costs, regardless of cause of delays including weather, which the Contractor must utilize in order to maintain the construction schedule.

There will be no escalation of price allowed for duration of the Contract, nor will there be any additional cost due to the delayed start or protracted duration of installation as required by the progress of the project.

- 6. The Contractor agrees that "Time is of the Essence", with respect to the performance of the Contractor's work and all dates and time periods pertaining to this Contract, and it understands that in order to accomplish the aforementioned Schedule, including intermittent milestones, it may be required to work its crew and equipment overtime on regular work days and on Saturdays and Holidays, the cost of which is included in the Lump Sum Proposal. The Contractor shall pay the cost of standby trades, provided such overtime is required due to the Contractor's failure to maintain schedule. It is understood and agreed that procurement of Saturday, Sunday or Holiday work permits and/or after hour work permits, if required, shall be obtained by Construction Manager, however, all costs associated with obtaining the work permits shall be charged to the Contractor.
- 7. Installation will be able to commence on site, assuming the work of other trades has advanced sufficiently.
- 8. All materials must be fabricated to allow the above installation schedule to proceed uninterrupted. Failure to meet the requirements will require the Contractor to immediately institute a recovery program that may consist of additional manpower, shift work or overtime until this Contractor is capable of performing its work to maintain the above schedule, with no increase to Lump Sum Proposal.

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E. SCHEDULE-TIME OF PERFORMANCE – continued

- a. Where the Contractor is installing Work with associated shop drawings and product submittals, the Contractor shall submit the information for review and approval at a minimum forty-five (45) working days in advance of the installation date for review/approval by the Owner's or Construction Manager's design professionals and the Construction Manager; no Work shall be installed prior to this review and approval process.
9. Within five (5) working days of the receipt of a "Notice of Non-conformance" or "Punch List," the Contractor shall begin all corrective work indicated on the list. Upon receipt of a Punch List or Notice of Non-conformance, for any given area, this Contractor shall assign a sufficient number of workers to complete or correct the Work per the Construction Manager's scheduling requirements. Any and all costs to repair damages caused by the Contractor during the performance of this, or any other work, shall be charged to this Contractor's account.
10. The Contractor will submit the following on a weekly basis. Failure to do so is grounds for non-payment:
 - a. Detailed reports regarding status of engineering submissions, procurement, and fabrication operations.

F. SAFETY

1. All work performed by this Contractor and its Subcontractors of every tier will be in accordance with all federal, state, and local laws and regulations. This Contractor shall employ the most up to date and advance safety methods, means and devices to insure a safe work environment for its workers, its subcontractor workers, workers of other trades, adjacent structures, and the public whether or not specifically stated in the Contract Document. Notwithstanding anything to the contrary, the Contractor will be responsible for maintaining a safe work environment.
2. The Contractor agrees that the Construction Manager may suspend the performance of its work, in whole or part, to the extent necessary to ensure compliance with, and enforcement of the Site Safety Plan and all federal, state, and local laws and regulations as necessary to ensure the safety of the public, adjacent properties, and workers. Any costs incurred by the Contractor as a result thereof are included in the Lump Sum Proposal.
3. The Contractor's Safety Program will be job specific in accordance with the requirements of, Safety Addendum Rider, latest edition, attached hereto and made part of the Contract.
4. This Contractor shall employ its own licensed Safety Manager anytime this Contractor is performing work. No work shall occur unless the Contractor's Safety Manager is on site.

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G. QUALITY ASSURANCE

1. Reference Standards

All work of this Contract shall be performed in strict accordance with the Codes and Standards noted below and with the Contract Documents. When more than one of the Reference Standards and/or the Contract Documents applies to a particular portion of the work, the most stringent shall govern.

- a. "Building Code of the City of New York " - with all amendments to date.
- b. "Specifications for Structural Concrete for Buildings", (ACI 301), latest edition.
- c. "Building Code Requirements for Reinforced Concrete", (ACI 318), latest edition.
- d. "29 CFR Part 1926 OSHA Standards, Latest edition"

The requirements of any additional Reference Standards cited by the Documents noted above shall be considered as being mandatory for this project.

2. Tolerances and Finish Requirements

Work that is out of specified tolerance and/or does not meet other project requirements under this Contract shall be corrected, repaired or replaced immediately so as not to delay project construction schedules or else at a later time as directed by the Contractor, at no additional cost.

- a. Tolerances for the variation in location, plumb, level and grade in formed and unformed surfaces, as noted in the Project Specifications and Reference Standards shall be strictly adhered to with the following modifications:
 1. Interior exposed concrete surfaces shall not vary more than 3/4" or 1/4" in 10 ft., whichever is lesser, in vertical plane.
 2. Exterior exposed concrete surfaces shall not vary more than 3/8" in 10 ft., but not more than 3/4", in the height of walls. In no case shall any work be installed outside the property lines.
 3. Floors shall comply with FF=20 and FL=15.
- b. Monitoring of the Contractor's work by check surveying or any other means chosen by the Construction Manager and Architect shall not relieve the Contractor from its responsibility to meet all tolerance requirements.
- c. Concrete work that is out of specified tolerance or that is not acceptable to the Architect under this Contract shall be corrected, repaired or replaced immediately so as not to delay the schedule or alternately at a later time as directed by the Construction Manager, at no additional cost to the Construction Manager.

RIDER "A"
GENERAL ADDENDUM
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April 21, 2010
(Revision #2)

TRADE: EXCAVATION AND FOUNDATION

G. QUALITY ASSURANCE – continued

- d. Exposed concrete surfaces shall have a Smooth Rubbed Finish. All other concrete surfaces shall have a Smooth Formed Finish. Form tie holes will be filled. Lump Sum Proposal includes monolithic troweled finish slabs. This Contractor shall flashpatch or otherwise repair unacceptable slabs in a manner approved by the Construction Manager.

3. Warranty

The Contractor will warranty, in a form acceptable to the Owner, all work performed and materials installed by it to be free from inherent defects and shall keep same in repair and replace any defective materials or workmanship free of cost to the Owner for a period of time of one (1) year or greater in accordance with the Contract Documents commencing from the date of formal Owner acceptance.

- a. The Contractor shall replace or repair, at no additional costs to the Owner and/or Construction Manager, all installed work which occur after Owner acceptance and within the warranty period. The Contractor shall respond within twenty-four (24) hours notice thereof by the Owner. Additionally, the Contractor shall reimburse the Owner for any damages caused by such malfunctions and the repair thereof.
- b. Any use of installed items for testing, start-up or beneficial use prior to acceptance date shall not constitute warranty start-up. If this system is utilized for beneficial use or early occupancy, the Contractor shall perform a full service of the system and equipment including but not limited to a complete test of the system with written report and any required system repairs. All costs necessary to provide a full warranty period after this use is included in this Contract. Though the system will be utilized for beneficial use prior to the warranty start date specified herein, the Contractor shall maintain the system as if under warranty during that period.

4. Calculations

All calculations for this Contractor's Work are to be sealed by a properly licensed and fully qualified New York State Licensed Professional Engineer.

5. Material and Equipment Certifications

Contractor will submit, when so directed by the Construction Manager, all mill or factory test reports for Engineer's or Architect's review to confirm the quality of the material or equipment supplied to the project. Material or equipment found to not comply with Contract Documents will be immediately removed and replaced by the Contractor at no additional cost to the Owner or Construction Manager.

- a. The required strength and durability of concrete shall be governed by compliance with the proportioning, testing, mixing and placing provisions of N.Y.C. Building Code Sections 1905.1.1 through 1905.13.

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G. QUALITY ASSURANCE – continued

- b. The Contractor shall be aware that redi-mix concrete rejected for not meeting Contract requirements by the Engineer of Record for Controlled Inspection or the Testing Laboratory shall not be placed and shall be immediately removed from the site.
- c. Submit all mill test reports for Engineer's review.
- d. Contractor must meet all Con-Ed quality and acceptance requirements.

6. Layout and Surveying

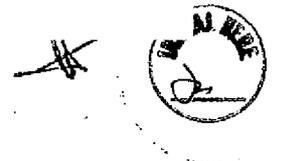
The Contractor shall be fully responsible for all engineering and layout of his work. Benchmarks and axis lines will be established by the Construction Manager at grade only. All subsequent layout shall be performed by the Contractor. The Contractor shall develop all lines and grades necessary for his work, and shall use a laser level in addition to any other surveying instruments in setting the elevations of screeds, stops and forms, and the top of slabs during concrete placement. The type of instruments to be used, as well as the frequency and method of calibration, are subject to the approval of the Construction Manager. Contractor shall provide a survey of all foundation elements conducted by a licensed New York State surveyor at the completion of its work.

H. Deleted.



RIDER "B"
LIST OF DRAWINGS AND SPECIFICATIONS
WORLD TRADE CENTER - VEHICULAR SECURITY CENTER AND TOUR BUS PARKING FACILITY
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Exemption (4)

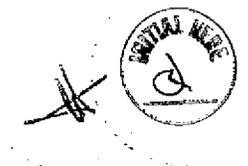


RIDER "C"
ALTERNATES AND UNIT PRICES
WORLD TRADE CENTER -
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NEW YORK, NEW YORK

March 5, 2010

TRADE: EXCAVATION AND FOUNDATION

Exemption (2.a.)



RIDER "C"
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ALTERNATES AND UNIT PRICES
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TRADE: EXCAVATION AND FOUNDATION

RIDER "C"
ALTERNATES AND UNIT PRICES
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TRADE: EXCAVATION AND FOUNDATION

RIDER "C"
ALTERNATES AND UNIT PRICES
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VEHICLE SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

March 5, 2010

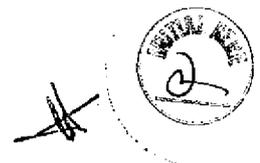
TRADE: EXCAVATION AND FOUNDATION

RIDER "C"
ALTERNATES AND UNIT PRICES
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FIRM NAME: Yonkers Contracting Corp. (BAFO Values)



RIDER "D"
INSURANCE RIDER

**PROJECT: WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
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TRADE: EXCAVATION & FOUNDATION

I. INSURANCE PROCURED BY CONTRACTOR

The following types of contractors and/or subcontractors shall not be eligible for coverage in the Owner Controlled Insurance Program (OCIP): Consultants, - electricians (not eligible for Workers Compensation only, but will be enrolled for all other coverages), suppliers (that do not perform or subcontract installation), vendors, materials dealers, guard services, janitorial services, and truckers (including trucking to the project where delivery is the only scope of work performed). Contractor shall mean any contractor or subcontractor of any tier. Unless otherwise directed by Construction Manager or Owner, contractors not enrolled in the OCIP shall be required to maintain their own insurance, of the type and with the limits set forth below or such other types and limits as they customarily carry, at their own expense, and shall promptly furnish the Construction Manager and Owner, or its designated representative, certificates of insurance giving evidence that all required insurance is in force.

The Contractor, in its own name as insured, shall maintain and pay the premiums on the policy or policies of insurance for coverage(s) as hereinafter described, which shall cover its operations hereunder, shall be effective throughout the effective period of this contract, and shall afford coverage(s) in not less than the amounts set forth below:

- A. **Statutory Workers' Compensation and Occupational Disease Insurance** in accordance with the applicable law or laws: Employer's Liability Insurance with Limit of Liability as at least \$1,000,0000.
- B. **Commercial General Liability** (together with any excess liability or umbrella liability insurance coverage) with a combined Bodily Injury and Property Damage limit of not less than Twenty-Five Million Dollars (\$25,000,000) per occurrence and in the aggregate. Coverage must include the following:
 1. Contractual Liability for liability assumed under this Contract and all other contracts relative to the Project.
 - a. Delete contractual exclusion, or any other policy exclusions, for Work done within 50 Feet of a Railroad, Lightrail, subway or similar tracked conveyance.
 2. Completed Operations/Products Liability with three (3) year extension beyond completion and acceptance of the Project
 3. Broad Form Property Damage
 4. "XC&U" Perils Covered, where applicable
 5. Personal Injury Liability (A, B & C) and Advertising Injury Coverage



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6. Independent Contractors
 7. Additional Interest/Insured Endorsement (CG2010 November 1985 version, or its equivalent) must be furnished reflecting the inclusion of the interests of those parties listed on Schedule 1 hereto, together with their respective parent companies, corporations and/or partnerships and their owned, controlled, affiliated, associated and subsidiary companies, corporations, and/or partnerships and the respective agents, consultants, principals, partners, servants, officers, stockholders, directors and employees of each and all other indemnities named in the Contract as Additional Insureds. The endorsement must specifically include Completed Operations coverage for the Additional Insureds.
 8. Coverage is to be endorsed to reflect that the insurance provided is to be primary and non-contributory for the Port Authority of New York and New Jersey, Construction Manager, and all other Additional Insureds named in Schedule 1.
 9. Coverage is to be provided on an "occurrence" basis with carriers licensed and admitted to do business in the State of New York or otherwise acceptable to the Authority and Construction Manager, and shall have an A.M. Best Rating of A - X or better.
 10. A copy of the policy and/or endorsement(s) and any other documents required to verify such insurance are to be submitted with the appropriate certificate(s), or upon the request of Construction Manager.
- C. Commercial Automobile Liability Insurance** covering "any vehicles on the broadest commercially available form:
- a. Combined single limit for bodily injury and property damage liability – \$5 Million each accident. In the event a Contractor is performing Hazardous Material(s) Work appropriate coverages to meet DOT and EPA requirements shall be included
- D. Commercial Professional Liability Insurance (CPLI)** covering the Architect, Design and Engineering Services required by contract of at least Five Million Dollars (\$5,000,000).
- E.** Where an Off Project Site property exposure exists, the Contractor at its sole expense shall furnish to the Port Authority and Construction Manager, Certificates of Insurance and other required documentation evidencing "All Risk" Property Damage Insurance for the replacement value of said property and which shall provide for those entities listed on Schedule 1 to each be a Loss Payee as its interest shall appear, and shall contain a provision requiring the insurance carriers to waive their rights of subrogation against all Additional Insureds and indemnities named in the Contract.

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F. The Contractors and Subcontractors performing Work or services in connection with the Project shall maintain "All Risk" Property Insurance for Temporary Structures and Contractor's Tools and Equipment at the site until completion of their Work. Coverage is to be provided on a replacement cost basis including the perils of Flood, Earthquake and Terrorism (TRIA) and which shall provide for those entities listed on Schedule 1 to each be a Loss Payee as its interest shall appear, and shall contain a provision requiring the insurance carriers to waive their rights of subrogation against the Additional Insureds listed in Schedule 1 below.

G. The above insurance shall each contain the following wording verbatim and provide these two endorsements on the insurance certificate:

1. "The Port Authority and Construction Manager are interested in the maintenance of this insurance and it is agreed that this insurance will not be canceled, materially changed or not renewed without at least thirty (30) days' advance written notice to The Port Authority of New York and New Jersey, having an office at 225 Park Avenue South, New York, New York, 12th Floor, 10003, Attn: Boris Pisman, and Tishman Construction Corporation, 666 Fifth Avenue, New York, New York 10103, Attn: Risk Management Department, by certified mail-returned receipt requested."
2. "The insurance carrier(s) shall not, without obtaining the express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority."

H. The amount of insurance contained in aforementioned insurance coverages, shall not be construed to be a limitation of liability on the part of the Contractor or any of its Subcontractors, and the carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility of liability under the Contract.

I. The Contractors shall file certificates of insurance prior to the commencement of Work and with the Authority and Construction Manager which shall be subject to the Authority's and Construction Manager's approval of adequacy of protection and the satisfactory character of the Insurer.

In the event of failure of the Contractor to furnish and maintain said insurance and to furnish satisfactory evidence thereof, the Authority and/or Construction Manager shall have the right (but not the obligation) to take out and maintain the same for all parties on behalf of the Contractor who agrees to furnish all necessary information thereof and to pay the cost thereof to the Authority and/or Construction Manager immediately upon presentation of a bill.

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J. Any type of insurance or any increase of limits of liability not described above which the Contractor requires for its own protection or on account of statute shall be its own responsibility and at its own expense.

K. Subrogation.

- a. Any policies effected by the Contractor on its owned and/or rented equipment and Materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation against the Authority, the Construction Manager, and all other Additional Insureds and indemnities named in the Contract.
- b. Workers' Compensation policy and all liability policies except Commercial Professional Liability Insurance (D) shall contain a provision requiring the insurance carriers to waive their rights of subrogation against the Authority, the Construction Manager, and all other Additional Insureds and indemnities named in the Contract.

L. Should the Contractor engage a Subcontractor, the same conditions will apply under this Contract to each Subcontractor, however, the Subcontractor shall be required to maintain limits of liability of not less than Five Million Dollars (\$5,000,000) per occurrence, or such greater limits as may be required by the Contractor.

The Contractor shall deliver certified copies of the policy(ies) described above or certificate(s) of insurance evidencing the existence thereof to the Construction Manager at the location where the work will be performed, within ten (10) days after the acceptance of its Proposal. Such policy(ies) or certificate(s) shall state the contract number and shall contain a valid provision or endorsement that the policy(ies) may not be canceled, terminated, changed or modified without giving thirty (30) days written advance notice thereof to the Authority.

Certified copies of all renewal policies or certificates evidencing their existence shall be delivered to the Engineer at the location where the work will be performed at least ten (10) days prior to the expiration date of each expiring policy. If at any time any of the certificates or policies shall be or become unsatisfactory to the Authority as to form or substance, or if the carrier issuing any such certificate or policy shall be or become unsatisfactory to the Authority, the Contractor shall promptly obtain a new and satisfactory certificate and policy. Upon request of the General Manager, Risk Management, the Contractor shall furnish the Authority with a certified copy of each policy stated above.

The requirements for insurance procured by the Contractor shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Contractor under this contract. The insurance requirements are not a representation by the Authority as to the adequacy of the insurance to protect the Contractor against the obligations imposed on them by law or by this or any other Contract.

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II. INSURANCE PROCURED BY THE AUTHORITY

1. In order to reduce the cost of this Contract, the Authority will procure and will maintain in force and pay the premiums on the WTC - VSC Project Controlled Insurance Program (OCIP) as follows:

A. Workers' Compensation

A separate standard NYS Workers' Compensation policy will be issued to each Contractor performing Work at the construction site. Coverage will include:

- Workers' Compensation, including Occupational Disease, and
- Employers' Liability, subject to the laws of New York State;
- U.S. Longshore and Harbor Workers' Act, Federal Employers' Liability Act, and Maritime Endorsement, as applicable.

NOTE: Workers' Compensation coverage is not provided for certain types of work performed (e.g., asbestos abatement or Electrical work). However, it is the responsibility of the Contractor to comply with NYS Workers' Compensation law by providing their own coverage for their workers. Please contact P.A. Treasury / Risk Management.

B. Commercial General Liability Insurance

Commercial General Liability Insurance to each Contractor, as follows:

- \$1,000,000,000 Combined Single Limit (CGL) each one occurrence and aggregate.
- General Liability and Excess Liability policies include the following coverages and provisions:
 - Bodily Injury and Property Damage Liability
 - Completed Operations extended for three (3) years from the date of termination of the Insurance Policy or completion of the Contract, whichever comes first. "Completed Operations Liability", means liability for "Bodily Injury" and/or "Property Damage" arising out of the "Insured's" operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the "Bodily Injury" and /or "Property Damage" happens after such operations have been completed or abandoned and happens away from the premises owned by or rented to any "Insured" (other than those premises owned or operated by the named "Insured").

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- Personal Injury Liability
- Cross Liability in respect to Bodily Injury claims
- Incidental Malpractice Liability
- Advertising Liability

C. Builder's Risk Insurance

Builder's Risk Insurance coverages are as follows:

- \$1,000,000,000 of Hard Costs (subject to a \$50,000,000 annual aggregate for Flood and Earthquake damage and \$250,000,000 per occurrence as respects Windstorm). Coverages include, but are not limited to:
 - All property to be used in or incidental to the Contract, including property in the Insured's custody, property in which the insured has an insurable interest, property for which the insured is liable.
 - And as more fully described in the Lexington Manuscript Completed Value Builders Risk policy form.
 - The Contractor acknowledges that such insurance does not cover the Contractor's and its subcontractors' tools, equipment or temporary structures.

D. Contractors Pollution Liability

Contractors Pollution Liability coverage is as follows:

- Limits - \$100,000,000 each combined with a \$100,000,000 policy aggregate. The deductible is \$10,000 that is the responsibility of the Contractor and subcontractors. The policy has limitations and exclusions.
- Bodily injury, property damage, or environmental damage caused by pollution conditions resulting from covered operations (the Contract work) only, and must be unexpected and unintended from the standpoint of the Insured.
- The bodily injury, property damage, or environmental damage must occur during the policy period.

E. Terrorism

- Limits - \$500,000,000
- Coverage – Based upon the Terrorism Risk Insurance Act of 2002 and the Terrorism Risk Insurance Extension Act of 2005.
- Coverage includes acts considered "certified" and "non-certified" acts of terrorism.

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A copy of the Insurance Guide for Contractors, attached hereto as Rider DX, contains a general outline of the Owner Controlled Insurance Program.

Determination in any instance as to the appropriateness of the included coverage described in A.1, 2 and 3 above will be made based upon information to be provided by the Contractor relating to the mode of performance of work to be done under the Contract.

The policy described in A above will not provide coverage for any workers' compensation for the Contractor and/or subcontractors who perform any asbestos work or Electrical work -. In such cases, the Contractor or subcontractors shall procure and maintain, at their own expense, the workers' compensation insurance in accordance with the requirements of law in the state(s) where the work will take place, along with employer's liability insurance (in limits of not less than \$1 million per occurrence).

Should the Contractor and/or subcontractors be required to procure the workers' compensation insurance, within ten days after the acceptance of its Proposal the Contractor shall deliver to the General Manager, Risk Management, The Port Authority of NY & NJ, Treasury Department, 225 Park Avenue South, 12th Floor, New York, N.Y. 10003 (Attn: The WTC Coordinator), an original certificate, stating the Contract number, from the insurer. A duplicate certificate evidencing the above insurance shall also be delivered to the Engineer. With regard to insurance required to be procured by a subcontractor, the Contractor shall deliver the certificate described above at least ten days before the subcontractor commences Work.

The requirements for insurance procured by the Contractor or subcontractors shall not in any way be construed as a limitation on the nature or extent of the obligations of the Contractor or subcontractors.

The current policies described in A through E of this numbered clause are on file and available for examination by appointment in the office of the General Manager, Risk Management, The Port Authority of NY & NJ, Treasury Department, 225 Park Avenue South, 12th Floor, New York, N.Y. 10003. Please contact Boris Pisman at 212-435-5855 to schedule an appointment. The policies under A and E above are subject to certain coverage exclusions. The Contractor and subcontractors shall comply with all obligations of the insured under or in connection with all of the policies described in A through E above. The Contractor warrants and represents that it has had the opportunity to read and analyze copies of the OCIP insurance policies and that it understands the contents thereof. Any reference in the Contract, the Insurance Guide for Contractors or elsewhere in any other Contract Document as to amount, nature, type or extent of coverage provided under the OCIP and/or potential applicability to any potential claim or loss is for reference only and the Contractor warrants and represents that it has not relied upon said reference but solely upon their own independent review and analysis of the OCIP insurance

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policies in formulating any understanding and/or belief as to amount, nature, type or extent of any coverage provided by the OCIP insurance policies and/or its potential applicability to any potential claim or loss. The obligation to read and analyze copies of the OCIP insurance policies shall be included by the Contractor in all of its subcontracts.

The Authority shall have the right at any time and from time to time at its option to procure insurance substituting in whole or in part for any or all of the policies described in A through E above or to require that the Contractor and the subcontractors themselves obtain insurance substituting in whole or part for that above referred to, provided always, however, that the Contractor and the subcontractors shall be afforded coverage as stipulated by the Authority and the Authority shall either pay the premiums on such substitute insurance or reimburse the Contractor and the subcontractors therefore.

Neither the procurement of the above insurance or any substitute insurance nor the extent of the coverage or the limits of liability there under shall be construed to be a limitation on the nature or extent of the Contractor's obligations, or to relieve the Contractor of any such obligations, and the procurement of the above insurance is only for the purpose of reducing the cost of the Contract without constituting any representation by the Authority as to the adequacy of the insurance to protect the Contractor against the obligations imposed on the Contractor by law (except the New York State Workers' Compensation Law) or by this or any other Contract.

Notwithstanding any provision of this clause, however, no subcontractor shall be or have the right to be covered under the policies of insurance above referred to until the subcontractor has been expressly approved in writing by the Engineer, as required under this Contract, and such approval may be withheld, among other reasons, until execution by the subcontractor of agreements affirming its obligations provided in this clause with respect to the above insurance.

The provisions of this numbered clause are not intended to create any rights for the Contractor other than rights, which may be available to the Contractor under said policies themselves, whatever such rights may be. Moreover, the Authority makes no representation or guaranty, either by the provisions of this numbered clause or otherwise, as to the effect of or the coverage under said policies, and no employee or agent of the Authority is authorized to make any such representation or guaranty, either by the provisions of this numbered clause or otherwise, as to the effect of or the coverage under said policies, and no employee or agent of the Authority is authorized to make any such representation or guaranty or to offer any interpretation of or information on said policies.

The Contractor warrants and represents that it has examined and is familiar with the above stated coverages and that in submitting its Proposal it has relied solely on its own interpretation thereof and not on any representations or statements, oral or written, of the Authority, its Commissioners, officers, agents, employees, consultants or contractors.

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All negotiations and adjustments with any insurer concerning payment for any loss, the risk of which is borne by the Contractor under this Contract, shall be the responsibility of and shall be conducted by the Contractor unless the applicable policy provides otherwise. The Contractor shall, however, inform the Engineer of the progress of all such negotiations and notify the Engineer sufficiently in advance of all meetings thereon so that the Engineer or designated representatives may attend said negotiations if they so desire.

The Authority shall be entitled to all returned premiums, dividends and credits which may become payable at any time for any reason whatsoever in connection with the aforementioned insurance. The Contractor hereby assigns to the Authority all such returned premiums, dividends and credits and the subcontractors shall be deemed to have assigned to the Authority all such returned premiums, dividends and credits by becoming subcontractors under this Contract. The Contractor shall execute and cause the subcontractors to execute any instrument necessary or convenient to evidence the Authority's right to such returned premiums, dividends and credits.

Notwithstanding any payment by the Authority of any insurance premiums, the Authority shall not be deemed the employer of any employees hired by the Contractor or any subcontractor covered by such insurance nor shall it be liable for any of the obligations of such employer.

The Contractor and the subcontractors shall cooperate to the fullest extent with the Authority in all matters relating to the aforementioned insurance and shall comply with all requirements of all insurance policies procured by the Authority. They shall also at their own expense furnish the Engineer or a duly authorized representative with copies of all payrolls, correspondence, papers, records and other things necessary or convenient for dealing with or defending against any claims and for procuring or administering the aforementioned insurance including furnishing the name of any of their employees, officers, or agents whose presence or testimony is necessary or convenient in any negotiations or proceedings involving such insurance.

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Schedule 1 – Indemnities and Additional Insureds:

- a) The Port Authority of New York and New Jersey
- b) WTC Retail LLC
- c) 1 World Trade Center LLC
- d) The Port Authority Trans-Hudson Corporation
- e) STV Construction, Inc.
- f) NYS Department of Transportation
- g) Tishman Construction Corporation
- h) Tishman Realty & Construction Co., Inc.
- i) Tishman Construction Corporation of New York
- j) Silverstein Freedom Tower Development LLC, and its Affiliates
- k) 2 World Trade Center LLC
- l) 3 World Trade Center LLC
- m) 4 World Trade Center LLC
- n) World Trade Center Properties LLC
- o) 1 WTC Holdings LLC
- p) 2 WTC Holdings LLC
- q) 3 WTC Holdings LLC
- r) 4 WTC Holdings LLC
- s) Silverstein Properties, Inc.
- t) Silverstein East WTC Facility Manager LLC
- u) WTC Redevelopment LLC
- v) Silverstein WTC Mgmt. Co. LLC
- w) Silverstein WTC Mgmt. Co. II LLC
- x) Silverstein WTC Properties LLC
- y) Silverstein WTC LLC
- z) Silverstein 2/3/4 WTC Redevelopment LLC
- aa) Spring World Inc.
- bb) Spring WTC Holdings Inc.
- cc) WTC Investors LLC
- dd) Net Lessees' Association of the World Trade Center
- ee) WTC Management and Development LLC
- ff) Silverstein WTC Management and Development LLC
- gg) WTC Investors Management and Development LLC
- hh) Larry A. Silverstein
- ii) The City of New York
- jj) The Lower Manhattan Development Corporation
- kk) The World Trade Center Memorial Foundation
- ll) Metropolitan Transportation Authority



RIDER "E"
PROPOSAL AWARD / EVALUATION CRITERIA
WORLD TRADE CENTER –
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NEW YORK, NEW YORK

May 4, 2010
(Revision 3A)

TRADE: EXCAVATION & FOUNDATION

I. Evaluation Criteria: Pursuant to Article 1 – Form and Submission Of Proposals, of the Lump Sum Proposal, all proposals will be reviewed by the Port Authority to determine if they adhere to the format required in this RFP, if they contain all required submissions and if the Proposer meets the preconditions required for submission of a Proposal. For Proposals meeting such requirements, the following criteria, set forth in order of importance, will be utilized in the evaluation of proposals, and to determine the "best value" award to the Authority.

- A. Firm Qualifications and Experience
- B. Management Approach
- C. Technical Approach

Award will be made to the responsible firm whose proposal is most advantageous to the Authority as determined in the sole discretion of the Authority. In determining which proposal is most advantageous, the Authority will evaluate proposals to determine which proposal offers the greatest business value to the Authority based upon an analysis of the qualitative technical factors and price/cost in order to derive which proposal represents the "best value" to the Authority. In the event that two or more proposals are considered by the Authority to be basically equal in their technical merit, the evaluated cost or price becomes more important; in such a case, cost or price may ultimately be the deciding factor. Accordingly, the Authority may not necessarily make an award to the Proposer with the highest technical ranking nor award to the Proposer with the lowest Price Proposal, if doing so would not be in the overall best interest of the Authority.

II. Further to the above and in addition to other submittals as required in section D of the "Form of Proposal", the proposer information provided with the proposal should include, but not limited to the following, specific information with regard to the Evaluation Criteria:

A. Firm Qualifications and Experience

- List of Similar Projects Completed of this size/value
- Certified Financial Statements showing Firms Financial Strength (in accordance with paragraph 2 of the Information for Proposers)
- Provide the following data regarding your firm's safety record:

i. EMR – Provide your firm's Insurance Experience Modification Rate for the last three years and supply a letter from your firm's insurance broker or carrier indicating the EMR of your firm for the last three years, as well as a written explanation for any EMR above 1.2.



ii. OSHA Inspection Record – Provide your firm’s OSHA Inspection History for the last three years by supplying a printout of the OSHA public database inspection record (<http://osha.gov/pls/imis/establishment.html>) and a printout of any citations. Also provide a copy of the last three years OSHA 300 Logs.

iii. Incidence Rates - OSHA/BLS Total Recordable Incident Rate (TRIR) and Lost Work Day

iv. Incident Rate (LWDIR) – Provide your firm's Incidence Rates for the last three years by supplying a printout of the Public database BLS industry Incidence Rates (<http://www.bls.gov/iif/oshwc/osh/os/pr056ny.pdf>) with the appropriate industry and type of construction highlighted.

v. OSHA Citations -A written explanation shall be provided for any OSHA citations issued to your firm within the last three years that were classified with a severity greater than serious. For any job related fatality recorded by your firm, or any fatality which occurred to any worker irrespective of who he or she was an employed by on a project where your firm was the CM or Controlling Contractor, a written explanation should be provided detailing the specifics around the fatality and any corrective actions that have been taken to prevent reoccurrence. Incidence Rates above BLS for specific work type - A written explanation shall be provided for TRIR or LWDCIR in excess of the BLS for NY State for the Industry and work type performed.

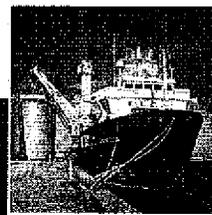
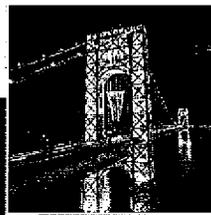
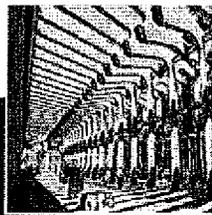
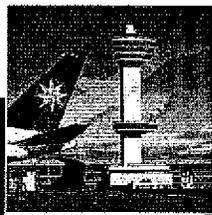
B. Technical Approach

- Technical approach to the performance of Excavation, Perimeter Foundation Walls (Secant and Slurry), Wall Tiebacks, Foundation Construction
- Attach a complete Compliance Report which shall consist of a complete copy of the Rider A & Rider J documents, annotated with “C”, “D” or “E” as follows:
 - “C” Comply fully with no exceptions
 - “D” Comply with deviations. For each deviation provide a numbered footnote with a detailed explanation of the deviation and the alternate manner in which the intend of the specifications will be satisfied.
 - “E” Exceptions, do not comply. For each exception provide a numbered footnote with a detailed explanation with reason and possible alternatives.Each page of the Compliance Report shall be initialed by an officer of the company.

C. Management Approach

- Proposed Bar Chart Schedule
- Proposed Project Staff Organizational Chart & Resumes
- Indicate in detail what work that will be self-Performed and what will be subcontracted.
- Completed W/MBE Schedule C





[Handwritten signature]
OCTOBER 15, 2008

The Port Authority of New York & New Jersey

Information Security Handbook

October 15, 2008, corrected as of February 9, 2009

The Port Authority of New York and New Jersey

Information Security Handbook

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C – BACKGROUND SCREENING SPECIFICATIONS

D – THE SECURE WORKER ACCESS CONSORTIUM

E – COVERSHEET FOR CONFIDENTIAL PRIVILEGED INFORMATION

F – TRANSMITTAL RECEIPT

G –GUIDELINES FOR THE STORAGE OF CONFIDENTIAL INFORMATION

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INTRODUCTION

This *Port Authority of N.Y. & N.J. Information Security Handbook* ("Handbook") establishes guidelines and uniform processes and procedures for the identification, handling, receipt, tracking, care, storage and destruction of Confidential Information (as hereinafter defined) pursuant to The Port Authority of New York and New Jersey Information Security Policy (the "Policy"). This Handbook is intended to be the implementation guideline for that policy. It is also intended to complement the Port Authority Freedom Information Policy (FOI), inasmuch as it further defines certain information that may be exempt from release under FOI. The guidelines contained in this Handbook are not intended to, in any way, be in derogation of the FOI policy, which was adopted by the Committee of Operations in a Resolution, dated August 13, 1992.

This Handbook prescribes requirements and other safeguards that are needed in order to prevent unauthorized disclosure of Confidential Information and to control authorized disclosure and distribution of designated sensitive information, when it is released by The Port Authority of New York and New Jersey (the "Port Authority") either internally or externally. A major underlying principle, on which the Handbook is premised, is that there is a limited universe of sensitive information to which it applies. There is the expectation that prudent, informed and circumscribed judgments will be made by those staff members charged with the responsibility of identifying and properly designating sensitive information, as is provided for in this Handbook. In this regard, adherence to the Handbook's requirements will help ensure that the necessary care will be constantly and consistently undertaken in order to ensure that mis-designation, or "over marking", of information will be avoided. Another important principle of the Handbook is that access to properly designated sensitive information is premised on a strict "need to know" basis. It is the establishment of this "need to know" that is the essential prerequisite for being granted access privileges. It must be emphasized that possession of a federal security clearance or other access rights and/or privileges to sensitive information does not *per se* establish a "need to know" for purposes of obtaining access to discrete sensitive Port Authority information. This principle is equally applicable to the Port Authority and its internal staff as it is to third party individuals and entities, which are given access privileges to sensitive Port Authority information.

The procedures and processes described in this Handbook are intended to apply prospectively to all sensitive materials presently in use within the agency. Any retrospective application of the procedures and processes contained in this Handbook should be undertaken on a case-by-case basis under the direction of the Corporate Information Security Officer in consultation with the Law Department and with the concurrence of the Corporate Security Officer.

This Handbook will be amended and updated from time to time as may be appropriate. When appropriate, each Port Authority department, office and/or business unit, as well as contractors/consultants, should create a "Confidential Information Practices and Procedures" ("CIPP") document with additional guidelines for their respective businesses. This will assist staff, and third parties working with the Port Authority, in carrying out the requirements of this Handbook. A CIPP should augment, but may not deviate from, the requirements of this Handbook. The procedures, safeguards and requirements of this Handbook fully apply to all subsidiaries of the Port Authority that deal with, or create, Confidential Information. Whenever the term Port Authority is referenced in this Handbook, it should be understood to include and/or cover its subsidiary entities.

The Port Authority expressly reserves the right to reject any information designation and/or to remove/add any and all markings on information that is not consistent with this Handbook.

CHAPTER 1 - PORT AUTHORITY INFORMATION SECURITY ORGANIZATIONAL STRUCTURE

The Port Authority organizational structure for information security is as follows:

Corporate Security Officer (CSO) – is responsible for the implementation of Port Authority policy on security matters, both physical and informational, and for the coordination of security initiatives throughout the agency in order to assure consistency in practices, procedures and processes. In particular, the CSO works in close collaboration with the Chief Technology Officer and the Corporate Information Security Officer with regard to their respective areas of security responsibilities. The CSO acts as the Port Authority's principal liaison on security related matters with governmental, public and private entities. The CSO works closely with the Law Department, Public Safety Department and the Office of Inspector General on security initiatives, on compliance with governmental requirements on security matters, and on issues relating to compliance with the Port Authority's security policy. The CSO reports to the Chief Operating Officer of the Port Authority.

Corporate Information Security Officer (CISO) – the Office of the Secretary of the Port Authority will be designated to undertake the role and functions of the CISO and consults with the CSO in order to assure agency wide consistency on policy implementation. The CISO is responsible for the management, oversight and guidance of the Policy. The CISO works in conjunction with all appropriate Port Authority departments and subsidiaries to: (i) formulate practices and procedures concerning information security management issues affecting the Port Authority, its operations and facilities; (ii) review, categorize and manage all Port Authority information consistent with the Port Authority's policy and procedures under its Freedom of Information Policy; and (iii) establish procedures and handling requirements for Port Authority information based upon its sensitivity designation in order to ensure that the information is used solely for authorized purposes. The CISO will report to the Secretary who in turn reports to the Executive Director.

Departmental Information Security Officer (DISO) - each department head, and, where appropriate, office head, will designate a staff member to act as DISO in order to ensure compliance with the Policy. The DISO is responsible for management and oversight of information security issues for departmental operations and reports to the CISO on information security practices and procedures, or issues relating thereto. Additionally, the DISO may perform the Security Information Manager (SIM) functions, if a SIM has not been designated for a department, division, office, unit or project. Each DISO is also responsible for compiling an inventory of all Confidential Privileged Information and Confidential Information in their department's possession and/or providing updated listings to the CISO on a monthly basis, or on such other periodic basis as may be established by the CISO. Additionally, the DISO is responsible for approving the departmental Confidential Information Practices and Procedures ("CIPP") document and, before authorizing its use, for submitting the CIPP to the CISO for final approval and providing periodic reports to the CISO, as the CISO may require.

Security Information Manager (SIM) – Port Authority departments, offices or other business units, as well as contractors, vendors, and consultants, individuals and/or entities, where appropriate, who are involved with, or who could have exposure to, Confidential Information shall designate a SIM who is responsible for coordinating the implementation and daily oversight of the Policy for the particular Port Authority department, office, business unit, or third-

party contractor, vendor, or other party. The SIM reports to the DISO and/or the Security Project Manager (SPM) for a project, where applicable. If a Port Authority department determines that the SIM function may be carried out by the DISO, then the SIM designation may not be required, unless or until the DISO, in consultation with the CISO, determines otherwise. The functions of the SIM are further described throughout this Handbook.

Security Project Manager (SPM) – where applicable, a DISO may designate an individual overseeing a project for a department as the SPM, who will be responsible for securing information and ensuring compliance with the Policy on the particular project.

Chief Technology Officer (CTO) – is the head of the Technology Services Department. The CTO, or the CTO's designee, works with the CSO and the CISO to coordinate the Policy efforts and to provide the Port Authority with the most current resources needed to comply with legislative and regulatory requirements, to adhere to industry standards and best business practices and procedures, and to identify and address technology issues that may affect the current and future policy. The CTO is also responsible for providing technical support and training to assist staff and to meet information security management goals.

Office of Inspector General (OIG) – The OIG's responsibilities include: conducting criminal and administrative investigations of possible misconduct by Port Authority officers and employees, as well as third parties doing business with the Port Authority; reviewing agency internal controls and management practices for weaknesses that could allow losses from corruption, incompetence and/or bad decision making; making recommendations for cost effective improvements; serving as the confidential investigative arm for the Port Authority's Ethics Board; conducting educational awareness programs for all Port Authority employees pertaining to integrity and ethics; and, where appropriate, conducting background investigations of certain contractors proposing to do business with the Port Authority.

Information Security Subcommittee (ISSC), chaired by the CISO, includes departmental representatives from line departments (who might also be functioning as a DISO), the Law and Public Safety Departments, the Office of Inspector General and the CTO. The ISSC assesses the Policy needs and the effectiveness of the policy's implementation, as well as evaluating initiatives for its further development and refinement.

CHAPTER 2 - CATEGORIZATION OF INFORMATION

2.1 Definitions

For purposes of this Handbook the following definitions shall apply:

(a) **"Confidential Information"** means and includes collectively, Confidential Proprietary Information, Confidential Privileged Information, and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. The term Confidential Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Port Authority or a third-party, or when the Port Authority receives such information from others and agrees to treat such information as Confidential.

(b) **"Confidential Privileged Information"** means and includes collectively, (i) any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws, (ii) Critical Infrastructure Information, (iii) Sensitive Security Information, and (iv) Limited Access Safety and Security Information.

(c) **"Confidential Proprietary Information"** means and includes information that contains sensitive financial, commercial or other proprietary business information concerning or relating to the Port Authority, its projects, operations or facilities that would be exempt from release under the Port Authority Freedom of Information Policy. It also includes sensitive financial, commercial and other business information received from third parties under Non-Disclosure and Confidential Agreements.

(d) **"Critical Infrastructure Information"** (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII," as provided for in the referenced rules and regulations and any amendments thereto.

(e) **"Information"** means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

(f) **"Limited Access Safety and Security Information"** means and includes sensitive information, the disclosure of which would be detrimental to the public interest and might compromise public safety and/or security as it relates to Port Authority property, facilities, systems and operations, and which has not otherwise been submitted for classification or designation under any Federal laws or regulations.

(g) **"Non-Disclosure and Confidentiality Agreement"** (NDA) refers to the Agreements attached hereto as Appendix "A" (which include Appendices A-1 through A-3). When approved by the Law Department, other forms of a NDA may be used for special situations or specific projects, however, a general NDA may be used in retaining consultants and contractors where the retainer involves work on various projects.

(h) **"Non-Disclosure Instructions"** (NDI) refers to the instructions attached hereto as Appendix "B." A NDI is used when represented staff are given or have responsibilities, which involve working on sensitive and/or security related matters, and/or when such staff is being given access to Confidential Information. The NDI is given to each individual before starting such work or on being given such access. The CISO, in consultation with the Law Department, may allow the use of NDI's in other circumstances, as may be appropriate.

(i) **"Sensitive Security Information"** (SSI) has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119) and any amendments thereto.

2.2 General Process for Categorization

As defined hereinabove, the term Confidential Information includes all Port Authority Information protected pursuant to this Handbook. Although Confidential Privileged Information is a sub-category of Confidential Information, it is considered a separate category for Port Authority categorization, marking, and handling purposes due to its heightened level of sensitivity. Any sensitive Information not specifically deemed Confidential Privileged Information should be categorized as Confidential Information. In addition, certain other types of Confidential Information, such as SSI and CII, are treated separately and distinctly because they are governed by specific federal designations and must be marked and handled in accordance with federal regulations or requirements. The requirements in this Handbook apply to all Confidential Information, unless otherwise specified. Where a different or additional requirement applies to a specific sub-category of Confidential Information, it will be noted. Although the requirements of this Handbook shall apply prospectively upon its implementation, each Port Authority department, division or unit shall conduct an initial review and designation of all documents currently in use.

For purposes of this Handbook, Confidential Information shall be designated as one of two categories: (i) Confidential Information, or (ii) Confidential Privileged Information.

Each DISO, in consultation with the CISO, shall create a list of examples of Confidential Information and Confidential Privileged Information to be used as a guide by the departmental staff. This list may be included in the department's CIPP. Any employee, consultant, third-party contractor or other agency personnel may nominate Information for categorization in either of the two categories. The DISO, SPM, SIM, supervisors, managers or the CISO, as may be appropriate, should take the action needed to process the Confidential Information under their control and to review it as soon as possible. It is important to understand that not every piece of material currently held should be reviewed. The review should only be of Information that is

considered potential Confidential Information. If management, employees, consultants, third-party contractors, or other agency personnel determine that Information under review contains Confidential Information, the Confidential Information should be designated with the appropriate categorization.

In order to categorize Information as Confidential Privileged Information or Confidential Information the following steps must take place:

1. Inform the SPM or SIM, where applicable, and the unit supervisor of the group/entity proposing the categorization.
2. Obtain DISO concurrence and approval.
3. Obtain CISO final approval.
4. If approved, mark and label the information, and, if appropriate, apply a cover sheet (See Appendix E).

If Information has been nominated for categorization, a final decision on the nomination shall be made within one week of its submission. During the time period between the submission and a determination regarding the categorization, the nominated Information should not be reviewed, released or distributed to any individuals, other than those individuals who possess a need to know and are currently familiar with the Information, or were previously provided access to other Confidential Information for the same project or task.

2.3 Training and Information Review

Initially, Port Authority managers, including, but not limited to, the DISO, SPM and the SIM will complete training. This will enable them to conduct an initial review of Confidential Information under their control in order to identify and categorize it as Confidential Information or Confidential Privileged Information. Thereafter, employees, consultants, third-party contractors or other agency personnel will participate in and complete the training, which will enable them to continue the process of review, identification, and categorization of Confidential Information.

This phased approach provides an initial review of Confidential Information by management and a continuing review of Confidential Information thereafter. More specifically, this approach consists of four phases as set forth below:

- Phase 1 - Conduct department manager, DISO, SPM, and SIM, training.
- Phase 2 - Direct department managers, DISO, SPM, SIM to review and categorize the Confidential Information under their control into the designated information security categories.
- Phase 3 - Conduct employee, consultant, third-party contractor, and other agency personnel training.
- Phase 4 - Direct employees, consultants, third-party contractors, or others to commence/continue the process.

The basis for this phased approach is the orderly and timely completion of the Information Security Education and Awareness Training program for the appropriate individuals (See

Chapter 7). Each Department Director will determine which staff members in the respective department require training and will do so on an ongoing basis. When access to Confidential Information is given to third parties, a training requirement may also be a condition for granting access privileges.

2.4 Removal of Category Designation

At some point, Confidential Information may no longer be considered Confidential and should therefore have its designation removed or eliminated. This may occur as a result of any number of circumstances, including changes within the Policy, the changing nature of information security, a better understanding of particular material, and/or changes in public policy or law, among others. In order to determine whether category designations should be removed from particular materials, the CISO may establish criteria for the periodic review of all sensitive material. In any case, the category designation of any particular Confidential Information may not be removed without the approval of the CISO. A record of any removal of categorization for particular information must be kept by the DISO, with a copy provided to the CISO.

CHAPTER 3 – INFORMATION ACCESS

3.1 Applicability

Each employee, consultant, third-party contractor, tenant, individual and/or entity requiring, or requesting, access to Port Authority Confidential Information must adhere to the requirements set forth in this Handbook.¹ Confidential Information is intended for official business use only. Failure to abide by the procedures set forth in the Handbook can lead to a denial of access privileges to Confidential Information and/or other contractual, civil, administrative or criminal action.

All employees, consultants, third-party contractors, individuals and/or entities given access privileges to Confidential Information are responsible for overseeing the safeguarding and protection of Confidential Information in their possession or under their control as per this Handbook's requirements. Questions concerning the safeguarding, protection, release, and/or access to Confidential Information should immediately be brought to the attention of the CISO, DISO, SPM, or SIM, as may be appropriate, in the particular circumstance.

3.2 General Criteria

In order for access to Confidential Information to be considered for approval, all individuals including PA staff, must meet and complete the following criteria:

- Be a citizen of the United States of America, or be an alien who has been lawfully admitted for permanent residency or employment (indicated by immigration status), as evidenced by Immigration and Naturalization Service documentation, or be a national of the United States as defined by the Immigration and Nationality Act. This requirement may be waived by the CISO with the concurrence of the Director of Public Safety and/or the CSO where and when circumstances so require.
- Obtain sponsorship for a request to be given access to Confidential Information through the individual's assigned chief, director, manager, or supervisor. The written request must include justification for access, level of access required, and indicate the duration for which access privileges are required.
- Forward the request through the individual's supervisory chain to the CISO, via the appropriate DISO, SPM, or SIM, requesting that a specific background check be undertaken, where appropriate and/or required.
- Complete the Port Authority Information Security Education and Awareness Training.
- Execute a Port Authority NDA (See Appendix A), or an Acknowledgement of an existing executed NDA, or, if the individual is Port Authority represented staff, have been provided with the NDI. This requirement may be waived if approved by the CISO.

¹ The CISO in consultation with the Law Department may modify and/or waive the condition of complying with the requirements of the Handbook where such compliance is impractical, such as in the case of a governmental entity having its own information security procedures and/or protocols governing the handling and protection of sensitive information. In addition, certain sensitive information is required to be submitted to other governmental entities under applicable laws, rules or regulations, or the Port Authority may elect to submit Confidential Information to a governmental entity, such as in the case of the CII process, wherein it may elect to submit Confidential Information to the Department of Homeland Security in order to secure the protection of the CII regulatory scheme.

- Be granted final approval of the security clearance level, in writing, by the CISO who verifies that all requirements have been met.

The individual's name must be entered on the appropriate department, project, or company Authorized Personnel Clearance List. See Sec. 3.9 for more information regarding this List (Note: If an individual's name does not appear on the appropriate Authorized Personnel Clearance List, access must be denied).

Individuals who meet and complete the criteria listed above are neither guaranteed, nor automatically granted, access to Confidential Information, since access is conditioned on need to know criteria. The OIG may access, without approval of the CISO, DISO, SPM or SIM, all Confidential Information when it is needed in connection with an OIG investigation, audit or inspection work, or any other Port Authority related work, subject to the handling requirements set forth in this Handbook.

3.3 Information Access Controls

Access to all Confidential Information falling within any of the Port Authority Information categories shall be undertaken in a manner that complies with and maintains all applicable state, federal and common law protections. Access to particular Information must be conditioned upon a strict need to know basis with regard to the particular, discrete Information, regardless of any federal security clearance, or other Port Authority or other organizational information access authorization. An individual's need to know is not established simply by reason of the individual possessing a recognized federal security clearance, including one that allows for access to a higher level of classified information than is otherwise required for the discrete Port Authority Information to which access is sought. All requests for access to SSI by anyone who does not possess the requisite "need to know" under SSI regulations must be reported to the Transportation Security Administration ("TSA") or, if applicable, the United States Coast Guard ("USCG") and, in certain instances, the Department of Transportation ("DOT").

(a) Confidential Information

Access to Confidential Information shall be on a need to know basis only, as determined by the DISO. In certain instances access privileges may be conditioned on the satisfactory completion of a background investigation(s). The background investigation should utilize the least stringent criminal history access disqualification criteria that is appropriate for granting access to the particular information for both Port Authority and non-Port Authority employees. Where a background investigation is a condition to granting access, a DISO may determine that periodic updates of such investigations are required as a condition to maintaining continued access privileges. Access by third parties to Confidential Information may require that the parties execute a NDA or an Acknowledgment of an existing NDA if the CISO determines that a NDA and/or Acknowledgment is required.

(b) Confidential Privileged Information

Individuals requiring access to Confidential Privileged Information must have a need to know consistent with the creation and preservation of the privilege attaching to the particular Information. An individual will be given access privileges to the Information only to the extent

that it is necessary and/or is required by the individual in order to fulfill and/or carry out his/her duties, obligations and responsibilities to the Port Authority. Access to Confidential Privileged information may be subject to the satisfactory completion of periodic background investigations for both Port Authority and non-Port Authority employees. A list of disqualifying crimes for the different levels of background screening is attached as Appendix "C." A more stringent background investigation may be required of the individual for access to certain Confidential Privileged Information if determined by the CISO. All access to such Information must be granted and received in a manner that does not compromise or abrogate the particular privilege attaching to the Information.

Confidential Privileged Information may not be disclosed to any individual without appropriate prior approvals. Approval for disclosure of Confidential Privileged Information to third parties must be obtained from the CISO. A Port Authority employee or other individual may not waive any privilege attaching to Port Authority Information without the Port Authority's express permission as granted by the CISO, unless the Information to which the Port Authority asserts a privilege is personal to a particular employee or individual and the privilege is directly derived by reason of that circumstance. Access by third parties to Confidential Privileged Information will be conditioned on the parties' execution of a NDA or an Acknowledgment of an existing executed NDA, as may be appropriate and determined by the CISO. In certain circumstances, a Memorandum of Understanding or Memorandum of Agreement containing approved non-disclosure and confidentiality requirements may be utilized, in which cases approvals are required from the CISO and the General Counsel, or their respective designees. In the case of certain represented employees/individuals, NDIs may be utilized in lieu of NDAs.

3.4 Access Disqualification

Any employee, consultant, third-party contractor, or other individual and/or entity, who has been granted access to Confidential Information, may be temporarily denied access while an investigation is conducted regarding any report to the CISO, OIG and the DISO that such individual misused, mishandled, or lost Confidential Information, or disclosed, disseminated, or released Confidential Information to an unauthorized individual or entity. Further, access to Confidential Information can be denied when improper or incomplete verification checks of employees, entities, or individuals are discovered. Where it is determined that an individual has misused, mishandled or otherwise improperly disclosed, released or disseminated Confidential Information without authorization, that individual may be subject to disqualification of access privileges and may also be subject to sanctions, including formal disciplinary actions where the individual is a PA employee, with possible penalties up to and including termination of employment. The foregoing action shall be documented and provided to the individual's employer, SPM, DISO, or departmental manager and the CISO, as may be appropriate. In the case of third parties, remedial action may include, but is not limited to, imposition of a monitor to oversee compliance with information security and general security requirements, or possible disqualification, and/or termination of present and/or future business relationships. Individuals and entities may also be subject to criminal or civil legal action, as may be appropriate. Additionally, see Chapter 6 regarding the possible consequences of violations of this Policy.

3.5 Non-Disclosure and Confidentiality Agreements (NDAs)

Employees, consultants, third-party contractors, tenants, or other individual or entities, including governmental agencies where appropriate, will be required to sign NDAs or an Acknowledgment of an existing NDA, or be subject to an NDI, as a condition of being granted access to Confidential Privileged Information and, where appropriate, Confidential Information. Employees, consultants, third-party contractors, or other agency personnel who refuse to sign a NDA, in situations where it is required, will be denied access to Confidential Information, except in the case of certain employees and third parties where a NDI may be utilized in instructing and advising the employee and/or third party of the obligations and the requirements for handling Confidential Information. The DISO is responsible for determining whether a NDA/NDI is required as a condition to being granted access privileges to Confidential Information, other than Confidential Privileged Information. If an individual refuses to execute an individual Acknowledgment, or to receive the NDI, access to the Confidential Information is to be denied. The SIM is also responsible for keeping proper documentation for employees and individuals subject to NDIs, including the date when the individual was given the NDI and by whom. A copy of all executed NDAs agreements and acknowledgements are to be provided to the SIM. Original executed NDAs shall be forwarded to the CISO for filing in the official Port Authority records repository.

3.6 Unauthorized Disclosure of Information

If employees, consultants, third-party contractors, or other individuals and/or entities with authorized access to Confidential Information become aware that Confidential Information has been released to unauthorized persons, they are required to immediately notify the CISO, the Office of Inspector General, and any other appropriate information security officer and report the discovery. In the case of SSI, the CISO must inform the TSA, DOT, or USCG and, in the case of CII, the Department of Homeland Security ("DHS"), of the breach of security. DOT, DHS, TSA and USCG rules govern the reporting of any unauthorized disclosure.

3.7 Security Clearance and Access Prohibitions

Access to Confidential Information is not a right, privilege, or benefit of employment by the Port Authority, rather it is based on pre-established guidance. Confidential Information should not be divulged, released, turned over, or provided to any individual in any organization who does not meet the established criteria or conditions set forth herein, or who has not been approved for a security clearance issued by the Port Authority CISO. The following security clearance and access guidelines and/or prohibitions are in effect to protect Confidential Information:

- Confidential Information shall only be used in the performance of required job responsibilities, or in order to complete assigned tasks as determined by the SIM and DISO, with the concurrence of the CISO. No other disclosure or use of Confidential Information is authorized.
- Individual access to Confidential Information will be rescinded when an employee, consultant, third-party contractor, individual or entity, who had been granted access to Confidential Information, is no longer employed by the Port Authority, or is no longer under contract with, or no longer has a relationship with the Port Authority, or is no longer in a position that requires access to Confidential Information in order for the individual or entity to perform duties or complete tasks/projects.

- Employees may not unilaterally sponsor themselves for background verification or enter their name on an Authorized Personnel Clearance List.
- Group access of organizations to Confidential Information should be prohibited. Each individual in a group must have security clearance to access Confidential Information.
- Persons who rarely, if ever, require access to Confidential Information, (i.e., maintenance, food service, cleaning personnel, vendors and other commercial sales, or service personnel, who perform non-sensitive duties), should not be approved for a security clearance.

3.8 Background Screening

All background checks for third parties required under the Policy should normally be conducted through the "Secure Worker Access Consortium" (S.W.A.C.), which is presently the only Port Authority approved service provider of a background screening checks, except as otherwise required by federal law and or regulation. The Office of Emergency Management administers this provider. S.W.A.C. is accessed by an online application (<http://www.secureworker.com>) that enables the secure collection, processing, maintenance and real-time positive identity verification (PIV) of individuals. The S.W.A.C. background check is not a replacement for any federal agency (DHS, TSA, etc.) required background screening. S.W.A.C. membership is valid for one year, at the end of which the member must renew his online application. In addition, certain employees, such as those in the Public Safety Department, will have their criminal history background checked through the electronic databases maintained by federal and/or state law enforcement agencies when required as a condition of employment, or when required by federal or state laws, rules, and/or regulations, or, in certain cases, where it is legally permitted and is deemed appropriate by the CSO.

The SIM/SPM has authority to obtain the background check information from S.W.A.C. Additional information about S.W.A.C., corporate enrollment and online applications can be found at <http://www.secureworker.com>, or it may be contacted at (877) 522-7922. The S.W.A.C. application process is described in Appendix "D."

3.9 Authorized Personnel Clearance List

The CISO will maintain a master list database containing the names of all employees, consultants, third-party contractors, and other individuals and/or entities that have been granted a Port Authority security clearance and the specific category for which the security clearance was received, including, but limited to, for a particular project, or for specific Confidential Information. The DISO, SPM, and SIM are responsible for compiling, maintaining, and updating their respective list databases on an ongoing basis and forwarding the information to the CISO for compilation into a master listing. Each DISO shall periodically review its department's/business unit's list with its SPM and/or SIM to ensure that the list is current and that each individual's access to Confidential Information is still required.

3.10 Development of a Confidential Information Practices and Procedures (CIPP)

Departments, offices and/or business units may adopt an individualized, discrete CIPP tailored to their respective particular business practices for handling Confidential Information. The CIPP is meant to augment the Handbook and must be consistent with it. Each CIPP must be approved by the CISO before being implemented.

3.11 Procurement Strategies

(a) General

As a public agency, the Port Authority has an established procurement process based on openness, integrity, and fairness to the vendor community. The security of Confidential Information must be incorporated at the beginning of the procurement process in order to establish a security benchmark that may be applied throughout the procurement process, as well as during the term of the award/contract.

(b) Lifecycle Phases and Procurements

A project may contain Confidential Information in one or more of its lifecycle phases (pre-award, award, design, construction, close-out, or maintenance/service operation contracts, etc.).

Procurement and lifecycle information should be thoroughly reviewed by the originator before being submitted to the Procurement Department for processing. If Confidential Information is discovered thereafter by Procurement, or any reviewing department, the originator's department manager or designee should be contacted immediately to retrieve the Confidential Information and process it in accordance with the Policy and this Handbook.

(c) Risk Exposure and Business Risk Strategy

Procurement shall develop and retain, by project, a current listing of pre-screened persons or pre-qualified firms to bid on sensitive projects who agree to abide by the Policy requirements. Requirements must be included in procurement documents in order to help reduce potential disclosure of Confidential Information and to provide bidders with certain security requirements in advance. They must also be included in contract awards to ensure information protection practices, procedures, and protocols are included in each project's lifecycle phase. The typical requirements are:

(i) Non-Disclosure and Confidentiality Agreements (NDA). Require prospective consultants, prime vendors, or commercial enterprises to enter into a NDA with the Port Authority before obtaining a copy of a RFP. NDAs should be project and procurement specific and should be completed in a timely manner for specific types of procurements or projects. A broad or generic NDA should not normally be utilized to cover all procurements and projects under contract to a particular vendor over a long period of time, however, it may be appropriate in certain situations to utilize such a NDA, if approved by the DISO with the concurrence of the CISO. Vendors should contact the Port Authority to request authority to release the information prior to releasing RFP information to a sub-contractor. The sub-contractor may have to execute an Acknowledgement that it will comply with the terms of any NDA that the successful bidder has executed.

(ii) Background Screening. Require potential users seeking access to Confidential Information to undergo background pre-screening. The pre-screening may parallel the screening requirement used by the Port Authority to grant access to Confidential Information under Section 3.3. S.W.A.C.'s background screening is usually finalized within five to ten business days.

(iii) Designation of a Security Information Manager (SIM). Require companies involved in Confidential Information procurements or projects to designate a SIM to ensure information security and Confidential Information requirements are followed. A second employee may be designated as an alternate SIM.

(iv) Information Security Education and Awareness Training. Require consultants, vendors, contractors and commercial enterprises to attend training to ensure security awareness regarding Port Authority information.

(v) Physical Security. Outline the specific guidelines and requirements for the handling of Confidential Information to ensure that the storage and protection of Confidential Information is consistent with the requirements of Chapter 4 of this Handbook.

(vi) Transfer or Shipping Sensitive Information. Prohibit or place restrictions on the transfer, shipping, and mailing of Confidential Information consistent with the handling procedures set forth in Chapter 4 of this Handbook.

(vii) Website Restrictions. Prohibit posting, modifying, copying, reproducing, republishing, uploading, transmitting, or distributing Confidential Information on websites or web pages. This may also include restricting persons, who either have not passed a pre-screening background check, or who have not been granted access to Confidential Information, from viewing such information.

(viii) Destruction of Documents. Require Confidential Information to be destroyed using certain methods, measures or technology consistent with the requirements set forth in Chapter 4 of this Handbook.

(ix) Use of Similar Agreements Between Prime Vendor and Subcontractors. Require the prime vendor or general contractor to mandate that each of its subcontractors maintain the same levels of security required of the prime vendor or general contractor under any Port Authority awarded contract.

(x) Publication Exchanges. Prohibit the publication, exchange or dissemination of Confidential Information developed from the project or contained in reports, except between vendors and subcontractors, without prior approval of the Port Authority. Requests for approval should be routed to and reviewed by the CISO in conjunction with the Law Department and, where appropriate, Public Affairs.

(xi) Information Technology. Matters involving information technology policy, or use of particular hardware or software, should require the application of specific protocols and/or software tools to support Port Authority projects. Coordination of information technology and consultation with the CTO and the CISO may be required for the success of particular projects.

(xii) Audit. Include provisions to allow the Port Authority to conduct audits for compliance with Confidential Information procedures, protocols and practices, which may include, but not be limited to, verification of background check status, confirmation of completion of specified training, and/or a site visit to view material storage locations and protocols.

(xiii) Notification of Security Requirements. Advise all consultants, third-party contractors, and other individuals and/or entities, as may be appropriate, that Port Authority security procedure requirements may be imposed throughout the duration of the project.

(xiv) Reproduction/Copies. Reproductions of Confidential Information shall be consistent with the requirements of Chapter 4 of this Handbook.

CHAPTER 4 – MARKING, HANDLING, STORAGE, TRANSMITTAL AND DESTRUCTION REQUIREMENTS

4.1 Marking of Confidential Information

(a) Confidential Privileged Information and Confidential Information

All documents, drawings, and all other Information that contain Confidential Privileged Information or Confidential Information must be marked with the appropriate respective protective marking: "CONFIDENTIAL PRIVILEGED" (alternatively "CONFIDENTIAL AND PRIVILEGED") or "CONFIDENTIAL" (alternatively, where appropriate, Confidential Proprietary Information). The markings must be conspicuous and in bolded Arial with a 16 point font size. All copies of Confidential Information, Confidential Privileged Information, Sensitive Security Information, and Critical Infrastructure Information documents shall also bear the required markings and warnings.

The front page (or front and back cover, if appropriate) shall be marked at the top and bottom of the page. In addition, all interior pages within the document must also be marked at the top and the bottom of the page. Sets of documents large enough to be folded or rolled must be marked or stamped so that the marking is visible on the outside of the set when it is rolled or folded. The marking must be visible from the exterior container of the material, e.g., the spine of a binder, or compact disc container or cover.

All Confidential Privileged Information and Confidential Information must bear the following warning sign on its front cover, back cover, and title sheet or first page. For compact discs, DVDs or other smaller materials, the warning sign may be printed on an adhesive label and affixed to the material. It should be in 8-point font size and state:

"WARNING": The attached is the property of The Port Authority of New York and New Jersey (PANYNJ). It contains information requiring protection against unauthorized disclosure. The information contained in the attached document cannot be released to the public or other personnel who do not have a valid need to know without prior written approval of an authorized PANYNJ official. The attached document must be controlled, stored, handled, transmitted, distributed and disposed of according to PANYNJ Information Security Policy. Further reproduction and/or distribution outside of the PANYNJ are prohibited without the express written approval of the PANYNJ.

At a minimum, the attached will be disseminated only on a need to know basis and, when unattended, will be stored in a locked cabinet or area offering sufficient protection against theft, compromise, inadvertent access and unauthorized disclosure.

(b) Sensitive Security Information Requirements

Pursuant to the federal regulations governing SSI, Port Authority Confidential Privileged Information that has been designated SSI by the Federal government must be conspicuously marked with its respective protective marking "SENSITIVE SECURITY INFORMATION" on the top and the distribution limitation statement on the bottom of each page of the document

including, if applicable, the front and back covers, the title page, and on any binder cover or folder. The protective marking must be in bolded Arial 16-point font size and the distribution limitation statement must be in an 8-point font size. All copies of SSI documents must also bear the required markings.

The distribution limitation statement is:

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the TSA or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

(c) Critical Infrastructure Information

Pursuant to the federal regulations governing CII, Port Authority Confidential Privileged Information that has been marked PCII by the Department of Homeland Security PCII Program Manager or the manager's designee will be marked as follows:

This document contains PCII. In accordance with the provisions of 6 CFR Part 29, this document is exempt from release under the Freedom of Information Act (5 U.S.C. 552 (b)(3)) and similar laws requiring public disclosure. Unauthorized release may result in criminal and administrative penalties. This document is to be safeguarded and disseminated in accordance with the CII Act and the PCII Program requirements.

(d) Document Control Number for Confidential Privileged Information

Documents that have been identified as Confidential Privileged Information will be given a control number, which shall consist of the category of information followed by an acronym for the transmitting department, followed by the last 2 digits of the year, followed by a number that is sequential and, finally, followed by the copy number.

Examples:

C&P – LAW – 05 – 1 – 1

C&P – PMD – 07 – 10 – 2

The front page (or front and back cover, if appropriate) and all pages of Confidential Privileged Information shall be marked with the control number. The control number must also be visible from the exterior container of the material, e.g., the spine of a binder, or compact disc container or cover.

4.2 Handling Confidential Information

Handling refers to the physical possession of, and includes working on or with, Confidential Information to perform job duties or complete tasks or projects. This includes, but is not limited to, reading, copying, editing, creating, or correcting the material. Confidential Information in any form, including physical or electronic, must be under constant surveillance by an authorized individual to prevent it from being viewed by, or being obtained by, unauthorized persons. Confidential Information is considered to be in use when it is not stored in an approved security container.

The following is a chart of the minimum-security requirements for handling Confidential Information, and certain requirements that apply only to Confidential Privileged Information:

Minimum Security Requirements for Handling	Confidential Privileged Information	Confidential Information
Must never be left unattended outside of storage location.	X	
Must be under the direct and constant supervision of an authorized person who is responsible for protecting the information from unauthorized disclosure.	X	
Must be turned face down or covered when an unauthorized person is in the vicinity. Be cognizant of others in area that can view your computer screen.	X	X
When leaving a computer unattended ensure that the screen is locked.	X	
Attach an information cover sheet when removing materials from their place of storage.	X	
Use all means to prevent unauthorized public disclosure of information.	X	X

4.3 Transmittal of Confidential Information

Transmission refers to the sharing among individuals and/or entities, and/or the transfer or movement of Confidential Information from one location to another using either physical or electronic means. The following chart sets forth the methods by which Confidential Information should be transmitted. In all instances, Confidential Information must at all times be safeguarded and transmitted in a manner and method designed to insure that it is not disclosed, or otherwise compromised, and it should be appropriately marked with the proper identifying marking.

In general, all Confidential Privileged Information must be signed in and out, and, in certain situations as determined by the SIM or SPM, Confidential Information may be signed in and out as well. A cover sheet must be attached to the Confidential Privileged or, in certain situations as determined by the SIM, to Confidential Information and it should be marked appropriately. With respect to Confidential Privileged Information, the coversheet attached as Appendix "E" is to be utilized to draw emphasis to the fact that a document contains Confidential Privileged Information and to limit visual exposure to unauthorized individuals in near proximity. Confidential Privileged Information and, where appropriate, Confidential Information, must be wrapped and sealed. The exterior of the wrapping should not indicate that it is sensitive material, or its category, or level. Confidential Information transmitted by email must state at the top of the email in bold uppercase letters "CONFIDENTIAL INFORMATION."

Confidential Privileged Information may be transported using public modes of transportation, and a courier service may also be utilized; provided, however, that the sign in and sign out procedures will apply, as well as wrapping and sealing procedures. All packages must be sealed in a manner that easily identifies whether the package has been opened prior to delivery to the intended recipient. The use of a double wrapped/enveloped package or a tamper resistant envelope must be used to fulfill this requirement. Protective markings are not to be placed on the outer visible envelope. If using a double wrapped package or two envelopes, the inner wrapping or envelope should be marked in accordance with appropriate category designation. The package must be addressed to an individual who is authorized to receive it or, preferably, to the SIM. All packages must contain a specific individual's name on the shipping label. Where appropriate any of the foregoing requirements may also be required in handling Confidential Information and can be provided for generally in the department's CIPP, or as required by the DISO and/or SIM with respect to handling such information in specific instances.

Minimum Security Requirements for Transmission	Confidential Privileged Information	Confidential Information
Verbally at a meeting, conference or briefing where all attendees have the appropriate security clearance	X	X
Electronic Systems: restrict to the Livelink ² network or a similar secure repository	X	
Electronic Mail: restricted from using e-mail accounts to transmit unless expressly permitted by the SIM in writing	X	
Hand Carried or delivered in the personal custody of Port Authority employee: (a) request return receipt (b) place in sealed envelope, and (c) name of recipient, department, address and phone number must be written on face of envelope	X	
Approved Commercial Delivery Service (e.g., DHL, FedEx, UPS): (a) request return receipt, (b) verify recipient name and mailing address, (c) place in a sealed envelope, and (d) the exterior of a		

² Livelink is a secure repository for the records of a project.

mailing document shall not indicate the security category of the material contained therein	X	X
Use of USPS Certified Mail: (a) request return receipt, (b) verify recipient name and mailing address, and (c) the exterior of a mailing document shall not indicate the security category of the material contained therein	X	X
Intra-agency Mail System (a) request return receipt (b) place in sealed envelope, (c) name of recipient, department, address and phone number must be written on face of envelope, and (d) the exterior of a mailing document shall not indicate the security category of the material contained therein	X	X (b, c, d only)
Telephone: restricted from using a telephone to transmit, unless expressly permitted by SIM in writing. If approved: (a) use all means to prevent unauthorized public disclosure, and (b) may not use cell phone	X	
Fax Machine: restricted from using fax machine to transmit unless expressly permitted by the SIM in writing. If approved: (a) prior coordination with recipient required, (b) verify recipient fax number, (c) receipt of successful transmission, and (d) follow-up contact required	X	X(a,b,c only)

Steps for transmittal of a "hard copy" of all Confidential Privileged Information and, when required, for Confidential Information:

- Step 1. Make certain that documents are properly marked: "CONFIDENTIAL PRIVILEGED" or "CONFIDENTIAL," according to its designated category.
- Step 2. Prepare Transmittal Receipt (Appendix "F").
- Step 3. Place document in envelope with the Transmittal Receipt, seal envelope, mark the inner envelope CONFIDENTIAL PRIVILEGED or CONFIDENTIAL, place envelope in second envelope (outer), this envelope shall not contain any protective markings.
- Step 4. Address envelope to an individual who is authorized to receive it.
- Step 5. Mail document.
- Step 6. The Transmittal Receipt shall be returned to the party who initially sent the item.

When hard copies of 8 1/2 " X 11" multi-page documents include threat scenarios, asset criticality information, identification of security vulnerability details, risk assessments, design

basis threats and concepts of operations are distributed, this information is to be bound using heat sensitive binding to prevent individual sheets from being removed from a set.

4.4 Storage of Confidential Information

Steps should be taken to prevent unauthorized access to Confidential Information. Confidential Information should be kept in a locked storage room or a locked security container, such as a drawer, cabinet or safe-type file that has a locking mechanism, and must be vandalism resistant. The DISO will periodically review the departmental storage vehicles and mechanisms and determine their appropriateness for the information being stored. Confidential Information should be gathered and stored in a minimum number of office locations and Confidential Privileged Information must never be left unattended outside its storage location. A storage space or security container/receptacle may not be left open and unattended at any time. At no time should Confidential Information be stored, even for short periods, in unauthorized desk drawers, file cabinets, or other unsecured locations. The CISO may require that certain information be kept in a safe in a designated central location(s).

Combinations or locks for each security container must be changed or replaced when a person having knowledge of the combination or possession of a lock key no longer requires it, or there is reason to suspect that the combination has been tampered with, or that an unauthorized person may have acquired knowledge of the combination, or that a lock key is in the possession of an unauthorized person. Keys and combination locks protecting Confidential Information must be protected at the same level of protection as paper documents. The "Guidelines for the Storage of Confidential Information" attached as Appendix "G" provides further detailed information and instructions.

Confidential Privileged Information and, where appropriate Confidential Information, may not be stored at any individual's home overnight for a meeting the following day without prior authorization of the SIM or DISO.

Downloading of any Confidential Privileged Information and Confidential Information carries with it the responsibility to protecting that information in accordance with the procedures identified in this Handbook. The possessor of the electronic file assumes full responsibility for the proper handling, storage and transmittal of this Confidential Privileged Information and Confidential Information.

4.5 Document Accountability Log

All entities, Port Authority Departments and third-parties having Confidential Information in their possession will have a system in place that will account for the material in such a manner that retrieval is easily accomplished for inspection. The accountability log shall be maintained by the DISO, or the SPM, or SIM, where applicable, and include:

- The date that a document was received or created
- The identity of the sender or creator
- A brief description of the document
- The Control Number, if Confidential Privileged Information
- Number of copies

- Transmission history (sent to whom, when)
- If applicable at the time of the inspection, a Port Authority Records Destruction Certification (PA Form #283) stating that the document has been destroyed (including, when, by whom and the method), or a Certification that the document has been returned to the Port Authority.

4.6 Reproduction

Confidential Information should only be reproduced to the minimum extent necessary to carry out an individual or entity's responsibilities. However, the reproduced material must be marked and protected in the same manner and to the same extent as the original material. Authorized individuals must perform all reproduction work. Print and reproduction locations are limited to Port Authority sites, or, when appropriate, to authorized consultant and/or third-party contractor work site equipment. The CISO may require that the work site should limit reproduction of Confidential Information to a particular copying machine with technological capabilities limited to copying (not scanning or storing etc.). Service providers, authorized by the responsible SIM or DISO where appropriate, may be used for this task if the information remains safeguarded throughout the process. Each reproduction of Confidential Information shall contain all security markings, instructions, etc., as set forth in Section 4.1. All scraps, over-runs, and waste products resulting from reproduction shall be collected and processed for proper disposal.

4.7 Destruction of Confidential Information

All Confidential Information that is no longer needed shall be disposed of as soon as possible, consistent with the Port Authority's Record Retention Policy, by any method that prevents its unauthorized retrieval or reconstruction. The individuals who had been granted access to Confidential Information must perform the actual destruction. Authorized service providers may be used for this task provided that the information remains safeguarded until the destruction is completed. Paper products must be destroyed using a cross cut shredder located in the office. As previously noted in Section 4.5, a Port Authority Records Destruction Certificate (PA Form #283) must be provided to the DISO, SPM or SIM for any document being destroyed, including original or copies thereof, and provided to the CISO for final approval by the Secretary or her/his designee. In addition to the requirements in this Handbook, all Departments shall continue to comply with the Port Authority Records Program (A.P. 15-2.02). Where Confidential Information is no longer needed, but the Port Authority Records Program requires retention of the original, the original Confidential document shall be retained by the CISO and all copies are to be destroyed in accordance with this section. The "Guidelines for the Disposal and Destruction of Confidential Privileged Information" attached as Appendix "H" provides further detailed information and instruction.

Since deleted electronic files can be recoverable by utilizing software tools, Confidential Information stored in electronic form needs to be erased and destroyed with methods that comply with the US Department of Defense standards for file secure erasure (DoD 5220.22). Therefore, CyberScrub or a similar software shall be used to prevent discovery by a computer technician or other unauthorized person. With respect to Port Authority staff, individual staff shall contact the Technology Services Department ("TSD") to make a request that Confidential Information be permanently removed from a computer. This request shall be made by providing relevant information on a TSD form through the Internet or by email.

CHAPTER 5 – AUDITING AND MONITORING

5.1 Purpose

The ISSC, Audit and/or OIG may conduct random or scheduled examinations of business practices under the Policy in order to assess the extent of compliance with the Policy. The Policy's self-assessment and audit processes enable management to evaluate the Policy's uniformity throughout the Port Authority and of third parties' practices, in order to identify its strengths and potential exposures, and to help guide evolving policy objectives.

5.2 Audits and Investigations

Audits conducted by the ISSC and/or Audit may be scheduled in advance. The chief, department director, project manager, company liaison or contract representative of the organization being assessed should receive prior notice of the date of the assessment and also be advised as to what the assessment will consist of. A copy of the current version of the Audit Procedures guidelines, attached as Appendix "H", should be provided to the particular entity(ies) in order to allow adequate time to undertake appropriate pre-review and preparation action. The Audit Procedures guidelines should guide the ISSC and/or Audit through the assessment process. This Guideline is not all-inclusive and may be amended, as necessary. Organizations, departments, units, or third parties, preparing for an ISSC and/or Audit visit are encouraged to contact the CISO prior to the scheduled visit date in order to inquire and obtain additional information about the process.

The ISSC and/or Audit may also conduct information security assessments without prior notice and/or unannounced investigations coordinated through the Office of the General Counsel and the Office of Inspector General, as it may deem necessary and appropriate. Where appropriate, the CISO should be advised of the existence of such an investigation and, if appropriate, its nature.

The ISSC and/or Audit approach to conducting an assessment should consist of three phases (i) personnel interviews, (ii) site assistance visits, and (iii) corrective action follow-up.

(i) Personnel Interviews

The interview(s) should focus on the department, business unit, organization or third party's compliance with the Policy, how engaged the interviewee is with the Policy, and the level of education and awareness the interviewee has about the Policy. Employees, consultants, third-party contractors, and other individuals and/or entities should be included as potential interviewees. Personnel interviews should encompass a wide range of individuals who are regularly engaged with the Policy, as well as those having less involvement in it. This allows the ISSC to develop a balanced understanding regarding Policy compliance and effectiveness, as well as its impact on the organization and enable it both to identify concerns and issues regarding the Policy, and to solicit recommendations for possible improvements to the Policy.

(ii) Site Assistance Visits

The ISSC and/or Audit site visit should focus on a hands-on review of the following processes and procedures: document safeguards, handling protocols, transmission practices, control number usage, document marking, receipt and copying practices, and disposal of Confidential Information procedures. The visit should also include compliance reviews of the security clearance access criteria, document accountability audits, conditions regarding information access, background check processes, Authorized Personnel Clearance Lists updates, Confidential Information material sign out and sign in records, and the information security education awareness training program.

(iii) Follow-up

Policy compliance deficiencies noted during the assessments should be provided by the ISSC and/or Audit through the CISO to the department head, chief, project manager, consultant, third-party contractor liaison/representative, other agency staff, and the respective DISO, SPM, or SIM for corrective action. The ISSC, through the CISO, may also follow-up on investigation results to determine corrective actions and Policy compliance. The ISSC may also recommend the imposition of any penalties or disciplinary action that are described in Chapter 6.

With the assistance of the respective DISO, SPM, or SIM, a plan with milestones should be developed with the intention of correcting any identified deficiencies. A return site assistance visit may be scheduled in order to re-assess earlier identified deficiencies. The respective DISO, SPM, or SIM should forward a periodic corrective action progress report to the CISO as part of the milestone monitoring.

5.3 Self-Assessment

Department heads, chiefs, managers, supervisors, DISOs, SPMs or SIMs should conduct an annual self-assessment of their unit's Policy compliance using the Audit Procedures Guidelines. The results will not be forwarded to the CISO, Audit or ISSC, but should be used as a tool to gauge compliance before regular assessments are conducted. The results should be available for inspection and any serious findings should be forwarded to the CISO.

CHAPTER 6 – POLICY VIOLATIONS AND CONSEQUENCES

6.1 Responsibilities

Anyone having knowledge of any infraction, violation or breach of the Policy is required to report it to the OIG and to their supervisor, who shall in turn report the same to the DISO. The CISO shall have the final decision with respect to the violation determinations and/or the recommended course of action to be taken, consistent with Port Authority policy, practices and legal requirements referenced in this section.

All individuals who have been reported as having violated the Policy may be temporarily denied access to Confidential Information and/or have their security clearance suspended until an investigation is completed.

6.2 Violations, Infractions, or Breach of Information Security Protocols

Due to any number of unintended circumstances or, other conditions beyond the control of an individual, Confidential Information could be subject to compromise or loss. For example, an individual may unintentionally discard Confidential Information, mislabel Confidential Information, sent through the internal mail routing system, or drop or inadvertently leave Confidential Information in a public place. Intentional disclosure of Confidential Information to unauthorized individuals for personal gain, or to otherwise make available for unauthorized public release, may also occur. Violations, infractions and breaches of the Policy will be reviewed on a case-by-case basis to determine the facts and circumstances surrounding each incident.

6.3 Violation Reporting, Investigation and Fact Finding

Individuals must report alleged or suspected violations, infractions or breaches of the Policy to the OIG and to their supervisor or manager. The supervisor or manager must refer the issue and/or the individual to the DISO. The DISO, in consultation with the CISO and OIG, will determine whether an investigation into the allegations or other appropriate action is warranted. The CISO will consult with the OIG on these matters and the OIG will determine whether to undertake its own separate investigation into the matter. Individuals and/or entities must cooperate with all authorized investigations of any act, omission or occurrence relating to Port Authority property, information, materials, and, in the case of Port Authority employees, and if applicable, must comply with the Agency General Rules and Regulations. (See *“General Rules and Regulations for all Port Authority Employees.”* Port Authority of New York and New Jersey, April 1990.)

6.4 Disciplinary Action

The following is a list of Policy violations and the respective disciplinary actions that may be taken against any individual and/or entity, having authorized access to Confidential Information, who violates their responsibilities in handling such information:

- a) Non-deliberate violations involving negligence and/or carelessness, such as leaving Confidential Information unattended.

First Offense: Verbal reprimand and security briefing.

Second Offense: Written reprimand and/or a security briefing and possible suspension or termination of access privileges, depending on the circumstances.

Third Offense - Termination of access and possible imposition of civil penalties. Where the offense involves a Port Authority employee, disciplinary action may also be taken.

- b) Non-deliberate violation involving negligence and/or carelessness such as misplacing or losing a document.

First Offense - Written reprimand and/or a security briefing, and possible suspension or termination of access privileges, depending on the circumstances, and possible imposition of a civil penalty. Where the offense involves a Port Authority employee, disciplinary action may also be taken.

Second Offense - Dismissal or termination of access privileges, and, depending on the circumstances, the imposition of a civil penalty, and possible legal action against the violator. Where the offense involves a Port Authority employee, disciplinary action may also be taken including suspension with forfeiture of up to one year's personal and vacation time allocation.

- c) For cases of deliberate disregard of security procedures or gross negligence in handling Confidential Information.

First Offense – Suspension or termination of access privileges, termination of an agreement or contract, written reprimand, imposition of a civil penalty depending on the circumstances, and possible legal civil and/or criminal action against the violator. Where the offense involves a Port Authority employee, disciplinary action may be taken up to and including termination of employment. Termination of access privileges will be for a period of one year at minimum and may be permanent, subject to review by the CISO.

The Port Authority may also impose investigation costs and/or a monitor to oversee future compliance with its security policies and practices at the violator's expense, when the violation is by a consultant, vendor contractor or other third party. Nothing herein is construed to limit the Port Authority's right to exercise or take other legal rights and remedies including terminating agreements with a third party violator and/or refusing to enter into future business relationships with the violator and/or seeking such legal action, as it may deem appropriate, including injunctive, civil actions for monetary damages and/or seeking criminal prosecution of the violator(s).

In addition, any violation relating to SSI or CII will be reported to the TSA, the OIG, and/or, if applicable, DOT, USCG or DHS. Penalties and other enforcement or corrective action may be taken as set forth in relevant statutes, rules and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and directions to cease future unauthorized disclosure. Applicable Federal Regulations, including, without limitation, 49 C.F.R. § 15.17 and 1520.17 and 6 CFR Part 29, provide that any such violation thereof or mishandling of information therein defined may constitute grounds for a civil penalty and other enforcement or corrective action being taken by the DOT, TSA and/or DHS.

CHAPTER 7 – INFORMATION SECURITY EDUCATION AND AWARENESS TRAINING

7.1 Purpose

Information security education and awareness training ensures that all personnel requiring access to Confidential Information, regardless of position or grade level, have an appropriate understanding of the need to adhere to security procedures in order to protect Confidential Information. The goal of the training program is basically to provide that all such employees, consultants, third-party contractors, other individuals, entities and/or, where appropriate, third parties develop essential security habits and thereby ensure that all personnel handling Confidential Information understand and carry out the proper handling protocols for those materials.

7.2 Overview

The CISO is responsible for implementing the Information Security Education and Awareness Training Program (the "Training Program"). The Training Program, with assistance from the Office of Inspector General, DISO, SPM and SIM, should be provided to all employees, consultants, third-party contractors, and other agency personnel requiring access to Confidential Information. These individuals, regardless of rank or position in a particular organization, must complete initial indoctrination and annual refresher training. The CISO, with the concurrence of the Law Department, may waive this requirement for certain individuals. A current list containing the names of all persons who completed training will be developed and retained by the CISO. The CISO shall ensure that all employees have complied with the requisite Training Program.

7.3 Training Program Elements

The Training Program consists of three interconnected elements: (a) indoctrination training, (b) orientation training, and (c) annual refresher training. Each element provides employees, consultants, third-party contractors, and other agency personnel with a baseline of knowledge, as well as periodic updates, about the existing and current Policy. Each element of the Training Program contributes another level of information to the individual. At a minimum, all individuals must receive the indoctrination training and the annual refresher training.

(a) Indoctrination Training

Indoctrination Training provides personnel with the fundamentals of the Training Program. It should be completed when beginning employment or assignment to a project for the Port Authority, but no later than sixty (60) days after initial hire, or after commencing work on a project. It may be combined with other types of new employee indoctrination programs. Individuals completing this level of training should understand the basic organization of the Policy, the Policy definitions, what materials are defined as Confidential Information under the Policy, how to identify Confidential Information (security category levels and markings), the general criteria and conditions required in order to be granted a security clearance, procedures for categorizing documents, the obligation to report suspected and alleged policy violations, and the penalties for non-compliance with the policy and for unauthorized disclosure of Confidential Information.

(b) Orientation Training

Orientation Training focuses on the more specific protocols, practices and procedures for individuals whose roles and responsibilities involve reading, using, safeguarding, handling, and disposing of Confidential Information. Individuals assigned such responsibilities should complete this level of training. Orientation training should be conducted prior to assignment to a department, project, task, or other special assignment, where the individual is expected to become involved with receiving and handling Confidential Information. Individuals completing this level of training should be introduced to the DISO, SPM, or SIM, understand the organizational elements of the Policy, know how to process Confidential Information, know the different security categories under their control or within their assigned work environment, know how to identify proper safeguarding protocols, including hardware needs, and understand the differences between general access privileges and the need to know requirement for access to particular information. Individuals should also read and acknowledge their understanding of the requirements.

(c) Annual Refresher Training

Once a year, during the anniversary month of the individual's start date on a project, or initial access to Confidential Information, all employees, consultants, third-party contractors, and other individuals and/or entities, who continue to have access to sensitive materials, should receive an information security education and awareness training refresher briefing to enhance their information security awareness. At a minimum, the annual refresher training should include indoctrination and orientation topic training, as well as key training on recent Policy changes or other appropriate information. Also, this milestone may be used to reaffirm the individual's need for a security clearance or to determine whether the individual requires a periodic update of their background check.

(d) Other Circumstances and Special Briefings

If a Port Authority employee, consultant, third-party contractor, or other individual and/or entity transfers to another department, is promoted within his or her department, or changes employers on the same project without a break in service, and can provide a record of completion of indoctrination training within the previous twelve months, only annual refresher training may be required. All other situations demand that an individual requiring access to Confidential Information fulfill the conditions for information security education and awareness training under this Policy.

In addition to reading and signing a NDA or an Acknowledgment of an existing NDA, or, alternatively, being subject to a NDI, temporary or one-time access individuals should be fully briefed on the limitations on access to Confidential Information and the penalties associated with the unauthorized disclosure, before being granted access to such information.

Special briefings may be provided on a case-by-case basis, as circumstances may require.

APPENDIX A-1

**NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN**

(INSERT NAME OF COMPANY)

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "Agreement") is made as of this 8th day of September, 2010, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "Port Authority") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and Yonkers Contracting Company having an office and place of business at 969 Midland Ave Yonkers, NY 10704 (address) ("Recipient").

WHEREAS, the Port Authority desires, subject to the terms and conditions set forth below, to disclose to Recipient Confidential Information (as defined below) in connection with _____ (insert description of project/work) (collectively, the "Project(s)", or "Proposed Project(s)"); and

WHEREAS, the Recipient acknowledges that the Port Authority, in furtherance of its performance of essential and critical governmental functions relating to the Project, has existing and significant interests and obligations in establishing, maintaining and protecting the security and safety of the Project site and surrounding areas and related public welfare matters; and

WHEREAS, in furtherance of critical governmental interests regarding public welfare, safety and security at the Project site, the Port Authority has collected information and undertaken the development of certain plans and recommendations regarding the security, safety and protection of the Project site, including the physical construction and current and future operations; and

WHEREAS, the Port Authority and Recipient (collectively, the "Parties") acknowledge that in order for Recipient to undertake its duties and/or obligations with regard to its involvement in the Project, the Port Authority may provide Recipient or certain of its Related Parties (as defined below) certain information in the possession of the Port Authority, which may contain or include confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, relating to the Project or its occupants or other matters, the unauthorized disclosure of which could

result in significant public safety, financial and other damage to the Port Authority, the Project, its occupants, and the surrounding communities; and

WHEREAS, Recipient recognizes and acknowledges that providing unauthorized access to, or disclosing such information to third parties in violation of the terms of this Agreement could compromise or undermine the existing or future guidelines, techniques and procedures implemented for the protection against terrorist acts or for law enforcement, investigation and prosecutorial purposes, and accordingly could result in significant irreparable harm and injury; and

WHEREAS, in order to protect and preserve the privilege attaching to and the confidentiality of the aforementioned information as well as to limit access to such information to a strict need to know basis, the Port Authority requires, as a condition of its sharing or providing access to such confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, that the Recipient enter into this Agreement and that its Related Parties thereafter acknowledge and agree that they will be required to treat as strictly confidential and/or privileged any of such information so provided, as well as the work product and conclusions of any assessments and evaluations or any recommendations relating thereto, and to also fully comply with applicable federal rules and regulations with respect thereto; and

WHEREAS, as a condition to the provision of such information to Recipient and certain Related Parties, the Recipient has agreed to enter into this Agreement with respect to the handling and use of such information and to cause Related Parties to join in and be bound by the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the provision by Port Authority of Information for Project Purposes (as each such term is defined below) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Recipient and each Related Party that receives such Information, the Recipient and each such Related Party agrees, as follows:

1. **Defined Terms.** In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

“Authorized Disclosure” means the disclosure of Confidential Information strictly in accordance with the Confidentiality Control Procedures applicable thereto: (i) as to all Confidential Information, only to a Related Party that has a need to know such Confidential Information strictly for Project Purposes and that has agreed in writing to be bound by the terms of this Agreement by executing a form of Acknowledgment as set forth in Exhibit A; and (ii) as to Confidential Privileged Information, only to the extent expressly approved in writing and in advance by the Port Authority, and then only the particular Confidential Privileged Information that is required to accomplish an essential element of the Project.

“Confidential Information” means and includes collectively, Confidential Proprietary Information, Confidential Privileged Information, and Information that

is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such Information is confidential, privileged, sensitive or proprietary in nature. The term Confidential Information shall also include all work product that contains or is derived from any of the forgoing, whether in whole or in part, regardless of whether prepared by the Recipient, the Port Authority or others. The following Information shall not constitute Confidential Information for the purpose of this Agreement:

Particular Information, other than Confidential Privileged Information, that is provided to the Recipient by a source other than the Port Authority, provided that such source is not subject to a confidentiality agreement, or similar obligation, or understanding with or for the benefit of the Port Authority, with respect to such Information and that the identity of such source is not itself part of such Confidential Information.

Information that is or becomes generally available to the public other than as a result of a disclosure by the Recipient or a Related Party in violation of this Agreement.

"Confidential Privileged Information" means and includes collectively, (i) any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York, and/or New Jersey state laws or Federal laws, (ii) Critical Infrastructure Information, (iii) Sensitive Security Information, and (iv) Limited Access Safety and Security Information.

"Confidential Proprietary Information" means and includes Information that contains financial, commercial or other proprietary, business information concerning the Project, the Port Authority, or its facilities.

"Confidentiality Control Procedures" means procedures, safeguards and requirements for the identification, processing, protection, handling, care, tracking and storage of Confidential Information that are required under applicable federal or state law, the Port Authority Handbook, or by the terms of this Agreement.

"Critical Infrastructure Information" (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII," as provided for in the referenced rules and regulations and any amendments thereto.

“Information” means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

“Limited Access Safety and Security Information” means and includes sensitive Information, the disclosure of which would be detrimental to the public interest and might compromise public safety and/or security as it relates to Port Authority property, facilities, systems and operations, and which has not otherwise been submitted for classification or designation under any Federal laws or regulations.

“Port Authority Handbook” means the Port Authority of N.Y. & N.J. Information Security Handbook, a copy of which is attached hereto as Exhibit B, as may be amended by the Port Authority, from time to time.

“Project Purposes” means the use of Confidential Information strictly and only for purposes related to Recipient’s and its Related Parties’ participation and involvement in the Project, and only for such period of time during which Recipient and its Related Parties are involved in Project related activities.

“Related Party” and **“Related Parties”** means the directors, employees, officers, partners or members of the Recipient, as applicable, and the Recipient’s outside consultants, advisors, accountants, architects, engineers or subcontractors or subconsultants (and their respective directors, employees, officers, partners or members) to whom any Confidential Information is disclosed or made available.

“Sensitive Security Information” has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119) and any amendments thereto.

2. Use of Confidential Information. All Confidential Information shall be used by the Recipient in accordance with the following requirements:

All Confidential Information shall be held in confidence and shall be processed, treated, disclosed and used by the Recipient and its Related Parties only for Project Purposes and in accordance with the Confidentiality Control Procedures established pursuant to Paragraph 2(c), below, including, without limitation, the Port Authority Handbook, receipt of which is acknowledged by Recipient and shall be acknowledged in writing by each Related Party by signing the Acknowledgment attached hereto as Exhibit A, and applicable legal requirements. Confidential Information may be disclosed, only if and to the extent that such disclosure is an Authorized Disclosure.

Recipient and each Related Party acknowledges and agrees that (i) any violation by the Recipient or any of its Related Parties of the terms, conditions or restrictions of this Agreement relating to Confidential Information may result in penalties and other enforcement or corrective action as set forth in such statutes and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and to cease future unauthorized disclosure and (ii) pursuant to the aforementioned Federal Regulations, including, without limitation, 49 C.F.R. §§ 15.17 and 1520.17, any such violation thereof or mishandling of information therein defined may constitute grounds for a civil penalty and other enforcement or corrective action by the United States Department of Transportation and the United States Department of Homeland Security, and appropriate personnel actions for Federal employees.

Recipient and each Related Party covenants to the Port Authority that it has established, promulgated and implemented Confidentiality Control Procedures for identification, handling, receipt, care, and storage of Confidential Information to control and safeguard against any violation of the requirements of this Agreement and against any unauthorized access, disclosure, modification, loss or misuse of Confidential Information. Recipient and each Related Party shall undertake reasonable steps consistent with such Confidentiality Control Procedures to assure that disclosure of Confidential Information is compartmentalized, such that all Confidential Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Agreement and applicable Confidentiality Control Procedures. The Confidentiality Control Procedures shall, at a minimum, adhere to, and shall not be inconsistent with, the procedures and practices established in the Port Authority Handbook.

The Port Authority may request in writing that the Recipient or any Related Parties apply different or more stringent controls on the handling, care, storage and disclosure of particular items of Confidential Information as a precondition for its disclosure. The Port Authority may decline any request by the Recipient or any of its Related Parties to provide such item of Confidential Information if the Recipient or any of the Related Parties do not agree in writing to apply such controls.

Nothing in this Agreement shall require the Port Authority to tender or provide access to or possession of any Confidential Information to the Recipient or its Related Parties, whether or not the requirements of this Agreement are otherwise satisfied. However, if such Confidential Information is provided and accepted, the Recipient and its Related Parties shall abide by the terms, conditions and requirements of this Agreement.

The Recipient and each Related Party agrees to be responsible for enforcing the provisions of this Agreement with respect to its Related Parties, in accordance with the Confidentiality Control Procedures. Except as required by law pursuant

to written advice of competent legal counsel, or with the Port Authority's prior written consent, neither the Recipient, nor any of the Related Parties shall disclose to any third party, person or entity: (i) any Confidential Information under circumstances where the Recipient is not fully satisfied that the person or entity to whom such disclosure is about to be made shall act in accordance with the Confidentiality Control Procedures whether or not such person or entity has agreed in writing to be bound by the terms of this Agreement or any "Acknowledgement" of its terms or (ii) the fact that Confidential Information has been made available to the Recipient or such Related Parties, or the content or import of such Confidential Information. The Recipient is responsible for collecting and managing the Acknowledgments signed by Related Parties pursuant to this Agreement. Recipient shall, at the Port Authority's request, provide the Port Authority a list of all Related Parties who have signed an Acknowledgment, and copies of such Acknowledgments.

As to all Confidential Information provided by or on behalf of the Port Authority, nothing in this Agreement shall constitute or be construed as a waiver of any public interest privilege or other protections established under applicable state or federal law.

3. Disclosures and Discovery Requests. If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law seeking disclosure of the Confidential Information is received by the Recipient or any Related Party, Recipient shall notify the Port Authority thereof with sufficient promptness so as to enable the Port Authority to investigate the circumstances, prepare any appropriate documentation and seek to quash the subpoena, to seek a protective order, or to take such other action regarding the request as it deems appropriate. In the absence of a protective order, disclosure shall be made, in consultation with the Port Authority, of only that part of the Confidential Information as is legally required to be disclosed. If at any time Confidential Information is disclosed in violation of this Agreement, the Recipient shall immediately give the Port Authority written notice of that fact and a detailed account of the circumstances regarding such disclosure to the Port Authority.

4. Retention Limitations; Return of Confidential Information. Upon the earlier occurrence of either the Port Authority's written request or completion of Recipient's need for any or all Confidential Information, such Confidential Information, all writings and material describing, analyzing or containing any part of such Confidential Information, including any and all portions of Confidential Information that may be stored, depicted or contained in electronic or other media and all copies of the foregoing shall be promptly delivered to the Port Authority at Recipient's expense. In addition, as to Confidential Information that may be stored in electronic or other form, such Confidential Information shall be completely removed so as to make such Confidential Information incapable of being recovered from all computer databases of the Recipient and all Related Parties. The Recipient may request in writing that the Port Authority

consent to destruction of Confidential Information, writings and materials in lieu of delivery thereof to the Port Authority. The Port Authority shall not unreasonably withhold its consent to such request. If the Port Authority consents to such destruction, the Recipient and each Related Party shall deliver to the Port Authority a written certification by Recipient and such Related Party that such Confidential Information, writings and materials have been so destroyed within such period as may be imposed by the Port Authority. Notwithstanding the foregoing, to the extent required for legal or compliance purposes, the Recipient may retain a copy of Confidential Information, provided that (a) the Port Authority is notified in writing of such retention, and (b) Recipient continues to abide by the requirements of this Agreement with respect to the protection of such Confidential Information.

5. Duration and Survival of Confidentiality Obligations. The obligations under this Agreement shall be perpetual (unless otherwise provided in this Agreement) or until such time as the Confidential Information is no longer considered confidential and/or privileged by the Port Authority.

6. Severability. Each provision of this Agreement is severable and if a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

7. Injunctive and Other Relief. Recipient and each Related Party acknowledges that the unauthorized disclosure and handling of Confidential Information is likely to have a material adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its facilities (including, without limitation, the Project site), its patrons and the general public and that damages at law are an inadequate remedy for any breach, or threatened breach, of this Agreement by Recipient or its Related Parties. The Port Authority shall be entitled, in addition to all other rights or remedies, to seek such restraining orders and injunctions as it may deem appropriate for any breach of this Agreement, without being required to show any actual damage or to post any bond or other security.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws principles. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient specifically and irrevocably consent to the exclusive jurisdiction of any federal or state court in the County of New York and State of New York with respect to all matters concerning this Agreement and its enforcement. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient agree that the execution and performance of this Agreement shall have a New York situs and, accordingly, they each consent (and solely with respect to the Port Authority, subject to the terms of the Port Authority Legislation (as defined below)) to personal jurisdiction in the State of New York for all purposes and proceedings arising from this Agreement. "**Port Authority Legislation**" shall mean the concurrent legislation of the State of New York and State of New Jersey set forth at Chapter 301 of the Laws of New York of 1950, as amended by Chapter 938 of the Laws

of New York of 1974 (McKinney's Unconsolidated Laws §§7101-7112) and Chapter 204 of the Laws of New Jersey of 1951 (N.J.S.A. 32:1-157 to 32:1-168).

9. Notices. Any notice, demand or other communication (each, a “notice”) that is given or rendered pursuant to this Agreement by either party to the other party, shall be: (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered by either (x) hand delivery, or (y) nationally recognized courier service (e.g., Federal Express, Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given by its counsel.

The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it, provided that such designation must be made by notice given in accordance with this Paragraph 0.

If to the Port

Authority:

The Port Authority of New York and New Jersey
225 Park Avenue South, ___th Floor
New York, NY 10003

with a copy to:

The Port Authority of New York and New Jersey
225 Park Avenue South - 15th Floor
New York, NY 10003
Attn: General Counsel

If to the Recipient: _____

with a copy to: _____

10. Entire Agreement. This Agreement contains the complete statement of all the agreements among the parties hereto with respect to the subject matter thereof, and all prior agreements among the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect. This Agreement may not be changed, modified, discharged, or terminated, except by an instrument in writing signed by all of the parties hereto.

11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be one and the same document.

12. Parties Bound. This Agreement shall be binding upon the Recipient and its respective successors. The foregoing shall not be affected by the failure of any Related Party to join in this Agreement or to execute and deliver an Acknowledgement hereof.

13. Authority. The undersigned individual(s) executing this Agreement on behalf of the Recipient below represent(s) that they are authorized to execute this Agreement on behalf of the Recipient and to legally bind such party.

14. Disclosure of Ownership Rights or License. Nothing contained herein shall be construed as the granting or conferring by the Port Authority of any rights by ownership, license or otherwise in any Information.

15. No Liability. Neither the Commissioners of the Port Authority, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Recipient with any liability, or held liable to the Recipient under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach, or attempted or alleged breach thereof.

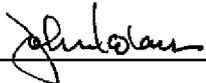
16. Construction. This Agreement is the joint product of the parties hereto and each provision of this Agreement has been subject to the mutual consultation, negotiation, and agreement of the parties hereto, and shall not be construed for or against any party hereto. The captions of the various sections in this Agreement are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such Sections.

[No further text on this page; signatures appear on next page]

IN WITNESS WHEREOF, the Recipient has executed this Agreement as of the date first above written.

Dated: New York, New York
September 8, 2010

RECIPIENT:



By: John Kolaja

Title: Exec VP

Date: 9/8/10

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, _____ (name of authorized signatory), is the _____ (Title) of _____ (name of entity), a _____ (type of entity and jurisdiction of formation) ("**Related Party**"), located at _____ (address of entity), and is duly authorized to execute this Acknowledgment on behalf of the above Related Party. The above Related Party is involved with the functions of _____ (describe scope of work of Related Party) in _____ connection with _____ (describe Project) for The Port Authority of New York and New Jersey (the "**Port Authority**"). I acknowledge and confirm that the above named Related Party has been provided with a copy of and shall be bound and shall abide by all of the terms, requirements and conditions set forth in the Non Disclosure and Confidentiality Agreement dated _____, _____, between _____ (the "**Recipient**") and the Port Authority (hereinafter the "**Agreement**"), and by the Port Authority Handbook described in the Agreement. Appropriate and responsible officers and employees of the Related Party have carefully read and understand the terms and conditions of the Agreement. The Related Party has notice and acknowledges that any breach or violation of such terms, requirements and conditions may result in the imposition of remedies or sanctions as set forth or otherwise described therein against such Related Party.

Signed: _____

Print Name: _____

Title: _____

Date: _____

ACKNOWLEDGMENT BY RELATED PARTY INDIVIDUAL

I, _____ (name of employee) ("**Related Party**"), am employed as a(n) _____ (job title) by _____ (name of employer). I have been provided with and have read the Non Disclosure and Confidentiality Agreement between _____ (the "**Recipient**") and The Port Authority of New York and New Jersey (the "**Port Authority**") dated _____, _____ (hereinafter the "**Agreement**"), and the Port Authority Handbook attached to the Agreement. I understand that because of my employer's relationship with _____ (name of Recipient, or the Port Authority if Related Party Individual is an employee of Recipient), both my employer and I may be provided with access to, and/or copies of, sensitive security materials or confidential information. If it is required for me to review or receive Confidential Information, as it is defined in the aforementioned Agreement, I acknowledge that I will be bound by each and every term and provision contained therein, and that failure to do so may include, but is not limited to, the imposition of disciplinary action and sanctions, and/or the institution of legal action seeking injunctive relief, monetary and/or criminal penalties for violation of law and/or Port Authority policies and procedures, as well as for violation of federal and/or state regulations.

To the extent that I am currently in the possession of, or have previously come into contact with, marked information as it relates to the aforementioned Agreement, I agree to conform my handling procedures for Confidential Information to the practices and procedures set forth and defined herein, or risk loss of access to said Information, removal from said Project and/or subjecting myself to the aforementioned disciplinary actions and/or civil and criminal penalties.

Signed: _____
Print Name: _____
Title: _____
Date: _____

APPENDIX A-2

**NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN**

(INSERT NAME OF COMPANY)

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this ____ day of _____, 20__, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "**Port Authority**") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and _____ having an office and place of business at _____ (address) ("**Recipient**").

WHEREAS, the Port Authority desires, subject to the terms and conditions set forth below, to disclose to Recipient Confidential Information (as defined below) in connection with _____ (insert description of project/work) (collectively, the "Project(s)", or "Proposed Project(s)"); and

WHEREAS, the Recipient acknowledges that the Port Authority, in furtherance of its performance of essential and critical governmental functions relating to the Project, has existing and significant interests and obligations in establishing, maintaining and protecting the security and safety of the Project site and surrounding areas and related public welfare matters; and

WHEREAS, in furtherance of critical governmental interests regarding public welfare, safety and security at the Project site, the Port Authority has collected information and undertaken the development of certain plans and recommendations regarding the security, safety and protection of the Project site, including the physical construction and current and future operations; and

WHEREAS, the Port Authority and Recipient (collectively, the "**Parties**") acknowledge that in order for Recipient to undertake its duties and/or obligations with regard to its involvement in the Project, the Port Authority may provide Recipient or certain of its Related Parties (as defined below) certain information in the possession of the Port Authority, which may contain or include confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, relating to the Project or its occupants or other matters, the unauthorized disclosure of which could

result in significant public safety, financial and other damage to the Port Authority, the Project, its occupants, and the surrounding communities; and

WHEREAS, Recipient recognizes and acknowledges that providing unauthorized access to, or disclosing such information to third parties in violation of the terms of this Agreement could compromise or undermine the existing or future guidelines, techniques and procedures implemented for the protection against terrorist acts or for law enforcement, investigation and prosecutorial purposes, and accordingly could result in significant irreparable harm and injury; and

WHEREAS, in order to protect and preserve the privilege attaching to and the confidentiality of the aforementioned information as well as to limit access to such information to a strict need to know basis, the Port Authority requires, as a condition of its sharing or providing access to such confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, that the Recipient enter into this Agreement and that its Related Parties thereafter acknowledge and agree that they will be required to treat as strictly confidential and/or privileged any of such information so provided, as well as the work product and conclusions of any assessments and evaluations or any recommendations relating thereto, and to also fully comply with applicable federal rules and regulations with respect thereto; and

WHEREAS, as a condition to the provision of such information to Recipient and certain Related Parties, the Recipient has agreed to enter into this Agreement with respect to the handling and use of such information and to cause Related Parties to join in and be bound by the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the provision by Port Authority of Information for Project Purposes (as each such term is defined below) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Recipient and each Related Party that receives such Information, the Recipient and each such Related Party agrees, as follows:

1. Defined Terms. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

“Authorized Disclosure” means the disclosure of Confidential Information strictly in accordance with the Confidentiality Control Procedures applicable thereto: (i) as to all Confidential Information, only to a Related Party that has a need to know such Confidential Information strictly for Project Purposes and that has agreed in writing to be bound by the terms of this Agreement by executing a form of Acknowledgment as set forth in Exhibit A; and (ii) as to Confidential Privileged Information, only to the extent expressly approved in writing and in advance by the Port Authority, and then only the particular Confidential Privileged Information that is required to accomplish an essential element of the Project.

“Confidential Information” means and includes collectively, Confidential Proprietary Information, Confidential Privileged Information, and Information that

is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such Information is confidential, privileged, sensitive or proprietary in nature. The term Confidential Information shall also include all work product that contains or is derived from any of the forgoing, whether in whole or in part, regardless of whether prepared by the Recipient, the Port Authority or others. The following Information shall not constitute Confidential Information for the purpose of this Agreement:

Particular Information, other than Confidential Privileged Information, that is provided to the Recipient by a source other than the Port Authority, provided that such source is not subject to a confidentiality agreement, or similar obligation, or understanding with or for the benefit of the Port Authority, with respect to such Information and that the identity of such source is not itself part of such Confidential Information.

Information that is or becomes generally available to the public other than as a result of a disclosure by the Recipient or a Related Party in violation of this Agreement.

"Confidential Privileged Information" means and includes collectively, (i) any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York, and/or New Jersey state laws or Federal laws, (ii) Critical Infrastructure Information, (iii) Sensitive Security Information, and (iv) Limited Access Safety and Security Information.

"Confidential Proprietary Information" means and includes Information that contains financial, commercial or other proprietary, business Information concerning the Project, the Port Authority, or its facilities.

"Confidentiality Control Procedures" means procedures, safeguards and requirements for the identification, processing, protection, handling, care, tracking and storage of Confidential Information that are required under applicable federal or state law or by the terms of this Agreement.

"Critical Infrastructure Information" (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII," as provided for in the referenced rules and regulations and any amendments thereto.

"Information" means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer

generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

“Limited Access Safety and Security Information” means and includes sensitive Information, the disclosure of which would be detrimental to the public interest and might compromise public safety and/or security as it relates to Port Authority property, facilities, systems and operations, and which has not otherwise been submitted for classification or designation under any Federal laws or regulations.

“Project Purposes” means the use of Confidential Information strictly and only for purposes related to Recipient’s and its Related Parties’ participation and involvement in the Project, and only for such period of time during which Recipient and its Related Parties are involved in Project related activities.

“Related Party” and **“Related Parties”** means the directors, employees, officers, partners or members of the Recipient, as applicable, and the Recipient’s outside consultants, advisors, accountants, architects, engineers or subcontractors or subconsultants (and their respective directors, employees, officers, partners or members) to whom any Confidential Information is disclosed or made available.

“Sensitive Security Information” has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119) and any amendments thereto.

2. Use of Confidential Information. All Confidential Information shall be used by the Recipient in accordance with the following requirements:

All Confidential Information shall be held in confidence and shall be processed, treated, disclosed and used by the Recipient and its Related Parties only for Project Purposes and in accordance with the Confidentiality Control Procedures established pursuant to Paragraph 2(c), below, and applicable legal requirements. Confidential Information may be disclosed, only if and to the extent that such disclosure is an Authorized Disclosure.

Recipient and each Related Party acknowledges and agrees that (i) any violation by the Recipient or any of its Related Parties of the terms, conditions or restrictions of this Agreement relating to Confidential Information may result in penalties and other enforcement or corrective action as set forth in such statutes and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and to cease future unauthorized disclosure

and (ii) pursuant to the aforementioned Federal Regulations, including, without limitation, 49 C.F.R. §§ 15.17 and 1520.17, any such violation thereof or mishandling of information therein defined may constitute grounds for a civil penalty and other enforcement or corrective action by the United States Department of Transportation and the United States Department of Homeland Security, and appropriate personnel actions for Federal employees.

Recipient and each Related Party covenants to the Port Authority that it has established, promulgated and implemented Confidentiality Control Procedures for identification, handling, receipt, care, and storage of Confidential Information to control and safeguard against any violation of the requirements of this Agreement and against any unauthorized access, disclosure, modification, loss or misuse of Confidential Information. Recipient and each Related Party shall undertake reasonable steps consistent with such Confidentiality Control Procedures to assure that disclosure of Confidential Information is compartmentalized, such that all Confidential Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Agreement and applicable Confidentiality Control Procedures. To assist Recipient in its determination of the adequacy of its Confidentiality Control Procedures, Recipient has been provided with a copy of the Port Authority's Information Security Handbook.

The Port Authority may request in writing that the Recipient or any Related Parties apply different or more stringent controls on the handling, care, storage and disclosure of particular items of Confidential Information as a precondition for its disclosure. The Port Authority may decline any request by the Recipient or any of its Related Parties to provide such item of Confidential Information if the Recipient or any of the Related Parties do not agree in writing to apply such controls.

Nothing in this Agreement shall require the Port Authority to tender or provide access to or possession of any Confidential Information to the Recipient or its Related Parties, whether or not the requirements of this Agreement are otherwise satisfied. However, if such Confidential Information is provided and accepted, the Recipient and its Related Parties shall abide by the terms, conditions and requirements of this Agreement.

The Recipient and each Related Party agrees to be responsible for enforcing the provisions of this Agreement with respect to its Related Parties, in accordance with the Confidentiality Control Procedures. Except as required by law pursuant to written advice of competent legal counsel, or with the Port Authority's prior written consent, neither the Recipient, nor any of the Related Parties shall disclose to any third party, person or entity: (i) any Confidential Information under circumstances where the Recipient is not fully satisfied that the person or entity to whom such disclosure is about to be made shall act in accordance with the Confidentiality Control Procedures whether or not such person or entity has agreed in writing to be bound by the terms of this Agreement or any

"Acknowledgement" of its terms or (ii) the fact that Confidential Information has been made available to the Recipient or such Related Parties, or the content or import of such Confidential Information. The Recipient is responsible for collecting and managing the Acknowledgments signed by Related Parties pursuant to this Agreement. Recipient shall, at the Port Authority's request, provide the Port Authority a list of all Related Parties who have signed an Acknowledgment, and copies of such Acknowledgments.

As to all Confidential Information provided by or on behalf of the Port Authority, nothing in this Agreement shall constitute or be construed as a waiver of any public interest privilege or other protections established under applicable state or federal law.

3. Disclosures and Discovery Requests. If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law seeking disclosure of the Confidential Information is received by the Recipient or any Related Party, Recipient shall notify the Port Authority thereof with sufficient promptness so as to enable the Port Authority to investigate the circumstances, prepare any appropriate documentation and seek to quash the subpoena, to seek a protective order, or to take such other action regarding the request as it deems appropriate. In the absence of a protective order, disclosure shall be made, in consultation with the Port Authority, of only that part of the Confidential Information as is legally required to be disclosed. If at any time Confidential Information is disclosed in violation of this Agreement, the Recipient shall immediately give the Port Authority written notice of that fact and a detailed account of the circumstances regarding such disclosure to the Port Authority.

4. Retention Limitations; Return of Confidential Information. Upon the earlier occurrence of either the Port Authority's written request or completion of Recipient's need for any or all Confidential Information, such Confidential Information, all writings and material describing, analyzing or containing any part of such Confidential Information, including any and all portions of Confidential Information that may be stored, depicted or contained in electronic or other media and all copies of the foregoing shall be promptly delivered to the Port Authority at Recipient's expense. In addition, as to Confidential Information that may be stored in electronic or other form, such Confidential Information shall be completely removed so as to make such Confidential Information incapable of being recovered from all computer databases of the Recipient and all Related Parties. The Recipient may request in writing that the Port Authority consent to destruction of Confidential Information, writings and materials in lieu of delivery thereof to the Port Authority. The Port Authority shall not unreasonably withhold its consent to such request. If the Port Authority consents to such destruction, the Recipient and each Related Party shall deliver to the Port Authority a written certification by Recipient and such Related Party that such Confidential Information, writings and materials have been so destroyed within such period as may be imposed by the Port Authority. Notwithstanding the foregoing, to the extent required for legal or

compliance purposes, the Recipient may retain a copy of Confidential Information, provided that (a) the Port Authority is notified in writing of such retention, and (b) Recipient continues to abide by the requirements of this Agreement with respect to the protection of such Confidential Information.

5. Duration and Survival of Confidentiality Obligations. The obligations under this Agreement shall be perpetual (unless otherwise provided in this Agreement) or until such time as the Confidential Information is no longer considered confidential and/or privileged by the Port Authority.

6. Severability. Each provision of this Agreement is severable and if a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

7. Injunctive and Other Relief. Recipient and each Related Party acknowledges that the unauthorized disclosure and handling of Confidential Information is likely to have a material adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its facilities (including, without limitation, the Project site), its patrons and the general public and that damages at law are an inadequate remedy for any breach, or threatened breach, of this Agreement by Recipient or its Related Parties. The Port Authority shall be entitled, in addition to all other rights or remedies, to seek such restraining orders and injunctions as it may deem appropriate for any breach of this Agreement, without being required to show any actual damage or to post any bond or other security.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws principles. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient specifically and irrevocably consent to the exclusive jurisdiction of any federal or state court in the County of New York and State of New York with respect to all matters concerning this Agreement and its enforcement. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient agree that the execution and performance of this Agreement shall have a New York situs and, accordingly, they each consent (and solely with respect to the Port Authority, subject to the terms of the Port Authority Legislation (as defined below)) to personal jurisdiction in the State of New York for all purposes and proceedings arising from this Agreement. "**Port Authority Legislation**" shall mean the concurrent legislation of the State of New York and State of New Jersey set forth at Chapter 301 of the Laws of New York of 1950, as amended by Chapter 938 of the Laws of New York of 1974 (McKinney's Unconsolidated Laws §§7101-7112) and Chapter 204 of the Laws of New Jersey of 1951 (N.J.S.A. 32:1-157 to 32:1-168).

9. Notices. Any notice, demand or other communication (each, a "**notice**") that is given or rendered pursuant to this Agreement by either party to the other party, shall be: (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered by either (x) hand delivery, or (y) nationally recognized courier service (e.g., Federal Express,

Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given by its counsel.

The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it, provided that such designation must be made by notice given in accordance with this Paragraph 0.

If to the Port _____
Authority: _____

The Port Authority of New York and New Jersey
225 Park Avenue South, __th Floor
New York, NY 10003

with a copy to: The Port Authority of New York and New Jersey
225 Park Avenue South - 15th Floor
New York, NY 10003
Attn: General Counsel

If to the Recipient: _____

with a copy to: _____

10. Entire Agreement. This Agreement contains the complete statement of all the agreements among the parties hereto with respect to the subject matter thereof, and all prior agreements among the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect.

This Agreement may not be changed, modified, discharged, or terminated, except by an instrument in writing signed by all of the parties hereto.

11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be one and the same document.

12. Parties Bound. This Agreement shall be binding upon the Recipient and its respective successors. The foregoing shall not be affected by the failure of any Related Party to join in this Agreement or to execute and deliver an Acknowledgement hereof.

13. Authority. The undersigned individual(s) executing this Agreement on behalf of the Recipient below represent(s) that they are authorized to execute this Agreement on behalf of the Recipient and to legally bind such party.

14. Disclosure of Ownership Rights or License. Nothing contained herein shall be construed as the granting or conferring by the Port Authority of any rights by ownership, license or otherwise in any Information.

15. No Liability. Neither the Commissioners of the Port Authority, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Recipient with any liability, or held liable to the Recipient under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach, or attempted or alleged breach thereof.

16. Construction. This Agreement is the joint product of the parties hereto and each provision of this Agreement has been subject to the mutual consultation, negotiation, and agreement of the parties hereto, and shall not be construed for or against any party hereto. The captions of the various sections in this Agreement are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such Sections.

[No further text on this page; signatures appear on next page]

IN WITNESS WHEREOF, the Recipient has executed this Agreement as of the date first above written.

Dated: New York, New York

RECIPIENT:

By: _____

Title: _____

Date: _____

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, _____ (name of authorized signatory), is the _____ (Title) of _____ (name of entity), a _____ (type of entity) and _____ jurisdiction _____ of formation) ("**Related Party**"), located at _____ (address of entity), and is duly authorized to execute this Acknowledgment on behalf of the above Related Party. The above Related Party is involved with the functions of _____ (describe scope of work of Related Party) in _____ connection with _____ (describe Project) for The Port Authority of New York and New Jersey (the "**Port Authority**"). I acknowledge and confirm that the above named Related Party has been provided with a copy of and shall be bound and shall abide by all of the terms, requirements and conditions set forth in the Non Disclosure and Confidentiality Agreement dated _____, _____, _____, between _____ (the "**Recipient**") and the Port Authority (hereinafter the "**Agreement**"). Appropriate and responsible officers and employees of the Related Party have carefully read and understand the terms and conditions of the Agreement. The Related Party has notice and acknowledges that any breach or violation of such terms, requirements and conditions may result in the imposition of remedies or sanctions as set forth or otherwise described therein against such Related Party.

Signed: _____
Print Name: _____
Title: _____
Date: _____

ACKNOWLEDGMENT BY RELATED PARTY INDIVIDUAL

I, _____ (name of employee) ("**Related Party**"), am employed as a(n) _____ (job title) by _____ (name of employer). I have been provided with and have read the Non Disclosure and Confidentiality Agreement between _____ (the "**Recipient**") and The Port Authority of New York and New Jersey (the "**Port Authority**") dated _____, _____ (hereinafter the "**Agreement**".) I understand that because of my employer's relationship with _____ (name of Recipient, or the Port Authority if Related Party Individual is an employee of Recipient), both my employer and I may be provided with access to, and/or copies of, sensitive security materials or confidential information. If it is required for me to review or receive Confidential Information, as it is defined in the aforementioned Agreement, I acknowledge that I will be bound by each and every term and provision contained therein, and that failure to do so may include, but is not limited to, the imposition of disciplinary action and sanctions, and/or the institution of legal action seeking injunctive relief, monetary and/or criminal penalties for violation of law and/or Port Authority policies and procedures, as well as for violation of federal and/or state regulations.

To the extent that I am currently in the possession of, or have previously come into contact with, marked information as it relates to the aforementioned Agreement, I agree to conform my handling procedures for Confidential Information to the practices and procedures set forth and defined herein, or risk loss of access to said Information, removal from said Project and/or subjecting myself to the aforementioned disciplinary actions and/or civil and criminal penalties.

Signed: _____
Print Name: _____
Title: _____
Date: _____

APPENDIX A-3

PORT AUTHORITY/PATH EMPLOYEE NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this ____ day of _____, 20____, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "**Port Authority**") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and _____, an employee of the Port Authority or PATH ("**Employee**"), having the Port Authority or PATH Employee Number: _____.

WHEREAS, security is of critical importance to the Port Authority in carrying out its mission and in providing a safe and secure environment for its patrons and employees, as well as properly protecting its properties, facilities and operations; and

WHEREAS, the safeguarding of confidential and sensitive information is an essential factor in the Port Authority's ability to carry out its responsibilities; and

WHEREAS, the Port Authority recognizes the need for providing its employees with access to certain information which may contain or include confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, on a need to know and/or an as-needed basis; and

WHEREAS, every employee having access to Confidential Information (as hereinafter defined) has the obligation and the responsibility to properly safeguard such information and prevent its unauthorized disclosure or release.

NOW THEREFORE, Employee hereby agrees, as follows:

1. **Defined Terms.** In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

- a. **“Confidential Information”** means and includes collectively, Confidential Proprietary Information, Confidential Privileged Information, and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such Information is confidential, privileged, sensitive or proprietary in nature. The term Confidential Information shall also include all work product that contains or is derived from any of the forgoing, whether in whole or in part.
- b. **“Confidential Privileged Information”** means and includes collectively, (i) any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York, and/or New Jersey state laws or Federal laws, (ii) Critical Infrastructure Information, (iii) Sensitive Security Information, and (iv) Limited Access Safety and Security Information.
- c. **“Confidential Proprietary Information”** means and includes Information that contains financial, commercial, or other proprietary, business Information concerning the Port Authority or its facilities.
- d. **“Critical Infrastructure Information”** (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as “Protected Critical Infrastructure Information” or “PCII,” as provided for in the referenced rules and regulations and any amendments thereto.
- e. **“Information”** means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether orally, visually, in writing, photographically, electronically or any other form, including, without limitation, any and all copies of the foregoing.
- f. **“Limited Access Safety and Security Information”** means and includes sensitive Information, the disclosure of which would be detrimental to the public interest and might compromise public safety and/or security as it relates to Port Authority property, facilities, systems and operations, and which has not otherwise been submitted for classification or designation under any Federal laws or regulations.
- g. **“Port Authority Handbook”** means The Port Authority of N.Y. & N.J. Information Security Handbook, as may be amended by the Port Authority, from time to time.
- h. **“Sensitive Security Information”** has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49

CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119) and any amendments thereto.

2. **Compliance with the Port Authority Handbook.** All Confidential Information is to be handled by the Employee with the utmost care and in a manner designed to prevent its disclosure to unauthorized third parties consistent with Port Authority security policy, practices and procedures, as set forth in the Port Authority Handbook. Employee must maintain and dispose of Confidential Information in a manner consistent with this Agreement and in conformity with the Port Authority Handbook.
3. **Use of Confidential Information.** Confidential Information provided to or obtained by Employee may only be used in the performance of duly authorized activities relating to the Employee's job duties, and may not be used for any other purpose, unless expressly authorized by this Agreement, or as expressly directed in writing by the Port Authority.
4. **Disclosure of Information.** Until such time as the Information is no longer considered Confidential by the Port Authority, and that fact is communicated to the Employee in writing, the Information must be held and treated in the strictest confidence and may not, except in accordance with Paragraph 5, below, be disclosed to any person who has not agreed to be bound by a Non-Disclosure and Confidentiality Agreement. When disclosure of such Information is permitted under these circumstances, it will only be provided to such individuals to the extent that it is necessary for that person to perform his/her duly authorized activities at or in connection with their job responsibilities and may only be provided on a need-to-know-basis. Copies of documents or materials in any form, format or medium, which contain disclosures of such Information, may only be made pursuant to the procedures established in the Port Authority Handbook.
5. **Disclosures and Discovery Requests.** If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law is received by the Employee seeking disclosure of Confidential Information, the Employee must immediately notify his/her Supervisor and Departmental Information Security Officer in order to permit the Port Authority to seek to quash the subpoena, seek a protective order, or take such other action regarding the request as it deems appropriate, and the Employee will fully cooperate in the Port Authority's efforts in this regard. If at any time Confidential Information is disclosed in violation of this Agreement, the employee will immediately report that fact and the circumstances regarding such disclosure to his/her Supervisor and Departmental Information Security Officer.
6. **Unauthorized Disclosure and Disciplinary Actions.** The unauthorized disclosure or improper handling of Confidential Information could have an adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its operations, its facilities, its patrons and the general public. Because of this, the obligations of confidence required hereunder are extraordinary and unique, and are vital to the security and well being of the Port Authority. Any

failure to comply with, or any violation of, this Agreement, may result in legal action and/or disciplinary action against Employee.

7. **Duration and Survival of Confidentiality Obligations.** The obligations under this Agreement shall be perpetual, or until such time as the Confidential Information is no longer considered confidential and/or privileged by the Port Authority, and that fact is communicated in writing to Employee.

IN WITNESS WHEREOF, the Employee has executed this Agreement as of the date below.

Dated: New York, New York
_____, 20__

EMPLOYEE:

By: _____

Title: _____

Date: _____

APPENDIX B

INSTRUCTIONS ON NON-DISCLOSURE AND MAINTENANCE OF CONFIDENTIALITY OF PORT AUTHORITY CONFIDENTIAL INFORMATION

WHEREAS, security is of critical importance to the Port Authority of New York and New Jersey (the "Port Authority") in carrying out its mission and in providing a safe and secure environment for its patrons and employees, as well as properly protecting its properties, facilities and operations; and

WHEREAS, the safeguarding of certain confidential and sensitive information is an essential factor in the Port Authority's ability to carry out its responsibilities; and

WHEREAS, the Port Authority recognizes the need for providing its employees with access to certain information which may contain or include confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, on a need to know and/or an as-needed basis; and

WHEREAS, every employee having access to Confidential Information (as hereinafter defined) has the obligation and the responsibility to properly safeguard such information and prevent its unauthorized disclosure or release; and

WHEREAS, these instructions on non-disclosure of confidential information ("Non-Disclosure Instructions" or "NDI") are intended to facilitate an employee's ability to perform his or her job, while at the same time ensuring the security of such Confidential Information.

ACCORDINGLY, You, as the employee-recipient of these Instructions ("Employee"), are hereby informed that:

1. **Defined Terms.** In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

- a. **“Confidential Information”** means and includes collectively, Confidential Proprietary Information, Confidential Privileged Information, and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such Information is confidential, privileged, sensitive or proprietary in nature. The term Confidential Information shall also include all work product that contains or is derived from any of the forgoing, whether in whole or in part.
- b. **“Confidential Privileged Information”** means and includes collectively, (i) any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York, and/or New Jersey state laws or Federal laws, (ii) Critical Infrastructure Information, (iii) Sensitive Security Information, and (iv) Limited Access Safety and Security Information.
- c. **“Confidential Proprietary Information”** means and includes Information which contains financial, commercial, or other proprietary, business Information concerning the Port Authority or its facilities.
- d. **“Critical Infrastructure Information”** (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as “Protected Critical Infrastructure Information” or “PCII,” as provided for in the referenced rules and regulations and any amendments thereto.
- e. **“Information”** means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether orally, visually, in writing, photographically, electronically or any other form, including, without limitation, any and all copies of the foregoing.
- f. **“Limited Access Safety and Security Information”** means and includes sensitive Information, the disclosure of which would be detrimental to the public interest and might compromise public safety and/or security as it relates to Port Authority property, facilities, systems and operations, and which has not otherwise been submitted for classification or designation under any Federal laws or regulations.
- g. **“Port Authority Handbook”** means The Port Authority of N.Y. & N.J. Information Security Handbook.
- h. **“Sensitive Security Information”** has the meaning set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520,

(49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119) and any amendments thereto.

2. **Compliance with the Port Authority Handbook.** All Confidential Information is to be handled by the Employee with the utmost care and in a manner designed to prevent its disclosure to unauthorized third parties consistent with Port Authority security policy, practices and procedures, as set forth in the Port Authority Handbook. Employee must maintain and dispose of Confidential Information in a manner consistent with this Agreement and in conformity with the Port Authority Handbook.
3. **Use of Confidential Information.** Confidential Information provided to or obtained by Employee may only be used in the performance of duly authorized activities relating to the Employee's job duties, and may not be used for any other purpose, unless expressly authorized by this Agreement, or as expressly directed in writing by the Port Authority.
4. **Disclosure of Information.** Until such time as the Information is no longer considered Confidential by the Port Authority, and that fact is communicated to the Employee in writing, the Information must be held and treated in the strictest confidence and may not, except in accordance with Paragraph 5, below, be disclosed to any person who has not agreed to be bound by a Non-Disclosure and Confidentiality Agreement, or who has not been given these Non-Disclosure Instructions. When disclosure of such Information is permitted under these circumstances, it will only be provided to such individuals to the extent that it is necessary for that person to perform his/her duly authorized activities at or in connection with their job responsibilities and may only be provided on a need-to-know-basis. Copies of documents or materials in any form, format or medium, which contain disclosures of such Information, may only be made pursuant to the procedures established in the Port Authority Handbook.
5. **Disclosures and Discovery Requests.** If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law is received by the Employee seeking disclosure of Confidential Information, the Employee must immediately notify his/her Supervisor and Departmental Information Security Officer in order to permit the Port Authority to seek to quash the subpoena, seek a protective order, or take such other action regarding the request as it deems appropriate, and the Employee will fully cooperate in the Port Authority's efforts in this regard. If at any time Confidential Information is disclosed in violation of this Agreement, the employee will immediately report that fact and the circumstances regarding such disclosure to his/her Supervisor and Departmental Information Security Officer.
6. **Unauthorized Disclosure and Disciplinary Actions.** The unauthorized disclosure or improper handling of Confidential Information could have an adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its operations, its facilities, its patrons and the general public. Because of this, the obligations of confidence required hereunder are extraordinary and unique, and are vital to the security and well being of the Port Authority.

Accordingly, you are further instructed that your failure to comply with these Non-Disclosure Instructions may result in legal action and/or disciplinary action being taken against you.

- 7. Duration and Survival of Confidentiality Obligations.** The obligations in these Non-Disclosure Instructions shall be perpetual, or until such time as the Confidential Information is no longer considered confidential and/or privileged by the Port Authority, and that fact is communicated in writing to Employee.

COPY PROVIDED TO:

By: _____

Title: _____

Date: _____

APPENDIX C

Background Screening Criteria



CONTENTS:

- Background Screening Specifications
- High Access Level Criteria
- Medium Access Level Criteria
- Standard Access Level Criteria

Criminal History
Background Screening Specifications

Social Security Number — Positive Identity Verification (PIV)
Federal District Court Search (each district of residence and employment)*
National Criminal Search*
Statewide Criminal Check (each state of residence and employment)*
County Criminal Search (each county of residence and employment)*
Sexual Offender Search (each resident state)*
Alien Immigrant Search
Immigration Violation Check
Fake Identification Convictions
State Driving Record
Check for material false statement or omission on application form
National Terrorist Watch List Search (OFAC-SDN)

Note* Within ten (10), seven (7), or five (5) years preceding date of application as noted on the HIGH, MEDIUM, and STANDARD Level of Clearance forms.

Level of Clearance

HIGH Secure Access Control Areas and CONFIDENTIAL PRIVILEGED INFORMATION

- I. No convictions ever in your lifetime:** an individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following criminal offenses:
- (1) Terrorism—A crime listed in 18 U.S.C. Chapter 113B—or a State law that is comparable.
 - (2) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable.
 - (3) A crime involving a severe transportation security incident.
 - (4) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility.
 - (5) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a state law that is comparable;
 - (6) Murder.
 - (7) Espionage.
 - (8) Sedition.
 - (9) Treason.
 - (10) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device.
 - (11) Conspiracy or attempt to commit any of the criminal acts listed in paragraph I.
- II. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction, within the **past ten (10) years** from completion of sentence preceding the date of the application, of the following offenses:**
- (1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation;
 - (2) Interference with air navigation;
 - (3) Aircraft piracy;
 - (4) Interference with flight crewmembers or flight attendants;
 - (5) Commission of certain crimes aboard aircraft in flight;
 - (6) Carrying a weapon or explosive aboard aircraft;
 - (7) Conveying false information and threats; (e.g., bomb threats, explosives in briefcase, etc. in security areas)
 - (8) Aircraft piracy outside the special aircraft jurisdiction of the United States;
 - (9) Lighting violations involving transporting controlled substances;
 - (10) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;
 - (11) Destruction of an aircraft or aircraft facility;
 - (12) Assault with intent to murder.
 - (13) Kidnapping or hostage taking.
 - (14) Rape or aggravated sexual abuse.
 - (15) Extortion.
 - (16) Armed or felony unarmed robbery.

- (17) Distribution of, possession with intent to distribute, or importation of a controlled substance.
- (18) Felony arson.
- (19) Felony involving a threat.
- (20) Felony involving—
 - (i) Willful destruction of property;
 - (ii) Importation or manufacture of a controlled substance;
 - (iii) Burglary or Robbery
 - (iv) Theft;
 - (v) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering;
 - (vi) Possession or distribution of stolen property;
 - (vii) Aggravated assault;
 - (viii) Bribery; or
 - (ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year;
 - (x) Smuggling;
 - (xi) Immigration violations; or
- (21) Violence at international airports;
- (22) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. A firearm or other weapon includes, but is not limited to, firearms as defined in 18 U.S.C. 921(a)(3) or 26 U.S.C. 5845(a), or items contained on the U.S. Munitions Import List at 27 CFR 447.21.
- (23) Conspiracy or attempt to commit any of the criminal acts listed in paragraph II.

Under want, warrant, or indictment. An applicant who is wanted, or under indictment in any civilian or military jurisdiction for a felony listed in section II, is disqualified until the want or warrant is released or the indictment is dismissed.

Level of Clearance

Up To MEDIUM Secure Access Control Areas and CONFIDENTIAL INFORMATION

- I. No convictions ever in your lifetime:** an individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following criminal offenses:
- (1) Terrorism—A crime listed in 18 U.S.C. Chapter 113B—or a State law that is comparable.
 - (2) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable.
 - (3) A crime involving a severe transportation security incident.
 - (4) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility. (3) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a state law that is comparable;
 - (5) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a state law that is comparable;
 - (6) Murder.
 - (7) Espionage.
 - (8) Sedition.
 - (9) Treason.
 - (10) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device.
 - (11) Conspiracy or attempt to commit any of the criminal acts listed in paragraph I.
- II.** An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past ten (10) years** from completion of sentence for the offense preceding the date of the application:
- (1) Extortion.
 - (2) Armed or felony unarmed robbery.
 - (3) Felony involving—
 - (i) Importation or manufacture of a controlled substance;
 - (ii) Burglary or Robbery;
 - (iii) Theft;
 - (iv) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering;
 - (v) Possession or distribution of stolen property;
 - (vi) Bribery; or
 - (4) Conspiracy or attempt to commit any of the criminal acts listed in paragraph II.
- Under want, warrant, or indictment. An applicant who is wanted, or under indictment in any

civilian or military jurisdiction for a felony listed in section II, is disqualified until the want or warrant is released or the indictment is dismissed.

- III.** An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past seven (7) years** from completion of sentence for the offense preceding the date of the application:
- (1) Assault with intent to murder.
 - (2) Kidnapping or hostage taking.
 - (3) Rape or aggravated sexual abuse.
 - (4) Distribution of, possession with intent to distribute, or importation of a controlled substance.
 - (5) Felony arson.
 - (6) Felony involving a threat.
 - (7) Felony involving—
 - (i) Willful destruction of property;
 - (ii) Aggravated assault;
 - (iii) Smuggling;
 - (iv) Immigration violations;
 - (8) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable, other than the violations listed in paragraph (b) of Section I.
 - (9) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. A firearm or other weapon includes, but is not limited to, firearms as defined in 18 U.S.C. 921(a)(3) or 26 U.S.C. 5845(a), or items contained on the U.S. Munitions Import List at 27 CFR 447.21.
 - (10) Conspiracy or attempt to commit any of the criminal acts listed in paragraph III.

Under want, warrant, or indictment. An applicant who is wanted, or under indictment in any civilian or military jurisdiction for a felony listed in section III, is disqualified until the want or warrant is released or the indictment is dismissed.

Level of Clearance

**Up To STANDARD
Secure Access Control Areas**

I. No convictions ever in your lifetime: an individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following criminal offenses:

- (1) Terrorism —A crime listed in 18 U.S.C. Chapter 113B—or a State law that is comparable.
- (2) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable.
- (3) Espionage.
- (4) Sedition.
- (5) Treason.
- (6) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device.
- (7) Conspiracy or attempt to commit any of the criminal acts listed in paragraph I.

II. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past ten (10) years** from completion of sentence for the offense preceding the date of the application:

- (1) Extortion.
- (2) Felony involving—
 - (i) Theft;
 - (ii) Dishonesty, fraud or misrepresentation, including identity fraud and money laundering;
 - (iii) Unlawful sale, distribution, manufacture, import or export of a controlled substance that resulted in the conviction of an A Felony in the New York State Penal Law, or any comparable law in any State, or comparable Federal law.
- (3) Conspiracy or attempt to commit any of the criminal acts listed in paragraph II.

III. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past five (5) years** from completion of sentence for the offense preceding the date of the application:

- (1) Violent Felony Offenses (as defined in the New York State Penal Law §70.02) or any comparable law in any State.
- (2) Conspiracy or attempt to commit any criminal act listed in paragraph III.

APPENDIX D

Secure Worker Access Consortium (S.W.A.C.)

Secure Worker Access Consortium (S.W.A.C.) is accessed by an online application that enables the secure collection, processing, maintenance and real-time positive identity verification (PIV) of individuals. As of January 29, 2007, S.W.A.C. is the only Port Authority approved provider to be used to conduct background screening, except as otherwise required by federal law and or regulation. Additional information about S.W.A.C., corporate enrollment, online applications, and location of processing centers can be found at <http://www.secureworker.com>, or S.W.A.C. may be contacted at (877) 522-7922.

o Consultants / Contractors

- o Step 1: - A firm representative completes the Corporate Membership Application Form online at www.secureworker.com. Firms are encouraged to establish a Corporate Membership Account through which their workers will be processed.
- o Step 1a: Employees & Workers of Contractors — Individual completes the Individual Membership Application Form online. (A company administrator may complete this form on someone's behalf.)
- o Step 2: The applicant is photographed, provides a digital signature and presents the required identification documents at an operational S.W.A.C. Processing Center.
- o Step 3: S.W.A.C. ID Card is available for pickup. The typical length of the process is one week. To verify that an ID Card is ready for pickup, call (877) 522-7922.

o Individuals

- o Go to any operational S.W.A.C. Processing Center and the agent will assist you through the application process. A method of payment will be required. Required identification documents will need to be presented.

- **S.W.A.C. Processing Centers** - check the S.W.A.C. website to verify the locations, and days and times of operation of the Processing Centers.

George Washington Bridge Port
 Authority Administration Building, Main
 Lobby
 220 Bruce Reynolds Boulevard
 Bridge Plaza South
 Fort Lee, NJ 07024
 Tuesdays, 6:00 AM to 12:00PM

John F. Kennedy International Airport
 Building #14
 RE's Office Conference Room
 Jamaica, NY
 * Fridays, 6:00AM to 12:00PM

Port Authority Bus Terminal
 625 Eighth Avenue (at 40th Street)
 South Wing, 2nd Floor
 New York, NY 10018
 Tuesdays, 6:00AM to 12:00PM

Port Ivory Marine Terminal
 40 Western Avenue
 (near the Goethels Bridge)
 RE's office - 1st Floor
 Staten Island, NY 10303
 Tuesdays, 6:00AM to 12:00PM

LaGuardia Airport (LGA)
 Port Authority Administration Building
 Hanger #7S, 2nd Floor
 Flushing, NY 11371
 Wednesdays, 6:00AM to 12:00PM

Newark Liberty International Airport
 (EWR)
 70 Brewster Road
 Building #70 Lobby
 Newark, NJ 07114
 Mondays & Thursdays, 7:30AM to
 3:30PM

Journal Square Transportation Center
 (JSTC)
 One PATH Plaza
 Concourse Level
 (to right of EXCEL Federal Savings)
 Jersey City, NJ 07306
 Monday, Wednesday, and Friday,
 7:30AM to 1:30PM.

World Trade Center
 65 Trinity Place
 (corner of Exchange Alley, across from
 SYMS clothing store)
 New York, NY 10006
 Monday through Friday, 6:00 AM to
 12:00 PM

APPENDIX E

[insert department name] DEPARTMENT

PORT AUTHORITY OF NY & NJ

CONFIDENTIAL PRIVILEGED INFORMATION

"WARNING": The attached is the property of The Port Authority of New York and New Jersey (PANYNJ). It contains information requiring protection against unauthorized disclosure. The information contained in the attached document cannot be released to the public or other personnel who do not have a valid need to know without prior written approval of an authorized PANYNJ official. The attached document must be controlled, stored, handled, transmitted, distributed and disposed of according to PANYNJ Information Security Policy. Further reproduction and/or distribution outside of the PANYNJ are prohibited without the express written approval of the PANYNJ.

At a minimum, the attached will be disseminated only on a need to know basis and when unattended, will be stored in a locked cabinet or area offering sufficient protection against theft, compromise, inadvertent access and unauthorized disclosure.

Document Control Number: CP-[insert dept acronym]- [insert year]-[insert sequential number] – [insert copy number]

APPENDIX F

[insert address of Recipient]

Date:

From:

The [insert department, division or project name] is providing a copy of the following items to (insert recipient's name and address).

Description	Date	Copy Number
Describe item	00/00/00	CP-[dept abbreviation]- XX-XX-XX

Upon receipt, the items listed above must be safeguarded in accordance with the procedures identified in the "The Port Authority of New York & New Jersey Information Security Handbook" dated October 15, 2008.

PLEASE SIGN AND RETURN TO:

Document Control
[insert Port Authority department, division or unit]
Attn: [SIM or SPM}
[Address]

I acknowledge receipt of the above items listed above and accept full responsibility for the safe handling, storage and transmittal elsewhere of these items.

Name (PRINT): _____

Organization: _____

Signature: _____

Date: _____

Title: _____



APPENDIX G

GUIDELINES FOR THE STORAGE OF CONFIDENTIAL INFORMATION

I. GENERAL

This section describes the preferred methods for the physical protection of Confidential Information in the custody of PANYNJ personnel and their contractors, consultants, architects, engineers, et al. Where these requirements are not appropriate for protecting specific types or forms of such material, compensatory provisions shall be developed and approved by the Chief Information Security Officer (CISO). Nothing in this guideline shall be construed to contradict or inhibit compliance with any applicable law, statute or code. Cognizant Security Information Managers (SIM) shall work to meet appropriate security needs according to the intent of this guideline and at acceptable cost.

II. CONFIDENTIAL INFORMATION STORAGE

A. Approved Containers

The following storage containers are approved for storage of PANYNJ Confidential Information:

1. A safe or safe-type steel file container that has a built-in three- position dial combination lock or electronic combination lock.
2. Any steel file cabinet that has four sides and a top and bottom (all permanently attached by welding, rivets or peened bolts so the contents cannot be removed without leaving visible evidence of entry) and is secured by a rigid metal lock bar and an approved key operated or combination padlock. The keepers of the rigid metal lock bar shall be secured to the cabinet by welding, rivets, or bolts so they cannot be removed and replaced without leaving evidence of the entry. The drawers of the container shall be held securely so their contents cannot be removed without forcing open the drawer.



B. Approved Locks and Locking Devices

The following locks and locking devices are approved for storage of PANYNJ Confidential Information:

1. Any restricted keyway 7-pin tumbler lock or equivalent pick resistant lock where the keys are clearly marked "Do Not Duplicate."
2. A combination padlock such as a Sesamee four-position dial padlock. See photo at right.



C. Combinations to Security Containers, Cabinets, and Vaults

Only a minimum number of authorized persons shall have knowledge of combinations to authorized storage containers. Containers shall bear no external markings indicating the level of material authorized for storage therein.

1. A record of the names of persons having knowledge of the combination shall be maintained.
2. Security containers, vaults, cabinets, and other authorized storage containers shall be kept locked when not under the direct supervision of an authorized person entrusted with the contents.
3. The combination shall be safeguarded in accordance with the same protection requirements as the Confidential Information contained within.
4. If a record is made of a combination, the record shall be marked with the category of material authorized for storage in the container, i.e. CP or SSI.

D. Changing Combinations

Combinations shall be changed by a person authorized access to the contents of the container, or by the SIM or his or her designee. Combinations shall be changed as follows:

1. The initial use of an approved container or lock for the protection of Confidential Information.

2. The termination of employment of any person having knowledge of the combination, or when the Confidential Information access granted to any such person has been withdrawn, suspended, or revoked.
3. The compromise or suspected compromise of a container or its combination, or discovery of a container left unlocked and unattended.
4. At other times when considered necessary by the SIM or CISO.

E. Supervision of Keys and Padlocks

Use of key-operated padlocks are subject to the following requirements:

1. A key and lock custodian shall be appointed to ensure proper custody and handling of keys and locks used for protection of Confidential Information.
2. A key and lock control register shall be maintained to identify keys for each lock and their current location and custody.
3. Keys shall be inventoried with each change of custody.
4. Keys and spare locks shall be protected equivalent to the level of classified material involved.
5. Locks shall be replaced after loss or compromise of their operable keys.
6. Making master keys is prohibited.

F. Document Retention Areas

Due to the volume of the Confidential Information in possession, or for operational necessity, it may be necessary to construct Document Retention Areas for storage because approved containers or safes are unsuitable or impractical. Access to Document Retention Areas must be controlled to preclude unauthorized access. During hours of operation this may be accomplished through the use of a cleared person or by an approved access control device or system. Access shall be limited to authorized persons who have an NDA on file, received appropriate training on the protection of information and have a bonafide need-to-know for the Confidential Information material/information within the area. All other persons (i.e. visitors, maintenance, janitorial, etc.) requiring access shall be escorted at all times by an authorized person where inadvertent or unauthorized exposure to Confidential Information cannot otherwise be effectively prevented. During



non-working hours and during working hours when the area is unattended, admittance to the area shall be controlled by locked entrances and exits secured by either an approved built-in combination lock, an automated access control system or an approved key-operated lock. Doors secured from the inside with an emergency panic bar will not require additional locking devices.

G. Construction Requirements for Document Retention Areas

This paragraph specifies the minimum safeguards and standards required for the construction of Document Retention Areas that are approved for use for safeguarding Confidential Information. These criteria and standards apply to all new construction and reconstruction, alterations, modifications, and repairs of existing areas. They will also be used for evaluating the adequacy of existing areas.

1. **Hardware:** Only heavy-gauge hardware shall be used in construction. Hardware accessible from outside the area shall be peened, pinned, brazed, or spot welded to preclude removal.
2. **Walls:** Construction may be of material offering resistance to, and evidence of, unauthorized entry into the area. If insert-type panels are used, a method shall be devised to prevent the removal of such panels without leaving visual evidence of tampering.
3. **Windows:** During nonworking hours, the windows shall be closed and securely fastened to preclude surreptitious entry.
4. **Doors:** Doors shall be constructed of material offering resistance to and detection of unauthorized entry. When doors are used in pairs, an astragal (overlapping molding) shall be installed where the doors meet.
5. **Ceilings:** Where surrounding walls do not extend to the true ceiling, the ceiling shall either be hard capped with the same construction materials as the surrounding walls or removable tiles shall be clipped in place such that they cannot be removed without destroying tiles and providing evidence of intrusion.

APPENDIX H

GUIDELINES FOR THE DISPOSAL AND DESTRUCTION OF CONFIDENTIAL INFORMATION.

I. GENERAL

This section describes the preferred methods for the disposal and destruction of Confidential Information in the custody of PANYNJ personnel and their contractors, consultants, architects, engineers, et al. Where these requirements are not appropriate for disposal or destruction of specific types or forms of such material, compensatory provisions shall be developed and approved by the Chief Information Security Officer (CISO). Cognizant Security Information Managers (SIM) shall work to meet appropriate security needs according to the intent of this guideline and at acceptable cost.

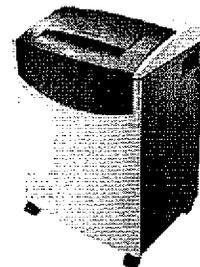
Confidential Information no longer needed shall be processed for appropriate archiving or disposal. Confidential Information approved for destruction shall be destroyed in accordance with this section. The method of destruction must preclude recognition or reconstruction of the Confidential Information or material.

All persons in possession of Confidential materials shall establish procedures for review of their Confidential holdings on a recurring basis to reduce these inventories to the minimum necessary for effective and efficient operations. Multiple copies, obsolete material, and Confidential waste shall be destroyed as soon as practical after it has served its purpose. Any appropriate downgrading actions shall be taken on a timely basis to reduce the volume and to lower the level of Confidential material being retained.

II. DISPOSAL AND DESTRUCTION

A. Destruction Requirements

All persons in possession of Confidential materials shall destroy this material in their possession as soon as possible after it has served the purpose for which it was released, developed or prepared, or as soon as possible after its designated retention period has expired.



B. Methods of Destruction

1. Generally, Confidential material shall be destroyed by commercial grade cross cut shredders located conveniently throughout the workplace for use by authorized individuals. Shred size shall not exceed 5/32" x 1 1/8".
2. Additionally, Confidential material may be destroyed by burning, pulping, melting, mutilation, chemical decomposition, or pulverizing (for example, hammer mills, choppers, and hybridized disintegration equipment) where shredding may not be appropriate. Whatever method is employed must preclude recognition or reconstruction of the Confidential Information or material.
3. Confidential material in microform, that is: microfilm, microfiche, or similar high data density material, may be destroyed by burning or chemical decomposition, or other methods as approved by the CISO.
4. Commercial destruction facilities may be used only with the approval of, and under conditions prescribed by, the SIM. When commercial destruction facilities are utilized, they shall conform to all appropriate sub-contracting requirements to include appointment of a SIM, adherence to the requirements of the PANYNJ Information Security Handbook, receiving required security training and properly executing a Non-Disclosure and Confidentiality Agreement (NDA).
5. Electronically Stored Confidential Information must be deleted from all computer hard drives, tapes, CD's, DVD's, memory, and/or magnetic, analog, or digital media used to store or transport digital files. The device used to store or transport any Confidential file will require a bit-by-bit overwrite of the storage area used by the file. This overwrite process will write random data to each data byte that was previously occupied by Confidential Information, and will do so a minimum of seven (7) times. This will protect against having the deleted file recovered using data recovery tools. Commercial tools are available to automate this process.

C. Witness to Destruction

Confidential material shall only be destroyed by authorized personnel, whether in-house or contracted, who meet all of the PANYNJ criteria for awarding access authorization, have met all training requirements, have a properly executed NDA on file and have a full understanding of their responsibilities to ensure proper control of the materials while in their possession and complete destruction thereof.

D. Destruction Records

Confidential Information is accountable and therefore any disposal in approved waste containers or destruction via convenience shredders must be reported to the issuing SIM, or his/her document control representative, indicating which documents were disposed/destroyed and the date of such action.

Confidential waste shall be destroyed as soon as practical. This applies to all waste material containing Confidential Information. Pending destruction, Confidential waste shall be appropriately safeguarded. (See also Appendix G - Guidelines for the Storage of Confidential Information.)

III. CONFIDENTIAL WASTE

A. Approved Receptacles

1. Receptacles utilized to accumulate Confidential waste shall be constructed of substantial materials that would provide evidence of tampering. Hinges and lids shall not be removable while the container is secured without leaving evidence thereof.
2. All such receptacles shall be clearly identified as containing Confidential material.
3. Slots shall be provided in such receptacles that allow for easy deposit of materials for destruction but preclude removal of deposited waste by insertion of a person's hand or tool.

4. Locks, and the control thereof, on all Confidential waste receptacles shall meet or exceed the requirements of the PANYNJ Guideline for Storage of Confidential Information.

B. Oversize Waste Materials

PANYNJ projects often involve large drawings and other materials associated with construction projects, which cannot be conveniently disposed of via office shredders or placed in typical slots on secure trash receptacles. In no cases shall such material be permitted to be placed or accumulate adjacent to secure receptacles while awaiting destruction. Oversize materials awaiting destruction may be stored as follows:

1. Within an approved Document Retention Area.
2. Within a specially constructed secure waste receptacle where disposal slots have been specifically designed for accepting rolled drawings or other oversize materials and preclude the removal there from.
3. Within a standard secure waste receptacle where the receptacle has been opened by an authorized individual to allow placement of the oversized item(s) into the container and it has been secured thereafter.

APPENDIX I

Audit Procedures

COMPANY / ORGANIZATION

- Is the Company Non-Disclosure and Confidentiality Agreement properly executed and maintained in current status?
- Has a senior management official been designated as Security Information Manager (SIM), as required by the Handbook for Protecting Security Information? Has a deputy SIM been identified?

ACCESS AUTHORIZATIONS

- Has a Non-Disclosure Agreement been executed by each employee who has been afforded access?
- Is a current record maintained of all employees authorized access to Confidential Information at the firm?
- Does the contractor provide a roster of all cleared employees to the PA as required? Is it current?

SECURITY EDUCATION

- Does the contractor provide that all employees who have access to Confidential Information with security training and briefings commensurate with their involvement with the information?
- Are contractors who employ persons at other locations ensuring the required security training?
- Are the Non-Disclosure Agreements executed by employees prior to accessing the sensitive information?
- Do initial security briefings contain the minimum required information?
- Does the contractor's security education program include refresher security briefings?
- Are employees debriefed at the time of a termination, reassignment or project's completion regarding the requirements for continued safeguarding of Confidential



Information?

- Has the contractor established internal procedures that ensure authorized awareness of their responsibilities for reporting pertinent information to the SIM?
- Has the contractor established a graduated scale of administrative disciplinary action to be applied against employees who violate the Handbook?
- Are employees aware of Emergency Procedures?
- Does management support the program for safeguarding Port Authority Confidential and Privileged Security Information?

STANDARD PRACTICE PROCEDURES

- Is the Confidential Information Practice and Procedures ("CIPP") document current and does it adequately implement the requirements of the Handbook?
- A CIPP only needs to be prepared when the Departmental Information Security Officer ("DISO") believes it necessary for the proper safeguarding of Confidential Information.

SUBCONTRACTING

- Have all Subcontractors properly executed the Non-Disclosure and Confidentiality Agreement?
- Has a Non-Disclosure Agreement been executed by each of the Subcontractor's employees who has been afforded access?
- Is a current roster maintained of all Subcontractor employees authorized access to Confidential Information at the firm?
- Does the Subcontractor provide this roster to the Prime Contractor's SIM as required? Is it current? Does it include the date that the agreement was signed? Is it included in the Prime Contractor's Team Roster?
- Does the contractor complete all actions required in the Handbook prior to release or disclosure of Port Authority Confidential Information to subcontractors? Has the Subcontractor been provided a Handbook?
- Has a senior management official of the Subcontractor been designated as the Security Information Manager (SIM), if required by a CIPP?

- Has a deputy SIM been identified?
- Is the safeguarding capability of all subcontractors determined as required?
- Is the requirement to abide by security procedures identified in the Handbook incorporated into each subcontract?
- Does the Subcontractor have an adequate understanding of the Handbook's requirements and the types of information that require safeguarding?

VISIT CONTROL

- Are procedures established to ensure positive identification of visitors prior to disclosure of Confidential Information?

CLASSIFICATION

- Does the contractor have adequate procedures for evaluating Confidential material being created, extracted, or summarized?
- Is contractor-developed Confidential Information appropriately marked, and protected?

PUBLIC RELEASE

- Does the contractor obtain the approval of the Port Authority prior to public disclosure of *ANY* information pertaining to a security program contract?

STORAGE

- Has the contractor established a system of security checks at the close of each working day to ensure that sensitive material is secured?
- How would the Confidential material be safeguarding during an emergency?
- Is a record of the names of persons having knowledge of the combinations to security containers maintained?
- When combinations to containers are placed in written form, are they stored appropriately?
- Do authorized persons, when required, change combinations to security



containers?

MARKINGS

- Is all Confidential material, regardless of its physical form, marked properly?
- Is all Confidential material marked to show the name and address of the facility responsible for its preparation and the date of preparation?
- Are overall markings marked conspicuously as required?
- Are protective markings applied to Confidential compilations if required?

TRANSMISSION

- Is Confidential Information properly prepared for transmission outside the facility?
- Are Transmittal Receipts included with Confidential Information if required?
- Is a suspense system established to track transmitted documents until the signed receipt is returned?
- Are authorized methods used to transmit Confidential material outside the facility?
- Is the NDA of the receiving facility determined prior to transmission of Confidential Information?

CONFIDENTIAL INFORMATION CONTROLS

- Do contractor employees understand their safeguarding responsibilities?
- Is the contractor's accountability system capable of facilitating the retrieval and disposition of Confidential material as required?
- Are external receipts and dispatch records maintained as required?
- Is all Confidential material received at the contractor facility and delivered directly to designated personnel?



- Do contractor employees promptly report the loss, compromise, or suspected compromise of Confidential Information to the SIM?

DISPOSITION

- Is a program established to review Confidential retention on a recurring basis for the purpose of reduction?
- Is Confidential material destroyed as soon as possible after it has served its purpose?
- Does the contractor employ an effective method of destruction?
- Is Confidential material destroyed by the appropriate employees?
- Is Confidential waste properly safeguarded until its timely destruction?

REPRODUCTION

- Does the facility's reproduction control system keep reproduction of Confidential material to a minimum?
- Is the reproduction of Confidential Information accomplished only by properly authorized, and knowledgeable employees?
- Is reproduction authorization obtained as required?
- Are reproductions of Confidential material reviewed to ensure that the markings are proper and legible?

AUTOMATED INFORMATION SYSTEMS (AIS)

- Are appropriate physical controls being exercised over approved AIS?
- Are AIS media containing Confidential Information handled in a manner consistent with the handling of Confidential documents?
- Are all AIS storage media, internal memory, and equipment, that contain Confidential Information, properly sanitized prior to removal from protection?



Suggested Questions When Interviewing Employees NOT Authorized Access to Confidential Information:

- What is Confidential Information?
- Have you ever seen Confidential Information?
- If you found Confidential Information unprotected, what would you do?

Suggested Questions When Interviewing Employees Authorized Access to Confidential Information:

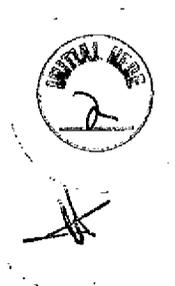
- What is your job title/responsibility?
- Which contract or program requires you to access this information?
- How do you access the information?
- How long have you been authorized access?
- When was your last access to Confidential Information?
- Have you ever had access to Confidential Information outside of this facility?
- Did anyone else from the facility accompany you?
- Did you take any Confidential notes or Confidential Information back to the facility?
- What procedures were followed to protect this information?
- Where is this information now?
- Have you ever provided access to Confidential Information to visitors?
- How did you determine their need-to-know?
- Have you ever been approached by anyone requesting Confidential Information?
- Do you ever work overtime and access Confidential Information?
- When was the last time that you had a security briefing?
- What can you recall from this briefing?
- Have you ever been cited for a security violation?
- What would YOU do if YOU committed a security violation or discovered one?
- Do you have the combination to any storage containers?

- Who other than yourself has access to these containers?
- Is a record maintained of the safe combination? If so, where?
- Do you reproduce or generate Confidential Information?
- Where do you typically work when you generate Confidential Information?
- What procedures do you follow to protect Confidential Information while working on it?
- Do you ever use a computer to generate Confidential Information? How do you mark this Information?
- Please produce the guidance that you used. Is it accurate?
- What procedures do you employ when hand carrying Confidential material?
- Have you reproduced Confidential Information? Describe the procedures.
- Have you destroyed Confidential Information? What procedures were used?
- Do you have any questions regarding security?



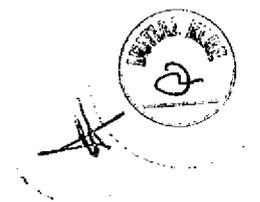
RIDER "G"
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WORLD TRADE CENTER -
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

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WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

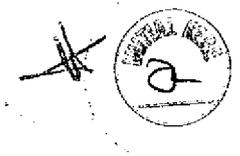
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RIDER "I"
SALES & USE TAX REQUIREMENTS
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

October 8, 2008

The requirements in the attached New York State Department of Taxation and Finance Letter, dated October 8, 2008, is included in the Lump Sum Contract in addition to The Sales and Use Tax Requirements included in the PANYNJ Contract.

A handwritten signature is written over a circular stamp. The stamp contains the text "OFFICE OF THE COMPTROLLER OF THE STATE" around the perimeter and a handwritten number "2" in the center.



New York State Department of
TAXATION and FINANCE
OTPA Sales Tax Exempt Organizations Unit
Building 9 Room 154
W.A. Harriman Campus
Albany, NY 12227

October 8, 2008

Port Authority of NY & NJ
One Path Plaza
5th Floor
Jersey City NJ 07306

Dear Sir or Madam:

The Tax Law exempts New York State governmental entities such as your organization, Port Authority of NY & NJ, from the payment of New York State sales and use taxes on their purchases. In order to make tax exempt purchases, a New York State governmental entity must present vendors with the entity's official purchase order or other documentation (e.g., payment voucher, contract of sale, Form AC 946, *Tax Exemption Certificate*, Form ST-129, *Exemption Certificate - Tax on occupancy of hotel rooms*, etc.) which indicates that the purchaser is a New York State governmental entity.

Tax exemption numbers and Form ST-119.1, *Exempt Organization Exempt Purchase Certificate*, are not issued to New York State governmental entities. If a vendor requests a tax exemption number or Form ST-119.1, *Exempt Organization Exempt Purchase Certificate* from you, the Port Authority of NY & NJ may give the vendor a copy of this letter. This will assure the vendor that a governmental purchase order, or other evidence that the Port Authority of NY & NJ is the purchaser, is the only documentation the vendor needs in order to not collect sales tax.

New York State Department of Taxation and Finance
OTPA-Technical Services Bureau
Sales Tax - Exempt Organizations Unit
Building 9, Room 154
W.A. Harriman Campus
Albany, NY 12227
(518) 457-2782



RIDER "K"

January 30, 2009

PROJECT CORRUPTION PREVENTION PROGRAM
1 WORLD TRADE CENTER, "THE FREEDOM TOWER"
NEW YORK, NEW YORK

BACKGROUND QUALIFICATION QUESTIONNAIRE PACKAGE

Introduction:

The Port Authority of New York and New Jersey has implemented a Project Corruption Prevention Program ("PCPP") for all World Trade Center Projects. The Office of the Inspector General of the Port Authority of New York and New Jersey and the World Trade Center Construction Department have worked collaboratively in the design and implementation of the PCPP. The PCPP is grounded in the bedrock belief that fair and ethical business practices are an absolute prerequisite to doing business on these Projects. These ethical practices must be followed by all contractors, subcontractors, consultants, vendors and suppliers, of all tiers, on all Port Authority WTC Projects.

One of the components of the PCPP is contractor and vendor screening, designed to ensure that, in addition to demonstrated records of quality performance and solid financial capacities, firms awarded contracts for work on the WTC Projects possess high ethical standards and a record of law abiding conduct. Screening is being performed through the use of a background qualification questionnaire package ("BQQP"). To that end, and to facilitate the consideration of your firm for the award of a contract, we have enclosed a BQQP for your immediate attention.

Instructions:

The Background Qualification Questionnaire Package consists of two forms:

- 1) the Background Qualification Questionnaire, (the "BQQ", also referred to as the Rider K Attachment), and attached Exhibit A Certification; and,
- 2) the Certification of No Change.

All consultants, sub-consultants, contractors, sub-contractors, and vendors, of all tiers, whose contracts or purchase orders will exceed \$100,000 (collectively, "WTC Contractors") must complete an initial BQQ. The Company will then be required to file updates to the BQQ in relation to each new WTC contract or purchase order in excess of \$100,000. So that WTC Contractors do not have to file a new BQQ every time, WTC Contractors may submit the Certification of No Change, whenever it is applicable. In the event that the Company cannot certify to no change, the Company will be required to file an updated BQQ in full. For this reason, **the Company should never submit more than one form at a time, rather only one form for one contract or purchase order.** Please retain blank copies for future use.

Forms in this Questionnaire Package **must be completed by a Key Person** (see Question 9 of the BQQ for definition of Key People) who is knowledgeable about the past and present operations of the Company. If a particular question does not apply, the response should state "Not Applicable" ("N/A").

Please answer all questions truthfully, fully and accurately. The Company may expand on the answers given or the information submitted by attaching additional pages. Use 8½ X 11" paper, marking each page with the firm's name, Tax ID # (also known as Employer Identification Number-EIN) and the number/section of the question that is being answered. Individual WTC Contractors that do not have a Tax ID # should enter their Social Security Number. When completing the BQQP, err on side of full and complete disclosure.

(continued...)



January 30, 2009

Return the completed BQQP to the **Office of the Inspector General**, not to the firm that your Company will be contracting with. In order to ensure timely processing, please complete the appropriate form and send the **signed & notarized original**, as soon as possible, but in no event later than two weeks after receipt of the BQQP to:

**Ronald Calvosa
Program Manager
The Port Authority of New York and New Jersey
Office of Inspector General
5 Marine View Plaza, Suite 502
Hoboken, NJ 07030**

In addition, to further expedite processing, the Office of the Inspector General will also accept a fully completed preliminary BQQP via fax (973-565-4307) or email (OIGBQQP@panynj.gov), however, follow-up with the **original by mail is still required**, as detailed above.

If you have any questions please call the Office of the Inspector General at (973) 565-4340 and request to speak with an Investigator on the WTC Fraud Prevention Unit.

In the event of changes in ownership, address, circumstances, conditions or status of the firm that would require amending the answers to this Questionnaire, the firm shall notify the above in writing of such changes within one month after the change has occurred.

We appreciate your cooperation.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
WORLD TRADE CENTER
BACKGROUND QUALIFICATION QUESTIONNAIRE
FOR

("The Company")

General Identification

1. Tax ID # _____

Business Entity Name (the "Company") _____

D/B/A name, if any
(D/B/A means "doing business as") _____

Street address _____

City/State/Zip _____

Mailing address (if different) _____

City/State/Zip _____

Phone No. _____ Fax No. _____

E-mail address _____ Website _____

2. a. What World Trade Center Project is the Company intending to work on? (Select one).
- Central Chiller Plant – (Owner's Rep/Construction Mgr: N/A)
 - Freedom Tower – (Owner's Rep/Construction Mgr: "Tishman Construction Corporation")
 - Nat'l Sept. 11 Memorial & Museum – (Owner's Rep/Construction Mgr: "Bovis Lend Lease")
 - Transportation Hub – (Owner's Rep/Construction Mgr: "Phoenix Constructors JV")*
*References made to Phoenix Constructors JV are also inclusive of its individual partner firms:
Bovis Lend Lease; Flour Corporation; Granite Construction, Inc.; and Skanska USA
 - Vehicular Security Center – (Owner's Rep/Construction Mgr: N/A)
 - Other (Specify) _____ – (Owner's Rep/Construction Mgr: N/A)

b. Prime Contractor (the "Prime") _____
(The firm that the Company will be contracting with.)

c. Description of Work _____

3. a. Has the Company changed address(es) in the past five years?
 No Yes
- b. Has the Company operated under any other name(s) in the past five years?
 No Yes
- c. Does the Company have offices, plants or warehouses at other addresses?
 No Yes

If 'yes', to question 3 a, b, or c provide details below:

Specify (3a-c)	Name	Address	From (Mo./Yr.)	To (Mo./Yr.)

Tax ID# (or SSN) _____

Business Organization and History

4. Type of Company: Corporation Partnership Sole Proprietorship Joint Venture*
 Limited Liability Company Other (Specify) _____

* If the Company is a Joint Venture, please provide a list of all partner firms and/or parties to the Joint Venture below. All partners and/or parties listed are also required to individually complete a separate BOQ.

Partner/Party Name	Tax ID# (or SSN)	% of Ownership

5. a. Date the Company was formed _____
b. Date of incorporation if different than date the Company was formed _____
c. State in which formed or incorporated _____
d. Number of shares authorized for issuance if company is a corporation _____
e. Number of shares issued to individuals or entities _____
f. Registered Agent (Lawyer/incorporator) _____

6. Was the Company purchased as an existing business by its present owner(s)?
 No Yes (if yes, provide information below)

Date purchased _____
Previous Owner(s) Name(s): _____

7. Does the Company own, rent, or lease any of its office facilities?
 Own
 Lease/Rent (if leased or rented, provide information below)

Owner Name	Address	Phone Number

8. Does the Company share any office space, staff, or equipment (including telephone exchanges) with any other business or organization?
 No Yes (list below)

Tax ID# (or SSN)	Firm Name	Address/Nature Of Shared Facilities

9. Identify all Key People

Instructions: Fill in the required information on all present and past **Key People for the past five years.**

"Key People" include:

- Principals, directors, officers
- Shareholders of 5% or more of the Company's issued and outstanding stock
- Any manager or individual who participates in overall policy-making or financial decisions for the Company
- Project managers and project executives
- Any person in a position to control and direct the Company's overall operations
- Authorized signatories to bank accounts and any debt instruments, whether or not otherwise considered Key People

"Shareholders" are owners of stock or other securities that can be converted to stock that, if converted, would constitute 5% of the Company's issued and outstanding stock. Other securities include stock options, secured or unsecured bonds, warrants and rights.

Be sure to include all those who fit the definition of Key People for the past five years whether or not they are currently with the Company. Copy this page if more space is required.

KEY PEOPLE TABLE
COMPLETE ALL BLANK AREAS

	PERSON #1	PERSON #2	PERSON #3
NAME AND HOME ADDRESS*			
Date of Birth			
SS #			
Current Title			
From (Date)			
To (Date)			
% of Ownership			
Number of Shares Owned			
How Shares Were Acquired			
	PERSON #4	PERSON #5	PERSON #6
NAME AND HOME ADDRESS*			
Date of Birth			
SS #			
Current Title			
From (Date)			
To (Date)			
% of Ownership			
Number of Shares Owned			
How Shares Were Acquired			

* Provide current proper legal name and specify any name change, including maiden or married names or aliases.

10. At present or during the past five years:

- a. Has the Company been a subsidiary of any other firm?
 No Yes
- b. Has the Company consisted of a partnership in which one or more partners are other firms?
 No Yes
- c. Has any other firm owned 5% or more of the Company?
 No Yes
- d. Has the Company been a joint venture partner with any other firms?
 No Yes

If 'yes' to question 10 a, b, c, or d, list the other firms below and indicate the percent of stock, if any, owned in the Company.

	FIRM #1	FIRM #2
Specify (10a-d)		
Tax ID#		
Firm Name		
Address		
Relationship To The Company (Co. Owner, Partner, Etc.)		
% of the Company Owned		
From (Date)		
To (Date)		
Representative Name/Title		

11. At present or during the past five years:

- a. Has the Company had any subsidiaries?
 No Yes
- b. Has the Company owned 5% or more of any other firm?
 No Yes

If 'yes' to question 11 a or b, list the firms below and indicate the percent of the other firm's stock owned by the Company.

Specify (11a,b)	Tax Id#	Firm Name and Address	% Owned By The Company	Dates of Ownership From/To

12. At present or during the past five years have any of the Key People of the Company served as a Key Person (see definition in question 9) or owned 5% or more of any other firm (including firms that are inactive or have been dissolved)?
- No Yes

If 'yes' to question 12, list below:

Firm Name and Address	Tax Id#	Key Person	Position Held	% Owned	Remainder Owned By	Dates Owned From/To

All firms listed in questions 10 a-d, 11 a-b, and 12 will be referred to in the following questions as: "Affiliate Firms"

13. Are any Key People of the Company:

- a. present or past employees of The Port Authority of New York and New Jersey, the Owner's Rep/Construction Mgr. identified in Question 2(a), or the Prime identified in Question 2(b)?
 No Yes
- b. related by kinship or marriage to any present or past employee of The Port Authority of New York and New Jersey, the Owner's Rep/Construction Mgr. identified in Question 2(a), or the Prime identified in Question 2(b)?
 No Yes

If 'yes' to question 13a or b, provide names of such individual(s) and indicate relationship to the current/former employee.

14. Number of employees of the Company (not including Key People) _____

15. Is the Company a union company or non-union company?

- Union Non-Union

If 'Union', provide below which trade(s) the Company has agreements with and the date of their expiration.

Union Name & Local #	Exp. Date	Union Name & Local #	Exp. Date

16. Does the Company currently participate in any business or job opportunity certification programs with the Port Authority or any other government agency? (i.e. MBE, WBE, SBE, DBE, LBE, etc.)

- No Yes

If 'yes' to question 16, provide details below:

Certification Type	Exp. Date	Certifying Agency	Certification #

Financial Information

17. At present or in the past five years:

- a. Has the Company been indebted to an individual or entity other than a commercial lending institution in the cumulative amount of \$50,000 or more?
 No Yes
- b. Have any of the Company's Key People been indebted to an individual or entity other than a commercial lending institution in the cumulative amount of \$50,000 or more, for the benefit of the Company?
 No Yes
- c. Has the Company pledged any of its stock to guarantee any of the above obligations?
 No Yes N/A
- d. Has any individual or the Company been a guarantor, co-maker or co-signer of any of these obligations on behalf of the Company?
 No Yes N/A

If 'yes', to any portion of question 17a-d, provide details below:

Specify (17a-d)	Name of Creditor	Name of Borrower	Amount of Loan & Balance Remaining	Terms of Pledge or Loan	Name of Guarantor, or Co-Signer

- e. Have monies generated by the Company in the cumulative amount of \$50,000 or more been loaned to another firm or individual by the Company or its Key People? No Yes

If 'yes', please provide details below:

Name: _____
 Address: _____

- f. Has the Company, or any of its Affiliate Firms, or any of its Key People paid commissions or finders fees to obtain contracts or work to anyone other than its own key people? No Yes

If yes, explain: _____

- 18. Has the Company, or any of its Affiliate Firms, or any of its Key People been a party to a bankruptcy or reorganization proceeding?
 No Yes

If 'yes,' provide details below:

Caption	Date	Docket #	Court	County

19. During the past five years, has the Company ever:
- a. been the subject of a lien, judgment or litigated claim of \$25,000 or more by a subcontractor, supplier or other creditor?
 No Yes
 - b. failed to complete a contract for a commercial or private owner or government agency?
 No Yes
 - c. had, or does it currently have, any delinquent local, city, state or federal taxes outstanding?
 No Yes

If 'yes' to question 19 a, b or c, supply details below:

Specify (19a-c)	Agency/Owner	Contract #	Describe Circumstances & Current Status	Date of Events	Name/Phone No. of Contact Person

Experience/Performance

20. On the following table state the Company's gross revenues for the past three years:

	Sales/Gross Revenues	Net Income
Past Fiscal Year		
Past Fiscal Year (-1)		
Past Fiscal Year (-2)		

21. Does the Company have a bonding capacity?
 No Yes

If 'yes', provide information below on all surety companies that have agreed to furnish the Company with performance and payment bonds and answer all related questions:

- a. Surety Name: _____
 Address: _____

 Agent/Broker: _____
 Phone No. () _____

- b. In writing bonds for the Company, does the surety company rely on the indemnity of any other firm(s) or individual(s)?
 No Yes

If 'yes', supply names & addresses of others:

c. What is the Company's bonding capacity:

Single Job: \$ _____ Aggregate: \$ _____

22. Has the Company or any of its Key People, officers, owners or managers had any business related or professional licenses, certificates or certifications revoked or suspended in the past five (5) years?

No Yes (if yes, explain below)

Compliance Information

23. Has the Company or any of its Affiliate Firms ever been the subject of any of the following actions by any government agency:

Government agencies include city, state, federal public agencies, quasi-public agencies, authorities and corporations, public development corporations, public benefit corporations and local development corporations.

*Note: Matters under appeal must be disclosed.

- a. been suspended, debarred, disqualified, declared non-responsible or non-responsive, or had its prequalification revoked or otherwise been declared ineligible to bid or to perform work?
 No Yes
- b. been barred from bidding or denied a contract as a result of refusal of Key People to testify before a grand jury or administrative board?
 No Yes
- c. been denied a contract despite being the low bidder for any other reason?
 No Yes
- d. been defaulted on or breached any contract?
 No Yes
- e. had a contract terminated, for either "cause" or "convenience"?
 No Yes
- f. been given a final unsatisfactory performance evaluation or determination, or deemed a poor performer (by letter or formal proceedings)?
 No Yes
- g. been prevented, or barred from bidding for any other reason?
 No Yes
- h. been denied a contract for failure to obtain surety or otherwise provide required security?
 No Yes
- i. had liquidated damages assessed against it upon completion of a contract or failure to complete a contract?
 No Yes

If 'yes', to any portion of question 23 supply details below:

Specify (23a-1)	Agency	Contract #	Date of Action	Describe Action	Name/Phone # of Agency or Owner Contact Person

24. In the past five (5) years, has the Company or any current or past Key People or Affiliate Firms been a plaintiff or defendant in any lawsuits arising out of the Company's operations?
 No Yes

If 'yes', to question 24, supply details below and submit documentation if applicable. Indicate in P/D column whether the Company's Key People or key firms were plaintiffs (P) or defendants (D).

Caption or Action	P/D	Court	Index/Docket No.	Date	Status

25. In the past ten (10) years has the Company or any of its current or past Key People or Affiliate Firms:

- a. voluntarily engaged the services of an Integrity Monitor, independent private sector inspector general, or integrity compliance consultant (hereinafter collectively referred to as an "integrity monitor") in connection with the performance of any public or private contract?
 No Yes
- b. been required to engage the services of an Integrity Monitor, submit a certification in connection with the award of, or in order to complete, any public or private contract?
 No Yes
- c. otherwise been the subject of audits/investigations (see definition of investigation below in Question 26a) performed by an integrity monitor in connection with any public or private contract?
 No Yes

If yes to any portion of question 25, explain below:

26. Has the Company or any of its current or past Key People or Affiliate Firms ever:

- a. been under investigation involving any alleged violation of criminal law relating to business activities?
 No Yes

An **INVESTIGATION** includes an appearance before a grand jury by representatives of a business entity, any oral or written inquiry or review of the entity's documents by a public agency, temporary commission or other investigative body including, but not limited to, subpoenas and/or search warrants, or questioning of employees concerning the general operation or a specific project or activities of such business entity, whether or not such business entity is notified, is in-fact, or otherwise believed to be, the subject or target of any such investigation.

- b. had records in its or his/her control, custody or ownership subpoenaed or seized by a search warrant by any law enforcement or government agency?
 No Yes

- c. been questioned by any officer or agent of a law enforcement or investigative agency regarding any practices or conduct relating to the providing of services?
 No Yes
- d. been advised of being the target, subject, or person of interest of an investigation involving any violation of criminal law?
 No Yes
- e. been notified of being the subject of court ordered electronic surveillance?
 No Yes
- f. been arrested or indicted or otherwise named as an unindicted co-conspirator in any indictment or other accusatory instrument?
 No Yes
- g. been convicted, after trial or by plea, of any felony under state or federal law?
 No Yes
- h. been convicted of any misdemeanor involving business-related crimes?
 No Yes
- i. entered a plea of nolo contendere to any felony and/or business-related misdemeanor?
 No Yes
- j. entered into a consent decree?
 No Yes
- k. been granted immunity from prosecution for any business-related conduct constituting a crime under state or federal law?
 No Yes
- l. exercised the Fifth Amendment right against self-incrimination in testimony regarding a business related crime?
 No Yes

If 'yes', to any portion of question 26, supply details below and submit documentation.

Specify (26a-f)	Agency Or Court	Nature Of Action	Person Or Entity Named or Involved	Date	Status/Outcome

27. Do any current or past Key People listed in this application have any felony or misdemeanor charges pending against them that were filed either before, during or after their employment with the Company?
 No Yes

If 'yes' to question 27, provide details below:

Agency or Court	Nature of Charges	Key Person Named	Date of Charges

28. Has the Company or any of its current or past Key People or affiliate firms ever engaged in any of the following practices:
- a. filed with a government agency or submitted to a government employee a written instrument which the Company or any of its Key People or affiliate firms knew contained a false statement or false information?
 No Yes
 - b. falsified business records?
 No Yes
 - c. given, or offered to give, money, gifts or anything of value or any other benefit to a labor official or public servant with intent to influence that labor official or public servant with respect to any of his or her official acts, duties or decisions as a labor official or public servant?
 No Yes
 - d. given or offered to give, money, gifts or anything of value or any benefit to a labor official or public servant for any reason?
 No Yes
 - e. given, or offered to give, money or other benefit to an official or employee of a private business with intent to induce that official or employee to engage in unethical or illegal business practices?
 No Yes
 - f. agreed with another to bid below prevailing market rate?
 No Yes
 - g. agreed with another to submit identical or complementary bids or otherwise not to bid competitively or agree to withdraw or abstain from bidding?
 No Yes
 - h. agreed with another not to submit competitive bids in another's territory established either by geography or customers?
 No Yes
 - i. agreed with another to take turns in obtaining contracts by pre-determining which firm shall submit the lowest bid?
 No Yes

If 'yes', to any portion of question 28, explain below:

29. This document was prepared by (Note: This person must be a Key Person listed in response to Question 9):

(Name)

(Title)

(Signature)

(Date)

**EXHIBIT A
CERTIFICATION**

A materially false statement willfully or fraudulently made in connection with this Certification, and/or failure to conduct appropriate due diligence in verifying the information that is the subject matter of this Certification may prevent the Company and/or the undersigned from being found to be responsible bidders/proposers in connection with future agreements. In addition, a materially false statement willfully or fraudulently made in connection with this Certification may subject the Company and/or the undersigned to criminal charges, including charges for violation of New York State Penal Law Sections 175.35 (Offering a False Statement for Filing) and 210.40 (Sworn False Statement), New Jersey Code of Criminal Justice Title 2C:28-3 (Unsworn Falsification to Authorities), and/or Title 13 U.S.C. Sections 1001 (False or Fraudulent Statement) and 1341 (Mail Fraud).

Certifications must be notarized when signed.

I _____, being duly sworn, state that I am _____, an officer of
(Print Name) (Title)
the Company, and that I have read and understood the questions contained in the attached questionnaire.

I certify that to the best of my knowledge the information given in response to each question, whether prepared by me, or by the Key Person identified in Question 29, is full, complete and truthful as of this date hereof. I agree and warrant that truthfully answering the questions is an event entirely within my control.

I recognize that all the information submitted is for the express purpose of inducing the Port Authority to enter into a contract with, or to approve the award of a contract to, the Company.

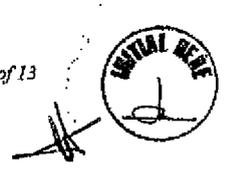
I acknowledge that the Port Authority, may by means it deems appropriate, determine the accuracy, truth and completeness of the answers to the questions in the questionnaire. I authorize the Port Authority or its designee to contact any person or entity for purposes of verifying the information supplied by the Company.

(Print Name)

(Signature)

Sworn to before me
this _____ day of _____ 20____

Notary Public



RIDER "L"
CONTRACTOR PAYMENT PROCEDURES
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

Revised: February 17, 2010

TRADE: EXCAVATION & FOUNDATION

1. SCHEDULE OF VALUES

Prior to the commencement of Work hereunder, Contractor shall prepare and submit to Construction Manager, for approval by Owner, a "Schedule of Values" furnishing a complete, detailed and itemized breakdown of the various divisions of the Work, including values for materials and labor. The total of this cost breakdown shall be equal to the Lump Sum.

2. PROGRESS PAYMENTS

With each pencil draft and official Application for Payment, the Contractor shall attach an Affidavit of Payment and Waiver of Claims (in the form attached) to the date of the last advance, as well as a statement of any back charges and credits to which the Construction Manager is entitled, a sworn statement of any claim for charges or extras due to the Contractor, such claim not to be valid unless made at the time and in the manner aforesaid, a sworn statement setting forth all amounts, if any, owed by Contractor to its subcontractors and suppliers, and a Schedule of Values showing the percentages of the various divisions of work completed, including values for materials and labor, and any other documentation or information requested by Owner or Construction Manager. All requisitions shall be made on and in compliance with Construction Manager's standard form of Contractor's requisition (in the form attached) and shall be subject to the terms thereof, including the submission of sworn statements from Contractor's subcontractors and vendors. In addition to retainage and other amounts withheld under this Contract, the Construction Manager shall also retain a sum sufficient, in its opinion, to complete the Work in accordance with the terms of this Contract. Moreover, in each instance of requisition prior to completion, the Contractor shall certify to the Construction Manager that the cost of the Work remaining to be done under this Contract does not exceed 90% of the balance of the Lump Sum unpaid. In no event will the Construction Manager be required to pay in excess of 90% of the Lump Sum prior to the completion of all the Work the Contractor is obligated to perform under this Contract.

FIRM NAME: _____



RIDER "L"
CONTRACTOR PAYMENT PROCEDURES
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

Revised: February 17, 2010

3. WITHHOLDING BY CONSTRUCTION MANAGER

The Construction Manager may withhold payment to the Contractor as set forth in the Contract, including, without limitation, on account of (1) the failure of the Contractor to comply fully with any requirements of this Contract, including the failure of the Contractor to make payments to subcontractors or for material or labor, (2) the failure of the Contractor to prevent the filing of liens or claims or to avoid the reasonable probability of the filing of liens or claims against the Construction Manager, Owner, the Authority, the Project or the Contractor, and (3) damage to another contractor by reason of acts or failure to act of the Contractor.

4. FINAL PAYMENT

The balance owing to the Contractor under the terms of this Contract shall not be due and payable except as set forth in the Contract and until:

- (1) the completion of all Work in this Contract, including patching and the furnishing of missing material,
- (2) acceptance thereof by the Construction Manager and Owner, and
- (3) receipt by the Construction Manager of (A) all Contractor's "as built" drawings, records and related data; (B) all guaranties and warranties to which the Construction Manager is entitled hereunder; (C) all permits, licenses, approvals, certificates and authorizations required by any authority having jurisdiction; (D) a general release from the Contractor in form and substance satisfactory to Owner, in favor of Owner, the Authority, other persons and entities designated by Owner, Construction Manager and sureties, if any; and (E) satisfactory proof that all claims, including taxes, growing out of the Work to be performed hereunder and any liens or attempts at liens growing out of the same which shall have been filed or recorded, have been released.
- (4) Payment of the Lump Sum and/or any other sums for the Work or any portion thereof and/or any other amounts due or claimed to be due or claimed to be due to Contractor shall be made by Construction Manager only from funds which Construction Manager has actually received in hand from Owner and designated by Owner for disbursement to Contractor. **CONTRACTOR AGREES TO LOOK SOLELY TO SUCH FUNDS FOR PAYMENT.** Contractor understands and agrees that Construction Manager shall have no responsibility to pay Contractor any amounts due to Contractor upon the Lump Sum and/or for the Work or any portion thereof and/or for any other amounts due or claimed to be due to Contractor except from and to the extent that Construction Manager has actually received funds from Owner specifically designated for disbursement to Contractor. Receipt of such funds by the Construction Manager shall be a condition precedent to payment by Construction Manager to Contractor.

FIRM NAME: _____

REQUISITION NO.

TO

DATE

TISHMAN CONSTRUCTION CORP

BUILDER

CONTRACTOR _____ TRADE _____
 ADDRESS _____ PROJECT PERIOD _____
 _____ ENDING _____

ITEM	CONTRACTOR USE ONLY	DO NOT WRITE IN THIS COLUMN
1. Amount on Contract		
2. Change Orders Issued to Date (Item II, Attached Summary)		
3. Pending Change Orders (Item III, Attached Summary)		
4. Total of Above		
5. Value of Work Completed to Date (Item IV, Attached Breakdown)		
6. Less 10% Retained		
7. Net of Items 5 and 6		
8. Total Prior Payments		
9. Amount of This Requisition (Net of Item 7 less 8)		
10. Total Payments to Date		

Attached hereto is our Contract Breakdown together with claimed value of work completed to date substantiating the amount specified in Item 5 above. Neither payment on account hereof or any invoice, change order or other request, nor any entry by Builder in its records relating to such payment or work, shall constitute acceptance by Builder of any part of any work or the completion or value thereof or serve to waive any of Builder's rights under the Contract. If the Builder is acting in the capacity of a General Contractor all references in this entire requisition to "Contractor" shall be deemed to mean "Subcontractor."

 Contractor
 By _____
 (Title)

AFFIDAVIT ON REVERSE SIDE MUST BE EXECUTED BY CONTRACTOR
 (DO NOT WRITE BELOW)

Checked by _____ Approved by _____ \$ _____

Approved by _____ Final Release in hand _____

ACCOUNTING USE ONLY

REQUISITION NUMBER	DATED / /	CHECK NUMBER	CHECK DATE	PROJE	CONTRACTOR NO	TRADE	TENANT	VALUE OF WORK	PAYMENT
J R R E Q									

Remarks _____

COST BREAKDOWN SUMMARY

Project: _____ For Period Ending _____
 Contractor _____ Trade _____

I CONTRACT BREAKDOWN

Total Contract \$ _____ - Total Completed to Date \$ _____ -

Do not Write
In This Col.

II CHANGE ORDERS ISSUED TO DATE

CHANGE
ORDER

NO.	DESCRIPTION	AMOUNT	VALUE COMPLETED
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____

Do not Write
In This Col.

Total Change Orders \$ _____ - Total Completed to Date \$ _____ -

III PENDING CHANGE ORDERS

DATE & DESCRIPTION	AMOUNT	VALUE COMPLETED
1	_____	_____
2	_____	_____
3	_____	_____
4	_____	_____
5	_____	_____
6	_____	_____
7	_____	_____
8	_____	_____
9	_____	_____
10	_____	_____
11	_____	_____
12	_____	_____
13	_____	_____
14	_____	_____
15	_____	_____
16	_____	_____

Do not Write
In This Col.

Total Pending Changes \$ _____ - Completed to Date \$ _____ -

IV TOTAL WORK UNDER ITEMS I, II, III COMPLETED TO DATE \$ _____ -

**AFFIDAVIT OF PAYMENT
AND WAIVER OF CLAIMS**

**Re: VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
(Project)**

STATE OF)
) ss:
COUNTY OF)

_____ being duly sworn, deposes and says:

1. That s/he is the _____ of _____ (hereafter called the "Contractor") which has a contract with TISHMAN CONSTRUCTION CORPORATION on Behalf of the Port Authority of New York & New Jersey (hereafter called the "Builder") covering _____ the work for the building at the **WTC Vehicular Security Center & Tour Bus Parking Facility**, New York, NY.

2. That the said Contractor has paid in full (at the prevailing recognized rate and without any improper or illegal deductions or rebates), in accordance with the specifications and contract obligations, for all work, labor, materials and services supplied or performed in connection with said work to the date of the requisition on the reverse side hereof, including all Social Security, Unemployment Insurance and Sales and other Taxes applicable thereto, and there are no unpaid claims for any said labor or materials in connection with the performance of said Work or any of the said Taxes except as stated in paragraph 3 below, and any claim for such amounts is hereby forfeited and waived.

3. That as of the date hereof no amounts are due and no claims have been made against the said Contractor for any unpaid material or labor with the exception of the following: all of which are for labor and/or materials provided since the date of the requisition preceding this requisition, and as to such unpaid claims the Builder is hereby authorized, at its option, in behalf of the Contractor, to make direct payment to such claimants and charge same to the Contractor, i.e.:

NAME & ADDRESS	ITEM	AMOUNT
----------------	------	--------

4. That no payment made to the Contractor shall be deemed an acceptance by the Builder of defective work or materials or shall operate as an admission on the part of the Builder or Architect that the said contract, or any portion thereof, has been complied with the Contractor in case the fact shall be otherwise.

5. All sums received by the Contractor shall be held in trust to pay for any labor or materials in connection with the work, before being used for any other purpose.

**AFFIDAVIT OF PAYMENT
AND WAIVER OF CLAIMS**

Re: _____
(Project)

STATE OF)
) ss:
COUNTY OF)

_____ being duly sworn, deposes and says:

1. That s/he is the _____ of _____ (hereafter called the "Contractor") which has a contract with TISHMAN CONSTRUCTION CORPORATION as agent for 1 World Trade Center, LLC (hereafter called the "Builder") covering the _____ work for the building at **1 World Trade Center, NY, NY.**
2. That the said Contractor has paid in full (at the prevailing recognized rate and without any improper or illegal deductions or rebates), in accordance with the specifications and contract obligations, for all work, labor, materials and services supplied or performed in connection with said work to the date of the requisition on the reverse side hereof, including all Social Security, Unemployment Insurance and Sales and other Taxes applicable thereto, and there are no unpaid claims for any said labor or materials in connection with the performance of said Work or any of the said Taxes except as stated in paragraph 3 below, and any claim for such amounts is hereby forfeited and waived.
3. That as of the date hereof no amounts are due and no claims have been made against the said Contractor for any unpaid material or labor with the exception of the following: all of which are for labor and/or materials provided since the date of the requisition preceding this requisition, and as to such unpaid claims the Builder is hereby authorized, at its option, in behalf of the Contractor, to make direct payment to such claimants and charge same to the Contractor, i.e.:

NAME & ADDRESS	ITEM	AMOUNT
----------------	------	--------

4. That no payment made to the Contractor shall be deemed an acceptance by the Builder of defective work or materials or shall operate as an admission on the part of the Builder or Architect that the said contract, or any portion thereof, has been complied with the Contractor in case the fact shall be otherwise.
5. All sums received by the Contractor shall be held in trust to pay for any labor or materials in connection with the work, before being used for any other purpose.

6. This Affidavit and Waiver is made for the purpose of inducing the Builder to make payment under the terms of the subject contract relying on the truth of the statement contained herein.

Subscribed and sworn to before me

(Company Name)

this _____ day of _____

By _____
(Title)

Notary Public

BILL OF SALE

For and in consideration of the total value of materials \$ _____ less retainage of \$ _____ current payment due \$ _____ by **The Port Authority of New York & New Jersey** (hereinafter referred to as "Purchaser") _____ (hereinafter referred to as "Seller"), the receipt whereof is to be acknowledged Seller does hereby grant, bargain, sell, convey, set over, transfer, assign and deliver unto Purchaser all the right title and interest which it has in the personal property set forth in Invoice # _____ dated _____ attached hereto and made part hereof by reference, and described in attached listing of materials received from vendors.

Seller does hereby covenant and warrant that it is the true and lawful owner of the property assigned, transferred, sold, and conveyed pursuant to this Bill of Sale; that said property is free and clear from all encumbrances and liens; that Seller has good right and full power and authority to sell, transfer, assign and convey all of said property; and the Seller will warrant and defend the title to all of said property unto Purchaser, its successors and assigns, against all claims and demands of all persons, firms or corporations whatsoever. Materials are being stored at: _____ and at (see below)*.

IN WITNESS HEREOF, the parties hereto, by their duly authorized officers, have executed and set their hands and seals to this Bill of Sale, this _____ day of _____.

Company: _____ (Seller)
Signature: _____
Title: _____

STATE OF))
COUNTY OF))

Sworn to before me this _____ day
of _____ 200__

Tishman Construction Corp
on Behalf of the PANYNJ

(NOTARY)

BILL OF SALE

For and in consideration of the total value of materials\$_____less retainage of \$_____current payment due\$_____by **1 World Trade Center LLC** (hereinafter referred to as "Purchaser") _____(hereinafter referred to as "Seller"), the receipt whereof is to be acknowledged Seller does hereby grant, bargain, sell, convey, set over, transfer, assign and deliver unto Purchaser all the right title and interest which It has in the personal property set forth in Invoice#_____dated_____attached hereto and made part hereof by reference, and described in attached listing of materials received from vendors.

Seller does hereby covenant and warrant that it is the true and lawful owner of the property assigned, transferred, sold, and conveyed pursuant to this Bill of Sale; that said property is free and clear from all encumbrances and liens; that Seller has good right and full power and authority to sell, transfer, assign and convey all of said property; and the Seller will warrant and defend the title to all of said property unto Purchaser, its successors and assigns, against all claims and demands of all persons, firms or corporations whatsoever. Materials are being stored at:_____and at (see below)*.

IN WITNESS HEREOF, the parties hereto, by their duly authorized officers, have executed and set their hands and seals to this Bill of Sale, this ___day of _____.

Company:_____ (Seller)
Signature:_____
Title:_____

STATE OF))
COUNTY OF))

Sworn to before me this ___day
of _____ 200__

1 World Trade Center, LLC

(NOTARY)

RIDER "M"
DOWNTOWN SAFETY PROGRAM – SAFETY PROGRAM REQUIREMENTS
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

June 4, 2008 (Revision 1)

The requirements in the attached Downtown Restoration Program – The World Trade Center Site – Safety, Health and Environmental Program, dated June 4, 2008 (Revision 1), (71 pages), is included in the Lump Sum Contract.



DOWNTOWN RESTORATION PROGRAM

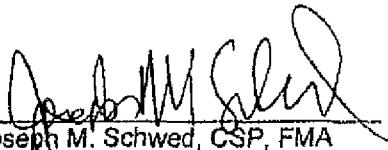
THE WORLD TRADE CENTER SITE

SAFETY, HEALTH AND
ENVIRONMENTAL
PROGRAM

June 4, 2008
Revision 1

Approvals and Endorsements

Prepared by:



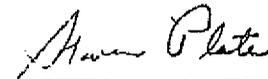
Joseph M. Schwed, CSP, FMA
WTC Site Safety Director
World Trade Center Construction

Reviewed by:



Alan Reiss
Deputy Director
World Trade Center Construction

Accepted by:



Steven Plate
Director, World Trade Center

Date Issued: 05/05/08

Revisions

Rev. No.	Rev. Date	Description
0	5-May-08	Initial Issue
1	4-June-08	Initial Issue Comments Incorporated

ACRONYMS

American Society for Testing and Materials:	ASTM
Compressed Gas Cylinder:	CGC
Contractor Safety Manager:	CSM
Engineer of Construction:	EOC
Fire Department of New York:	FDNY
Federal Railroad Administration:	FRA
Hazardous Material:	HAZMAT
Health and Safety Plan:	HASP
PA Inspection & Safety Division:	ISD
Job Hazard Analysis:	JHA
Lower Manhattan Development Corporation:	LMDC
Metropolitan Transportation Authority	MTA
National Electric Code:	NEC
National Fire Protection Association:	NFPA
New York City Building Code:	NYCBC
New York City Department of Buildings	NYCDOB
Port Authority Trans-Hudson:	PATH
PATH Right of Way:	ROW
PATH System Safety and Security Division:	PATH SS&SD
Port Authority Resident Engineer's Office:	REO
Silverstein Properties, Inc:	SPI
PA Tenant Alteration Application:	TAA
PA Tenant Construction and Alteration Applications:	TCA
U.S. Department of Transportation:	US DOT
U.S. Occupational Safety and Health Administration:	OSHA
World Trade Center Site:	WTC Site
World Trade Center Site Safety Director:	SSD

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SECTION 1.0 PROJECT INFORMATION

1.01 Program Objective

The Port Authority of New York and New Jersey (hereinafter referred to as the "Port Authority") has prepared this Site Safety, Health, and Environmental Program, hereinafter referred to as the "Program," to promote safety, and to mitigate and/or control all hazards associated with the construction at the World Trade Center Site. The goals of this Program are to prevent personal injury, property damage, environmental damage, and to reduce all direct and indirect costs and productivity losses attributable to accident occurrences.

The Port Authority reserves the right to revise this Program as required and necessary to ensure worker, public, property, and environmental protection, and to remain current with applicable regulations and technologies.

To ensure the safety of World Trade Center (WTC) Site workers, visitors, and the protection of the public, property and environment, no work shall commence until notification is received from the Port Authority Resident Engineer's Office (REO) that the prime contractors' health and safety plan and all related submittals have been approved by the Port Authority.

1.02 Program Approach

The Program is currently applicable to the WTC Tower 1-Freedom Tower, the WTC Memorial and Museum, the WTC Vehicle Security Center and the WTC PATH Transportation HUB Projects. Discussions are ongoing with other stakeholder projects and an addendum to the Program will be issued upon completion.

These are the minimum WTC Site requirements established by the Port Authority for worker protection, public safety, the protection of adjoining properties/utilities/streets, and the environment. All prime and sub-contractors, employees, consultants, vendors, and external agencies shall be required to incorporate these Port Authority requirements into their corporate health and safety plans. All provisions herein are intended to ensure regulatory compliance and best management practices during the performance of any work at the WTC Site.

All work performed at the WTC Site must be carefully coordinated as to not interfere with the construction activities of others working at the WTC Site, WTC Site maintenance and operations, or with the continuous operation and security of the PATH and MTA transit systems. Constant care must be exercised at all time to avoid any adverse impacts to PATH or MTA customers, employees, the general operation, security, structural integrity of the system, and emergency egress pathways, or impede emergency response.

1.03 Program Effectiveness and Cooperation

The effectiveness of this Program is dependent on the active participation and cooperation between the Port Authority, all WTC stakeholders/owners and agencies performing or responsible for construction activities on or in the vicinity of the WTC Site including, WTC Site tenants and lessees, as well as respective employees, consultants, prime contractors, sub-contractors, tradesmen, vendors, and authorized visitors.

The success of the Program, its implementation and maintenance requires the careful coordination of all construction activities on the WTC Site respectful of the following items:

- a) All work must be planned prior to execution to ensure that appropriate care is taken to anticipate and eliminate all risks or potential for personal injury, property damage, and environmental damage;
- b) The means and methods employed for the performance of any work must comply with the safety requirements of all applicable federal, state and local jurisdictional rules and regulations, ordinances, codes, statutes, industry standards, and Port Authority policies and procedures;
- c) Reliable, verifiable and uniform health and safety procedures must be established and maintained for the entire WTC Site to ensure the prompt detection and remediation of unsafe conditions or work practices. Safety deficiencies shall be corrected on a timely basis, or as directed by the REO, the WTC Site Safety Director (SSD), or their designated representatives. Each prime contractor's Contractor Safety Manager (CSM) shall establish a documented program to track and categorize injuries and illnesses, and record all safety deficiencies and the corrective actions taken as to each;
- d) Comprehensive safety training programs must be established and maintained for WTC Site workers to enhance safety awareness, and to promote a cooperative approach in the identification and mitigation of unsafe or unhealthy conditions and work practices;
- e) Comprehensive, enforceable, and site specific Health and Safety Plans (HASPs) and Job Hazard Analyses (JHAs) must be established by each prime and sub-contractor, and be readily available at the worksite to ensure that all work is performed in a manner that eliminates predictable worker, property, and environmental hazards. All HASPs and JHAs shall be submitted prior to the performance of any work, and at a minimum be updated quarterly or as required by the REO, the SSD or their designated representatives based upon any changes in the scope of work, existing site conditions, or the intended method of execution;

- f) A comprehensive communications system must be established and maintained to ensure that all emergency response contacts and related information are readily available throughout the WTC Site for the prompt reaction to and investigation of all accidents/incidents;
- g) All work except that regulated under 29 CFR 1926 Subpart R performed on vertical or horizontal surfaces or ledges that are equal to or greater than 6 feet above a lower level, including work on scaffolds, shall require fall protection.

Each prime contractor shall develop and implement a comprehensive and enforceable 100% Fall Protection Policy to be followed by all sub-contractors, employees, vendors, consultants, and external agencies when working or walking on all vertical and horizontal surfaces and ledges, including work performed on scaffolding, equal to or greater than 6 feet above a lower level except that regulated under 29 CFR 1926 Subpart R. Fall protection systems shall be designed by a qualified person, and installed and maintained by a competent person.

When determined by the competent person of a work crew performing leading edge or pre-cast concrete erection work that fall protection is infeasible, that competent person shall prepare a Fall Protection Plan as described in U.S. OSHA 29 CFR 1926.502(k), have it signed by a principal of that company, and forward the document to the prime contractor's CSM. The CSM shall review and approve the plan, and forward it to the REO and SSD for review and comment as required.

When determined by the competent person of a work crew erecting or dismantling a scaffold that fall protection is infeasible, consistent with U.S. OSHA 29 CFR 1926.451(g)(2), the competent person shall substantiate in writing the following, have it signed by a principal of that company, and forward the document to the prime contractor's CSM. The CSM shall review and approve the plan, and forward it to the REO and SSD for review and comment as required:

1. The type, location, and height of the scaffold being erected, used or dismantled;
2. The size of the work crew for scaffold erection, use or disassembly;
3. The duration of the task requiring scaffold erection, use or disassembly;
4. The conditions and reasons why fall protection is infeasible;
5. The methods used to inform, train and protect the workers from falls in the absence of fall protection.

- h) A comprehensive and enforceable Lockout/Tagout Program shall be established and followed prior to the performance of any operation in which a piece of machinery, equipment, system, or component thereof could unexpectedly start-up or become energized and release a form of energy (e.g.: electrical, mechanical, hydraulic, pneumatic, chemical, or thermal) while being serviced.

If the scope of work or the need to provide continued electrical service, work on a live (energized) electrical system or component (e.g. conductor, piece of equipment, transformer, switch gear, vault, panel) is required, a qualified person as defined and referenced in 29 CFR 1926.449 shall prepare and submit to the CSM an arc flash protection work plan which includes, but not limited to:

1. A description of the work location, scope of work, duration, contractor performing the work, crew size, and reason why the system cannot be de-energized;
2. The identification of the actual and potential arc flash hazards present, and a determination of flash intensity;
3. The establishment of an arc flash protection boundary identifying the personnel protective equipment (PPE) requirements and worker qualifications for each boundary;
4. The performance of a hazard assessment to identify the type of PPE and tools required to protect the worker from arc flashing;
5. The type of training provided to the work crew in the use of PPE and tools required to perform the work;
6. Written procedures describing the sequence of work;
7. An emergency action plan in the event of an accident.

Prior to the start of any work, the arc flash protection work plan, which is specific for the system being worked on, must be reviewed and signed off as "Approved" by the CSM or their designated representative, then forwarded to the REO and SSD for review and comment prior to the commencement of that task.

- i) A comprehensive and enforceable Permit-Required Confined Space Entry Program shall be established, signed off as "Approved" by the CSM, then submitted to the REO and SSD for review and comment prior to the performance of any operation in which entering to inspect, work, or monitor a

space meeting the criteria of an OSHA permit-required confined space is required;

- j) When working in an active roadway (e.g., erecting, using or dismantling a platform scaffold, using or moving an aerial lift, excavations, manhole entries, roadway paving, utility mark-outs, boring operations, surveys) a flag person and/or an impact resistant barrier (e.g. jersey barrier) shall be in-place for the duration of work. If the barrier is to remain in place during overnight hours, appropriate lighting shall be installed.
- k) All stationary and mobile fuel tanks with a storage capacity of greater than 5-gallons shall be equipped with secondary containment either integral to the unit, or by the installation of an impervious membrane and containment barrier (e.g.: berm/dike system);
- l) Appropriate U.S. and New York State labor law and regulatory postings shall be displayed, maintained, and updated in areas of worker assembly;
- m) Communication with workers (e.g.: posters, site safety training, equipment training, tool box talks, job safety analyses, etc.) shall be in a form and language that is understood and comprehended by the work crew.

1.04 Titles and Responsibilities of WTC Site Personnel

Chief Engineer

The Chief Engineer of the Port Authority of New York & New Jersey is the final authority regarding the interpretation of all jurisdictional codes, regulations, and ordinances at the WTC site.

Engineer of Construction

The Engineer of Construction is the duly authorized representative of the Director of the World Trade Center Construction Department and the authority regarding the application of all jurisdictional codes, regulations, and ordinances at the WTC Site. The Engineer of Construction, or his/her duly authorized representative, is primarily responsible for ensuring that each contractor comply with the requirements of the Contract Specifications and Tenant Construction Applications issued by the Port Authority for work performed at the WTC Site. The day-to-day enforcement and administration of the Program, contractor HASPs and JHAs is the responsibility of both the REO, the SSD, and their designated representatives.

Port Authority Resident Engineer

The Port Authority Resident Engineer (the "REO") with the SSD is responsible for the daily monitoring of all work performed at the WTC Site. This includes the issuance of

all Port Authority approvals and/or comments for all HASPs and JHAs submitted by CSM(s). The responsibilities of the REO include, but are not limited to, the following:

- a) The stoppage of any construction activities if warranted for protection of life and/or property/or utilities, protection of the environment, or the elimination of any hazardous or potentially hazardous conditions;
- b) Notify the contractor and their CSM when unsafe working conditions, practices and behavior are detected (e.g., lack of good housekeeping practices, use of equipment in obviously poor condition, failure to adhere to rules, regulations, ordinances or policies regarding safety);
- c) Notify the contractor and the CSM of any noncompliance with safety requirements contained in either the Contract Specifications of the Tenant Construction Application;
- d) Review all Daily Reports, Equipment Maintenance Log, Inspection Reports, and Accident Reports as appropriate. Such reports are to be promptly submitted and audited to ensure that the contractor takes immediate and prudent action to correct all anticipated or discovered safety deficiencies. Accident reports are to be submitted to the REO and SSD within twenty-four hours of the event;
- e) Directs the immediate removal from Port Authority property any employee, worker, person, or equipment deemed unnecessary or dangerous;
- f) Report all accidents/incidents and all serious injuries to PATH patrons/employees to the Manager, System Safety and Security Division;

Port Authority Inspection & Safety Division

The Port Authority Inspection and Safety Division (ISD) will advise and support the REO and the SSD in all matters of occupational and public safety, and health, and at a minimum, shall provide the following services:

- a) Routinely inspect and monitor the safety performance of contractors performing work at the WTC Site and prepare written reports documenting their findings and corrective recommendations for the protection of workers, the public, adjoining structures, utilities, and the environment. Such written reports will be provided to the REO and the SSD within twenty-four hours following any routine inspection;
- b) Review all Port Authority contract, TAA/TCA drawings, specifications, and submittals to ensure compliance with all applicable safety standards and codes;

- c) Review and prepare written comments on all HASPs and JHAs provided by all prime contractors, sub-contractors, WTC stakeholders/owners and external agencies to ensure uniformity and completeness in accordance with all applicable safety standards and codes, and best management practices;
- d) Participate in the performance of accident investigations to identify the factors contributing to all incidents. Prepare a report identifying the contributing factors and the recommendations to prevent reoccurrences;
- e) Accompanies and assists outside regulatory agency representatives (e.g., OSHA, FDNY, and insurance brokers) in the performance of their routine inspections and investigations;
- f) Performs Port Authority liaison responsibilities with outside regulatory agency representatives, insurance Underwriters, Brokers and Adjustors;
- g) Provide recommendations to the SSD to improve the effectiveness of the Program.

Treasury-Risk Management

Treasury-Risk Management will advise and support the REO and the SSD in all matters of insurance, and coordinate a cooperative approach to site safety with insurance company safety representatives and loss control managers. Under the Port Authority's Owner Controlled Insurance Program (OCIP), qualified insurance company safety professionals who have significant years of field experience in accident prevention in the construction industry will focus their efforts on current health and safety issues, and potential impact to the Port Authority. These safety professionals will work under the direction of the ISD, and in cooperation with the SSD regarding all health and safety matters within the WTC Site.

At a minimum, Treasury-Risk Management and loss control managers shall:

- a) Coordinate and maintain effective and routine communication with all parties involved in the safety and loss control efforts provided by the Port Authority and Insurers involved in the management and control of risk within the WTC Site;
- b) Analyze loss trends, prepare safety and loss control reports, including an analysis of accident frequency, severity and causes. Provide recommendations to increase the effectiveness of the Program;
- c) Routinely review and recommend changes and/or enhancements to the application and content of the HASP submitted by all WTC stakeholders/owners and external agencies and their prime contractors.

PATH System Safety and Security Division

The PATH System Safety and Security Division (SS&SD) will advise and support the REO and the SSD in all matters of occupational and public safety, emergency management, fire protection and environmental protection that affect the PATH, and at a minimum provide the following services:

- a) Routinely inspect and monitor the safety performance of contractor(s) on site in the PATH Right-of-Way (PATH ROW), Station and terminal areas, and prepare written reports documenting their findings with corrective recommendations concerning worker protection, the protection of the public, adjoining structures, utilities, emergency management, egress, fire protection concerns and the environment. Such written reports will be provided to the SSD immediately following any routine inspection;
- b) Review all contract and TAA and TCA documents, drawings, specifications, and submittals to ensure compliance with all applicable safety, environmental and transportation standards and codes;
- c) Conduct accident/incident/injury investigations within the PATH ROW, station/terminal areas to identify the factors contributing to the accident/incident/injury, and provide recommendations to prevent reoccurrences;
- d) Accompany outside regulatory agency representatives (e.g. FRA, FDNY, insurance brokers, etc.) in the performance of their routine inspections and investigations;
- e) Provide ongoing recommendations to improve the effectiveness of the Program;
- f) Provide and update the PATH System Safety Program Plan, PATH Emergency Preparedness Plan for WTC Temporary Station, PATH Emergency Preparedness Plan (EPP) and PATH System Security Program Plan.

WTC Site Safety Director

The Port Authority shall designate a person to serve as the WTC Site Safety Director. The SSD shall have access to all project staff, and is responsible for a fully coordinated, enforceable and uniformly implemented Site Safety Program throughout the WTC Site. The SSD is also responsible for the promotion, planning and implementation of all safety awareness programs, practices, procedures, and training necessary to control, reduce, and eliminate hazards throughout the WTC Site. The SSD will report directly to the Deputy Director, World Trade Center Construction Department.

The SSD ensures that all WTC stakeholders/owners, prime and sub-contractors, and external agencies implement the Program as presented in this document, and that it is updated as required to address the changing conditions of the WTC Site that may affect the health and safety of the work environment. At a minimum, the SSD has the following responsibilities:

- a) Identifies, promotes, plans, develops, coordinates and modifies as required all site safety activities, programs and initiatives to preserve and protect the health and safety of all workers and employees within the WTC Site, the public, adjoining properties and utilities, and the environment;
- b) Develops and directs a comprehensive on-site inspection program to audit all construction activities within the WTC Site to ensure compliance with all applicable federal, state, and local regulations related to the health and safety of the workers and the public;
- c) Coordinates all activities amongst the Port Authority, WTC stakeholders/owners and external agencies and contractors to ensure that the work of one entity does not adversely impact the health and safety of another;
- d) Reviews and revises as required the Program and its associated health and safety requirements to improve overall worksite conditions, continually evaluate the effectiveness of its programs and initiatives, and initiate changes based on current industry trends;
- e) Ensures the appropriate preparation of site-specific HASPs and JHAs by all WTC stakeholders/owners, external agencies, and contractors prior to the implementation of such plan(s), and revisions thereto, as the project develops;
- f) Coordinates WTC Site safety training, and implements associated initiatives and objectives;
- g) Provides notification to PA and WTC senior staff, as appropriate, all accidents on the WTC Site. Participates in the investigation of incidents and provides the necessary support for investigative entities for purposes of conducting their investigation;
- h) Tracks and verifies that identified site safety deficiencies are corrected;
- i) Serves as a Port Authority liaison to outside federal, state, and city agencies as it relates to WTC Site health and safety issues. Collaborates with PA ISD on all health, safety and environmental issues.
- j) Reviews and/or audits all documentation maintained in the Port Authority Resident Engineer's Office related to safety as required.

WTC Site Manager

The WTC Site Manager is responsible for the safe and orderly operation, maintenance, and security of the WTC Site on a 24-hour basis, 365 days per year, and at a minimum shall provide the following services:

- a) Establishes and enforces policies, procedures, rules and regulations governing the WTC Site operations and security to facilitate redevelopment;
- b) Approves access for authorized individuals and vehicles;
- c) Provides physical upkeep for common facilities;
- d) Provides an overall Site Traffic Management, and Site Security Plan;
- e) Maintains designated public areas, and common use areas on the WTC Site.

WTC Stakeholders/Owners, External Agencies and Their Prime Contractors

The prime contractors of all WTC stakeholder/owners and external agencies are primarily responsible for accident and fire prevention, overall job site safety and general housekeeping, the protection of the public and adjoining properties/utilities/structures, the environment, and the PATH.

Safety management and enforcement shall be administered by a full-time employee of the prime contractor certified by the NYC Department of Buildings (DOB) as a Site Safety Manager (herein referred to as the "CSM"). The prime contractor's CSM shall work directly with the projects on site supervision, and report to their Corporate Safety Director and/or CEO, and cooperate and work with the Port Authority in the implementation of all required WTC Site safety programs and initiatives. The responsibilities of the CSM shall not be delegated nor contracted out to sub-contractors, suppliers, consultants, or any other persons or agency without the express written approval of the Port Authority.

The World Trade Center Construction Department Director, and the SSD will review the resume of any CSM proposed by the prime contractor. A personal interview may also be required. Only an individual deemed to be competent by the Director of World Trade Construction and the SSD would be accepted.

The responsibilities of all prime contractors include, but are not limited to, the following:

- a) The planning and execution of all construction work in accordance with the objectives and safety requirements of the Program, the Contract Specifications issued by the Port Authority, approved Tenant Construction Applications, Port Authority policies and procedures, and all applicable federal, state and

local laws, rules, regulations, statutes, and ordinances. The scheduling of all construction work must be approved in advance by the REO as not to interfere or conflict with PATH Maintenance and Operations or other construction operations;

- b) Develop and submit a hard copy and a non-modifiable electronic version of a written WTC HASP to the REO and the SSD within fourteen (14) working days of the Port Authority's approval to proceed with construction;
- c) The stopping of all construction activities as warranted for the protection of life and/or the public, property, streets, utilities, the environment, and the PATH Rail Rapid Transit System;
- d) Ensure formal and "tool-box" safety meetings are conducted on a weekly basis. All meetings shall be documented to identify the date of the meeting, the individual running the meeting, the issues discussed, follow-up actions, and a list of attendees present;
- e) Ensure that all sub-contractors, employees, workers, and visitors on the WTC Site are familiar with the provisions of the approved HASP, including but not limited to working adjacent to an operational rail rapid transit system and energized third rail;
- f) Notify the REO and the SSD immediately if any inspector or official from any industry, federal, state or local safety entity (e.g. FDNY, OSHA, etc.) arrives on the job site for a formal safety inspection, or media inquiry;
- g) Ensure that if any conflicts are discovered between the approved HASP and any other federal, state, or local rules, regulations or ordinances, the more stringent requirement will be complied with. If a conflict is discovered, the contractor shall notify the REO and the SSD immediately;
- h) Provide the CSM with a two-way voice communication system that provides direct and immediate contact with all emergency contacts.

Contractor Safety Manager

The prime contractors for each WTC stakeholder/owner and external agency shall designate a full time safety manager. The prime contractor's CSM shall report directly to the REO and SSD on all matters of safety and risk.

The CSM ensures through documented worksite inspections, training, and the JHA process, that site workers are performing work in a manner that minimizes the potential for injury, property damage, and environmental contamination.

In addition to occupational safety and health management, the CSM shall be responsible for compliance with the NYCDOB, Subchapter 19 - Safety of Public and Property During Construction Operations, for the protection of the public and property during construction operations.

The CSM shall possess a current and valid Site Safety Manager Certificate issued by the NYCDOB, consistent with Subchapter 19 of the NYC Building Code (NYCBC) - Safety of Public and Property During Construction Operations. A copy of a valid and current certification shall be contained in the contractor's HASP, as well as being submitted to the REO and the SSD.

At a minimum, the CSM shall have the following responsibilities:

- a) Ensures that the site specific HASP appropriately addresses all applicable federal, state and local regulatory standards, ordinances, etc., and the site specific requirements of the Program, as well as the prime contractor's responsibilities for system safety and adherence to PATH's safety rules and programs if applicable to the construction activities;
- b) Performs daily work site safety inspections with the appropriate competent persons of each sub-contractor and/or work crew to identify, document and correct any health and safety deficiencies, and to enforce the requirements of the HASP;
- c) Ensures that the prime and all sub-contractors prepare appropriate JHAs for each task identifying the hazards and controls required to minimize the risk of injury;
- d) Verifies that all equipment has been inspected and maintained in accordance with applicable OSHA regulations and manufacturer's specifications, and maintains appropriate documentation on site of all such inspections;
- e) Maintains a current listing of all competent persons as defined by OSHA at all times during performance of work at the site. Competent person certifications shall be submitted to the REO and the SSD for review and comment prior to the start of any such work. Activities that require a competent person shall be immediately terminated if no such person is readily available or the applicable OSHA standard is not adhered to;
- f) Ensures that each prime and sub-contractors' work crew has a competent person assigned during each work shift, and that the competent person remains on site with the work crew for the duration of the task;
- g) Ensures that each prime contractor and all sub-contractors working on the site adhere to all of the requirements of the Program, HASPs and JHAs;

- h) Prepares weekly safety updates for distribution to each sub-contractor performing work under the Contract. Copies of which shall be provided to the REO and the SSD;
- i) Ensures that each prime contractor convenes weekly safety meetings with employees and sub-contractors to inform them of all site safety issues and initiatives implemented by the WTC Site Safety Committee;
- j) Conducts initial and routine site and safety orientation programs for all employees and workers which at a minimum shall include a review of WTC Site Rules and Regulations, the approved HASPs and JHAs, a description of the hazards present at the WTC Site, which they may be in contact with or exposed to, identification of the procedures and equipment needed to eliminate the hazards, and the availability of all required PPE necessary to perform the work and emergency procedures;
- k) Ensures that each prime and sub-contractor can verify that prior to use, all workers are trained, experienced and proficient in the use, inspection, and maintenance of all equipment, aerial lifts, machinery, electric power tools, pneumatically driven tools, hydraulic power tools, fuel powered tools, and powder actuated tools in accordance with applicable regulations and the manufacturer's specifications;
- l) Maintains on the WTC Site all training documentation including the training date, name of instructor, training agenda, and training session sign-in sheets and list of all attendees including job title, trade and WTC Identification Number. As required, conducts and ensures that all prime and sub-contractor employees, visitors or other personnel who work, inspect, or are engaged in construction activities on or adjacent to the PATH tracks or platforms are trained and annually certified in PATH's Roadway Worker Protection Program;
- m) Conducts accident and near miss investigations, followed by the preparation of a written report describing the incident, contributing factors, and actions to be taken to prevent recurrence;
- n) Ensures that the HASP and all associated JHAs are in compliance with all applicable federal, state and local rules, regulations, statutes and ordinances;
- o) Performs the required inspections as outlined in Appendix A, Paragraph I: Periodic Site Safety Inspections, of Subchapter 19 of the NYCBC;
- p) At a minimum, prepares, maintains, and revises as required - subject to the review and approval of the REO, SSD, or their designated representatives, the following plans as required by Subchapter 19 of the NYCBC:
 - a. Lifting Operations

- b. Crane and Slings Inspections
- c. Fire Prevention and Protection
- d. Sidewalk / Roadway Protection
- e. Horizontal and Vertical Netting Installation and Inspection
- f. Machinery Inspection
- g. Demolition
- h. Excavations

OSHA Competent, Qualified and Authorized Persons

Each prime and sub-contractor shall designate, and will have present on Site with each work crew for the duration of that work shift at least one competent person as defined by the OSHA standard 29 CFR Part 1926.32, and as elsewhere referenced in other 29 CFR Part 1926 standards, and will at a minimum perform the duties as described in 29 CFR 1926.20(b)(2). The designated competent person shall be responsible, and have the authority from their employer to take prompt corrective action to eliminate the hazard(s).

At a minimum, each competent person shall have attended, and will possess identification cards verifying attendance in an OSHA 10-Hour Construction Industry Outreach Training Program. Each prime contractor's CSM shall obtain prior to the performance of any work a document indicating the experience and training of each competent person assigned to that task.

Each prime and each sub-contractor shall assign, when required by a specific 29 CFR Part 1926 standard, a qualified or authorized person as defined in OSHA standard 29 CFR Part 1926.32.

If in the opinion of the SSD a prime contractor's CSM, competent person, foreperson, or superintendent is not discharging his or her responsibility, or performing his or her job in a manner consistent with Sections 1.01 and 1.02 of this plan, the REO or SSD can order the removal of that person from his/her position at the WTC Site.

1.05 General Requirements

The prime contractors of each WTC stakeholder/owner and external agency shall protect the health and safety of their employees, sub-contractors, and suppliers, all employees of the Port Authority, all site visitors, the public, and other persons on or in the vicinity of the WTC Site. The prime contractor is also responsible to protect all

property, materials, supplies, and equipment either existing, constructed or stored on the site pending the issuance of a Final Certificate of Completion unless otherwise expressly approved by the Port Authority. The following are minimal requirements that the prime contractor must satisfy to achieve these purposes:

- a) Each prime contractor performing work at the WTC Site shall furnish a full time CSM certified as a site safety manager under Subchapter 19 of the NYCBC;
- b) The CSM cooperates and works with the REO and the SSD in the implementation of the HASP, and to comply with the requirements of Subchapter 19 under the NYCBC for all work performed under the Contract;
- c) Provide the submittals as specified in Section 1.04;
- d) No employee shall possess, use, purchase, sell, distribute, receive, store, or be under the influence of a controlled substance or alcohol when performing work at the WTC Site. Offending personnel shall be removed and/or dismissed from the WTC Site with their WTC Site access credentials revoked, and/or subject to criminal prosecution as warranted by their infraction. Each contractor shall submit to the SSD:
 1. Its policy on drug or alcohol use while on the worksite;
 2. The criteria used by supervisors in detecting the signs and symptoms of employee drug or alcohol use or abuse;
 3. Its policy describing the actions taken if an employee is suspected of using, or showing signs of drug or alcohol use;
 4. Its policy regarding drug or alcohol testing.
- e) No employee shall possess, carry, use, receive, purchase, sell, or store a firearm at the WTC Site. The Port Authority Police shall be informed of all such offenders;
- f) Prior to the use of an explosive or incinerating device, each contractor shall submit their plan to the REO for review and approval. The REO shall inform the Port Authority Police, the SSD, WTC Site Manager, and ISD of all operations involving explosive or incinerating devices.
- g) Prior to the start of any work, other than site mobilization and surveying activities, each prime contractor shall conduct a meeting with their sub-contractors' site supervisors to discuss and identify the potential risks and hazards for their scope of work;

- h) First aid supplies as designated by OSHA 29 CFR Part 1926.50 shall be accessible for immediate use. The number of employees, and the nature of the work shall determine the size and number of first aid kits/stations. The CSM shall ensure that first aid kits are inspected weekly, and supplies replenished promptly.

1.06 Submittal Requirements

All WTC Site stakeholders, prime contractors, sub-contractors, and external agencies shall be required to submit the following plans to the REO within the timeframe provided herein, or as specified by the REO. The REO shall review these plans, and provide comments as required addressing the contractor's overall compliance with the requirements of the Program:

- a) A hard copy and a non-modifiable electronic version of a written site specific WTC Site HASP within fourteen (14) working days of Port Authority's approval to proceed with construction. Each prime contractor's CSM shall ensure that all electronically transmitted HASPs are complete, clear, and in non-modifiable format acceptable to the Port Authority. All HASPs shall be reviewed and signed off as "Approved" by each prime contractor's CSM, then forwarded to the REO and SSD for review and comment prior to the commencement of any work, other than mobilization;

The prime contractor's CSM shall review the HASP and sub-contractor plans quarterly and revise accordingly, or as required by the REO or the SSD based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- b) Each prime contractor's CSM shall ensure that the competent person for each sub-contractor performing work at the WTC Site prepares a task specific JHA prior to performing the task;

The prime contractor's CSM shall review all JHAs quarterly and revise accordingly, or as required by the REO or the SSD based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- c) Each prime contractor's CSM shall develop a program to comply with the WTC Site's 100% Fall Protection Policy.

The prime contractor's CSM shall review and revise the Fall Protection Policy quarterly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard

copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- d) Each prime contractor's CSM shall develop Lockout/Tagout, and Permit-Required Confined Space Entry Programs.

The prime contractor's CSM shall review and revise the Lockout/Tagout and Permit-Required Confined Space Entry Programs quarterly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- e) Each prime contractor shall provide to the REO, the SSD, and WTC Site Manager its company name, address, onsite organizational structure including specific job titles and functions, and 24-hour phone numbers. The same information shall be provided for all sub-contractors working at the WTC Site.
- f) Each prime contractor shall prior to the start of work submit a written Fire Prevention and Protection Plan to include, at a minimum, locations of all fire extinguishing devices, standpipes, emergency egress routes, emergency vehicle access routes, alarm systems, chemical and compressed gas storage locations and associated containment and spill control measures, worksite evacuation routes, post-evacuation assembly locations, methods to eliminate fire hazards, maintenance of egress and exit ways, procedures to respond to a fire, and etc.

Existing fire protection systems within PATH's WTC Station shall not be impacted or impeded unless specific contractual work is required and previously scheduled and approved by PATH. PATH's Fire Safety Director monitors the system 24/7, and all activities shall be coordinated with the PATH Fire Safety Director through the REO;

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- g) The prime contractor shall submit prior to the performance of work a written Emergency Action Plan addressing, at a minimum, locations of all emergency egress routes, emergency vehicle access routes, alarm systems, evacuation routes, post-evacuation assembly locations and personal accounting, responses to medical emergencies and body fluid releases;

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO based upon any changes in the scope of work, existing

site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- h) The prime contractor shall submit prior to the performance of work plan identifying all proposed access routes, staging areas, crane locations, temporary traffic signal controls, worker and pedestrian crossings, vehicular and pedestrian gates for exit and entry, barriers, barricades, lighting, and fencing;

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO or WTC Site Manager based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- i) Prior to the performance of work, the prime contractor shall submit to the REO a written Hazard Communication Plan;

The prime contractor's CSM shall review and revise this plan as additional chemical products are introduced, or if chemical product use deficiencies are identified. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- j) Prior to the performance of work, the prime contractor shall submit to the REO and PATH SS&SD a written plan addressing compliance with PATH's Operational Conditions and Precautions and requirements (if applicable);

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO or PATH SS&SD based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the PATH SS&SD;

- k) Prior to the performance of work, the prime contractor shall submit to the REO a written plan addressing the general housekeeping of the worksite including, but not limited to, the appropriate storage and/or security of all new and waste materials, the continued maintenance of clear access and egress paths, walkways, and traffic areas, the maintenance of all permanent and temporary structures and buildings, maintaining work areas free from accumulations of waste materials, rubbish, debris, or other refuse and/or equipment discarded during the performance of work, and the removal, disposal and/or control of all rogue water, snow, dust, other transient materials with a potential for release from the WTC Site;

The prime contractor's CSM shall review and revise this plan as housekeeping deficiencies are identified, or if control measures are ineffective. A hard copy,

and a non-modifiable electronic version of all revisions shall be forwarded to the REO.

- l) Prior to the performance of work, the prime contractor shall submit to the REO a written plan outlining the securing and anchorage of all materials and equipment to resist uplift attributable to high wind hazards;
- m) Prior to the performance of work, the prime contractor shall submit to the REO a written plan to address the grounding of all temporary electrical services, panels, tools and equipment in accordance with all applicable OSHA regulations and the National Electrical Code (NEC). All electrical tools, extension cords and equipment must be appropriately grounded in accordance with the requirements of OSHA and the NEC;

All prime and sub-contractors are advised that appropriate personnel protective precautions and restricted access areas must be established for work within specific locations of PATH adjacent to unguarded electrical equipment. Such access will be restricted to personnel deemed qualified by the REO and the PATH SS&SD.

- n) Prior to the performance of work, the prime contractor shall submit to the SSD and REO a written plan to address the installation and maintenance of appropriate fencing, barricades, signage, markings and lighting in all work areas, including tunnels, to mitigate hazardous conditions;
- o) Prior to the performance of work, the prime contractor shall submit to the REO a written plan to address the design, erection, dismantling, use, maintenance and inspection of all ladders and scaffolds prior to and during use;

The prime contractor's CSM shall review and revise this plan if deficiencies in ladder and scaffold use are identified. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- p) The prime contractor shall submit prior to the performance of work a written plan to address burning, cutting, and/or welding operations (hot work) to the REO. Each contractor shall comply with the Hot Work Permit requirements established by the REO, and shall be responsible for any consequences or penalties for not complying with those requirements. The REO shall monitor and verify that proper fire protection measures, including fire watch, have been provided prior to, during, and at the commencement of any hot work.

The contractor shall include in their written plan the following:

1. Name of torch operator;
2. Name of fire watch

3. Company working for;
 4. Type of welding and compressed gases to be used;
 5. Compressed gas cylinder storage location;
 6. Applicable licenses, permits, and certificates of the torch operator for the type of activity;
 7. FDNY Certificate of Fitness for the assigned fire watch;
 8. Location of work;
 9. Duration;
 10. Copy of emergency procedures developed for this activity.
- q) On a quarterly schedule, the prime contractor's CSM shall submit to the REO copies of all required NYCBC Subchapter 19 inspections performed relative to the project. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD;
- r) The prime contractor shall submit prior to the performance of any abrasive blasting, surface scarification, steam or water blasting, a written plan addressing the following:
1. The selection and use of respiratory and personal protective equipment;
 2. Methods to achieve and maintain work area isolation, and to establish ventilation and water drainage control;
 3. The type of equipment to be used, its power source and requirements, and the type of blasting or cleaning agent;
 4. The engineering controls for dust control and debris containment/collection methods to be used;
 5. Personal and environmental monitoring requirements for airborne contaminants;
 6. Methods to achieve dust suppression during freezing temperatures or high wind conditions.

The prime contractor's CSM shall review the plan quarterly and revise accordingly, or as required by the REO based upon any changes in the

scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

1.07 Description Of Work

The requirements contained in this Program are applicable to all projects associated with the redevelopment of the WTC Site.

1.08 Emergency Response/Notification

The GSM or designee will immediately notify the PAPD, followed by notification of the SSD as to any and all injuries and accidents, including but not limited to following:

1. Medical emergencies (e.g., amputations, thermal or chemical burns, unconsciousness, electrocution, poisoning, breathing difficulties, traumatic impact) requiring emergency medical services;
2. Fatalities;
3. Fires
4. Bomb threats;
5. Workplace violence;
6. Civil disturbances;
7. Damage to or theft of property or equipment;
8. Hazardous materials incidents;
9. Environmental contamination;
10. Property/Utility damage;
11. Pedestrian injuries;
12. Structural failures and collapses;
13. Crane failures/Hoisting incidents;
14. Suspicious activities, items or deliveries;
15. Vehicular accidents;
16. Lightning strikes.

When notifying the Port Authority Police, each caller will be required to provide the following information:

1. His/her name and company he/she works for;
2. Location of the incident;
3. Nature of incident or emergency;

4. Number of injured persons;
5. Threat or actual fire;
6. Threat or actual spill.

Except for police, rescue and emergency personnel, the prime contractor and CSM shall immediately secure the area and restrict access. The accident scene shall not be disturbed, nor will any equipment, machine, system component, or tool be removed until it has been released by the Port Authority Police, Port Authority Inspection and Safety, PA Office of Inspector General, REO, and PATH SS&SD (as appropriate).

Actions to be taken during emergencies should be included in each sub-contractor's Emergency Action Plan, and be discussed regularly with site supervision and at "tool box" safety meetings. WTC Site emergency telephone numbers and procedures shall be posted in conspicuous locations at the job sites and at all telephone locations. Any emergency situation, which impacts the operation of the PATH Rail Rapid Transit System, must be immediately communicated via the REO to the PATH Trainmaster.

The prime contractor's emergency procedures shall be continually reviewed, revised and drilled as required to provide maximum effectiveness. The prime contractor's CSM shall review these procedures quarterly and revise accordingly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. Revised copies shall be forwarded to the REO.

1.09 Accident Investigation

The CSM shall ensure that all incidents described in Section 1.08: Emergency Responses, or as requested by the REO or the SSD are reported, verified, investigated, and analyzed with preliminary reports provided to the Port Authority Police, REO, and the SSD within twenty-four (24) hours of the incident.

The CSM shall provide assistance, information and documentation as required by the Port Authority representatives investigating the incident. If required by the Port Authority, additional investigation and follow-up reports shall be provided by the CSM.

Only Port Authority authorized personnel, such as the Port Authority Police, Port Authority Inspection and Safety, PA Office of Inspector General, REO, SSD, PATH SS&SD, Law Department Claims Division, and other duly authorized Port Authority representatives, or authorized regulatory agency representatives shall be given information pertaining to the event.

1.10 Regulatory References

Work performed at the WTC Site shall at a minimum comply with the most recent version of the applicable requirements of the following regulatory agencies as they pertain to worker health and safety health, environmental protection, protection of the public, waste management, and transportation. The more stringent regulation shall be followed:

1. U.S. Department of Labor, Occupational Safety and Health Administration: Title 29 CFR, Parts 1903, 1904, 1908, 1910, and 1926
2. U.S. Department of Labor, Mine Safety and Health Administration: Title 30, Chapter 1
3. U.S. Environmental Protection Agency Title 40 CFR
4. U.S. Department of Transportation Title 49 CFR
5. NYS Department of Environmental Conservation
6. NYS Department of Transportation
7. NYS Department of Labor
8. NYC Department of Buildings
9. NYC Fire Department
10. NYC Department of Health and Mental Hygiene
11. NYC Department of Environmental Protection
12. NYC Department of Sanitation
13. NYC Department of Transportation
14. NYC Department of Consumer Affairs
15. NFPA 130

Additionally, work performed at the WTC Site shall at a minimum comply with the most recent version of the applicable recommendations and guidelines from the following organizations, institutes, and associations as they pertain to worker health and safety health, environmental protection, protection of the public, waste management, and transportation. The more stringent regulation shall be followed.

1. American Concrete Institute

2. American Industrial Hygiene Association (AIHA)
3. American Red Cross
4. American National Standards Institute (ANSI)
5. American Society of Mechanical Engineers (ASME)
6. American Society for Testing Materials (ASTM)
7. American Welding Society
8. Compressed Gas Association
9. Institute of Makers of Explosives
10. Manual of Uniform Traffic Control Devices (MUTCD)
11. National Institute of Standards and Technology (NIST)
12. Underwriters Laboratories (UL)
13. U.S. Army Corp of Engineers

1.11 The WTC Site Safety Committee, Position Titles and Responsibilities

The WTC Site Safety Committee

A WTC Site Safety Committee shall be established for the WTC Site, and shall be comprised of the following Site representatives:

- a) The WTC Site Safety Director who will serve as the Chairperson of the WTC Site Safety Committee;
- b) The REO and support staff
- c) Authorized representatives from the Port Authority ISD
- d) Authorized representatives of Port Authority Treasury – Risk Management;
- e) Authorized representatives of the Port Authority Law Department;
- f) Authorized representatives of the Port Authority Office of Inspector General
- g) Authorized representatives of PATH;

- h) Authorized representatives of the Port Authority World Trade Center Construction Department;
- i) Authorized safety representatives from each WTC stakeholder/owner, and agencies performing or responsible for construction activities on or in the vicinity of the WTC Site.
- j) Authorized representatives from the Port Authority Police;
- k) Each prime contractor and sub-contractor safety manager or authorized safety representative.

Committee meetings will convene weekly, or as requested otherwise by the SSD to discuss occupational health and safety issues that affect the entire WTC Site, including but not limited to inspection findings, training, safety updates, monitoring results, general site conditions, and any revisions in approved HASPs and JHAs. This includes conflicts between the requirements of approved HASPs and any other federal, state, or local rules, regulations or ordinances.

The SSD shall prepare the agenda, document all meeting proceedings, and distribute a meeting report to all attendees.

1.12 WTC Site Safety Communications

On a daily basis, or as directed otherwise by the REO or SSD, site safety inspections will be conducted and documented by the CSM. The CSM shall determine which competent person from each prime contractor and subcontractor needs to be in attendance. The CSM will prepare a report documenting the inspection and identifying all health and safety deficiencies discovered. Such noted deficiencies will be annotated with a corrective timeframe and completion date as approved by the REO or SSD.

Copies of all such reports will be distributed to the REO and SSD, each WTC stakeholder/owner, external agency and the respective prime and subcontractors. Each prime and subcontractor shall then convene a weekly meeting with its employees to inform them of all such safety and health deficiencies, and update them regarding the remediation status of each.

1.13 WTC Site Safety Reporting

- a) On a weekly basis, the CSM of each prime contractor will provide the SSD with a hard copy and a non-modifiable electronic version of following:
 - 1. A written summary of all outstanding and the corrected safety and health deficiencies;

2. Accident/incident reports and investigations;
 3. Copies of Tool Box Talks, and safety classes and meetings minutes;
 4. Report on performance against established corporate site safety goals and measures.
- b) By the fifth day of each month, the CSM of each prime contractor will provide the SSD with an electronic copy of the prior month's safety performance. This report will be submitted monthly and include the following information:
1. Total hours worked within the reporting period for the prime contractor
 2. Total hours worked within the reporting period for all sub-contractors
 3. Total number of OSHA recordable injuries within the reporting period
 4. Total number of OSHA lost time injuries within the reporting period
 5. Total number of lost work days incurred within the reporting period
 6. Total number of restricted work days incurred within the reporting period
 7. Total number of first-aid cases within the reporting period
 8. Total number of near misses within the reporting period

SECTION 2.0 WTC Site Safety Orientation

All WTC stakeholders/owners, external agencies, prime contractors and sub-contractors, supervisors and employees must complete a WTC Site Safety Orientation Program prior to performing work at the WTC Site. Each entity shall be responsible for the development and implementation of such an orientation program to familiarize all site supervisors and employees with the objectives and goals of their corporate safety program and HASP, as well as the Program, including specific safety precautions and awareness required to work on or adjacent to an operating rail rapid transit system. In addition, all personnel should be advised of the disciplinary actions available to the REO and SSD for noncompliance.

The CSM shall ensure that each employee receives site safety orientation prior to their starting work at the WTC Site, as well as specialized training for job categories where such training is required by applicable regulation. Where employees are required to possess a certificate to perform their work, the CSM shall ensure that the certificate is current, valid, and applicable to the type of work being performed.

The CSM shall ensure that each sub-contractor provides on-going site safety training (e.g. classroom, tool-box talks, JHA reviews, manufacturer's demonstrations) for their employees. The CSM shall maintain onsite, and make available to the SSD and PATH SS&SD all training documentation and logs that include the date, name of instructor, agenda, attendance sign-in sheets and an alphabetized list of attendees with their job titles, trades and WTC Identification Numbers.

WTC Site safety orientation shall include, but not be limited to, the following topics:

- a) The recognition, avoidance, and control of actual or potential unsafe or unhealthy worksite conditions;
- b) PATH On Track Safety Training for working on or adjacent to the PATH Rail Rapid Transit System;
- c) Hazard communications training in the labeling, handling, storage, use, spill response, and disposal of hazardous materials, chemicals, products, and wastes (i.e., flammable, combustible, toxic, caustic, pressurized, cryogenic, explosive, etc.). Copies of each chemical products material safety data sheet shall be maintained at a location within the worksite, and made available to all workers during all shifts;
- d) The selection, use, limitations, inspection, maintenance, care, and storage of all personal protective equipment (PPE);
- e) Fire prevention and response training;
- f) The selection, use, erection, inspection, maintenance, disassembly, and fall protection requirements for the use of ladders, scaffolds, and aerial lifts (i.e., extensible boom platforms, aerial ladders, articulating boom platforms, vertical towers, man-buckets, etc.);
- g) Flagman training for roadway closures and traffic and pedestrian diversions;
- h) The use, inspection, and maintenance of all equipment, machinery, electric power tools, pneumatically driven tools, hydraulic power tools, fuel powered tools, and powder actuated tools in accordance with applicable regulations and the manufacturer's specifications;
- i) Requirements of the Program, and approved HASPs and JHAs and disciplinary actions for worker safety infractions;
- j) Responses to blood and bodily fluid releases;
- k) Zero tolerance for substance abuse;

- l) Emergency Action Plans addressing, at a minimum, locations of all emergency egress routes, emergency vehicle access, routes, alarm systems, evacuation routes, post-evacuation assembly locations and personal accounting, and responses to medical emergencies.

All WTC stakeholders/owners, external agencies, prime and sub-contractors, supervisors and employees shall receive Site orientation information from the WTC Site Manager on the WTC Site's Security Program before obtaining a WTC Site ID or Vehicle Pass enabling them to perform work at the WTC Site. Each contractor shall be responsible for enrolling staff that will be assigned to work at the WTC Site into the training program.

SECTION 3.0 WORKSITE HAZARD ASSESSMENTS

3.01 Performance of Job Hazard Analysis

If based on the opinion of the REO or the SSD that a particular task, operation, or activity is not addressed, or not addressed fully in the submitted plans, a Job Hazard Analysis (JHA) must be prepared and submitted to the REO for review and acceptance prior to performing that task, operation, or activity. The JHA must be prepared by the contractor's CSM or designated employee, be reviewed by the contractor's CSM, and signed by the contractor's CSM, superintendent, and crew foreman, and maintained at the work site.

At a minimum, the JHA must include the following:

- a) Task, Operation, or Activity the JHA is being prepared for;
- b) Description of how work is to proceed;
- c) Crew size and members / Identification of crew foreman;
- d) Identification and analysis of hazards / exposures;
- e) Identification and implementation of hazard / exposure controls; which are to include but not be limited to tool and equipment selection, and personal protective equipment use;
- f) Specific training provided / To be provided;
- g) Employee review and sign-off.

SECTION 4.0 PREPARATION OF REGULATORY PLANS AND PROGRAMS

Based upon the nature and scope of the work, the CSM shall establish control procedures and plans as specified in 29 CFR Part 1926, and ensure that such controls and procedures are contained in the approved HASP.

The CSM and the competent person for each sub-contractor performing work on the WTC Site shall determine when occupational exposure assessments are required for physical, chemical, and radiation hazards such as noise, silica dust, metals, fumes, carbon monoxide, solvent vapors, particulates, and ionizing and non-ionizing radiation, etc. At a minimum, the exposure assessment will be based on 29 CFR 1926.55: Gases, Vapors, Fumes, Dusts, and Mists, and the Threshold Limit Values of Airborne Construction Table provided therein. The CSM shall arrange all such monitoring during the performance of work and ensure compliance with OSHA personnel exposure assessment requirements. Each affected employee shall be notified in writing of the results. Copies of sampling results shall be forwarded to the SSD.

The CSM shall ensure that all exposure monitoring is performed using accepted analytical methodologies (e.g. OSHA and National Institute of Occupation Safety and Health), and that the sampling frequency and results is representative of the work exposure. All sampling instrumentation used shall be properly calibrated.

Samples collected shall be submitted to a laboratory maintaining appropriate qualifications, state licensing, and current certifications (e.g. American Industrial Hygiene Association). The laboratory director or a certified industrial hygienist must sign all sampling reports.

The results of these exposure assessments shall be compared to the Threshold Limit Values of Airborne Contaminants For Construction, 29 CFR 1926.55 Appendix A, or other governmental, industry, or accepted and recognized exposure limits. The CSM shall determine if exposures exceed acceptable limits, and develop a remediation plan to reduce those exposures.

SECTION 5.0 EQUIPMENT AND MAINTENANCE

Consistent with 29 CFR 1926.20(b)(3), the CSM shall ensure that each prime and sub-contractor establishes a program for all equipment and machinery to be inspected prior to use, maintained, repaired, and stored in accordance with applicable regulations and the manufacturer's specifications, and will at all times be used, maintained, repaired, and stored in accordance with applicable regulations and the manufacturer's specifications.

All inspections shall at a minimum be conducted and documented at a frequency specified by the manufacturer, or more frequently based upon use as determined by the competent person for the work crew. A copy of the inspection document shall be forwarded to the SSD. Any tool or piece of equipment that shows evidence of defects or excessive wear shall be tagged, and removed from service and replaced,

or repaired in accordance with the manufactures specifications. The CSM shall maintain a written record of the disposal and/or removal of the equipment from the worksite.

Prior to each use, the competent person for the contractor and each sub-contractor shall ensure that the employee's personal fall arrest system (full body harness, connectors, d-rings, snap hooks, lanyards, lifelines, and anchorage points) is properly selected, inspected, and used, and that it is in good condition, and has the required tensile strength and load bearing capacity.

5.01 Ionizing Radiation

Prime and sub-contractors who perform activities using sources of ionizing radiation or X-rays must comply with the requirements of 29 CFR Part 1926.53 and the pertinent provisions of the Nuclear Regulatory Commission's Standards for Protection Against Radiation (10 CFR Part 20) and the New York State Department of Labor, Ionizing Radiation Protection (12 NYCRR Part 38). In particular, regulated sources must be properly licensed, securely stored, properly labeled and leak tested. Operator manuals must be available and users must be competent and specially trained in the proper and safe operation of the equipment.

Prime and sub-contractors using sources of ionizing radiation or x-ray devices shall submit a health and safety plan to the REO, SSD and PAPD.

5.02 Waste Management

All waste generated on site shall be properly stored, sorted, contained, labeled and disposed of at a frequency designed to eliminate fire hazards, vermin, and the obstruction of emergency egress. If the REO or the SSD determines that waste is not being properly managed, daily removal operations may be required.

SECTION 6.0 HEALTH AND SAFETY REQUIREMENTS

Each prime contractor, sub-contractor, and external agency performing work shall be required and responsible to prepare and implement the requisite programs, plans, and procedures necessary to protect worker health and safety, and to comply with all applicable federal, state, and local codes, rules, regulations, and ordinances. In addition to regulatory compliance, the following WTC Site-specific requirements shall be followed.

6.01 General Duty Clause

Each prime and sub-contractor, worker and employee performing work shall comply with the requirements of the OSHA, Section 5 (a) and (b): General Duty Clause.

Section (a): Each employer (Herein to include prime contractor and sub-contractor):

"Shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.";

"Shall comply with occupational safety and health standards promulgated under this Act."

Section (b): Each employee (prime contractor and sub-contractor employee):

"Shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct."

6.02 Recordkeeping and Reporting Occupational Injuries and Illnesses

Each prime and sub-contractor performing work shall maintain records, reports, and posting consistent with the requirements specified in OSHA 29 CFR Part 1904.

6.03 General Safety and Health Provisions

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart C: General Safety and Health Provisions.

6.04 Occupational Health and Environmental Controls

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart D: Occupational Health and Environmental Controls, in addition to the following mandatory specific worksite requirements:

- a) For hand washing purposes, all temporary lavatories shall provide either hand soap with running hot and cold or tepid potable water, or a sanitizing hand wash. Remote hand wash stations providing running hot and cold or tepid potable water will be permitted provided that they are located in close proximity of the lavatory. Paper towels must be provided;
- b) A break area furnished with tables, chairs, hand wash stations, temporary lavatories, lights, and trash containers must be provided;
- c) Trash, refuse, and construction debris shall not be allowed to accumulate for more than one day in areas of assembly, such as but not limited to locker rooms, lunch rooms, storage areas, and each jobsite location. A sufficient number of trash containers and construction dumpsters shall be provided, and their contents disposed of on a daily basis;
- d) Lighting for each work location, including tunnels, which at a minimum, complies with the requirements as referenced in 29 CFR Part 1926.56;

- e) Provisions for the quick flushing of the eye with a minimum of 15 minutes of continuous flow shall be provided and maintained;
- f) Consistent with U.S. OSHA publication #3154: Heat Stress Card, during periods of hot weather (equal to or greater than 85 degrees F and 40% Relative Humidity), each contractor's safety manager shall be required to develop a plan to prevent heat stress disorders. At a minimum, the plan shall address providing an adequate supply of drinking water with individual drinking cups, a shaded rest/break area, and training information on the signs and symptoms of heat stress;
- g) Consistent with U.S. OSHA publication #5156: Cold Stress Card, during periods of cold weather (equal to or less than 30 degrees F), each contractor's safety manager shall be required to develop a plan to prevent frostbite and hypothermia. At a minimum, the plan shall address providing a warm sheltered area, an adequate supply of drinking water with individual drinking cups, and training information on the signs and symptoms of hypothermia.

6.05 Personal Protective Equipment

Prior to the issuance of personnel protective equipment, each prime contractor's CSM shall require the competent person for each work crew to perform a JHA to determine the type(s) of personnel protective equipment required and provide training.

At a minimum, each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart C: General Safety and Health Provisions; Subpart D: Occupational Health and Environmental Controls (1926.57 – abrasive blasting; grinding, polishing, and buffing operations; spray finishing operations; 1926.60 – methylenedianiline; 1926.62: lead:); Subpart E: Personal Protective and Life Saving Equipment; Subparts M and R: Fall Protection; and Subpart Z: Toxic and Hazardous Substances, in addition to the following mandatory specific worksite requirements:

- a) Upon entrance to designated work areas, the minimal personal protective equipment requirements for work at the WTC Site are hard hats, reflective safety vests, work boots, and eye protection. A flashlight is required when working on or adjacent to PATH track areas and platforms;
 - 1. When working on or around PATH tracks, steel tipped safety shoes as per ASTM F2412-05 and F2413-05: Standard Specification of Performance Requirements for Foot Protection, are required.
- b) The CSM and the competent person for the each contractor and sub-contractor performing work shall select and issue all PPE identified in

approved JHAs. All JHAs shall be documented, maintained at the worksite, and on file with the CSM;

- c) All selected PPE shall comply with the most recent American National Standards Institute (ANSI) requirements;
- d) Full-length pants and shirts with sleeves that cover the entire shoulder must be worn at all times within the WTC Site.

6.06 Fire Protection and Prevention

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart F: Fire Protection and Prevention. Fire safety shall not be delegated to individual sub-contractors. The prime contractor and the CSM shall have overall responsibility to develop, implement, and maintain a fire protection and prevention program addressing 29 CFR Part 1926, Subpart F, and the following mandatory specific worksite requirements:

- a) Flammable and combustible liquids shall only be stored and transported in approved 1, 2, or 5-gallon Type I and II safety cans with spring loaded closing lids and flashback protection, or, in the alternative, United States Department of Transportation (US DOT) approved containers;
- b) All safety cans and containers shall be protected from fire, spark, impact, falls, and falling objects. Appropriate color-coding and permanent labeling such as "Gasoline", "Kerosene", "Diesel", or "Mixed-Fuel" shall adorn all safety cans and containers to designate its contents;
- c) Flammable and combustible liquid storage cans will be stored in approved fire cabinets, protected from fire, spark, impact, falls to lower levels, and falling objects. Up to 60 gallons of a flammable liquid and 120 gallons of a combustible liquid shall be permitted within a storage cabinet. No more than three storage cabinets will be allowed in each storage area;
- d) All stationery and mobile fuel tanks with a storage capacity of greater than 5-gallons shall be equipped with secondary containment either integral to the unit, or by the installation of an impervious membrane and containment barrier (e.g., berm/dike system).

The following information must be submitted to and approved by the REO and the SSD prior to a fuel tank being delivered and used at the WTC Site:

- 1) Provide the name of the tank manufacturer, fuel capacity, and product to be stored;

- 2) Identify the type of tank leak protection – is the tank double walled or will secondary containment be required; if secondary containment is required, detail its construction;
 - 3) Identify the method to fill the tank; method to dispense the product for use;
 - 4) Identify if the tank will be stationary or mobile; if mobile, identify method of transport - if not, where will it be located;
 - 5) Identify the fire protection equipment associated with tank; include number, type, and location of fire extinguishers;
 - 6) Provide a grounding and bonding plan for flammable and combustible liquids;
 - 7) Identify what postings / labels / placards will be used for identification and warnings; identify the individual responsible to inspect the tank(s) and frequency.
- e) At a minimum, an actively charged 20-B:C portable fire extinguisher shall be permanently mounted in plain view, with unobstructed access within 25 feet of every flammable and combustible liquid storage & use locations;
 - f) During construction, a 2-A rated portable fire extinguisher shall be located on each floor adjacent to each stairway; an additional 2-A rated portable fire extinguisher shall be provided for each 1500 square feet of building area, with a maximum unobstructed travel distance not to exceed 75 feet;
 - g) At least half of the distributed portable fire extinguishers shall be A:B:C rated. All portable fire extinguishers with a classification of B:C, or multiple classifications of A:B:C portable fire extinguishers shall be rated not less than 20-B;
 - h) Buckets and/or water supply are not acceptable alternatives to approved portable fire extinguishers and will not be permitted at the work site for purposes of fire protection;
 - i) Pressurized water-can extinguishers, if used, shall be provided with an approved anti-freeze solution in areas open to ambient temperatures during cold weather;
 - j) Appropriate, material-specific portable fire extinguishers shall be provided for any hazards not specifically noted elsewhere in this document;
 - k) All self-propelled equipment (forklifts, cranes, rollers, etc.) shall be provided with appropriate portable fire extinguishers;

- l) Portable fire extinguishers that are not mounted, such as those specifically used by the firewatch during cutting & welding operations, or mounted on self-propelled equipment shall not fulfill the requirements for distributed and mounted portable fire extinguishers.
- m) All portable fire extinguishers shall be mounted off the floor, clearly visible with signs noting location where necessary, and have unobstructed access to them;
- n) All portable fire extinguishers shall be maintained in a state of readiness. All required inspections, tests and maintenance shall be not less than that required by applicable codes and standards (NFPA 10 - Standard for Portable Fire Extinguishers, as referenced by the NYC Fire Prevention Code). A contract with an approved fire extinguisher contractor is recommended for inspections, testing, and maintenance. Used or defective extinguishers shall be removed and replaced with new units immediately after use or discovery of the defect;
- o) All portable fire extinguishers shall be provided with an inspection tag upon installation and shall have the installation date noted in permanent marker the date of installation;
- p) Smoking shall be strictly prohibited in the following locations:
 - 1. All enclosed spaces;
 - 2. Within 50 feet of flammable and combustible liquid storage cabinets, compressed gas cylinder storage cages, and hazardous material and hazardous waste storage locations;
 - 3. In all locations where combustible materials and dusts are present.
- q) The CSM and the competent person for the contractor and each subcontractor shall post "No Smoking Signs" as necessary in all areas where smoking is prohibited. Smoking is prohibited within all PATH areas;
- r) Combustible materials, including but not limited to wood, paper, cardboard, plastic, trash, refuse, etc., shall not be allowed to accumulate in storage locations, or on floors being constructed. A designated refuse area shall be established for accumulation awaiting pickup. All combustible materials must be removed from each floor under construction and the worksite on a daily basis. Flammable and combustible oil-soaked rags must be deposited into fireproof containers;

- s) Active stairways, aisles, and all egress pathways shall remain unobstructed, and free from the storage of debris, combustible materials, flammable liquids, compressed gas cylinders, and equipment.
- t) The use of propane as a fuel, heat, or power source is strictly prohibited without prior approval from ISD;
- u) The use of space heaters (propane or fuel gas) for area heating shall at a minimum comply with 29 CFR 1926.154: Temporary Heating Devices, the manufacturers specifications, and the following WTC Site requirements:
 - i) Describe the proposed application for propane and/or liquid fuel heater use;
 - j) Identify the locations where the propane and/or liquid fuel heater will be used, and duration of use;
 - k) Specify the locations where the propane and/or liquid fuel will be stored. Also provide:

For Propane Identify

The number of tanks to be stored
Size of the tank(s)
Pounds of propane to be stored
Maximum pounds of propane to be stored
Means of fire protection and security
Means to detect gas leaks in the system
Type, size, and location of fire extinguishers

For Liquid Fuel Identify

The number of heaters to be stored
Size of the heater's fuel tank
Amount of liquid fuel to be stored
Means of fire protection and spill control
Type, size, and location of fire extinguishers

- l) Specify the postings / labels / placards that will be used for product identification and warning; identify the individual(s) responsible to inspect the storage area and frequency of inspection;
- m) Describe how the propane and/or liquid fuel system will be set up; provide the name(s) of the FDNY Certificate of Fitness holder where required or competent person who will set up, monitor and inspect the system; identify what fire protection / prevention measures will be in-place;
- n) Affix to each propane tank and/or liquid fuel heater a tag identifying the name of the contractor using the unit;

- o) Describe the type of training that will be provided addressing propane and/or liquid fuel heating unit use;
- p) Submit a Job Hazard Analysis for use. The JHA must include:
 - Method of refueling consistent with manufacturers instructions and fire code requirements;
 - Method of transporting propane tanks and/or liquid fuel from storage to the work area;
 - Details for ventilation of enclosed space(s) where heaters will be used;
 - Scheduled inspection of heating units;
 - Assessment to verify fire protection / prevention preparedness;
 - Manufacturers recommendation for operational distances from combustibles.
- v) "No Smoking" signs shall be clearly posted in all locations where temporary space heaters are in use. Temporary space heaters shall not be used in the presence of flammable liquids or gases, or combustible dust. Combustible materials shall be stored at a distance from the space heater as recommended by the manufacturer;
- w) When in use, generators and associated exhaust outlets such as but not limited to piping, stacks, and manifolds shall be properly vented, and positioned away from combustible materials;
- x) Compressed gas cylinder, flammable and combustible liquids, and all chemical products shall be stored and signed/labeled in accordance with their hazard class. The co-mingling of different hazard classes in storage is prohibited;
- y) When required, storage areas shall be protected from vehicular impact by the use of "jersey barriers" or a similar impact resistant material;
- z) Enclosed facilities (e.g. trailers) used for the storage of flammable gases or liquids shall be properly ventilated by either mechanical or natural means based upon the characteristic of the chemical product being stored. If lighting is installed, explosion proof, intrinsically safe wiring is required.

6.07 Signage

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart G: Signs, Signals, and Barricades.

6.08 Materials Handling

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part

1926 Subpart H: Materials Handling, Storage, Use, and Disposal, in addition to the following mandatory specific worksite requirements:

- a) The competent person for each work crew using alloy steel chain, wire rope, natural and synthetic fiber rope, nylon/polyester/polypropylene webs (slings), shackles, eye-bolts, and hooks for the hoisting, lifting, supporting and suspension of materials shall at a minimum, inspect, maintain, and store the above elements at a frequency consistent with 29 CFR Part 1926.251: Rigging Equipment For Material Handling;
- b) The competent person shall document all sling inspections (daily, routine, and annual), maintain a copy of the inspection report at the worksite, and provide a copy of the inspection report to the CSM;
- c) Debris chutes with dumpsters manned by watch persons are required where the debris being removed is 20 feet or more from the point of deposit;
- d) Tag lines shall be used to control all suspended loads;
- e) Softeners shall be applied to all sharp edges when using synthetic and wire rope slings. This will help minimize abrasion and wire rope deformation;
- f) Multiple load (Christmas treeing) lifts are prohibited;
- g) Prior to the raising or lowering of loads, the path of the load shall be identified in advance of the lift. Lifts shall be coordinated in such a way as to minimize transporting the load above workers. Lifting loads over pedestrians or active roadways is strictly prohibited.
- h) When erecting, dismantling (including jumping) a tower crane, rigging materials that use synthetic slings should only be used if the manufacturer's manual recommends synthetic slings to be used. Synthetic slings shall never be used unless softening mechanisms have been applied to all sharp edges.

6.09 *Hand and Power Tool Use*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart I: Tools – Hand and Power, in addition to the following mandatory specific worksite requirements:

- a) Prior to the performance of work, the competent person for each work crew shall inspect all hand and power tools to ensure that workers are protected from the tool's point of operation. Workers shall be protected from open and exposed belts, gears, shafts, pulleys, sprockets, spindles, drums, fly wheels, reciprocating and rotating parts, and abrasive wheel explosions;

- b) Prior to use, the competent person shall ensure that all workers are trained and where required, certified in the use, inspection, and maintenance of all equipment, electric power tools, pneumatically driven tools, hydraulic power tools, fuel powered tools, and powder actuated tools in accordance with applicable regulations and the manufacturer's specifications.

As it pertains to the use of powder actuated tools, the contractor shall submit to the REO and the SSD prior to use the following:

1. Name of the tool operator;
 2. Work location;
 3. Copy of FDNY Certificate of Fitness, and verification of manufacturers training;
 4. Storage location and method for tool and shots;
 5. Plan to retrieve spent or unfired shots.
- c) As referenced in 29 CFR Part 1926.300(b)(4)(iv), each competent person needs to additionally evaluate the types of power tools noted therein;
 - d) All power tools shall be inspected by the competent person to verify all switches and safety devices and guards are operational, and all power cords are firmly attached and in good repair;
 - e) To prevent displacement, all pneumatic or pressurized airlines and hoses shall be secured to each other and the tool through the use of whip lines, cotter pins, retainers, or a similar securing mechanism;
 - f) All hoses exceeding ½ inch inside diameter shall have a safety device at the source of supply or branch to reduce pressure in case of hose failure.

6.10 *Welding and Cutting Operations*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart J: Welding and Cutting, in addition to the following mandatory specific worksite requirements:

- a) At no time should free standing, unsecured compressed gas cylinders be present at the WTC Site;
- b) A tag secured around the valve stem indicating ownership shall be affixed to each compressed gas cylinder identifying the contractor as the cylinder user;
- c) Compressed gas cylinders shall be secured to a welder's handcart through the use of chains or a bracket. If the handcart is not to be used within 24 hours,

- the cylinders must be removed, and securely fastened (chained) within a designated and secured storage cage;
- d) Flammable and oxygen gas cylinders when stored must be separated by at least 20 feet, or by the construction of a 30-minute fire resistant barrier at least 5 feet in height. If stored on cylinder carts, the cart must have a 30-minute fire resistant barrier at least 5 feet in height;
 - e) Storage cages shall be identified and labeled according to their contents;
 - f) Compressed gas cylinders shall not be secured to building components such as structural columns, scaffolds, ladders/stair towers, guardrails, hand/stair rails, and re-bar;
 - g) All compressed gas cylinders when not in use shall be stored with the valve protection cap in place;
 - h) During all oxygen-fuel gas and arc welding and cutting operations, a fire watch with an adequately sized and proper class fire extinguisher shall be provided in the immediate vicinity, and all locations that could be impacted by spark or slag. All combustible materials and flammable liquids and gases shall be either removed from the vicinity, or protected in-place. The fire watch shall remain in-place until such time there is no potential for combustible material ignition. The fire watch shall not perform any other duties when acting as a fire watch;
 - i) During welding and cutting operations, surrounding employees, workspaces and the public shall be protected from spark and glare through the use of welders screens;
 - j) Welding clamps shall not be connected to any electrical conduit, wiring, or component;
 - k) For each individual torch operation, a Hot Work Permit shall be requested, and issued by the EOC through the REO prior to the performance of work. Prior to all torch operations, the CSM shall submit the FDNY Certificates of Fitness for the welder, and fire watch to the REO for review and approval;
 - l) Compressed gas cylinders shall not be stored in direct sunlight, in the snow or ice, or in locations where they cannot be seen or subject to impact.
 - m) All fuel-gas lines (oxygen/acetylene) shall have installed at the regulator and torch a flash-back protection device that will prevent flame from passing into the fuel-gas system.

6.11 *Electrical*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart K: Electrical, in addition to the following mandatory specific worksite requirements:

- a) On a daily basis, prior to the performance of each shift, the competent person shall inspect all extension cords, pig-tail power cords and light stringers, plug and cord sets, outlets, tools, and generators. Damaged or defective cords, plugs, outlets, tools, and generators shall be removed from service. All extension cords must be three-pronged grounded and have a heavy duty rating;
- b) Extension cords with missing ground plugs must be removed from service and destroyed;
- c) All extension cords, including those attached to generators, shall be connected to in-line ground fault circuit interrupter. The competent person shall test each line to verify that it is ground faulted protected prior to use;
- d) Where work is in, on, or around water, all extension cords, plugs and receptacles must be waterproof;
- e) The use of spliced (taped) electric or power cords is prohibited.

6.12 PATH Operational Safety Conditions and Precautions

PATH is an electrified rail rapid transit facility and care must be exercised around various unguarded AC and DC electric installations. All personnel entering a PATH ROW and facilities shall comply with PATH's safety rules and procedures. In particular, personnel must not place hands, feet, or any type of material between track switch points and stock rails or switch housings, or step or stand on switch rods, until the switch is properly authorized to be taken out of service and is securely clamped so that it cannot be moved.

Caution must also be exercised around train stop mechanisms, and other moving mechanical apparatus, which may move at any time. During winter weather conditions, the train stop and switch heaters may be turned on, causing the heater rods, switch rods, rails, and train stops to be hot and potentially cause burns if touched. Red sleeves are attached to the train stop heads when the train stop heaters are turned on.

Entrance to any Power Signals & Communications (PS&C) facility requires proper authorization and accompaniment by PS&C personnel and an employee in charge provided by the REO. Any person entering such a facility (relay room, bungalow, high tension feeder room, wayside signal case, etc.) must exercise particular care to

avoid inadvertent contact with energized conductors, terminals, and apparatus that may cause electric shocks and burns resulting in personal injury and possible death.

Impedance bonds are large black metal units mounted on the ties between the running rails, generally at signal locations where there are insulated rail joints. Proper procedures and safety precautions must be exercised before disconnecting any cables between the rails and the impedance bonds, due to the presence of potentially dangerous traction return currents.

Also, the internal tuning capacitors and secondary coil of the impedance bonds may have a potential of 150 volts or higher.

Where a general contractor's work is on or adjacent to the PATH ROW, the general contractor and each sub-contractor is required to annually pass the PATH's "On-Track Safety Program" in compliance with the rules and regulations set forth in FRA regulation 49 CFR Part 124, Subpart C: Railroad Worker Protection, and provide documentation and certify that the firm's employees have taken and passed the class. The course encompasses the On Track Safety Program, personnel protective equipment, communications, safety rules and procedures, emergency signals, etc. The full text of PATH's On-Track Safety Program is contained within Appendix III of the PATH Book of Rules.

Any personnel not certified under this Program will not be permitted to enter the PATH track area. Access onto the PATH System tracks must be coordinated in advance through the REO. PATH will provide a four-hour certification class, which includes a certification test for supervisory staff representing the contractor. The contractor's supervisory staff will then be required to train and certify all additional contractor personnel that may be performing Work of the Contract. A letter certifying that the listed contractor personnel have been trained on the "PATH On-Track Safety Program" and, that they fully understand and will comply with all requirements of FRA rules, shall be filed with PATH's Manager, System Safety and Security Division at One PATH Plaza, Jersey City, NJ 07306, Tenth Floor, within 48 hours of such training. Only the persons specified in such letter will be permitted to enter the PATH ROW.

6.13 Scaffolding – Support, Suspended, Aerial

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart L: Scaffolds, in addition to the following mandatory specific worksite requirements:

- a) Fall protection shall be required on all platform, suspended, and aerial scaffolds when the working platform is equal to or greater than 6 feet above a lower level;

- b) Only a trained work crew under the supervision of a competent person shall be permitted to erect, use, modify, move, or dismantle any support, suspended, or aerial scaffold;
- c) The CSM shall maintain a list of the names and training experience of all prime and sub-contractor workers and/or employees competent to erect, use, and dismantle a scaffold and scaffolding system, and use of aerial lift;
- d) The competent person for the work crew erecting, using, or dismantling a scaffold and a scaffolding system, or using an aerial lift shall inspect the scaffold on a daily basis, or as required, prior to the performance of work by each shift, to ensure the scaffold and scaffolding system, or aerial lift complies with all applicable regulation and is acceptable for use;
- e) The competent person for the work crew erecting, using, moving, dismantling a scaffold and a scaffolding system, or using an aerial lift shall document the inspection using a checklist, keep a copy of the completed checklist at the jobsite, and provide the CSM with a copy;
- f) The working platform on all mobile scaffolds (i.e. bakers scaffold) shall be secured from displacement or upset by the use of a retaining clip or similar device. Lockable casters shall be provided on all mobile scaffolds;
- g) At a minimum, on a weekly basis or following an incident that could have affected the integrity of the scaffold or aerial lift, the competent person for the work crew erecting, using, dismantling a scaffold and scaffolding system, or an aerial lift shall affix a notification sign or tag to the scaffold or system indicating:
 - 1. If scaffold use is Approved, Restricted, or Prohibited;
 - 2. The date of the inspection;
 - 3. The name of the person inspecting the scaffold.
- h) When using cross-bracing as a component of a guard-rail system:
 - 1. Cross-brace For Top-Rail Protection:
 - i. The cross-brace intersect shall be at a height of 38 – 48 inches above the working or walking platform. An additional rail will be required as a mid-rail at a height midway between the cross-brace intersect and the working or walking platform
 - 2. Cross-brace For Mid-Rail Protection:
 - ii. The cross-brace intersect shall be at a height 20 – 30 inches above the working or walking platform. An additional rail will be required

as a top-rail at a height of 38 – 45 inches above the working or walking platform

- i) Toeboards shall be required on all scaffolds.

6.14 Fall Protection

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart M and Subpart R: Fall Protection, in addition to the following mandatory specific worksite requirements:

- a) All persons on a walking/working vertical or horizontal surface or ledge having an unprotected side or edge which is equal to or greater than six feet above a lower level unless otherwise regulated by Subpart R (including but not limited to wells, pits, excavations, holes, floor and wall openings, roof openings, shaft ways, skylights, hoist areas, material loading/off loading areas, and scaffold use) shall require fall protection through the use of guardrails, personal fall arrest system (PFAS), safety nets, or floor/ground and wall covers;
- b) When a PFAS is selected as a means of personnel fall protection, 100% tie-off to horizontal and vertical lifelines, and anchorage points shall be maintained by the use of a double lanyard;
- c) When using the top wire of a wire rope guardrail system as a horizontal lifeline, the top rope must be selected, installed and maintained to meet lifeline and anchorage loading requirements.
- d) PFASs shall be designed, installed, and maintained to ensure that if a worker experiences a fall, the lanyard shall engage to arrest the fall prior to any portion of the worker's body impacting a lower level, structure or surface;
- e) Prior to each use, the competent person for the work crew shall ensure that his employee's personal fall arrest system (full body harness, connectors, d-rings, snap hooks, lanyards, lifelines, and anchorage points) are properly inspected, in good condition, and have the required tensile strength and load bearing capacity;
- f) All persons walking or working at any height above a dangerous process or piece of equipment shall be protected from falling through the use of guardrails, personal fall arrest, or safety nets;
- g) All persons exposed to falling objects shall be required to wear a hardhat, and be protected from falling objects through the use of screens, toe boards, safety nets, canopies, or restricted access;

- h) Personal fall arrest shall be required for all workers and employees working in vehicle mounted aerial platforms, extensible boom platforms, articulating boom platforms, vertical towers (scissor lifts), and aerial ladders;
- i) A Qualified Person as defined by 29 CFR Part 1926.32 must design the required lifeline and anchorage systems. The competent person shall be required to install, inspect, and maintain the system as designed;
- j) The CSM for the prime contractor and the competent person for each sub-contractor performing work on site shall develop an emergency response plan in the event a worker who experienced a fall wearing a personal fall arrest harness needs to be rescued;
- k) All exposed vertical and horizontal structural re-bar, and protruding pieces of metal shall be either be capped or covered with an impact resistant material;
- l) All surface openings, including but not limited to floor, wall, shaftway, utility, duct, skylight, roof, and conveyor shall be protected with a cover capable of supporting without failure at least twice the weight of workers, equipment, and materials imposed on it. All covers shall be secured from displacement caused by vertical or lateral impacts and wind load. All surface covers shall be identified as "Hole Cover - Do Not Remove". The competent person for the workcrew will inspect each covered surface prior to and during the performance of work. Any missing cover will be replaced, damaged covers repaired, and loose covers secured. Covers to be used in active roadways shall be capable of supporting without failure twice the maximum intended axle load of the largest vehicle;
- m) The CSM for the prime contractor shall notify the REO in advance of all safety net drop tests are required under 29 CFR 1926.502(e)(2), and provide written reports of each drop test result.
- n) The CSM for the prime contractor and the competent person for each sub-contractor performing work on site shall develop a safety net retrieval plan for personnel and debris.

6.15 *Steel Erection*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart R, in addition to the following mandatory specific worksite requirements:

- a) Multiple erection loads (Christmas treeing) is prohibited;
- b) Prior to the raising or lowering of loads, the path of the load shall be identified in advance of the lift. Lifts shall be coordinated in such a way as to minimize

transporting the load above workers. Lifting loads over pedestrians or active roadways is strictly prohibited.

- c) Personnel platforms must have a positive-lock latch with a locking bolt and nut assembly, or provide a cable between the master links and hook block or headache ball;
- d) Fall protection shall be enforced by the work crew's competent person.
- e) The steel erection contractor shall use best available technologies and practices in achieving compliance with the fall protection requirements of Subpart R.

6.16 *Cranes, Derricks, Hoists, Elevators and Conveyors*

All Contractors and Subcontractors regardless of tier shall comply with the requirements of 29 CFR Part 1926, Subpart N: Cranes, Derricks, Hoists, Elevators, and Conveyors, and Subchapter 19 and Reference Standard RS 19-2 of the Building Code of the City of New York ("BCCNY") as follows:

1. **Prior to Delivery:** Prior to the delivery to the World Trade Center Site (the "WTC Site") of any crane or derrick regulated under the BCCNY, the contractor shall provide the following to the REO for review and approval:
 - a. A copy of a fully executed and current Form CD-2, entitled "Crane / Derrick / Mobile Work Platform – Approval and Operation Application / Certificate," Revised 08/15/05, as issued by the New York City Department of Buildings - Cranes & Derricks Division (NYCDOB-C&D), copy attached. The form shall be stamped approved by NYCDOB-C&D as a "Certificate of Approval / Certificate of Operation," and must include an expiration date, a crane Prototype Number, and a verifiable CD Number;
 - b. If the crane or derrick is diesel powered, and the engine has a horsepower rating equal to or greater than 50HP, a copy of the applicable catalogue cut or other relevant information describing the Emissions Control Device retrofitted to the engine. The retrofit shall be either a Diesel Particulate Filter ("DPF"), or other Best Available Technology ("BAT") as determined by the Materials Engineering Division ("MEU") of the Port Authority;
 - c. If delivery and/or placement of the crane or derrick will require movement over the Acrow ramp of the West Bathtub or the Acrow bridge on the West Street haul road, the contractor must comply with the "Acrow Panel Bridge Overload Protocol," dated April 30, 2002, copy attached. Please note that the protocol requires the submission of an "Acrow Panel Bridge – Vehicle Information Sheet" describing in detail the loading to be imposed on the ramp or bridge. Further, the information sheet must be accompanied by appropriate catalogue

cuts detailing the specific configuration of the crane or derrick during the movement.

Only upon the approval by the REO of the Certificate of Approval / Certificate of Operation, approval by MEU of the Diesel Emissions Control Device, and approval by Acrow Corporation of America of the Vehicle Information Sheet, will the delivery of the crane or derrick to the WTC Site be permitted. Please note that all such deliveries must also be scheduled with WTC Facility Operations.

2. **Upon Delivery:** Upon delivery of the crane or derrick to the WTC site, the contractor shall provide the following to the REO for review and approval prior to the operation and/or use of the crane or derrick:
 - a. A fully executed Form CD-4, entitled "Crane / Derrick / Mobile Work Platform -- On-Site Inspection Application / Certificate," Revised 12/03, as issued by the NYCDOB-C&D, copy attached. The CD-4 is to be accompanied by applicable plans, drawings and specifications showing the following:
 1. The proposed location of the crane or derrick;
 2. All pertinent features of the site including, but not limited to, the assumed soil bearing values;
 3. Ground elevations and slopes;
 4. Vaults and other subsurface structures;
 5. Supporting platforms and structures;
 6. The swing and reach of the crane.
3. **Prior to Operation and/or Use:** Upon approval of the Form CD-4 by the REO (the "On-Site Inspection Certificate"), the contractor shall proceed as follows:
 - a. Procure the services of a New York State Licensed Professional to perform an on-site inspection, which shall include the following as required under BCCNY Reference Standard RS 19-2. The NYS Licensed Professional will be responsible for the verification, confirmation, and inspection of the following:
 1. That the crane or derrick has a valid Certificate of Approval / Certificate of Operation as issued by the NYCDOB-C&D for the configuration to be used at the WTC Site;
 2. That the crane dunnage, configuration, and location has been set-up in accordance with the plans, drawings, and specifications submitted with the On-Site Inspection Certificate;

3. That there are no vaults, or other below grade structures, affected by the crane other than those specifically shown on the plans and drawings submitted with the On-Site Inspection Certificate;
4. Perform a visual inspection of the crane to ensure that there is no damage to crane including, but not limited to, the following:
 - a. Bent or missing lacings;
 - b. That the pins are properly installed, and have no visible fatigue;
 - c. All items listed in Section 5-2.1.2 of ASME B30.5-2004.
- b. Upon the completion of the on-site inspection by the NYS Licensed Professional, and his determination that the crane is in compliance with the On-Site Inspection Certificate, the NYS Licensed Professional must provide the following for review and approval by the REO:
 1. A fully executed, and signed & sealed Form CD-8, entitled " Technical Report – Statement of Responsibility," Revised 12/03, as issued by the NYCDOB-C&D, copy attached.

Upon the approval of the Form CD-8 by the REO (the "Technical Report"), the contractor may proceed with the operation and/or use of the crane or derrick at the WTC Site.

Special Notes:

1. Should the Certificate of Approval / Certificate of Operation initially issued by the NYCDOB-C&D expire while the crane or derrick is in use at the WTC Site, the owner of the crane or derrick shall provide a fully executed and complete Form CD-2, entitled "Crane / Derrick / Mobile Work Platform – Approval and Operation Application / Certificate," Revised 08/15/05, to the REO for review and approval.
2. In the case of Tower Cranes available for delivery to the WTC Site without a valid "Temporary Certificate of Approval/ Temporary Certificate of Operation," the REO may grant a waiver from the requirements of paragraph # 1.a above. However, such a waiver will require the completion of a Form CD-2 and the performance of all inspections required by NYCDOB-C&D by a NYS Licensed Professional Engineer. A signed & sealed certification will also be required by the NYSPE certifying that the results are satisfactory for operation and comply with the building Code of the City of New York.
3. The terms of the Certificate of Approval / Certificate of Operation, and Certificate of On-Site Inspection are limited to one (1) year. Upon expiration, the contractor must resubmit Forms CD-2, CD-4, and CD-8, and have a NYS Licensed Professional perform an on-site reinspection. Please note that the forms must be complete, and signed & sealed by the NYS Licensed Professional where appropriate.

4. Sometime following the delivery of any crane or derrick to the WTC Site, MEU will physically verify that the Diesel Emissions Retrofit has been completed in accordance with the BAT determination of Section 1 above.

6.17 Motor Vehicle and Mechanical Equipment

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart O: Motor Vehicles, Mechanized Equipment, and Marine Operations, in addition to the following mandatory specific worksite requirements:

- a) Each operator of motor vehicles on the WTC Site shall have a valid and current driver's license with appropriate vehicle classification and each motor vehicle shall display the required annual safety inspection sticker;
- b) Only properly identified company vehicles with valid proof of proper vehicle registration and insurance shall be allowed on the WTC Site. Vehicles shall have required identification properly displayed on each side of the vehicle. Markings can be either decal, magnetic or painted on the vehicle;
- c) All vehicles must be properly insured and documentation must be made available upon request. Signs on vehicles shall be sufficient size to be readable from 100 feet. At a minimum, vehicle signs shall contain:
 1. Company name;
 2. Company address;
 3. Company telephone number.
- d) Each prime contractor shall furnish, at their own expense, a qualified traffic flagperson as necessary to control the work traffic, unless otherwise directed by the REO or WTC Site Manager. Flagpersons shall be provided with appropriate PPE;
- e) All vehicles shall be equipped with a functioning back-up alarm;
- f) Employee owned vehicles and/or equipment shall be parked only in locations designated by the Port Authority. Illegally parked vehicles/equipment are subject to removal. The Port Authority shall not assume any costs respective of towing fees, vehicle damage and/or any costs associated with this action;
- g) The windshield, side view mirrors, back up mirrors, and overhead windows (as required) on all vehicles used on the WTC Site shall be intact, in good repair, undamaged, and clean. Vehicle safety equipment such as driver and passenger seatbelts, back-up alarms, head/tail/brake/back-up/and clearance lights shall be in good repair, clean and tested daily, or at the beginning of

each shift. Vehicles with deficiencies will be removed from service pending repair;

- h) All operators of construction equipment shall be properly licensed, and approved to use that equipment by the CSM. Copies of certifications, licenses, etc. shall be maintained onsite by the CSM and made available upon request by the REO or the SSD;
- i) Vehicles used to transport personnel shall have seats firmly secured and adequate for the number of individuals to be carried. All vehicle occupants shall be properly seated utilizing a manufacturer installed restraint device. Standing, kneeling or riding on the outside of moving vehicles is prohibited.

6.18 Excavations

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart P: Excavations, in addition to the following mandatory specific worksite requirements:

- a) No subsurface penetrations, core drilling, pilot holes, trenching or excavations operations are to be performed before either the Port Authority, or an outside agency or utility performs a mark-out. All underground utilities that are to remain must be protected for the duration of the operation;
- b) At a minimum, the competent person for each crew performing excavation and trenching operations shall:
 - 1. Be present at the worksite at all times when workers are within the excavation or trench;
 - 2. Provide a means of access and egress once the excavation or trench reaches a depth of 4 feet shall be provided, and depending upon the soil classification and worksite conditions provide cave-in protection when the depth reaches 5 feet, and fall protection if the depth of the trench or excavation equals or exceeds 6 feet;
 - 3. Establish a warning system to protect workers within the excavation or trench from vehicles;
 - 4. Ensure there is no overhead hoisting operations over occupied trenches or excavations;
- c) At a minimum, on a daily basis prior to the performance of work by each shift, or following an incident that possibly could affect the integrity of the protective system, inspect the excavation, protective system, egress ways, and adjacent

areas. All inspections shall be documented, with a copy maintained at the jobsite and a copy provided to the CSM.

- d) Prior to the commencement of any trench work, a plan showing the location, route, width and depth of the trenching is to be submitted to REO and the SSD for review. If trench shoring or shielding is required, a design prepared and stamped by a licensed NYS Professional Engineer is to accompany the plan;
- e) Open trenches, excavations, and stockpiled material at the construction site shall be appropriately barricaded, posted, and lighted;
- f) At a minimum, spoil piles and stockpiles shall be set back at least 2 feet from the edge of the trench or excavation, or at a greater distance as determined by the competent person;
- g) There shall be no work in trenches or excavations where there is the presence of water unless:
 - 1. The flow of water is controlled by the use of pumping devices, and that the work crew's competent person monitors pumping operation;
 - 2. The competent person has performed a inspection of the cave-in protection and prevention measures in place and has verified they have not been compromised;
 - 3. The competent person informs the CSM of the actions taken to support trench or excavation entry;
 - 4. The CSM approves the entry.
- n) All coverings for open trenches or excavations shall be appropriately anchored or pinned to prevent displacement, and be of sufficient strength to support at least twice the maximum axle load of the largest vehicle expected to cross over the cover.
- o) Working within a covered trench or excavation without prohibiting vehicle traffic over it is prohibited.

6.19 Concrete and Masonry Work

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart Q: Concrete and Masonry Construction.

6.20 Underground Construction, Caissons, Cofferdams and Compressed Air

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart S.

6.21 *Demolition*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart T: Demolition, in addition to the following mandatory specific worksite requirements:

- a) Prior to the demolition of any structure, a licensed NYS Professional Engineer and the competent person of the demolition crew shall perform and document a pre-demolition inspection, followed by the preparation and submittal of a Demolition Plan to the CSM for review and approval. Once approved by the CSM, the plan shall forward the plan to the REO for review.

At a minimum, this plan will include a detailed description as to the means and methods, controls, and safety measures to be used for the demolition, and the following:

1. Verification of the location and condition of any remaining utilities in the structure. Prior to demolition, all active utilities and services need to be removed, de-energized, isolated, re-located, or guarded;
2. Verification of the stability of the existing, and adjacent structures. If required, such structures must be properly braced, shored, and supported to prevent unexpected collapse;
3. Identification of personal and debris fall hazards, and establishment of the appropriate controls suitable for each phase of the demolition;
4. Indication of whether waste chutes will be used, and if used, their location, construction, installation, and maintenance;
5. Identification of the protective measures to be provided for the protection of pedestrians and adjacent roadways, buildings and other structures in accordance with the provisions of Subchapter 19 of the NYCBC.

6.22 *Blasting and the Use of Explosives*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart U: Blasting and the Use of Explosive, in addition to the requirements of the New York State Department of Labor and NYCBC. Additional requirements may be implemented by the FDNY or the MTA.

6.23 *Power Distribution*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart V: Power Transmission and Distribution.

6.24 Rollover Protective Structures; Overhead Protection

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart W: Rollover Protective Structures; Overhead Protection.

6.25 Stairways and Ladders

Each prime contractor and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart X: Stairways and Ladders, in addition to the following mandatory specific worksite requirements:

- a) When there is a vertical walking/working surface-to-surface break equal to or greater than nineteen (19) inches, a ladder or stairway is required;
- b) Stairs that have at least four (4) risers, or that are at least thirty (30) inches in vertical height shall either have a hand or stair rail installed;
- c) Access and egress ways and landings to and from each ladder and stairways or stair tower shall remain unobstructed and in good repair;
- d) Self-supporting and non self-supporting stairways and ladders can only be used in their manufacturers' designed and specified positions;
- e) The use of extension ladders shall not exceed a maximum working height of 40 feet. The use of extension ladder portions shall be prohibited.
- f) Three-point contact must be maintained when ascending or descending ladders.
- g) All ladder rungs and steps, and stairway treads shall be constructed of a skid-resistant material, or surfaced to prevent slipping.

6.26 Diving

Each prime contractor and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart Y: Diving, in addition to the requirements of the U.S. Coast Guard for marine operations.

6.27 Hazard Communications

Each prime contractor's CSM shall establish a Hazard Communications Plan consistent with OSHA standard 29 CFR Part 1910.1200 for multi-employer sites, in addition to the following mandatory specific worksite requirements:

- a) All chemical containers shall be properly labeled to identify their contents;
- b) All chemical containers shall be properly stored and transported;
- c) Material Safety Data Sheets (MSDS) for each chemical product used at the WTC Site shall be maintained onsite by the CSM, and shall be available to all workers during all shifts, the EOC, REO, Port Authority Police, WTC Site Manager, and the SSD
- d) Compressed gas cylinders, flammable and combustible liquids, and all chemical products shall be stored and signed/labeled in accordance with their hazard class. The co-mingling of different hazard classes in storage is prohibited.

6.28 Restriction Of Hazardous Material Placarded Consignments

The following hazardous material placarded items shall be allowed onto the WTC Site providing the driver presents shipping papers and a delivery receipt indicating the name of the contractor requesting the products. Prior to delivery, the contractor's safety manager shall be in possession of the appropriate Material Safety Data Sheet.

Class 2 – Oxygen, Flammable Gas, Non-Flammable Gas, Flammable

Class 3 – Gasoline, Combustible, Fuel Oil

Class 9 - Miscellaneous

The following hazardous material placarded items shall be restricted from entering the WTC Site. Vehicles with the following placards shall be detained, and the SSD or designee shall be contacted.

Class 1 – Explosive

Class 2 – Inhalation Hazard

Class 4 – Flammable Solids, Spontaneously Combustible, Dangerous When Wet

Class 5 – Oxidizer, Organic Peroxide

Class 6 – Inhalation Hazard, Poison, Harmful

Class 7 – Radioactive

Class 8 – Corrosive

Dangerous Cargo

Prior to delivery, the contractor's safety manager shall be in possession of the appropriate Material Safety Data Sheet. The World Trade Center SSM or designee shall notify the CSM of the delivery and meet to review the consignment.

6.29 Hazardous Chemical Storage Requirements

Consistent with the requirements in U.S. OSHA 29 CFR 1910, Subpart Z: Hazard Communication, 29 CFR 1926 Subpart F: Fire Protection and Prevention, Subpart J:

Welding and Cutting, and U.S. DOT 49 CFR, Subpart E, Part 172: Labeling, each contractor shall at a minimum comply with the following:

- a) Establish and maintain a secure hazardous chemicals storage location adequately sized, designed, and constructed for the type and quantity of materials to be stored. All chemicals shall be stored in appropriate containers compatible with their hazard class;
- b) Only chemicals with the same hazard class warning shall be stored together;
- c) Confine their storage of hazardous chemicals to the area assigned, or their work location. Hazardous chemicals cannot be stored in common areas, roadways, or established egress routes;
- d) Each storage location shall be framed, sheathed, and roofed with approved fire-retardant treated lumber; fenced and roofed; caged; or otherwise securely enclosed. The entrance door shall be constructed in such a manner as to allow for the visual identification of the stored contents. The entrance door shall be lockable and remain locked at all times when not occupied, with keys provided to WTC Site Manager, SSD, REO, and Port Authority Police;
- e) The wall to floor seam of each storage location shall be bermed with an appropriate and compatible absorbent material to capture any liquid in the event of a release;
- f) Material hazard identification signs consistent with the labeling requirements of U.S. DOT 49 CFR: Part 172, and the NFPA 704 Hazard Diamond shall be conspicuously posted at all entrances into the storage location. Smoking shall be prohibited within all chemical storage locations, and shall be signed accordingly;
- g) Maintain on-site an adequate supply of spill response equipment and materials compatible for the type and quantity of the chemical products in storage;
- h) Maintain on-site a material safety data sheet (MSDS) for each chemical product stored. Ensure that workers are trained in the hazards and use of the product;
- i) Select, issue, and train workers in the maintenance, use and storage of the personnel protective equipment required when using the chemical products;
- j) Provide worker training in the proper methods to respond to spills and releases from the storage area;
- k) Compressed gas cylinders, flammable and combustible liquids, and all chemical products shall be stored and signed/labeled in accordance with their

hazard class. The co-mingling of different hazard classes in storage is prohibited;

- l) When required, storage areas shall be protected from vehicular impact by the use of concrete "jersey barriers" or a similar impact resistant material;
- m) Enclosed facilities (i.e. trailers) used for the storage of flammable gases or liquids shall be properly ventilated by either mechanical or natural means based upon the characteristic of the chemical product being stored. If lighting is installed, explosion proof, intrinsically safe wiring is required;
- n) Select and provide the appropriate type, size, and number of fire extinguishers suitable for the fire hazards presented by the stored chemicals;
- o) If stored in drums, all drums shall be raised off the ground and stored on covered containment trays, or in contained enclosures;
- p) Flammable and combustible liquids, such as gasoline, kerosene, diesel, and mixed fuels shall only be stored in either Type I or II approved metal safety storage cans with flashback protection;
- q) All fuel containers (drums, gas cans, etc) shall be appropriately color-coded and permanently labeled as "Gasoline", "Kerosene", "Diesel", or "Mixed-Fuel";
- r) Flammable and combustible liquid safety storage cans shall be stored in approved fire cabinets with a quantity limited to 60-gals of flammable and 120-gals of combustible liquid per cabinet. No more than three storage cabinets shall be stored in one area;
- s) All non-stationary fuel tanks with a storage capacity of greater than 5-gallons shall be equipped with secondary spill containment either integral to the unit, or by the installation of an impervious membrane and containment barrier (e.g.: berm/dike system);
- t) A properly charged and maintained portable fire extinguisher with a rating of not less than 4-A:60B:C shall be permanently mounted in a conspicuous location readily accessible within 50 feet of the storage location;
- u) Compressed gas cylinders (CGC) shall be stored with their valve protection caps secured on the cylinder;
- v) CGC shall be stored with 3-point contact;
- w) CGC shall not be stored directly on the ground, on their sides, or stacked on top of the other;

- x) Flammable gases and oxygen must be stored separately at least 20 feet apart, or together with a 5-foot high, 30-minute fire-rated wall separating them.
- y) Smoking shall be strictly prohibited within 50 feet of flammable and combustible liquid storage cabinets, compressed gas cylinder storage cages, and hazardous material and hazardous waste storage locations;

6.30 Contractor's Financial Obligations for Chemical Release Incidents

In the event of a hazardous chemicals/materials (hazmat) incident:

- a) In the event of a hazardous chemicals/materials hazmat incident, the Port Authority Police will respond and immediately address any life safety concerns. As it relates to incident mitigation, the Port Authority Police will isolate, and attempt to confine, collect, and/or contain as an interim control. Long-term remediation will be performed by a remediation contractor;
- b) Each prime contractor shall be financially responsible and required to address (i.e., respond, mitigate, property and equipment restoration and repair, waste transportation and manifesting, waste disposal, and notification of the NYS DEC to obtain a spill number) all hazmat releases and incidents created by their own action or their subcontractors within their work and storage area(s) and during deliveries;
- c) Each prime and subcontractor whose actions cause a hazmat incident in another prime contractor's or sub-contractor's work or storage area(s) shall be financially responsible and required to address (e.g., response; mitigation; property and equipment restoration; repair, or replacement; waste transportation and manifesting; waste disposal; and notification of the NYS DEC to obtain a spill number) all hazmat releases and incidents;
- d) The Port Authority shall be responsible to mitigate those hazmat incidents affecting common use areas, and at a prime or sub-contractors work or storage area if a life safety or environmental hazard exists, or if the contractor's hazmat contractor is unavailable. In those instances where the Port Authority responds to a prime or sub-contractor's work or storage area, that contractor shall be financially responsible to reimburse the Port Authority for contractor charges (e.g., response; consulting; project monitoring; laboratory sampling and testing; mitigation; property and equipment restoration, repair, or replacement; waste storage, transportation, and disposal) and Port Authority staff time;
- e) Each prime contractor shall be required to provide to the REO, WTC Site Manager, and the SSD the name and contact information of their call-in hazmat contractor.

- f) The Port Authority shall provide an environmental consultant firm to monitor and document remediation work. Each prime contractor shall be required to reimburse the Port Authority for this environmental monitoring service (e.g., project monitors, supervision, sample collection and laboratory analysis, report preparation). The Port Authority will not sign any manifest, shipping document, or assume the title as "generator" for hazardous waste generated by a prime contractor.

SECTION 7.0 ENVIRONMENTAL CONTROLS

7.01 Abrasive Blasting

Prior to any abrasive blasting or surface cleaning operations, excluding steam water blasting, the competent person for the work crew performing the operation shall submit to the SSD a plan to address the following:

- a) Respiratory and personal protective equipment required;
- b) Work area isolation and ventilation required;
- c) Type of equipment to be used and the blasting agent;
- d) Dust control and debris containment/collection methods to be used;
- e) Personal and environmental monitoring requirements for airborne contaminants.

7.02 Diesel Emission Mitigation

The contractor and each subcontractor shall minimize all air-borne pollutants generated by diesel-powered equipment and vehicles at all times during the performance of Work. All Non-Road (e.g., backhoes, bull dozers, cranes, excavation machines, loaders, etc.) diesel-powered equipment, including stationary (e.g., generators, compressors, etc.), with a rated horsepower greater than 50 HP shall incorporate diesel emission reduction strategies that include the use of ultra-low sulfur diesel fuel and best available technology for emission controls. In addition, all such equipment and engines shall comply with all federal, state, and local regulations applicable to exhaust emission controls and safety. The mitigation measures to be employed are to consist of the following:

7.03 Ultra-Low Sulfur Diesel (ULSD) Fuel:

All diesel-powered Non-Road equipment to be used in the performance of work with a rated horsepower greater than or equal to 50 HP shall use Ultra-low Sulfur Diesel (ULSD) fuel that can be used without engine modification or fuel compartment flushing, and is certified to contain an average sulfur content of no more than 15 ppm, as determined over a six month period. In the event that the contractor can clearly demonstrate that ULSD fuel with an average sulfur content of not more than 15 ppm is not available, a written waiver may be granted by the REO until such time that the fuel has become available, or an approved equivalent is determined by the REO to satisfy the intent of this Section.

The Port Authority shall collect monthly samples of the ULSD fuel used during the period directly from the fuel tanks of equipment used on the construction site. The Testing Standards shall include, but are not limited to: ASTM D6920 – 03 "Total Sulfur in Naphthas, Distillates, Reformulated Gasolines, Diesels, Biodiesels, and Motor Fuels by Oxidative Combustion and Electrochemical Detection" or ASTM D6428-99 "Test Method for Total Sulfur in Liquid Aromatic Hydrocarbons and Their Derivatives by Oxidative Combustion and Electrochemical Detection."

The ULSD shall be obtained from any distributor capable of meeting the requirements of this Section. All ULSD fuel shall be dispensed directly on the construction site from either a dedicated on-site fuel storage facility or segregated truck delivery. In the case of onsite storage, all such facilities shall comply with all applicable jurisdictional codes pertaining to the storage, containment and dispensing of fuel and all details must be submitted and approved by the REO prior to implementation.

A listing of ULSD fuel suppliers is included on the following Web page.

http://www.epa.gov/otaq/retrofit/cont_fuels.htm

All Non-Road diesel-powered equipment with a rated horsepower greater than 50 HP that Control Devices (devices) utilizing the best available technology. The retrofit devices shall consist of Diesel Particulate Filters (DPFs) or other measures with equivalent particulate matter (PM) removal efficiency wherever the implementation of such a device is feasible. In cases where DPFs are not feasible for safety considerations, mechanical reasons, or where the technology would not function properly, the Contractor shall submit a request for a waiver to the REO review and approval prior to the use of such equipment. If the REO grants a waiver, Diesel Oxidation Catalysts (DOCs) shall be used. Only in the following cases will the use of diesel engines greater than 50 HP without tailpipe reduction measures be permitted by the REO.

- Where for technical reasons neither DPFs or DOCs can be used effectively, and the operation cannot be performed by another engine or other means;
- To immediately remedy safety and health hazards;

- In response to emergencies.

Such reductions are to be targeted primarily toward the reduction of PM and secondarily on the reduction of nitrogen oxides (NOX), and shall in no event result in an increase in the emissions of either pollutant. The devices shall be contained in the U.S. Environmental Protection Agency (EPA) Verified Retrofit Technology List, the list of California Air Resources Board (CARB) Verifications, Europe's Verified Technology List (VERT), or as otherwise approved by the REO to provide the maximal level of pollutant reductions intended under this Section. For more information, refer to the following websites:

U.S. Environmental Protection Agency Verified Technology List:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>

California Air Resources Board Verified Technology List:

<http://www.arb.ca.gov/diesel/verdev/level3/level3.htm>

Europe Verified Technology List:

<http://www.akpf.org/pub/vertfilterliste.pdf>

Vendors of such technologies include: Cleaire, DCL International, Engelhard, Johnson-Matthey, Fleetguard Emission Solutions, Donaldson, Engine Control Systems, or other approved equal.

7.04 Diesel Construction Equipment Age Requirements:

In order to facilitate the application of verified emission control devices as well as provide lower baseline emissions, all equipment used for the performance of Work under this Contract must use post-1995 fuel injection engines which meet Tier II engine emissions standards, as defined in 40 CFR Section 89.112. Exceptions will be made only for specific engines that are not yet commercially available as Tier II, and where the task cannot be reasonably accomplished using alternative engines or means which do comply with these demands. In such cases, the Contractor shall submit a request for a waiver to the REO for review and approval prior to the use of such equipment.

7.05 Diesel Emissions Mitigation Plan For Non-Road and On-Road Engines and Equipment:

A Diesel Emission Mitigation Plan (the "DEM Plan") shall be prepared by the contractor and submitted to the REO for review and approval prior to the use of any diesel-powered engines, including non-road and on-road Vehicles. The DEM Plan shall identify all engines and vehicles to be utilized in the performance of work, whether owned by, operated by or on the behalf of the

contractor, including that rented by the Port Authority as the rental agency of the contractor. No work shall proceed until a DEM Plan is submitted and approved by the REO. Once approved, no changes in or deviations from the DEM Plan will be permitted unless approved by the REO. The DEM Plan shall address the control of emissions from all engines and vehicles including on-road vehicles (i.e., diesel powered trucks) and non-road equipment not retrofitted with devices. The contents of this plan shall specifically address the requirements of the Subsections presented below:

1. *Work Zone Creation*: The contractor shall establish on-road vehicle (i.e., diesel trucks) staging zones for the off-loading and loading of materials to and from the construction site. Such zones shall be located to minimize the impact of pollutants from diesel engines and vehicles on sensitive receptors and the general public. In addition, the contractor shall ensure that diesel powered engines and vehicles are located away from the fresh air intakes of sensitive receptors as determined by the REO;
2. *Diesel Engine Idling Policy*: The idling time of Non-Road and On-Road Vehicles shall be limited to three (3) consecutive minutes, as determined by the REO except as follows:
 - a) When an on-road vehicle is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;
 - b) When it is necessary to operate heating, cooling or auxiliary equipment to accomplish the intended use of the vehicle; installed on the vehicle when such equipment is necessary;
 - c) To bring the vehicle to the manufacturer's recommended operating temperature. In this event, the temperature requirements must be indicated in the DEM plan as an exception;
 - d) When the outdoor ambient temperature is below twenty (20) degrees Fahrenheit;
 - e) When the vehicle is being actively worked on for repairs or maintenance.

7.06 Dust Mitigation

The contractor and each subcontractor shall control fugitive dust at all times - 24 hours a day, 7 days per week, including non-working hours, weekends, and holidays. The requirements for mitigating fugitive dust particulate dispersions from the construction site and during the performance of Work, such as earth moving and demolition activities, shall include the following:

- a) The spraying of a (non-hazardous, biodegradable) dust suppressing agent;

- b) The physical containment of fugitive dust;
- c) The adjustment for meteorological conditions, as appropriate;
- d) Wheel washing of all construction Non-Road and Motor Vehicles leaving the WTC Site.

The contractor and each subcontractor shall comply with all Federal, state, and local regulations applicable to the control and mitigation of fugitive dust dispersion. The contractor shall submit a Dust Control Plan ("DC Plan") to the REO for review and approval to address the specific measures contained in this Section. A copy of this DC Plan shall also be provided to each subcontractor who shall be obliged to comply in the provisions of his subcontract with the contractor. The DC Plan shall include contact information for responsible individual(s) from the contractor with 24 hour, 7 days per week availability, and who have been vested with the authority to implement all controls and mitigation measures identified in the DC Plan. The DC Plan must detail all dust control procedures for all such controls and measures as approved by the REO, and be job specific to address all anticipated Work activities that may generate fugitive dust dispersions (e.g., demolition, saw-cutting, pavement milling, haul roads, etc.).

7.07 Noise And Vibration Abatement

Where practicable, the contractor and each subcontractor shall schedule all construction activities to avoid and/or minimize any adverse acoustic noise or vibrations that could impact sensitive receptors as determined by the REO. Acoustical sensitive receptors presently include the Millennium Hotel on Church Street, Embassy Suites on Vesey Street, and Multi Family Residential Structure on the corner of Park Place and West Broadway and residential buildings along the south side of Liberty Street. The conditions and requirements are as follows:

- a) In the event that the REO determines that the contractor may or has exceeded the noise thresholds specified in Table 1 below, the REO may direct the contractor to implement, at his own cost, abatement measures deemed appropriate by the REO and/or as specified and approved in the contractor's Noise Control And Abatement Plan (the "NCA Plan"):

Table 1: Noise Limitation Thresholds For Sensitive Receptor Sites – Resultant noise at sensitive receptor sites shall be restricted to the following levels:

TIME	dBA Limit
Weekdays, 7AM to 4 PM	80
All Other Times	70

Note: Measurements to ensure Noise Limitation Threshold compliance will be based on instantaneous maximum readings using "slow" integration speed setting on the sound level meter.

- b) The contractor shall comply with all appropriate federal, state and local regulations applicable to noise control and mitigation. The contractor shall submit a NCA Plan to describe his intended mitigation procedures and methods to control and mitigate noise generated during the performance of Work. One (1) original and four (4) copies of the NCA Plan and revisions are to be submitted to the REO. A copy of the NCA Plan and all revisions shall be provided to each subcontractor prior to the commencement of his work. The subcontractor shall be specifically obliged to comply with the requirements of the approved NCA Plan in the provisions of his subcontract with the contractor. The NCA Plan shall specifically address the following:
1. Means and methods for the implementation of all controls and mitigation measures;
 2. Design drawings of noise abatement enclosures and barriers, signed and sealed by a Licensed Professional Engineer in the State of New York;
 3. Description of physical noise mitigation materials, including the name of manufacturer and its specifications. All such materials shall be fire resistant;
 4. Catalogue cuts and technical data sheets of construction equipment to be used during Work;
 5. The qualified acoustical firm procured by the contractor to provide professional services for the creation and implementation of the NCA Plan.
- c) To ensure compliance with this Section, the contractor shall procure the services of a qualified acoustical firm to provide assistance in the creation and implementation of the NCA Plan, and to provide noise monitoring on site. Each employee of the firm who will actually perform measurements or monitoring in the field shall be appropriately trained, and have demonstrated experience in the measurement and implementation of mitigation techniques for similar types of construction projects. Such employees shall have within the preceding five years performed acoustical consulting on at least three projects of similar size and complexity that included specific noise control and abatement initiatives, preferably in the City of New York, and submit to the REO for review and approval the name and qualifications of the firm and employees as stipulated above.
- d) The contractor shall continuously monitor the actual noise levels generated during construction activities to ensure compliance with the noise requirements stipulated herein. The Port Authority will monitor noise levels at known sensitive receptors or other locations deemed appropriate by the REO to verify compliance. When noise level measurements exceed the allowable thresholds, the contractor shall cease all construction activities, and immediately implement the mitigation procedures indicated in the approved

NCA Plan. If applicable procedures are not included in the NCA Plan, revised procedures are to be developed and implemented only with the approval of the REO. Such revised work procedures are to be incorporated in the current NCA Plan, and resubmitted for formal review by the REO. In the event that a conflict between the contractor's sound level measurements and those of the Port Authority, the Port Authority's noise level measurements shall prevail.

SECTION 8.0 EMPLOYEE DISCIPLINARY ACTIONS

The following policy shall be implemented regarding disciplinary actions for workers or employees who violate or disregard the requirements of the Program and approved prime and sub-contractor Health and Safety Plans. The severity of the worker's infraction and its impact on the health and safety of other workers, the PATH Rail System and Terminal, adjoining properties, the public and the environment shall be evaluated, and disciplinary action shall be taken against the worker or supervisor as deemed appropriate by the REO who may request advice from the EOC, the SSD, PATH SS&SD, and CSM.

- a) Following an investigation by the REO, the SSD, and CSM, site workers whose action, lack of action, or conduct creates or contributes to an imminent danger situation as referenced in 29 CFR 1903 and 1908: Imminent Danger, or who knowingly allowed an imminent danger to exist, may be required to leave the Site, be barred from returning to the Site, and have their WTC Site Identification credentials revoked;
- b) Site workers who fail to comply with the health and safety requirements of the Program and approved contractor and subcontractor Health and Safety Plans shall be notified verbally by the CSM. The CSM will document the conversation, and forward a written copy describing the infraction to the contractor and/or subcontractor employing the worker, and to the SSD and REO. If the worker is again determined to be non-compliant for the same infraction, the employee will be removed from the site, barred from returning to the site, and have his/her WTC Identification credentials revoked.

SECTION 9.0 PROPOSALS FOR ALTERNATE WORK PROCEDURES

If during the performance of work, site conditions are encountered such that the CSM determines that compliance with a particular section or provision of the Program is infeasible, for reasons other than cost, the CSM shall have an opportunity to propose an alternate work procedure by submitting the following information to the REO with the signatures of both the CSM and a corporate officer for the contractor:

1. What section or provision within the Program is an alternative work procedure being requested for;

2. Other than cost, why compliance with that section or provision is considered infeasible;
3. Description of what is being proposed in lieu of compliance with the particular section or provision, and how it provides an equivalent or greater level of worker safety;
4. Description of the provisions, practices, and training that will be implemented to ensure worker, property, and environmental protection;
5. How the effectiveness of the proposed alternative method will be evaluated, and by who;
6. The length of time the alternate work procedure is being requested for.

The REO shall review the proposal, and will respond in writing. Until such time as the proposal may be accepted, the requirements of the Program must be complied with, including that section or provision for which an alternative work procedure is being sought. If the proposal is approved, it must be posted by the CSM in an area of worker assembly for the duration of that particular activity.



RIDER "N"



THE PORT AUTHORITY OF NY & NJ

World Trade Center Site
RULES and REGULATIONS

Effective January 1, 2006



RIDER "N"

FOREWORD

The World Trade Center (WTC) Site Rules and Regulations as set forth herein have been adopted in the interest of the safe, efficient, and environmentally sensitive operation of the WTC Site while it is under redevelopment.

The Manager of the WTC Site is authorized to act for the undersigned in connection with all Port Authority Rules and Regulations.

Steven Plate
Director
Priority Capital Programs
The Port Authority of New York and New Jersey

IMPORTANT TELEPHONE NUMBERS

Port Authority Police
(212) 608-5111 or 5115

WTC Site Manager
(212) 435-5501

WTC Site Security
(212) 732-8415

WTC Site Safety Manager
(212) 435-5524

Copies of this booklet may be obtained
at the following location:

WTC Site Manager
Priority Capital Programs
The Port Authority of New York and New Jersey
115 Broadway, 5th Floor
New York, NY 10006

WTC Site Manager bulletins may be issued by the Site Manager
as necessary to implement these Rules and Regulations.

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PART A. General Conditions.

1. Use of Premises May be Denied or Withdrawn.

The WTC Site Manager or the persons designated to act in his or her stead, may deny permission to enter or remain on the WTC Site to persons who violate Port Authority rules or regulations, WTC Site policies or procedures, applicable laws, ordinances or regulations of other government bodies, or for such other reason as may be permitted by law.

2. Closed and Restricted Areas.

- a. No person shall enter or remain in any area posted as a closed area, or otherwise identified as closed, without permission of the WTC Site Manager, or the persons designated to act in his or her stead.
- b. No person shall enter or remain in any area posted as a restricted area, or otherwise identified as a restricted area, unless such person complies with any applicable restriction, or is given permission to enter or remain by the WTC Site Manager, or the persons designated to act in his or her stead.

3. Fences.

- a. The climbing of any fence, the marking or painting of any fence, the affixing of any sign or object to any fence, or the removal of any fence is prohibited.
- b. The foregoing does not apply to the Port Authority, or any person authorized to act on behalf of the Port Authority, or any person engaged in construction or maintenance activity at the World Trade Center Site pursuant to an agreement with the Port Authority or pursuant to an agreement with a lessee of the Port Authority.

4. Compliance with Orders.

No person shall refuse to follow the lawful order of any Port Authority employee including a Port Authority police officer.

5. Endangering Persons or Property.

No person shall do or omit to do any act if the doing or omission thereof unreasonably endangers persons or property.

6. Interference with Traffic or Activities.

No person shall unreasonably interfere with:

- a. Pedestrian or vehicular traffic.
- b. Use of any doorway, entrance, or exit; stairway or landing, entrance or exit thereof; elevator, entrance or exit thereof; escalator or landing thereof; bus passenger waiting, loading or unloading area; taxicab passenger waiting, loading or unloading area; sidewalk cut or sidewalk adjacent to a crosswalk.
- c. Entry to or exit from any vehicle.
- d. The formation of any line of persons waiting to enter or use any thing, place or service described in b. or c.
- e. Any reclamation, construction or maintenance activity.
- f. The duties of a flag person.
- g. Instructions or information found on or within a sign, pavement marking, or traffic signal.
- h. The storage of materials, equipment, supplies, vehicles, debris, waste, garbage, or refuse.

7. Duty of Individuals Involved in Accidents.

- a. Any individual involved in an accident at the WTC Site which results in death, personal injury or property damage shall provide his or her name and address, and if a motor vehicle is involved, display the relevant operator's license, vehicle registration and proof of insurance document, upon demand at the scene of the accident, to any injured person, any owner of damaged property, and, to any police officer, or employee of The Port Authority of New York and New Jersey, at, or who arrives at, the scene of the accident.
- b. The operator of a motor vehicle involved in an accident shall make a report of such accident in conformance with the law of the State of New York.

8. Animals.

- a. No animal shall be brought onto or remain on the WTC Site unless it is continuously restrained by a leash or harness or by a fully closed cage or carrier.
- b. Any person who has custody of an animal shall not permit the animal to urinate or defecate in any place other than in a roadway, and shall not permit the animal to do so if such action will interfere with traffic or pose a danger to the animal or any person or property.
- c. Any person who has custody of an animal that has defecated at the WTC Site shall collect the feces in suitable wrapping material for disposal as refuse.
- d. This section is not applicable to any disabled person to the extent such person is unable to comply therewith with respect to such person's service animal.
- e. This section is not applicable to law enforcement or search canines.

9. Defacing or Damaging of Property.

No person shall deface, mark, damage, or affix any thing or object to, any wall, post, surface, walkway, street fixture or any other property at the WTC Site.

10. Abandonment of Property.

No person shall intentionally abandon any property at the WTC Site.

11. Garbage Disposal.

a. Public Areas.

No person shall dispose of garbage, debris, or any refuse except by depositing such material in waste containers as shall be placed at the WTC Site for such purpose. If no waste containers are available, all garbage, debris, or refuse shall be carried from the WTC Site.

b. Closed and Restricted Areas.

- i. Each person is responsible for the garbage he/she generates and any other garbage within his/her area of control.
- ii. Each entity is responsible for the garbage generated within its area of control.
- iii. All garbage, debris, or refuse generated by persons individually or on behalf of others, including one or more entities, shall be disposed of by the person(s) generating such garbage, debris or refuse, or by the person(s) controlling the area within which the garbage, debris or refuse is located, or by the entity controlling the area.

- iv. Such garbage, debris, or refuse shall be disposed of in containers provided by the entity controlling the area. Such containers shall be emptied regularly to lawful disposal locations outside of the World Trade Center Site, at a frequency that prevents the attraction of rodents and other pests, odors, seepage, and overflow.

12. Alcoholic Beverages.

a. Public Areas.

No person shall drink, or carry an open container of, any alcoholic beverage in a public area

b. Closed and Restricted Areas.

Alcoholic beverages are prohibited within closed and restricted areas. No person shall drink, carry an open container of, or carry a closed container of, any alcoholic beverage in a closed and restricted area.

13. Personal Hygiene.

- a. No person shall spit, urinate or defecate except in toilet facilities.
- b. No person other than authorized persons shall bathe, shower, shave, launder, change clothes or remain undressed in any restroom, washroom, wash station, sink, or washing facility.

14. Touching.

The intentional touching of any person without his or her consent is prohibited.

15. Sitting, Lying Down, Sleeping.

- a. Public Areas.
 - i. Except for a person in a wheelchair, stroller, or other similar apparatus, or a person waiting for emergency medical assistance, no person may sit or lie down.
 - ii. No person may sleep at the WTC Site.
- b. Closed and Restricted Areas.
 - i. No person may sleep at the WTC Site.

16. Skateboarding, Roller-Skating, Bicycle Riding.

- a. Skateboarding, roller-skating, bicycle riding or use of a scooter or other similar motorized or self-propelled apparatus is prohibited.
- b. This section is not applicable to use of a wheelchair or similar apparatus by a disabled person, or to use of a motorized or self-propelled apparatus used in reclamation, construction or maintenance activity.

17. Noise.

- a. Noise Resulting from Activity other than Reclamation, Construction or Maintenance Activity.
 - i. No person may make or cause to be made any sound in excess of 86 dBA on the A weighted scale measured at 5 feet from the source of the sound.
 - ii. No person shall operate or use any personal radio, television, compact disk, tape recorder or other sound reproduction device in such manner that the sound reproduction device is audible to another person.

- b. Noise Resulting from Reclamation, Construction or Maintenance Activity.

- i. Tenants, contractors, and subcontractors, or other parties performing reclamation, construction or maintenance activity, shall comply with all applicable federal laws and regulations with respect to noise control and mitigation, and shall act in conformance with all state and local laws and regulations with respect to noise control and mitigation which would be applicable if the WTC Site were owned and operated solely by a private party.

- ii. Environmental Performance Commitments Pertaining to Noise.

Tenants, contractors, and subcontractors, or other parties performing reclamation, construction, or maintenance activity, shall comply with all Environmental Performance Commitments pertaining to noise. A copy of the current Environmental Performance Commitments (EPCs) is available from the Port Authority Resident Engineer or Port Authority Program Manager responsible for the reclamation, construction, or maintenance activity.

18. Structures.

- a. Public Areas.

The erection of any table, chair, mechanical device or other structure is prohibited, except:

- i. pursuant to a written permit issued by, or a written agreement with, the Port Authority, or Port Authority lessee; or

ii. as provided in the section describing "Continuous Expressive Activity."

b. Closed and Restricted Areas.

Construction and redevelopment activity at the WTC Site shall commence only after receiving Port Authority approval in the form of one of the following:

- i. approved Tenant Construction Application (TCA) or Tenant Alteration Application (TAA),
- ii. fully executed contract with The Port Authority of New York and New Jersey, or
- iii. other fully executed agreement with The Port Authority of New York and New Jersey containing conditions for construction and/or redevelopment activity.

19. Distribution or Sales.

The following is prohibited, whether for free or for payment, unless conducted pursuant to a written permit issued by, or a written agreement with, the Port Authority:

- a. The distribution of any merchandise including, but not limited to, jewelry, foodstuffs, candles, and flowers.
- b. The provision of any service including, but not limited to, shoe shining.

20. Gambling and Contests.

The conduct of any actual or purported game of chance or skill is prohibited.

21. Continuous Expressive Activity.

- a. For the purpose of these regulations, "continuous expressive activity" refers to the following: Continuous expressive

activity directed at passersby, including display of a sign to passersby, continuous distribution of literature to passersby, and continuous speech addressed to passersby.

- b. Continuous expressive activity is permitted at the following locations, subject to Section 21 d:

- i. On the pavement adjacent to Church Street, 12.5 feet or less from the pavement curb.
- ii. Within the location described as Location E in the diagram attached to these regulations as Exhibit A, when that location is not being used by persons engaged in activity authorized by a written permit issued by, or a written agreement with, the Port Authority.
- iii. By a person engaged in coordinated continuous expressive activity as part of a group of 25 or more persons, within the locations described as Locations A through D in the diagram attached to these regulations as Exhibit A pursuant to Section 21 c herein.

- c. A person may engage in coordinated continuous expressive activity as part of a group of 25 or more persons only if a permit has been issued for that activity as set forth in Section 21 f herein, subject to the following restrictions:

- i. A person may engage in coordinated continuous expressive activity as part of a group of 25 or more persons only in the following locations:

(A) Within the locations described as Locations A through D and 1 through 9 in the diagram attached to these regulations as Exhibit A.

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- (B) Within the location described as Location E in the diagram attached to these regulations as Exhibit A, when that location is not being used by persons engaged in activity authorized by a written permit issued by, or a written agreement with, the Port Authority.
- (C) Coordinated continuous expressive activity by a group of 25 or more persons may not occur simultaneously in both (I) one or more of locations A through E on the diagram attached to these regulations as Exhibit A and (II) one or more of locations 1 through 9 on the diagram attached to these regulations as Exhibit A.
- ii. The number of persons within each of the locations available for coordinated continuous expressive activity, as designated on the diagram maintained by the WTC Site Manager, described as Locations A through E and 1 through 9 on the diagram attached to these regulations as Exhibit A may not exceed the maximum number of persons indicated for that area on Exhibit A.
- d. i. Notwithstanding Part A, Section 21 b i, continuous expressive activity is prohibited in, or within 10 feet of, any of the following: Doorway, entrance or exit; stairway or, entrance or exit landing thereof; sidewalk cut or crosswalk; elevator or entrance or exit thereof; escalator or landing, entrance or exit thereof; bus passenger waiting, loading or unloading area; taxicab passenger waiting, loading or unloading area;
- ii. Notwithstanding any other regulation, including Part A, Sections 21 b-c, continuous expressive activity is prohibited in, or within 10 feet of, any of the following: reclamation, construction or maintenance equipment

- or activity; a barrier marking or surrounding an area containing reclamation, construction or maintenance equipment or activity.
- iii. Interested persons may contact the WTC Site Manager at (212) 435-5501 for identification of the locations described in Sections 21 b-c which are not available at that time for use for expressive activity pursuant to Section 21 d i or 21 d ii.
- e. No person, while engaged in continuous expressive activity, shall:
 - i. Distribute any merchandise including, but not limited to, jewelry, foodstuffs, candles, and flowers.
 - ii. Misrepresent through words, signs, leaflets, attire or otherwise, an affiliation or association with, or support from, any person, organization, group, entity or cause, including any affiliation with or support by The Port Authority of New York and New Jersey or a subsidiary thereof, or an organization or association of employees thereof, or a victim of the events of September 11, 2001, or any organization or association of victims.
 - iii. Erect any table, chair, mechanical device or other structure unless:
 - (A) It is used for the actual distribution or display of expressive material such as leaflets.
 - (B) It does not interfere with:
 - (1) Pedestrian or vehicular traffic flow.
 - (2) Use of any doorway, entrance or exit; stairway or, entrance or exit landing thereof; sidewalk cut or crosswalk; elevator or entrance or exit

thereof; escalator or landing, entrance or exit thereof; bus passenger waiting, loading or unloading area; taxicab passenger waiting, loading or unloading area; a barrier marking or surrounding an area containing reclamation, construction or maintenance equipment or activity.

(3) Entry to or exit from any vehicle.

(4) The formation of any line of persons waiting to enter or use any thing, place or service described in 2 or 3.

(5) Any reclamation, construction or maintenance activity.

iv. Sell or offer for sale, or exchange or offer for exchange, any item in return for payment at the WTC Site by soliciting and receiving cash or checks, by engaging in or offering to engage in a credit or debit card transaction, or by any other means, at any location other than the location described at Section 21 b ii.

v. Engage in any conduct not specifically addressed in this section that is prohibited in other sections.

f. Permit application procedures and restrictions:

i. A permit application shall be submitted in writing no later than thirty-six (36) hours preceding the commencement of the activities for which the permit is sought, and no earlier than seven (7) days preceding the commencement of the activities for which the permit is sought.

ii. Permit applications shall be submitted in person to the

WTC Site Manager, or the designee thereof, during the hours of 10:00 AM to 12:00 Noon and 1:00 PM to 3:00 PM, Monday through Friday, excluding holidays. An application for a permit to engage in activity occurring on a Saturday, Sunday or holiday shall be submitted before 12:00 Noon of the preceding business day.

iii. The permit application shall set forth the type, time, location and duration of activities to be conducted in four-hour increments, the name, address and telephone number of the person making the request (in the case of a group, it shall be sufficient to supply the name, address, and telephone number of the person who can be contacted if problems arise concerning the granting of the request). If a person making the application indicates an affiliation with an organization or group, the name, address of a local representative of the organization or group to act as a liaison will be requested; however, refusal to provide such information shall not be grounds for denial of a permit.

iv. A permit to use a location for any period(s) of the day shall be valid for a number of days as specified by the applicant, not exceeding seven (7) days, pursuant to a single application. An applicant seeking permits with different dates of expiration for a location and/or a period of time each day shall use a different application for each such permit.

v. A holder of a permit may continue to use the area(s) set forth in a permit, pursuant to these regulations, after expiration of the permit period only if a new permit application is submitted and no other permit has been granted to other applicants for such areas. Renewal applications shall be processed as if they

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were new applications. All locations will be assigned on a first-come, first-served basis, without regard to renewal status. The use of space previously used pursuant to a permit is not guaranteed by acceptance of a renewal application.

- vi. Permits will be granted on a first-come, first serve basis. An application will be denied only if the area requested is unavailable, the application is incomplete, or the application discloses that the activities to be performed thereunder will violate these rules.
- vii. A permit will be issued, or the application denied, by the WTC Site Manager, or a designee thereof, no later than 5:00 PM of the day following submission of the application, excluding Saturdays, Sundays and holidays. The reason for the denial of an application shall be set forth in writing.
- viii. Upon denial of an application for a permit, or the failure to issue a permit by 5:00 PM of the day following submission of an application, excluding Saturdays, Sundays and holidays, a person may submit a written appeal to the General Manager, WTC Site, or a designee thereof, setting forth the reasons why the application should not have been denied. An appeal shall be submitted in person to the WTC Site Manager, or a designee thereof, during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays. An appeal of a denial of an application for permit to engage in activity occurring on a Saturday, Sunday, or holiday shall be submitted before 12:00 Noon of the preceding business day. The WTC Site Manager, or designee thereof, shall cause the appeal to be delivered to the General Manager, WTC Site, or a designee thereof.

- ix. A written decision denying the appeal, or issuing a permit, shall be made no later than 5:00 PM of the day following submission of the appeal, excluding Saturdays, Sundays and holidays. If no decision is issued by 5:00 PM of the day following submission of the appeal, excluding Saturdays, Sundays and holidays, the appeal shall be deemed to be denied on the basis of the original decision denying the application.
- x. Any person whose application for a permit has been denied may seek review of such denial in a proceeding commenced pursuant to Article 78 of the Civil Practice Laws and Rules of the State of New York.
- xi. Upon the issuance of any permit, a badge indicating the area and time period in which the activity will take place will be issued for each area. Such badge must be worn on the upper left breast of the outermost garment and be clearly visible at all times during which the area is used. A person who obtains permission to use an area or areas on behalf of a group may obtain the badges for the members of the group for use by such persons actually engaged in expressive activity; however, the number of badges issued will not exceed the maximum number of persons who may engage in expressive activity at one time in the area or areas.
- xii. Each time a person or group ceases use of a designated area for expressive activity, such action shall be reported to the WTC Site Manager or a designee thereof, and the badge or badges described herein must be returned so the availability of the area for use by another may be recorded.

xiii. For the purposes of this regulation, "holidays" refers to the following:

New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veterans Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
Christmas Day	December 25

If New Year's Day, July 4, Veterans Day or Christmas Day occur on a Saturday, the holiday is observed on the preceding Friday; if any of those holidays occurs on a Sunday, the holiday is observed on the succeeding Monday.

xiv. Emergency Conditions.

The WTC Site Manager, or the persons designated to act in his or her stead for general management purposes, may prohibit expressive activity at the WTC Site which would otherwise be permitted, or suspend or cancel a permit to engage in such activity, in the event of, and during the pendency of, an emergency condition, such as a snowstorm, fire, accident, or power failure, of such nature and character that the

conduct of permitted activities would cause a danger to persons or property during the pendency of such emergency condition.

22. Emergencies.

In the event of an emergency, telephone contact should be made immediately with:

**Port Authority Police at the WTC Site - (212) 608-5111
or (212) 608-5115**

23. Photography and Sound Recording Activity.

a. As used herein, "photography" refers to any method of recording or transmitting images including, but not limited to, filming and videography, and digital image transmission or recording.

b. Public Areas.

Photography and sound recording activity in public areas is limited to the use of devices carried on or by the person or persons engaged in such activity.

c. Closed and Restricted Areas.

Photography and sound recording activity in closed and restricted areas is limited to activities which have been pre-approved by the Port Authority.

24. Lost and Found.

Personal property found within the WTC Site shall be delivered to the Port Authority Police Command Post at the WTC Site as soon as practical after the property is found.

25. Communications Requirements in Closed and Restricted Areas.

- i. A person who is not able to read and speak English may enter and remain in Closed and Restricted Areas of the WTC Site only if and when accompanied by an interpreter able to fluently read and speak English and the language of the person he or she is accompanying.
- ii. The interpreter must comply with all WTC Site Rules and Regulations.
- iii. Individuals not capable of reading and speaking in English shall be issued a WTC ID endorsed with a requirement that the holder be accompanied by an interpreter.

PART B. WTC Site Security.

1. Adherence to Security Procedures, Rules, and Regulations.

All persons entering the WTC Site shall comply with all applicable security policies, procedures, rules, and regulations, whether contained in these Rules and Regulations or communicated via the WTC Site Manager or his/her designee.

2. Manager's Right to Rescind Access to Closed or Restricted Areas of the WTC Site.

- a. The WTC Site Manager and his or her designee are authorized to suspend or revoke a permission or privilege to enter closed or restricted areas of the WTC Site, or permission to escort other persons into closed or restricted areas of the WTC Site, or permission to bring a vehicle into closed or restricted areas of the WTC Site, for any reason not contrary to law, including but not limited to, violations of WTC Site Rules and Regulations.
- b. Any person possessing a document or key or other item issued as evidence of permission or privilege to enter closed or restricted areas of the WTC Site without an escort, including a WTC ID or Vehicle Pass, or as evidence of permission to escort other persons into closed or restricted areas of the WTC Site, shall return such document to the WTC Site Manager or his or her designee upon expiration or receipt of notice that such permission or privilege has terminated or has been suspended or revoked.

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- c. The WTC Site Manager, or his or her designee, may revoke, confiscate, retain, and refuse to return a document or key or other item issued as evidence of permission or privilege to enter closed or restricted areas of the WTC Site, including a WTC ID or WTC Vehicle Pass, or as evidence of permission to escort other persons into restricted or closed areas of the WTC Site upon the expiration, termination, suspension, or revocation of such permission or privilege.

3. Valid WTC Site Identification.

- a. Only persons and vehicles displaying a valid WTC Site ID and valid WTC Vehicle Pass, as applicable, will be allowed entry to closed and restricted areas of the WTC Site.
- b. WTC Site IDs and Vehicle Passes issued by WTC Site Security specifically for access to closed and restricted areas of the WTC Site are the only identification media valid for such access.
- c. All WTC Site IDs and Vehicle Passes are the property of The Port Authority of New York and New Jersey.
- d. All WTC IDs and Vehicle Passes must be validated at the point of entry to the Site each time a person or vehicle enters the WTC Site.
- e. Any person who does not have a WTC Site ID must be escorted into the WTC Site by a person with escort privileges.

4. Responsibility to Display WTC Site IDs and Vehicle Passes.

- a. A WTC ID must be worn on the outside of the outermost garment, between the waist and neck.

- b. A WTC Vehicle Pass must be displayed in the driver's side windshield of a vehicle for which it was issued, in full view.
- c. WTC Site IDs and Vehicle Passes must be presented to PAPD, WTC Site Security, the WTC Site Manager or his or her designee upon request.

5. Responsibility to Update WTC Site IDs and Vehicle Passes.

- a. If the physical features of an individual change significantly, including but not limited to, a new hairstyle or color, the addition or removal of a beard or mustache, the addition or removal of eyeglasses, the individual must update the relevant information at the WTC Site Security Office.
- b. If an individual's personal information changes, including but not limited to name or appearance, address, or telephone number, the individual must update the relevant information at the WTC Site Security Office.
- c. If an individual's employment information changes, including but not limited to employer or company name, trade or union affiliation, company name, address, telephone number, and/or supervisor, the individual must update the relevant information at the WTC Site Security Office.
- d. For vehicle passes only, if vehicle information changes, including but not limited to name of owner, address, telephone number, company name and/or supervisor name, vehicle, vehicle color, license plate, insurance company or insurance/policy number/expiration date, the owner or lessee of the vehicle must update the relevant information at the WTC Site Security Office.

6. Care of WTC IDs and Vehicle Passes.

- a. Care shall be used to secure and protect a WTC ID or WTC Vehicle Pass at all times, and to maintain a WTC ID or Vehicle Pass in the condition in which it was issued.
- b. A WTC ID or Vehicle Pass shall not be damaged or altered.
- c. A WTC ID or Vehicle Pass shall not be used by any person other than the person to whom it is issued.
- d. Any person who has knowledge that a WTC ID or Vehicle Pass has been lost, damaged or altered, or used by any person other than the person to whom it is issued, shall, without unreasonable delay, report such information to PAPD and/or WTC Site Security, and, submit the document in question, if in his or her possession, to PAPD or WTC Site Security.

7. Breaches of Security and Other Suspicious Activity.

- a. Any person who has knowledge of a breach of security shall immediately report such information to the PAPD.
- b. Any person who has knowledge of suspicious activity, a suspicious item or suspicious object, such as a vehicle, piece of equipment, container, or package, or an item located in a suspicious location shall immediately report such information to the PAPD.

8. Escort Privileges.

- a. An Escort Privilege may be issued to a person (an "Escorter") permitting the person to escort a person or persons without WTC ID to enter certain closed and restricted areas, as identified by the WTC Site Manager or his or her designee.

- b. No person without a WTC ID may enter any closed or restricted area unless accompanied by an Escorter and:
 - i. such person presents to WTC Site Security for inspection one or more pieces of valid government-issued photo identification as directed by WTC Site Security, and
 - ii. the accompanying Escorter follows the current procedures, as instructed by WTC Site Security, for identifying persons who have been issued Escorter's privileges.
- c. An Escorter shall at all times accompany and supervise any escorted person in a manner sufficient to insure that the escorted person does not engage in activity other than the activity for which the associated Escort Privilege is granted.
- d. An Escorter shall not allow any escorted person to circumvent or disable a fall protection system or any other safety device or interfere with any safety procedure.
- e. Only one person may escort each group, and only one group may be escorted by each Escorter.
- f. A group of five or more persons shall not be escorted into a closed or restricted area of the World Trade Center Site by any person, including an Escorter, unless the entry by escort of that group into such closed or restricted area of the World Trade Center Site has been approved in advance by the WTC Site Manager.
- g. An Escorter shall instruct any person under escort to wear personal protective equipment required by these Rules and Regulations or by the WTC Site Manager or his or her designee, and shall notify WTC Site Security in the event of refusal to follow such instructions by any person under escort.

9. Vehicle Pass Requirements and Procedures.

- a. No vehicle may enter any closed or restricted area of the WTC Site unless the driver presents a valid vehicle operator's license for the respective class of vehicle, vehicle registration, and proof of insurance document for the vehicle.
- b. No vehicle may enter any closed or restricted area of the WTC Site unless the driver and each occupant displays a valid WTC Site ID Badge.
- c. Drivers must observe all signals, signs, markings, and other traffic devices found within the closed and restricted areas of the WTC Site.
- d. Speed limits within the closed and restricted areas of the WTC Site are established by the WTC Site Manager and communicated by signage and in the Traffic Management Plan.
- e. Parking is prohibited within the closed and restricted areas of the WTC Site in areas designated as no parking areas by signs, pavement marking or striping.
- f. Obstruction of roadways, vehicles, equipment, walkways, ramps, doors, or gates is prohibited.

10. Deliveries.

- a. No delivery may be made to any closed or restricted area of the WTC Site unless such delivery has been arranged in advance and written notice of such deliveries has been given to WTC Site Security by the recipient of such delivery.
- b. No person may make a delivery to any closed or restricted area of the WTC Site unless the delivery satisfies the requirements of Part B, 3, 4, 9, and 10 a.

- c. No person may make a delivery to any closed or restricted area of the WTC Site unless the delivery person or persons, any delivery vehicle and any occupant thereof, is accompanied by the delivery recipient, or a person acting on behalf of the delivery recipient, who possesses a valid WTC ID, and who has been granted Escort Privileges for deliveries. Such Escorter shall accompany the delivery person or persons, any delivery vehicle and any occupant thereof, from the entrance to the respective closed or restricted area of the WTC Site, during delivery, and, upon the completion of the delivery, to the exit from the respective closed or restricted area of the WTC Site.

PART C. WTC Site Safety.

1. General.

- a. Tenants, contractors, subcontractors, and all others performing work at the WTC Site shall prepare and implement the programs, plans, and procedures required by the Port Authority to protect worker health and safety, and shall conform with federal, state, and local codes, rules, regulations, and ordinances, including those established by The Port Authority of New York and New Jersey with respect to worker and public safety.
- b. Individuals who do not follow the programs, plans, and procedures so set forth in Part C. Section 1. a. shall be subject to immediate removal from the Site and suspension or revocation of privileges to enter closed and restricted areas.

2. Personal Protective Equipment.

- a. Personal protective equipment appropriate to the hazard of the respective worksites shall be worn at all times in closed or restricted areas of the WTC Site, and shall at a minimum include but not be limited to:
 - i. hard hat
 - ii. reflective safety vest
 - iii. work shoe or boot
 - iv. safety glasses or goggles (when required or directed)
 - v. hearing protection (when required or directed)
 - vi. respirator (when required or directed)
- b. Additional personal protective equipment, as noted on signage around specific areas, or as required by each

employer to conform with federal, state, and local codes, rules, regulations, and ordinances, and to comply with programs, plans and procedures required by The Port Authority of New York and New Jersey, shall also be worn at all times by individuals in designated areas.

3. Traffic Management Plan.

- a. The WTC Site Manager shall establish a Traffic Management Plan for pedestrian and vehicular movement within closed and restricted areas of the WTC Site.
- b. Each occupant of closed and restricted areas of the WTC Site shall obtain and/or retain a copy of the current Traffic Management Plan provided in the WTC Security Office, and adhere to the current plan.

4. Hazardous Material/Chemical Management.

a. Materials Allowed

The following hazardous materials, as identified in 49 CFR Subchapter C, Part 172, shall be allowed onto the WTC Site if Part B, Section 10 has been met, and the driver presents shipping papers and a delivery receipt indicating the name of the contractor requesting the products, the quantity and type of material being delivered, and all of the information provided herein is verifiable by WTC Site Security upon delivery. In addition, prior to delivery, the contractor's safety manager shall be in possession of the appropriate Material Safety Data Sheet for the materials.

Class 2 – Oxygen, Flammable Gas, Non-Flammable Gas

Class 3 – Flammables, Gasoline, Combustibles, Fuel Oil

Class 9 – Miscellaneous

b. Materials Prohibited

i. The following hazardous materials, as identified in 49 CFR Subchapter C, Part 172, and vehicles carrying the following hazardous materials, shall not enter the WTC Site without prior approval of the WTC Site Safety Manager and compliance with the procedures set forth herein.

Class 1 – Explosives, Blasting Agents

Class 2 – Inhalation Hazard

Class 4 – Flammable Solids, Spontaneously Combustibles, Dangerous When Wet

Class 5 – Oxidizers, Organic Peroxide

Class 6 – Inhalation Hazards, Poisons, Harmful/Stow Away from Food Stuffs

Class 7 – Radioactive

Class 8 – Corrosives

Dangerous Cargo

ii. Vehicles with the placards indicating carriage of materials within the foregoing classes shall be detained at the entrance to the WTC Site until completion of the procedures set forth below.

iii. The World Trade Center Site Safety Manager shall be notified of the arrival of such vehicles.

iv. Upon notice to the World Trade Center Site Safety Manager of the arrival of such material for delivery to such contractor, the contractor's safety manager shall meet with World Trade Center Site Safety Manager to review the procedures to be followed for delivery, the contractor's safety manager shall bring with him the appropriate Material Safety Data Sheet for the materials to the meeting, and the contractor

shall follow those procedures to effect delivery as directed by the World Trade Center Site Safety Manager at the meeting.

c. Storage Guidelines

Consistent with the requirements in U.S. OSHA 29 CFR 1910, Subpart Z: Hazard Communication, 29 CFR 1926 Subpart F: Fire Protection and Prevention, Subpart J: Welding and Cutting, and U.S. DOT 49 CFR, Subpart E, Part 172: Labeling, each contractor shall at a minimum comply with the following:

i. Establish and maintain a secure hazardous chemicals storage location adequately sized, designed, and constructed for the type and quantity of materials to be stored. All chemicals shall be stored in appropriate containers compatible with their hazard class.

ii. Confine the storage of hazardous chemicals to the area assigned or work location. Hazardous chemicals cannot be stored in common areas, roadways, or established entry/egress routes.

iii. Each storage location shall be framed, sheathed, and roofed with approved fire-retardant treated lumber; fenced and roofed; caged; or otherwise securely enclosed. The entrance door shall be constructed in such a manner as to allow for the visual identification of the stored contents. The entrance door shall be lockable and remain locked at all times when not occupied, with keys provided to the WTC Site Manager, WTC Site Safety Manager, Port Authority Resident Engineer, and PAPD.

iv. The wall to floor seam of each storage location shall

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be bermed with an appropriate and compatible absorbent material to capture any liquid in the event of a release.

- v. Warning signs consistent with the labeling requirements of U.S. DOT 49 CFR: Part 172 shall be conspicuously posted at all entrances into the storage location. Smoking shall be prohibited within all chemical storage locations, and shall be signed accordingly.
- vi. The contractor shall maintain on-site an adequate supply of spill response equipment, materials, and personnel protective equipment appropriate and compatible for the type and quantity of the chemical products in storage.
- vii. The contractor shall maintain on-site a material safety data sheet (MSDS) for each chemical product stored. The contractor shall also ensure that workers are trained in the hazards and use of the product.
- viii. The contractor shall select, issue, and train workers in the maintenance, use and storage of the personal protective equipment required when using the chemical products.
- ix. The contractor shall provide worker training in the proper methods to respond to spills and releases from the storage area.
- x. Compressed gas cylinders, flammable and combustible liquids, and all chemical products shall be stored and signed/labeled in accordance with their hazard class. The co-mingling of different hazard classes in storage is prohibited.
- xi. When required, storage areas shall be protected from

vehicular impact by the use of "jersey barriers" or a similar impact resistant material.

- xii. Enclosed storage facilities (i.e. trailers) used for the storage of flammable gases and liquids shall be properly ventilated by either mechanical or natural means based upon the characteristic of the chemical product being stored. If lighting is installed, explosion proof, intrinsically safe wiring is required.
- xiii. The contractor shall select and provide the appropriate type, size, and number of fire extinguishers suitable for the fire hazards presented by the stored chemicals.

d. Storage Requirements

- i. If stored in drums, all drums shall be raised off the ground.
- ii. Flammable and combustible liquids, such as gasoline, kerosene, diesel, and mixed fuels shall be stored in either Type I or II approved metal safety storage cans with flashback protection.
- iii. All fuel containers (drums, gas cans, etc.) shall be appropriately color-coded and permanently labeled as "Gasoline", "Kerosene", "Diesel", or "Mixed-Fuel".
- iv. Flammable and combustible liquid cans shall be stored in approved fire cabinets with a quantity limited to 60-gals of flammable and 120-gals of combustible liquid per cabinet. No more than three storage cabinets shall be stored in one area.
- v. A properly charged and maintained portable fire extinguisher with a rating of not less than 4-A:60B:C

shall be permanently mounted in a conspicuous location readily accessible within 50 feet of the storage location.

- vi. Compressed gas cylinders (CGC) shall be stored with their valve protection caps secured on the cylinder.
- vii. CGC shall only be stored vertically with 3-point contact maintained at all times.
- viii. Flammable gases and oxygen must be stored separately at least 20 feet apart, or together with a 5 foot high, 30 minute fire-rated wall separating them.

e. Incident Response

- i. Anyone with knowledge that a hazardous material and/or chemical release has occurred shall immediately contact PAPD at the WTC Command and provide the following information:
 - (A) Incident location.
 - (B) Description of incident.
 - (C) Description of personal injury.
 - (D) Description of fire condition.
- ii. Each contractor shall employ a call-in hazmat contractor and provide to the PA Resident Engineer, WTC Site Manager, and WTC Site Safety Manager, the name and contact information of such call-in hazmat contractor.

5. Firearms, Weapons, and Explosives.

No person shall carry, keep, store, handle, use, dispense, or transport, into or through the WTC Site, any firearm, weapon, explosive device or or explosive material which is not a hazardous material as identified under Part C, 4, without the prior approval of the WTC Site Manager and Port Authority Police.

PART D. WTC Site Reclamation, Construction, and Maintenance Activity.

Exhibit A

1. General.

Reclamation, construction and maintenance activity at the WTC Site shall commence only after receiving Port Authority approval in the form of one of the following:

- a. approved Tenant Construction Application (TCA) or Tenant Alteration Application (TAA),
- b. fully executed contract with The Port Authority of New York and New Jersey, or
- c. other fully executed agreement with The Port Authority of New York and New Jersey containing conditions for construction and/or redevelopment activity.

2. Environmental Performance Commitments (EPCs).

No person shall engage in conduct that violates any applicable EPC. A copy of the current EPCs for a Port Authority project involving reclamation, construction, or maintenance activity, is available from the Port Authority Resident Engineer or Port Authority Program Manager assigned to the project. A copy of the current EPCs for a non-Port Authority project involving reclamation, construction, or maintenance activity, is available from the party responsible for the project. The identity of a party responsible for any project involving reclamation, construction, or maintenance activity, be sought from the WTC Site Manager.

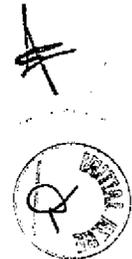
Exemption (4)

3. Required Permits.

Each of the following required permits may be obtained through the Port Authority Resident Engineer or Port Authority Program Manager assigned to the activity.

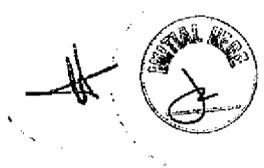
- a. Confined Space
- b. Cutting & Welding
- c. Hot Work

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1.0 General Requirements

- 1.1 The Safety and Security of Authority employees and all other persons on the work site of this Project and of property and passengers shall be a primary responsibility and concern of the Contractor. The Contractor shall maintain safe, clean and healthy worksites until final completion of the Project.
- 1.2 The Contractor shall comply with this Specification Section and the applicable provisions of the New York State Uniform Fire Prevention and Building Code, Occupational Safety and Health Administration (OSHA CFR 1926), the Environmental Protection Administration (Federal), Department of Environmental Conservation (State), Department of Environmental Protection (City), the National Fire Protection Association (NFPA) including National Electrical Codes, the Building Code of the City of New York - Chapter 33 and Electrical Codes, NYC Noise Control Code and DEP construction noise monitoring and mitigation, the New York State Industrial Code 53, The New York City Transit (NYCT) "Safety Reference Documents," issued by the Department of Capital Program Management at the Construction Kickoff meeting, and all other applicable rules and regulations' latest revision.
- 1.3 To promote safety the Contractor shall hold Safety Meetings, ensure its and all Subcontractor employees are properly trained and monitor job site safety via inspection at the start and completion of each shift as well as monitoring the job site for this purpose throughout the day. The Contractor shall correct and report any safety violations and convene investigative meetings, as directed by the Engineer. See Paragraph 4.2.
- 1.4 First Aid / Medical care shall be made available by the Contractor for all project workers. First Aid kits of adequate size shall be located at the work site so as to be available to all workers within 3-4 minutes. These kits are also required for all remote work locations (i.e. each tunnel work area; each station on multiple station rehabilitation projects; and with small crews that work multiple locations in a given shift). The Contractor shall conduct a hazard assessment to identify first aid supply needs and the physical location of the kits.
- 1.5 On all occasions when either the Contractor and/or a Subcontractor is to use a hazardous chemical, it shall have previously been submitted to and approved by NYCT. The Contractor shall obtain and maintain Material Safety Data Sheets (MSDS) for all materials to be stored, incorporated into or used in the work. The MSDS shall be readily available whenever required, in a convenient location, in close proximity to where the materials are used on the project. The Contractor's Safety personnel and competent persons shall have ready access to the MSDS.



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- 1.6 The Contractor shall notify the NYC One Call Center 24-48 hours prior to excavating to allow representatives to mark locations of underground utilities. The number to call is 1-800-272-4480.
- 1.7 Prior to blasting, all necessary precautions shall be exercised by the Contractor as required by the applicable ordinances, rules and regulations of the NYC Fire Department including and obtaining all necessary permits.
- 1.8 Safety requirements involving work on or adjacent to operating tracks see Paragraph 13.0 and Specification Section 1D 1.4.3 "Work Near Contact Rail".
- 1.9 All debris shall be cleaned off floors and other surfaces daily. If the job site is not satisfactorily cleaned in accordance with Specification Section 1E and Chapter 33 of the NYC Building Code, the Authority may clean the site with its own forces or through another contractor's and the costs associated with cleaning will be deducted from the Contractor's next or future progress payment.
- 1.10 Notwithstanding any remedies for maintaining a safe, clean, secure and healthy work site, in the event that the Contractor's work environment chronically provides a site such that, there are significant safety or security concerns, this may constitute an event of Default in accordance with Article 7.01 of the Contract Terms and Conditions.

2.0 Accident Prevention Program/Hazard Communication Program (APP/HCP)

- 2.1 The Contractor shall develop and maintain a project specific APP and a HCP to: a) protect the lives and health of all persons, b) prevent damage to property and environment, and c) avoid work interruptions or any delay to train services due to accidents. The APP/HCP document shall be a written plan laying out the management organization and strategy to assure high levels of job site safety for all performed tasks. It shall define the personnel responsible for developing and assuring safe work practices for each major item of work or subcontract.
 - 2.1.1 As part of the overall strategy, the APP/HCP shall explain the methods to be used for providing the training and equipment so that each worker can be self-monitoring. The Authority will provide the Contractor with a CD copy of the "Contractors Safety Reference Documents" which includes a sample APP/HCP stipulating requirements the Contractor shall include in both.
 - 2.1.2 Within 30 days of the date of the Notice of Award the Contractor shall submit its APP/HCP, meeting the requirements of OSHA and this section, to the Engineer for review and approval. Work on the project

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shall not be permitted to start until the full written plan, covering all required items, has been submitted and accepted and/or Safe Work Plans (SWPs) for the upcoming construction activities are submitted, reviewed, commented on, and revised accordingly, meeting the requirements of paragraph 3.0.

2.2 APP/HCP Document Organization

The APP/HCP shall be organized into the following sections and shall include but not be limited to the following information and requirements:

- 2.2.1 The cover page shall include: the names of the Contractor and Project, the Contract number, revision number, date of revision, name and signature of the Contractor's Safety Engineer (CSE) responsible for the maintenance and enforcement of the APP.
- 2.2.2 Table of contents listing all Sections and Exhibits.
- 2.2.3 Safety Policy Statement signed by an Officer of Contractor's company that shall be continuously updated to include signatures of all Subcontractors, as they are retained by the Contractor.
- 2.2.4 Organizational chart of Contractor and Subcontractor personnel responsible for implementing the APP/HCP. The chart shall show the reporting relationship and integration of the CSE with all personnel, including top-level managers, responsible for implementing the OSHA required APP/HCP.
- 2.2.5 Comprehensive Description of the Project.
- 2.2.6 Description of CSE responsibilities, including the safety responsibilities of the Contractor's Project Management Team, Contractor's Safety Supervisor (CSS) and Contractor's Competent Person (CCP). The CCP shall be as defined by OSHA and paragraph 11 of this section.
- 2.2.7 Subcontractors & Suppliers– The Contractor shall ensure that all Subcontractors and Suppliers comply with the Contractor's APP/HCP, or submit their own programs that the Contractor shall be required to approve. If the Subcontractors and suppliers elect to submit their own programs, they shall demonstrate to the CSE that their own program meets the requirements of this Section. The Contractor shall review the Subcontractor's and Supplier's agreements to ensure the flow down of all applicable safety requirements.

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- 2.2.8 Accident/Incident Response – Include a generic action plan for review, analysis and immediate action necessary to prevent recurrences of all accidents or incidents (near misses). The Contractor shall review and if necessary, revise the APP/HCP based on the occurrence of serious accidents or incidents (near misses) and upon any changes in job conditions, or as required by the Engineer.

A Serious Accident is defined as an accident that results in any of the consequences listed below to one or more individuals or causes more than \$5,000.00 (estimated) in property damage:

- i. Death,
- ii. Injury that can cause death,
- iii. Loss of a limb or sight,
- iv. Hospitalization.

The APP/HCP shall include procedures for accident reporting and accident investigation including the accident report forms to be used: The APP/HCP shall also include accident investigation guidelines and an accident investigation decision chart for identifying root causes to prevent recurrences, and as required by paragraph 4.0.

- 2.2.9 Emergency Preparedness and Response (EP&R) Plan and Drill.

The EP&R Plan shall include, but not be limited to:

- a) The identification of potential environmental accidents and emergencies associated with site-specific construction activities.
- b) Site security and control: The Contractor shall outline its plan for site security including prevention of unauthorized entry onto the project site and prevention of vandalism. The plan shall include all contractually required security items. This plan shall include where necessary: use of fencing, temporary enclosures, concrete barricades, surveillance cameras, guard service and worker identification.
- c) The response procedures to construction site environmental accidents and emergencies and for the prevention and mitigation of the environmental impacts that may be associated with them.
- d) Evacuation and emergency escapes routes as applicable.
- e) Telephone numbers of emergency agencies and key project personnel.

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- f) Annual emergency preparedness drill(s) including method to account for all personnel during an evacuation.
- g) Notification to Engineer and all appropriate agencies.
- h) Annual reviews and revisions of the EP&R Plan, in particular after the occurrence of environmental accidents and emergency situations.

2.2.10 Orientation Program for new employees. The APP/HCP shall include a detailed plan for the safety orientation of employees, including:

- a) Description of project, and location of first aid/medical facilities.
- b) Review of Safety Policy, including Alcohol, Drugs and Tobacco Policy including pre employment drug testing if applicable.
- c) Distribution of project safety rules.
- d) EP & R Drill.
- e) Description of specific site hazards and safe working methods.
- f) Review of the project APP/HCP, (MSDS).
- g) Track Safety Training for work on or adjacent to tracks or energized contact rails, if applicable. (2 year recertification required.)
- h) PPE and Safety Procedures.
- i) Fire prevention.

2.2.11 Description of safety hazards expected to be encountered that are work related and/or site configuration hazards.

2.2.12 Management of Safety Documents

The Contractor shall include in the APP/HCP a system to maintain all safety management records and provide for their retention for a period of six years beyond Final Completion. Copies shall be provided to the Engineer upon request. The types of records shall include but not be limited to:

- a) CSE / CSS daily logs
- b) Bi- weekly and any other safety meeting minutes and sign-in sheets.
- c) Accident records including OSHA Form 300, accident investigation reports and C-2s for contractors and all subcontractors.

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- d) Training records including schedule for refresher training
- e) Permit Log consisting of: Description of Permit, Permit #, Date Issued, Date of Expiration.

3.0 Safe Work Plan (SWP)

- 3.1 A Safe Work Plan (SWP) is a written work plan, which identifies the tasks to be completed, including access/egress and set-up/breakdown under all expected environmental conditions. Also included is the method of work for completing these tasks, associated work hazards, and the corresponding equipment and methods that will be used to prevent loss for all contracted work, including that of Subcontractors.
- 3.2 The SWP shall provide the Engineer with a defined plan of action for identified hazards and comprehensive prevention methods for exposures to workers, the public, and property. SWPs shall address all foreseeable exposures to employees, the public, and property for Contract work, including all tiers of Subcontractors. The SWP shall be used as basis for Contract coordination items and safety planning discussions in the Construction Management process.
- 3.3 The Contractor's approved CSE, CSS shall submit a SWP to the Engineer for each primary work activity of the contract documents at least one week prior to the start of that activity. A sample SWP is included in the "Contractor's Safety Reference Documents". If the SWP does not adequately address all expected, foreseeable hazards posed by the work, the Engineer, will require clarification or additional planning to ensure that work proceeds safely. Work shall not begin until the SWP has been presented to and accepted by the Engineer. The CCP(s) involved, shall demonstrate knowledge of the CCP responsibilities as defined by OSHA and how the plan will be effectively implemented, to the satisfaction of the Engineer.
- 3.4 The SWP shall be in the format as shown in Appendix A of this Specification Section.

4.0 Accident Reporting and Investigation

- 4.1 The Contractor shall immediately notify the Engineer of all accidents involving personal injury and damage to property and all Near Misses. The Contractor shall submit a copy of the Authority's Supervisor's Accident Investigation Report to the Engineer for each accident whether it is classified as OSHA recordable or not. For accidents classified as OSHA recordable, the Contractor shall also provide copies of the C-2's. Copies of these documents

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shall be faxed to CPM Safety Management at (646) 252-4077 within twenty-four (24) hours of the accident. Near Misses shall be reported verbally to the Engineer and a lessons learned session shall be held. Any Near Miss incident involving a train or bus requires a full investigation and report.

- 4.2 In the event of a Serious Accident as defined in Paragraph 2.2.8, the Contractor shall convene an investigative meeting for the purpose of determining the cause of the accident and actions to be taken by the Contractor to prevent a recurrence of such accidents. The CSE shall chair, and a Contractor corporate representative as well as the Engineer, at a minimum, shall attend said meeting. The Contractor shall make available all personnel involved in or witness to the accident at this investigative meeting for interviews. The Contractor shall notify the Engineer of the time and location for the investigative meeting in sufficient time to allow the Engineer to notify NYCT-CPM Safety Management, MTA-Owner Controlled Insurance Program (OCIP) group and others who may attend the meeting.
- 4.3 In addition to the above requirements, the Contractor shall submit to the Engineer within ten (10) business days following the end of each quarter, summary data on all accidents, including those involving Subcontractors, which occurred, as follows:
- a) Number of First Aid cases
 - b) Number of Recordable cases
 - c) Number of Lost Time cases
 - d) Number of Days Lost
 - e) Total Man-Hours worked each month

5.0 Unsafe Conditions

An Unsafe Condition is a condition that gives rise to the imminent possibility of serious injury to workers or the public, of serious damage to property or the environment, or of affecting the safe movement of trains or buses. When an unsafe condition exists at the site, work shall be stopped in the affected area until the condition is corrected. If the Contractor does not take corrective action immediately, or within the time period specified by the Engineer, the Engineer reserves the right to take whatever action is required to correct the unsafe condition.

- 5.1 A Stop Work Order may be imposed by the Engineer or by the Authority's CPM Safety Management group for specific work activities when site

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conditions exist that are determined (by NYCT) to be Immediately Dangerous to Life and Health (IDLH). In addition, actions perceived by the Engineer to be in flagrant disregard to accepted SWPs will be cause for such actions to be taken. Some examples of justification include, but are not limited to, the following:

- a) Workers who have not attended the Authority's one day Track Safety Training, working on or near the Right-of-Way.
- b) No Authority approved CSE or CSS on-site as required by contract.
- c) No Safe Work Plan compiled, accepted by the Engineer, reviewed by all parties involved with such work prior to commencing activities and being effectively implemented.
- d) No third rail alarm box, wood covers, or rubber mats when working on or around the third rail.

5.2 A Safety Stand-down involving all Contractor and Subcontractor personnel will be instituted by the Engineer when any serious accident or series of accidents, as determined by the Engineer or by the Authority's CPM Safety Management group. Some examples of justification include, but are not limited to the following:

- a) Recurring deficiencies revealed via trend analyses.
- b) Two or more serious accidents or near misses.
- c) Flagrant disregard to comply with prescribed safety management procedures.

6.0 Fitness for Duty

Contractor shall ensure that its supervisory staff and the supervisory staff of Subcontractors perform a fitness for duty inspection of all workers when they report for work and throughout the day. Should a worker be found to be impaired because of drugs or the use of alcohol, the worker shall be immediately removed from the Project for the entire Project duration. Additionally, Contractor employees performing "Safety Sensitive Functions" (described in the Contract Data Sheet) are subject to drug and alcohol testing, which Contractor is responsible to perform in accordance with applicable provisions of the Contract, where the Contract has been made subject thereto. These requirements, where specified in the Contract, are as set forth in 49 CFR Parts 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, and 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, promulgated by the U.S. Department of Transportation - Federal Transit

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Administration.

6.1 Prospective Workers: Misconduct Involving Alcohol and/or Drug Use

The Contractor shall exercise due diligence in ascertaining whether any individual has been fired or removed from any other project, including a project of the Authority, the MTA, the City or the State, within the immediate preceding three (3) years based upon charges or allegations of misconduct, including, but not limited to, alcohol and/or drug use, or whether reasonable grounds existed that such individual may have unlawfully used drugs or used unlawful drugs, worked on another project while impaired by alcohol or while using or being under the influence of alcohol or drugs (and whether or not the prospective worker has completed a drug/alcohol rehabilitation program recognized by the "Substance Abuse Professional") and, if the Contractor intends to utilize any such individual on this Project, shall immediately inform the Engineer. The Contractor shall thereupon abide by any decision or direction the Engineer may make as to whether or not such individual may perform work on this Project. The Contractor shall maintain records during the Project and for at least six (6) years thereafter, that are reasonably designed to satisfy the "due diligence" requirement provided herein.

7.0 Employee Conduct

The Engineer reserves the right to refuse access to the Project Site or require immediate removal from the Project Site any individual violating or alleged to have violated site safety or security regulations and Contractor agrees to obtain consent of its Subcontractors to a similar provision, and Contractor agrees to hold the Engineer harmless for taking such actions.

8.0 Safety Training, and Meetings

8.1 Safety Training –

8.1.1 All Contractor and Subcontractor workers "engaged in physical work activities" shall be certified as having successfully completed the OSHA 10 hour Construction Safety & Health course.

8.1.2 An, employee failing to attend Safety Training will not be permitted to perform any work which requires safety precautions as were discussed in the missed safety meeting, until he/she has received the same instruction.

8.1.3 By the 1st day of work on site, employee orientation training shall be given to new employees, to include all items covered in Paragraph 2.2.10

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- 8.1.4 Safety Training/ Tool Box meetings shall be held at the start of each workday by the Competent Persons to instruct all employees in safety precautions applicable to that day's work hazards. Prior to start of such work, a walk through of each work site shall be conducted, if required, to point out hazardous locations and conditions. The subjects of these briefings shall be planned in advance by each CCP and reviewed for appropriateness by the CSE/CSS.
 - 8.1.5 If any employees are non-English speaking, an interpreter shall be provided to interpret the contents of each New Employee Safety Training sessions and Safety Briefings. An interpreter shall also translate all safety-related instructions on the job.
 - 8.1.6 For additional safety training requirements involving work on/or adjacent to operating tracks see paragraph 13.0.
 - 8.1.7 A 4 hour scaffold user training course is required for all workers using supported scaffolding greater than 40 feet in height or greater than 750 square feet in size.
 - 8.1.8 The Contractor's Project Manager and all safety management personnel shall attend NYCT-CPM Contractor Safety Workshops and Safety Stand-down Training.

8.2 Safety Meetings

- 8.2.1 The Contractor's Project Manager and CSE shall attend a Safety Kickoff Meeting, which will be convened by the Engineer within 45 days of the Date of Notice of Award. The purpose of the meeting is to discuss the Project specific safety issues, the Section 1S specification, the APP/HCP, and the responsibilities of the CSE.
- 8.2.2 Safety Walk-thru: On a monthly basis, the Engineer will hold a safety walk through attended by the Contractor's Project Manager, CSE, the Engineer, and anyone the Engineer deems appropriate. The CSE shall bring all active SWPs and MSDS's on the walk-thru, for reference. The walk-thru shall include a visit to the Contractor's field office where the CSE shall provide the daily safety log and other safety related records for the Engineer's review. The Engineer will record the activities and observations that were noted during the walk-thru, including listing all those in attendance.
 - a) During the walk-thru, the effective implementation of all appropriate SWP's will be reviewed with safety issues and findings identified and addressed

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- b) During the meeting immediately after the walk-thru, the observations will be reviewed and corrective actions identified. Also, outstanding findings identified in the interim between walk-thru's will be addressed

8.2.3 Safety Meetings shall be held no less than once every two (2) weeks and more frequently if required by the Engineer for the duration of the Project. The duration of each meeting shall be not less than 1/2 hour and all employees of the Contractor and Subcontractors shall attend every meeting. The Contractor shall notify the Engineer at least 1 week in advance of each scheduled safety meeting so that representatives of the Engineer may attend. Minutes of each meeting, including a signed list of attendees, shall be prepared by the Contractor and furnished to the Engineer within 3 working days after the meeting. Each meeting shall include general safety items and discussion of SWP's and applicable rules required for the safe performance of work scheduled during the 2-week period following the meeting. Each meeting shall include review of parts of the APP/HCP and discussion of recent activities.

9.0 Contractor's Safety Engineer (CSE)

9.1 a) The Contractor shall employ and assign a full time Safety Engineer to this Project within two (2) weeks from the date of the Notice of Award until its physical completion. The CSE's sole responsibility shall be the management of all safety and security matters, including those specified in this Section 1S, Safety. The CSE shall report to the owner/president of the company or to the corporate management and not be subordinate to the Project Manager for matters of safety or security. The CSE shall be able to read, write and speak English fluently. The CSE shall participate in the development of the APP/HCP (see Paragraph 2.0), shall approve the Program (evidenced by his signature) for use on this Project, shall continually monitor and direct the implementation of and adherence to the Program and shall revise the program when required by field conditions or the Engineer. The CSE shall also participate in the development of all SWPs.

b) The Contractor is permitted to utilize a Subcontractor's person if qualified or a qualified Consultant, who, as Safety Engineer (SE), is responsible for controlling, managing and enforcing the Accident Prevention Program and the Hazard Communication Program, and is subject to the approval of the Engineer. The Contractor shall also utilize the services of a Safety Supervisor who shall be subordinate to the SE and have the same authority as the SE when that individual is not on work site.

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9.2 The CSE shall have completed the following:

- a) If this Contract contains Right of Way (ROW) work, the CSE shall be Track Safety Trained within 30-days of Notice of Award. CSE shall maintain Track Safety certification for the duration of the project until Substantial Completion. No work along the ROW may occur unless this requirement is satisfied.
- b) 40 hour NYC-Department of Buildings Site Safety Manager Course.
- c) 30 hour OSHA Construction Safety & Health (29 CFR 1926) Course.
- d) Shall be a member of American Society of Safety Engineers (ASSE).
- e) The CSE shall have not less than one (1) year of safety or safety related experience, and shall be familiar with the work being performed.
- f) If this Contract contains Specification Section 12N Asbestos Removal, the CSE shall have completed a recent 8 hour asbestos awareness course. In addition if this Contract contains specification Section 12L lead removal, the CSE shall have completed a recent 8 hour Lead awareness course.

In accordance with Section 1K, Construction Management, the Contractor shall submit a resume documenting the qualifications of the proposed candidate to the Engineer for approval. The Engineer, prior to approval, may interview the candidate CSE. The resume shall include a description of the duties, responsibilities, accomplishments and safety record of preceding assignments from which the candidate has gained safety-engineering experience. Any candidates submitted for right of way work shall have prior right of way experience. The Contractor shall not change the approved CSE without submitting the proposed replacement's resume and receiving the Engineer's approval.

9.3 The CSE shall maintain a daily Site Safety Log for all project safety and security matters. All safety related activities including feedback from the competent persons, safety deficiencies and corrective actions taken at each work site shall be included in the Log. This Log shall be signed daily by the CSE and/or the Contractor's Safety Supervisor (CSS) on each shift. The Log shall be maintained on site and be available for the Engineer's use and inspection. This Log shall accompany the CSE to any Management Safety Meetings the Engineer may hold, for review by the Engineer. Whenever the CSE is not present, (vacation, holiday, jury duty, day off, etc.) the responsibilities of maintaining the daily safety log shall be that of the approved CSS.

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- 9.4 The Contractor shall provide continuous Safety coverage during the performance of the work. The CSE shall designate a person to function as Contractor Competent Person (CCP) for each work location as required by OSHA. Failure to have a CCP on the job at any location at which work is being performed may result in a stoppage of work at that location (which shall not be deemed an excusable delay).
- 9.5 The CSE, CSS, and CCP shall enforce all aspects of this Specification Section 1S- Safety.

10.0 Contractor's Safety Supervisor (CSS)

- 10.1 If necessary, at least one CSS and as many as necessary shall be assigned by the Contractor to oversee any additional shift(s), weekend and holiday work when the CSE is not present, to assure that all work is performed in a safe manner.
- 10.2 The Contractor shall submit the names and duty tours of the proposed CSS on an as needed basis who will be subject to the Engineer's continuous approval.
- 10.3 The CSS's sole responsibility while assigned to his/her respective shift, shall be the full time management of all safety and security matters under his/her jurisdiction.
- 10.4 The CSS shall have completed the following:
- a) If this Contract includes ROW work the CSE shall be Track Safety Trained within 30-days of Notice of Award. CSE shall maintain Track Safety certification for the duration of the project until Substantial Completion. No work along the ROW may occur unless this requirement is satisfied.
 - b) 30 hour OSHA Construction Safety & Health (29 CFR 1926) Course
 - c) The CSS shall have not less than one (1) year of safety or safety related experience, and shall be familiar with the work being performed
 - d) If this Contract contains Specification Section 12N Asbestos Removal, the CSE shall have completed a recent 8 hour asbestos awareness course. In addition if this Contract contains specification Section 12L lead removal, the CSE shall have completed a recent 8 hour Lead awareness course.

The CSS shall be familiar with the work being performed, shall be competent to instruct others, and be familiar with Authority Rules and Regulations. The CSS shall be able to read, write and speak English fluently. The Contractor shall submit a resume documenting the qualifications of the proposed candidate to the Engineer for approval. The Engineer, prior to approval, may

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interview the candidate CSS. The resume shall include a description of the duties, responsibilities, accomplishments and safety record of preceding assignments from which the candidate has gained safety-engineering experience. Any candidate submitted for ROW work shall have prior ROW work experience.

11.0 Contractor's Competent Persons (CCP)

11.1 CCP– Per 29CFR Part 1926.32(f) definition:

One who is capable of identifying existing and predictable hazards in the surroundings or working conditions, which are unsanitary, hazardous, or dangerous to employees and who has authorization to take prompt corrective measures to eliminate them.

11.2 A separate CCP shall be designated by the CSE to oversee safety matters for each individual group performing work at each individual work location. They may be Subcontractor personnel and have other Project responsibilities in addition to their safety function. They shall be familiar with the work being performed. They shall have OSHA training for the work being performed and have the authority to stop the work if an unsafe condition develops or an unsafe act is occurring. An interview may be required with the Engineer to establish their competency.

11.3 The respective shift CSE or CSS shall communicate with all designated CCPs before, during and after completion of each work shift. They shall report to the shift CSE/CSS regarding daily work activities, training performed, safety checks made, near misses, MSDS's on hand, safety findings and actions taken. The CSE or CSS shall note this information in the safety log.

11.4 A CCP shall not be used as a substitute for the CSE or CSS as required by paragraph 9.0 and 10.0.

12.0 Personal Protective Equipment (PPE)

Mandatory items shall be worn at all times while on the project site after providing training and/or qualification in its limitations and/or safe use. These PPE requirements include:

12.1 Eye Protection- Mandatory: (Grinding or chipping shall require a face shield.)

12.2 Head Protection - Mandatory: SEI Certified hard hats meeting the ANSI Z89.1 1997 requirements for Type I Class E protection shall be properly worn, and maintained - (no bump caps or cowboy type hard hats),

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- 12.3 High Visibility Safety Vests - Mandatory: All Contractor employees exposed to vehicular traffic or motorized moving equipment shall wear flame retardant safety vests that have 360-degree reflective visibility, and 100% rip away capabilities. The front of the vest shall be fitted with a transparent plastic pocket, flush mounted, to accommodate a photo ID that shall be supplied by the Contractor. The Contractor and all Subcontractors shall utilize safety vests with a label on the front and back identifying them as a "Contractor" as manufactured by:

The Industries for the Blind of New York State

296 Washington Avenue Extension

Albany, New York 12203-5316

Tel. (800) 421-9010 Fax (518) 456-3587

The Industries for the Blind of New York State has been designated as a "preferred source" for this item pursuant to Section 163 of the New York State Finance Law. This item may be obtained from an alternate supplier only if it is not available from the preferred source.

- 12.4 Acceptable work boots. - Mandatory - Boots shall meet OSHA requirements and as a minimum be in good condition without breaks or splits, at least six inches high, (preferably leather) with safety toe, and be completely laced. The boot shall have defined heels that are no more than one inch high. The sole shall be at least ¼" thick at all points and provide good traction under slippery conditions.
- 12.5 Acceptable clothing for heavy construction work (no tank tops, or short trousers of any type) – Mandatory.
- 12.6 Other PPE as is required by OSHA.

13.0 Safety Requirements for Work Performed Along the Right Of Way (ROW)

- 13.1 The Contractor shall ensure that all of his employees and those of his Subcontractors fully understand and comply with the provisions of applicable Authority Flagging Rules and Authority Track Safety Rules before working on or adjacent to any operating track (NYCT Rules and Regulations, Chapter 3). The CSE or CSS shall provide a Safety Briefing to all worker's immediately before their entering the ROW about the layout of the worksite, the safety hazards to be aware of, the signals to be used in an emergency, the areas of safe and unsafe clear up, and the locations of Emergency Exits.
- 13.2 Any Contractor or Subcontractor personnel that will perform work on or adjacent to operating tracks, including work on any platform work area, shall

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have attended the Authority's Track Safety Training prior to commencement of work and be thoroughly familiar with Authority railroad operations. Attendance at the Authority's Refresher Track Safety Training shall be completed once every two years. The required attendance by Contractor and Subcontractor employees at the Authority's Track Safety Training shall in no way diminish or modify Contractor's obligations as otherwise set forth in this Contract to provide complete and adequate safety training to such personnel. The CSE shall maintain a list of all employees (including Subcontractors) having attended NYCT Track Safety Training, and shall submit the list to the Engineer quarterly. The list shall contain all employees' names, job function/classification, employer, date of attendance, and date of refresher training required.

- 13.3 In the event the work is being performed under a General Order (G.O.) with 3rd rail power off, the Contractor shall ascertain from the Engineer the exact limits where the power was removed. The Contractor shall disseminate this information to all Contractor and Subcontractor employees working within the G.O. area.
- 13.4 When work is being performed on the roadbed with 3rd rail power removed, the Contractor shall provide and install for the duration of each work shift, contact rail (3rd rail) annunciator alarm boxes per Section 1D 1.4.3(b) of the contract specifications.
- 13.5 When work is being performed on the roadbed with 3rd rail power on, the Contractor shall provide protection by use of rubber matting or plywood covers as per section 1D 1.4.3(c)
- 13.6 The Contractor shall take immediate and appropriate corrective action in all cases of violation of flagging and track safety rules, and shall promptly report all such incidents to the Engineer. Action taken to correct rule violations will be subject to the approval of the Engineer. Such action could include the ordering of additional instruction, the prohibition of work on or adjacent to operating tracks for a specified period of time, the appearance at a hearing held by the Engineer, suspension or discharge of employees, or such other remedies deemed suitable by the Engineer.
- 13.7 When work trains are used, the Contractor shall assure all material and equipment on the work train is secured upon completion of initial loading of the work train and at completion of work. The Contractor, prior to turning the train over to RTO personnel, shall make an inspection of the work train. The Contractor shall document the result of this inspection as per OSS PI 2.8.0 (See "Contractor Safety Reference Documents"). The Work Train Contractor

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Personnel Yard Access Form shall be submitted prior to the need for access to load and unload the work train(s).

- 13.8 Failure of the Contractor to meet these safety requirements to the satisfaction of the Engineer may result in the suspension of all work on or adjacent to operating tracks (which shall not be deemed excusable delay), or such other actions as the Engineer may direct.
- 13.9 All items being installed whether temporary or permanent, wayside of the tracks shall be measured by the Contractor to assure there is no violation of the Limiting Line of Line Equipment, prior to installation, and upon completion, prior to returning the track to service. (Refer to Specification Section 1D)
- 13.10 Three (3) working days prior to the start of a General Order (G.O.), the CSE shall certify to the Engineer that all required safety equipment and materials are available at the site of the work, have been inspected and found to be in working order and in good condition. For extended G.O.'s such certification shall be reaffirmed on a weekly basis.
- 13.11 The Contractor shall ensure that when contact rail protection boards are removed for the performance of work, they are reinstalled before returning track to service.
- 13.12 Upon completion of a G.O., the Contractor shall remain onsite, with an appropriate work force, until the test train and first revenue train successfully clear the G.O. area. In the event either train fails to clear the work area(s), the Contractor shall immediately correct the situation.
- 13.13 In the event that the work is being performed under a G.O., a copy of the G.O. shall be in the possession of the Contractor's supervision at all work sites during working hours. The G.O. contents shall be discussed with all Contractor personnel prior to the start of each work shift.

14.0 Safety Requirements for Crane Operation

- 14.1 Where a crane is operated in such a location that any part of the crane or its load in any position of boom or swing may come within 15 feet of a live power line or contact rail then:
- a) The power line or contact rail shall be de-energized, or
 - b) The power line or contact rail shall be insulated or isolated, and
 - c) The crane shall be grounded with Number 2 AWG or larger single conductor, 600 volt covering, and resistance of 25 ohms or less.

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- d) The power line and contact rail shall be protected from damage in an approved manner.
- 14.2 The following restrictions shall be adhered to where crane booms are extended across tracks:
- a) Each track crossed shall be flagged in accordance with Section 1D paragraph 1.4.1.
 - b) Crane booms shall not be moved near a stationary or moving train.
 - c) No materials shall be moved over a train.
 - d) Materials moved shall be secured in an approved manner.
- 14.3 Contractor shall furnish the Engineer with copies of the following documentation indicating compliance with applicable local authority restriction pertaining to the use of cranes:
- a) Certification (approved by a NYS Licensed Professional Engineer) of pavement and ground support and submittal of grillage design and details. Also required when crane are imposed on the subway structure.
 - b) The most current annual inspection of the hoisting machinery as specified in the ANSI B 30.5 Standard.
 - c) Authority's approval for crane usage near and over tracks.
 - d) Certification by NYS licensed Professional Engineer, where required, for allowing transportation of crane over a specific route. Submit to DOT.
 - e) Permit issued by DOT, Bureau of Highway Operations, allowing use and transportation of crane.
 - f) License of crane operator (rated for the maximum load capacity of the crane).
 - g) Current NYC-Department of Buildings Crane and Derrick Inspection Certifications, which shall be present on the crane.
 - h) Where track mounted crane cars are used, all applicable Authority approvals and restrictions shall apply.
 - i) All other local and Authority restrictions where applicable.
- 14.4 Contractor shall provide Engineer with a two (2) week notice prior to using crane.
- 14.5 Contractor shall use tag lines; Qualified Persons shall rig all loads.

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- 14.6 Contractor shall not hoist over a building unless NYC Department of Buildings Construction Code Chapter 33 (formerly Article 19) is complied with.
- 14.7 Cranes shall be equipped with seat belts for the operator and for the driver, and a minimum 5BC fire extinguisher shall be supplied.
- 14.8 Contractor's rope chains, rope, and slings shall have manufacturer's safe working load tag attached. These shall be inspected by a competent person.

15.0 Office of System Safety Design Guidelines: (Found in Contractor's Safety Reference Documents)

15.1 Plastic Flexible Barrier/Solid Barrier

Where there is an active track adjacent to a work area along the ROW on the elevated structure a Plastic Flexible Barrier will be installed so as to eliminate the need for flagging on the adjacent track (See OSS Design Guidelines, latest revision, for complete application of the Plastic Flexible Barrier).

15.2 Temporary Enclosure/Structure on Station Platforms

See OSS Design Guidelines for Constructing Temporary Enclosure/Structure, latest revision for complete application.

15.3 Temporary Subway Barrier

Where there is an active track adjacent to a work area along the ROW below grade within stations, tunnels, or tubes, a Temporary Subway Barrier will be installed so as to eliminate the need for flagging on the adjacent track. (See 1D, section 1.4.8.1(b) and CPM Design Guidelines for Constructing Temporary Subway Barrier, latest revision).

- 15.4 The CSE/CSS shall be on site within the Station limits (Platform, Mezzanine, or area immediately adjacent to the station's street entrance(s)) at all times when a baker scaffold is used. The CSE/CSS shall inspect the baker scaffold(s) at the start and end of each work shift and monitor their use daily. See the latest revision of CPM Safety Bulletin for "Use of Baker Scaffolds".

16.0 Contractor Equipment and Power Hand Tools

- 16.1 All operators of powder actuated tools shall be certified in their use in accordance with the manufacturer's instructions. A NYC Fire Department Certificate of Fitness or manufacturer's certificate is required.
- 16.2 Ground Fault Circuit Interrupter shall be used on all electrical circuits providing permanent or temporary power to hand tools.

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- 16.3 Lockout/tag out shall be applied to all energy sources when work is required on live equipment machinery and/or systems.
- 16.4 The Contractor shall maintain all equipment and tools, whether owned or leased, in a "fit for use" condition in accordance the manufacturer's recommendations and the requirements of the Contractor's Safety Reference Documents, OSHA and NY State requirements, whichever is more stringent. The presence of any / all equipment and tools at the work site(s) constitutes certification by the Contractor that the equipment and tools are "fit for use". Any equipment and tools that become unfit for use shall immediately be clearly identified, tagged or segregated as removed from service.

17.0 Safety Requirements for Confined or Enclosed Spaces

- 17.1 The Contractor may be required to enter confined or enclosed space locations. Confined or enclosed space locations are as defined in OSHA 29 CFR 1910.146 and NYCT Policy Instruction 10.19.1. The Contractor shall ensure that all the requirements for entering a confined space are strictly adhered to.

18.0 Welding and Cutting

The Contractor shall supply a list of certified operators and fire watch personnel who will be performing cutting and welding and evidence of their training and certification.

- 18.1 All welding and cutting apparatus, equipment and operation shall be in accordance with the standards and recommendations set forth in the current edition of ANSIZ49.1, "Safety in Welding and Cutting".
- 18.2 Welding apparatus and equipment shall be inspected daily, prior to use. Defective apparatus and equipment shall not be used and removed from service until repaired or replaced. Gas welding and cutting equipment shall be listed by Underwriters Laboratories, (UL) or by Factory Mutual Laboratories, (FM).
- 18.3 Pressure reducing regulators shall be used only for the gas for which they were designed.
- 18.4 Acetylene regulators shall not be adjusted to permit a discharge greater than 15 lb/in²
- 18.5 Cylinder valves shall be closed and the gas supply shut off when work is suspended. Torch valves shall be checked for leaks at the start of the shift. Only friction lighters or other approved devices shall be used to light torches.
- 18.6 Fire extinguishers rated at 10 ABC or larger shall be immediately available whenever welding or cutting is being done.

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- 18.7 All oxygen, acetylene, or other fuel gas-oxygen combinations used in cutting or welding shall have reverse flow check valves installed or otherwise built into the torch barrel and manifolds if used.
- 18.8 Arc Welding Cables: Splices or repaired insulation shall not be permitted within 10 feet of the electrode holder.
- 18.9 Portable Welding Screens or Shields shall be used to protect other workers and/or the public in the immediate area.
- 18.10 Fire Guards or Fire Watches shall be assigned and maintained for a minimum of 60 minutes following the completion of the work to ensure that no possibility of fire exists, and shall have a valid certificate of fitness from the FDNY.

19.0 Compressed Gas Cylinder Use and Storage

- 19.1 All compressed gas cylinders shall be transported and properly stored in an upright and safe manner. Cylinders in storage shall have the proper protective valve caps on and the cylinders shall be stored upright and secured against movement. Different types of compressed gas cylinders shall not be stored together. All use of compressed gas cylinders shall be in accordance with the NFPA, Federal or State or Local regulations. Improperly stored cylinders shall be immediately removed from the work area. Excessive or unreasonable storage of cylinders on the site is prohibited. Compressed gas cylinders shall not be stored in stations, on or near the ROW, below grade or anywhere in subway tunnels.
- 19.2 Compressed gas cylinders shall be transported and used in portable welding carts with the cylinders securely chained to the cart. Valve protector caps shall be in place except when the cylinders are in use. Stored compressed gas cylinders, (full or empty) shall be chained or secured in an upright position to a firm base and protected from sources of heat. A dry chemical fire extinguisher rated not less than 10 lb. ABC shall be mounted on each portable welding cart in use.
- 19.3 Compressed fuel cylinders shall be stored at least 20 feet from oxygen cylinders unless separated by a noncombustible wall at least five feet in height, having a fire resistance rating of at least one-half hour. Compressed gas cylinders and liquid petroleum cylinders shall be properly identified and have a valid hydrostatic test date noted on or attached to the cylinder.

20.0 Fire Protection and Prevention

Install and maintain firefighting equipment of suitable types to provide sufficient

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firefighting protection for any type of fire that may occur. Periodically inspect this equipment to ensure that it is ready for use. The equipment shall always be filled, fully charged, and placed in readily accessible locations. Fire extinguishers shall be a minimum 10 pound, steel cylinder type with Underwriters Laboratory rating of 10 ABC. A hazard assessment for each work location and task shall be performed to determine the type of exposure and location of required equipment.

- 20.1 Open flames shall be prohibited within 100' of explosive or flammable materials.
- 20.2 Prior written permission of the NYC DOT and Fire Dept. shall be obtained before blocking roadways, hydrants, post indicator valves, and of access to fire fighting equipment.
- 20.3 The CSE shall designate, as required for the work, appropriately trained personnel to act as fire watchers. Fire watchers shall be familiar with hazards and be trained in the operation of each type of fire extinguisher, on the worksite. They shall remain at the work site for a minimum of 60 minutes after completion of work. Fire watchers shall be provided with the means to communicate any emergency. The CSE shall designate one or more assembly areas for personnel and have a means to ensure that each person is accounted for in the event of fire or other such emergency.
- 20.4 Flammable liquids shall be stored in Factory Mutual (FM) approved safety cans equipped with self-closing lids and flame arrestors.
- 20.5 Storage of flammable materials in buildings or sheds at the site shall have prior written permission by the Engineer. Flammable liquid fuels may not be stored in stations below grade or in subway tunnels
- 20.6 All temporary structures shall be constructed of properly identified fire rated material.

21.0 Fall Protection

The Contractor shall enforce a 100% fall protection policy with zero tolerance for non-compliance. It is required to have fall protection for all work areas where a worker or other person is exposed to an unprotected fall from an elevation greater than 6' feet or into an excavation of 5 feet. In the event that providing this protection is not feasible or creates a greater hazard, the Engineer may at his/her discretion allow for a task specific variance from this policy. Requests for a task specific variance shall be provided in writing with justification for relief. The Engineer's acceptance shall be received in writing prior to starting the specific task under the variance.

22.0 Spill Prevention, Leakage Containment, and Clean-Up

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- 22.1 The Contractor shall provide for the immediate reporting of each release of hazardous materials into the environment to the Engineer. Such emergencies may involve; spills of petroleum products, solvents, PCB containing oil, or other hazardous materials; the release of hazardous dusts, fumes or vapors into the atmosphere; any fire involving hazardous materials; or the discovery of hazardous materials on the site.
- 22.2 The Contractor shall notify the Engineer of any spills. The Engineer will then report spills to Office of System Safety-EP who will notify the regulatory agency and obtain spill.
- 22.3 Remediation of spills shall be performed immediately by the Contractor using a licensed spill clean up contractor and all costs of the remediation shall be borne by the Contractor at no additional expense to the Contracting Party or the Authority. Removal, transportation, and disposal of the contaminated materials shall be performed by the Contractor subject to the terms and conditions of the Contract.
- 22.4 All equipment containing liquid systems (including, but not limited to dozers, backhoes, loaders, drill rigs, trucks, hoists, hi-lifts and cranes) shall be inspected daily to ensure that all liquid containing systems are leak free, that hoses, tubing and hydraulic lines are all in good operating condition, and that all plugs, stoppers, valves, etc. are properly sealed for leak free operation. Systems that cannot be maintained leak free shall have leakage rates maintained As Low As Reasonably Achievable. All leakage shall be contained. Any spillage shall be cleaned up promptly to prevent any release into the environment. Spill Kits shall be maintained on site.

23.0 Motor Vehicles, and Mobile Construction Equipment

- 23.1 Construction equipment of the Contractor, whether owned or rented, and the equipment of all Subcontractors shall be suitable for safe and efficient performance of the work. The Contractor shall inspect and remove from the project any such equipment, which is unsafe, and the Contractor shall either repair or replace such equipment at no additional cost to the Contracting Party or the Authority and without delay in the completion of the work.
- 23.2 The Contractor and all Subcontractors shall maintain their equipment per the manufacturer's recommendations and guidelines. Modification of equipment affecting its safety shall not be performed unless approved by the manufacturer, by written documentation, available to the Engineer.
- 23.3 Vehicle and equipment operators shall inspect and test essential controls and safety equipment before placing the vehicle or equipment in motion. Operators shall report any unsafe or unsatisfactory condition(s) to their supervisor before

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operating the equipment or vehicle. Unsafe equipment or vehicles shall not be operated until properly repaired.

- 23.4 The Contractor shall ensure that all vehicle and equipment operators are both trained and authorized for the type of equipment they intend to operate. Reckless or unsafe operation shall not be permitted. Self-propelled equipment in the work area, whether moving alone or in combination, shall be equipped with backup lights and a reverse signal alarm. The alarm shall produce a 0.2 to 0.5 second audible warning immediately upon and during backward movement of the vehicle on which it is mounted and at regular intervals thereafter of not more than two seconds, throughout the backward movement. The alarm shall automatically cut out when backward movement ceases. Sound intensity shall range from 90 to 100 dB(A) at a distance of five feet from the alarm. Actuation shall be automatic by direct connection to any part of the equipment that moves or acts in a manner distinctive only of rearward movement of the vehicle, with no manual controls between the source of actuation and the alarm. The use of the alarm shall be in addition to requirements for signalmen.
- 23.5 The Contractor or Subcontractors shall not allow the use of any earthmoving, compacting, or any other mechanized equipment having an obstructed view to the rear unless the equipment has reverse signal alarm distinguishable from the surrounding noise level; or the equipment is backed up only when an observer signals that it is safe to do so.
- 23.6 Outriggers, wheel blocks and any other stabilizing devices recommended by the manufacturer of the equipment shall be in place before beginning any operation with that piece of equipment.
- 23.7 Vehicle loads shall be secure, and no vehicle is to be loaded beyond its rated capacity.
- 23.8 The driver shall assure safe passage of the vehicle and load under power lines and other overhead obstructions.
- 23.9 Vehicle drivers shall not permit any person to ride on vehicles or equipment that is not specifically designed for carrying passengers.
- 23.10 All mechanized equipment in use shall be checked at the beginning of each shift to ensure that all parts, equipment, and accessories that affect the safe operation are in proper operating condition and free from defects and leaks. All defects shall be corrected before the equipment is placed into service.
- 23.11 Man lifts in Bus Depots, in addition to alarms, shall have spotlights mounted in the corners, flagmen, and signs to notify the bus drivers of the lift.

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24.0 Signs, Signals, Barricades, and Protection of the Public:

SEE Specification Section 1E

25.0 Worksite Maintenance

SEE Specification Section 1E

26.0 Material Delivery via Public Stairways

For all construction sites, refer to NYCT-CPM Safety Bulletin 2000-2, "Movement of Cable Reels and other large items via Station Stairways" (dated August 25, 2000)

27.0 Security

SEE Special Conditions

28.0 Environmental Metering

The Contractor shall monitor environmental conditions as necessary. The following are minimum requirements for meters to be used by the Contractor. The meters shall be calibrated and maintained in calibration for the duration of the project (until Substantial Completion) by the Contractor. Metering equipment shall comply with the latest ANSI/ISA/IEC Standards.

28.1 Digital multi-Gas meter Specification for the following gases:

This meter shall conform to ANSI/ISA 12.13.01 for use in hazardous location for Class 1, division 1, Group A, B, C, & D.

- a) Hydrogen Sulfide; with the range of 0.0 -100.0 ppm and operating temperatures of - 4.0° F to 122.0° F
- b) Carbon Monoxide: with range of 0.0 – 500.0 ppm
- c) Oxygen with the range 0.0 to 25.0%
- d) Combustible gases with range of 0.0 to 100% LEL

28.2 Digital light meter operation at range of 0.0 to 100 fc, (readings shall be in foot-candles and corresponding lumens)

28.3 Digital noise meter operation at range of 0.0 to 140.0 dB(A), the meter shall conform to IEC 651 and ANSI 51.4 type 2 accuracy: +/- 1.5 dB(A). The meter shall conform to ANSI 51.4 -1971 or 51-1983 as amended.

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29.0 Temporary Shoring

Temporary shoring for any in-place structure shall not be supported by hydraulic jacking devices but shall be securely blocked, wedged and mechanically fastened together to support the loads after the shoring has been brought into snug and stable contact with the member to be supported. Such jacking devices shall have pressure gauges capable of reading through the full range the device's rated capacity. The shoring shall not impose loads on any rail, tie or other track component but shall have the load bridged between these elements. Competent mechanics shall install all temporary supports in plumb and parallel positions and held in place with adequate restraints to resist lateral movement, should the support shift under full transferred load. All temporary shoring shall be installed according to approved Shop Drawings, signed and sealed by a NYS License Professional Engineer.

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Appendix A: Safe Work Plan
SWP – GENERIC rev 4

Contract # / Description:

<u>STEP</u>	<u>RISK</u>	<u>PREVENTION/ MITIGATION</u>	<u>COMMENT</u>
1. G.O. Initiation	-Poor Setup	-Follow Bulletin 2007-1 JIT Training	-Attach #1: GO -Attach#2 Bulletin 2007-1
2.Deliver Tools, Equip. for installation	-Worker Strain -Slips, Trips, Falls	-Engr'g. Controls: (dolly's, lighting) Mgt Controls: (inspect path, light meter) -PPE ...	
3.Deliver Materials	-Worker Strain -Slips, Trips Falls -Public Harm -Facility Damage	-Engr'g Controls: (separate work from public) " (dolly, cover &/or isolate path) -PPE..... good shoes.... -MPT: signs, flaggers, cones, DOT approvals	
4.Removals/ Excavation/ Demo.	-Dust, Fumes -Noise -Flying/Falling Objects -Public Harm	-Engr'g Controls: (guards, shields, lighting) -Mgt. Controls: fume meter, noise meter, light meter -PPEear plugs...mask... -Isolate work from public / others -	Check meter calibration
5.Substrata Prep.	-Fumes -Toxic Compounds	-MSDS : tool box talk.... -Engr'g Controls....fan... Mgt. Controls: see#4 -PPE.....mask...	-Attach #3 MSDS
6.Material Prep. (bend conduit), (bend rebar), (cut tile)	-Pinch Points -Cuts -Flying Objects	-Engr'g Controls.....guards, -PPE....gloves...face shield...	
7.Installation	-Work at Heights -Worker Strain -Noise, Fumes, Hotwork -Confined Space	-Engr'g Controls-harness, guard rails, platforms -Mgt controls- meters, JIT, scaffold inspection -PPE; fire-watch; extinguishers, ear plugs, mask -Worker certifications: hotwork, scaffold erection	-Attach #4 Confined Space Instruction
8.Clean Up	-see delivery/removals	See delivery /removals	
9.Demobilize	-see delivery	See delivery	

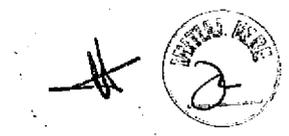
SWP Preparation Guidelines	
1. Keep the document small:	2. Recognize the audience (reader): foreman; competent person:
<ul style="list-style-type: none"> • Bullets vs. sentences • Print on both sides of the page • Reference other generic instructions • Do not repeat – refer back.... i.e. "see item 3" 	<ul style="list-style-type: none"> • Keep the info simple & clear • Make the document easy to read • Make the document easy to fold into back pocket

RIDER P
NYC TRANSIT SAFETY PROGRAM
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

September 23, 2009

Submittal Approvals

Item No.	Paragraph No.	Submittal	Action by Engineer
1.	2.0	Accident Prevention Program/Hazard Communication Program	Approval
2.	9.2	Safety Engineer's resume	Approval
3.	10.4	Safety Supervisor's resume	Approval
4.	15.1	Installation of Flexible Warning Barrier	Approval
5.	15.2	Construction of Temporary Enclosure/Structure	Approval
6.	3.0	Safe Work Plans (SWP)	Acceptance
7.	4.3	Quarterly Accident Report	Acceptance
8.	4.0	Accident Reports	Acceptance
9.	8.2.2	Daily Safety Log	Acceptance
10.	13.2	List of Track Trained Employees	Acceptance
11.	13.7	Work Train Loading Documentation	Acceptance
12.	13.10	ROW Equipment Certification	Acceptance
13.	14.3	Crane Operation Documents	Acceptance
14.	16.1	Powder Actuated Tool Operator Certification	Acceptance
15.	21.0	Fall Protection Variance	Acceptance
16.	22.0	Spill Report	Acceptance
		References	
		All Reference Documents can be found within NYCT "Contractor Safety Reference Documents" (Available from NYCT CPM Safety Mgmt.)	



RIDER "Q"
SITE / CONSTRUCTION LOGISTICS REQUIREMENTS
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

March 8, 2010

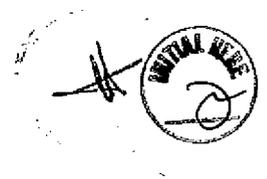
Exemption (4)



RIDER "R"
CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

February 17, 2010

The requirements in the attached Contractor's Quality Program Requirements, dated February 17, 2010, (12 pages), is included in the Lump Sum Contract.



CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

A. General

The Contractor shall submit a description of its Quality Assurance/Quality Control (QA/QC) Plan addressing the QA/QC organization; how the Plan extends to its subcontractors and others in the supply chain; resources and procedures that the Contractor will use for evaluating construction activities, products and related activities, which shall conform to the Authority's WTC Project Quality Assurance Plan and the FTA QA/QC System requirements (FTA-IT-90-5001-02.1), attached as an Appendix hereto.

B. Scope.

This section defines the responsibilities of the Contractor in the management of quality in the construction of the Project to achieve an end product conforming to the level of quality required by the Contract Documents.

C. Contractor's Quality Program.

The Contractor shall establish, implement and maintain an effective Contractor Quality Control Program (CQCP) to manage, control, document and assure that the work complies with the requirements of the Contract Documents. The quality assurance/quality control program shall describe all of the means, methods, plans, procedures, processes and the organization proposed by the Contractor to assure that the level of quality specified in the Contract Documents for all materials, equipment, and workmanship incorporated in the temporary or permanent construction is appropriately satisfied whether constructed, fabricated or manufactured onsite or offsite by the Contractor or his subcontractors, suppliers and vendors, the quality assurance/quality control program shall also address the training and certification of personnel tasked with the implementation and maintenance of the program in the techniques necessary to ensure quality, including but not limited to, testing and inspection.

At a minimum, the quality assurance/quality control program developed and submitted to the Engineer for review and approval must satisfy the requirements of the "Quality Assurance & Quality Control Guidelines" of the Federal Transit Administration / U.S. Department of Transportation (FTA-IT-90-5001-02.1), dated February 2002.

D. Submittal of Quality Program

- 1.) Within 15 days after the acceptance of the Contractor's Proposal, the Contractor shall furnish for the approval of the Authority (the Manager-WTCC QA), the QA/QC Program. The QA/QC Program shall be signed by a principal of the firm and his designated Quality Control Manager ("QCM"). If the Contractor fails to submit an acceptable QA/QC Program within the prescribed time, the Manager, WTCC Quality Assurance (MWTCCQA) may not allow the work to continue unless an acceptable interim plan which addresses all of the requirements of the QA/QC Program is provided. The interim plan will only be acceptable for 30 days.
- 2.) Failure to comply with either of these submittal requirements within the prescribed times may result in the Authority issuance of an order to the Contractor to stop all work on this Project.

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

E. Changes To The CQP.

The Contractor shall notify the the Manager, WTCC QA in writing of any proposed change to the CQP. All proposed changes are subject to the approval of the Manager, WTCC QA. The Contractor shall review the approved CQP on a quarterly basis for continued adequacy to meet the requirements of the Contract Documents and shall incorporate changes to overcome the deficiencies in the program that affect quality. Use shall be made of feedback data generated by the Contractor, subcontractors, suppliers and the Manager, WTCC QA.

F. Elements Of Contractor's Quality Program.

The CQP shall include the following elements: (Required FTA Elements Added)

ELEMENT	PARAGRAPH SPECIFICATIONS
Management Organization, Staffing and Responsibilities	- G.
Documented Quality Management System	H.
Submittal Management, Document Control and Document Changes	I.
Receiving, Handling, Storage and Control of Materials and Equipment	J.
Subcontractor and Supplier Control – Purchasing	K.
Inspection and Testing Plan	L..
Control of Construction Processes	M.
Control of Measuring and Testing Equipment	N
Control of Nonconforming Conditions	O
Documentation by Quality Records	P.
Contractor Internal Audit	Q.
Training	R.
Statistical Analysis	S.
Design Process Control	T.

G. Management Organization, Staffing And Responsibilities.

The CQP shall describe the Contractor's project organization (including major subcontractors and suppliers) and include an organization chart showing names, titles and lines of authority, and the interrelationship of those involved in managing and directing the Project. The qualifications, duties, responsibilities and functions of the Construction Management Team shall be provided.

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

The Contractor shall be fully responsible for effectively managing all aspects of the CQP and shall present the management strategy for approval at the pre-award qualification hearing, as part of the validation of qualifications for this Project. This strategy shall identify the organization, staffing and responsibilities as a minimum. The person designated to be responsible for overall Quality Management may be the Project Manager or the Corporate Quality Officer.

Both shall participate in developing the CQP for this project and shall sign it prior to submittal.

Adequate staff and resources shall be provided to perform all quality control activities to assure contract compliance whether the work is performed by the Contractor's own forces or by subcontractors. The personnel comprising this staff shall be fully qualified by experience and technical training to perform their assigned responsibilities. The Engineer may direct the Contractor to provide additional staff and resources to the Project Manager or Corporate Quality Officer if, in the sole opinion of the Engineer, there are significant deficiencies in implementing the CQP requirements.

The size and composition of the Contractor's quality organization may vary as the project progresses, however, at all times it must be compatible with the level of effort and capability required by the Contract Documents.

The Project Manager or Corporate Quality Officer shall maintain a legible, hand-written daily diary or activity log indicating all major activities related to the management of quality on this Project that were personally performed by him, and each entry in the diary or log shall be signed and dated by him.

The Project Manager or Corporate Quality Officer shall prepare and submit a 6-week look-ahead schedule forecasting her/his quality activities associated with the Contract's progression.

The Project Manager or Corporate Quality Officer's office shall be based near the work-site. The Project Manager or Corporate Quality Officer shall report to the work-site on daily basis.

If the Contractor's QC Program is not being performed to the satisfaction of the Engineer, the Engineer may direct the Contractor to assign one or more full-time additional Quality Project Manager(s) dedicated solely to this project at no additional cost or expense to the Engineer, as required to successfully implement the approved CQP.

The Quality Manager (QM) shall be a full time person assigned exclusively to this Project Final Completion. The Quality Manager's sole function shall be to manage all quality matters for the Project and have the authority to act in all quality matters for the Contractor. The QM shall not be subordinate to the Contractor's personnel that directly perform, supervise or progress the work. The QM shall have direct access to the upper management of the Contractor. The QM shall possess at least five (5) years of Quality related experience. The resume of the QM shall include a description of the duties, responsibilities and the QA/QC record of assignments for the preceding five-year period which establishes the candidate's experience as a Quality Manager. The QM's qualifications shall be submitted to the Manager, WTCC QA for approval. The QM shall review and revise the CQP for this Project and shall sign it prior to resubmittal.

H. Documented Quality Management System

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

The Contractor shall establish and maintain a documented quality management system to ensure project quality objectives are satisfied. The quality management system requirements shall extend to the any suppliers and contractors, as appropriate.

Written procedures and instructions shall be developed for activities affecting quality in design, purchasing, manufacturing and construction, as applicable to the work performed. Procedures and instructions shall also be developed for control of inspection, testing, nondestructive examination, control of nonconformances, corrective action, maintenance of quality records, quality audits and training.

The procedures shall contain a statement of purpose and scope and referenced to Codes, standards or specifications. In developing the procedures, consideration shall be given to identifying and acquiring any inspection equipment, skills or special processes needed to ensure quality performance. Inspection and testing techniques should be kept up-to-date. The procedures and instructions should contain formats for the quality records needed to ensure that the procedures and instructions are followed and documentation requirements are understood.

I. Submittal Management, a Document Control and Document Changes.

The CQP shall provide for establishing and maintaining a submittal management system which schedules, manages and tracks all submittals required by the Contract Documents including those of subcontractors and suppliers. The submittal schedule shall indicate all submittals due far enough in advance of the scheduled dates for installation to allow for the time required for reviews, for securing necessary approvals, for possible revisions and resubmittals and for placing orders and securing delivery. The submittal schedule shall be updated as required and submitted. Before the planned start of work on a system, a listing of all submittals planned for the system and its subsystems shall be submitted. Submittals for a portion of a system will not be accepted for review until the complete list of submittals for the system has been submitted. The Contractor shall review submittals prepared by its subcontractors and suppliers for compliance with the Contract Documents, before submitting it to the Engineer.

Shop drawings shall be prepared by the Contractor, subcontractors or suppliers and shall be reviewed by the Contractor to verify all materials and field measurements and checked and coordinated to assure that the information contained on the shop drawings, product data and samples conforms with the requirements of the Contract Documents as required. No portion of the work requiring these shop drawings shall be commenced until this review and coordination has been performed by the Contractor. These shop drawings and any other documentation which demonstrates the Contractor's compliance with the Contract Documents shall be kept at the Contractor's office and be available for inspection and audit of the Engineer. Where the Engineer requires certain shop drawings and other documents required by the specifications be made available to him but which do not require his approval they will be listed in the specifications and noted that they are for information only.

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

The CQP shall also provide for establishing and maintaining a document control system for control of project documents and data such as drawings, specifications, calculations, calibration records, inspection procedures, test procedures, test results, special work instructions, operational procedures and QA Program and related procedures. The document control system shall provide assurance that the work is performed to the latest approved drawings and specifications and that these documents are made available at each work location, prior to the start of the work, to all users who require them. Obsolete documents shall be promptly eliminated from each work location. Any superseded documents retained for the record shall be clearly identified as such.

All changes to documents shall be processed in writing and records maintained of changes as they are made. The Project Drawing List shall identify the revision number and the revised date for each drawing that is revised.

J. Receiving, Handling, Storage And Control Of Materials And Equipment.

The CQP shall contain provisions for verification that material and equipment meet specified quality and contractual requirements and that they are properly received and handled to ensure that the quality is not degraded. The Contractor shall establish and maintain documented procedures that ensure that all materials and equipment are positively identifiable and traceable to a specified origin point.

Purchased items entering the construction site/warehouse shall be inspected/tested, including their supporting documentation, for verification that subcontractors and suppliers have met the appropriate quality requirements of the Contract Documents. Purchased items shall bear a suitable control device as evidence of subject inspection/test. An identifier containing the inspection/test date, name of inspector, and inspection/test status (Pass/Fail) shall be attached to each inspected/tested item.

Nonconforming purchased items shall immediately be tagged, removed and segregated to a controlled area.

Certificates of compliance and/or conformance shall be submitted for materials and equipment.

The Contractor shall provide written requirements to assure that the desired quality of an item is not compromised or degraded as a consequence of inappropriate handling, lifting and rigging methods.

The Contractor shall provide written requirements for the cleaning, preservation and storage of materials and equipment. Proper records shall be maintained of all required maintenance activities during storage.

Purchased material and equipment shall be clearly marked so that it can easily be identified without excessive handling or opening of crates and boxes.

The materials storage area(s) shall be arranged for ease of retrieval and to prevent damage, deterioration or loss. In general, materials received first shall be used first.

Positive material identification (PMI) shall be implemented so that each item has a unique identifier (PMI serial number) to distinguish apparently identical items made in separate fabrication processes and confirm that the material of construction is indeed the grade of material specified. PMI numbers must appear on all inspection and construction records.

K. SubContractor And Supplier Control. - Purchasing

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

The QC program shall assure that items and services are procured from subcontractors and suppliers capable of meeting all requirements of the Contract Documents. The Contractor shall review his agreements with subcontractors and suppliers to insure inclusion of all applicable quality requirements. All subcontractors and suppliers shall comply with the Contractor's Quality Control Program or their own program. If the subcontractors and suppliers elect to submit their own quality control programs, it must be approved as meeting the requirements of this section by the Prime Contractor's Quality Personnel. The Contractor shall review the subcontractor's/supplier's agreements to ensure the inclusion of applicable quality requirements.

Source inspection shall be performed at the subcontractors'/suppliers' plants. Those quality characteristics, which cannot or will not be verified during subsequent processing, shall be subject to source inspection. Source inspection may not be necessary when the quality of the item can be fully and adequately verified by review of inspection and test reports, inspection on receipt or other means.

The Contractor shall perform external audits of his suppliers and subcontractors to assess compliance with the requirements of the approved QA/QC Program and Contract Documents. Factors such as the work schedule, volume, complexity, relative importance, past experience, dollar amount, etc. shall be taken into account for the selection of the suppliers and subcontractors for such audits and determining the scope, frequency and schedule of these audits. The scope frequency and schedule of these audits shall be as approved by the Manager, WTCC QA. The Contractor shall submit an audit schedule to the Manager, WTCC QA within 15 days after award. The Contractor shall make appropriate changes to the audit schedule when warranted due to changed conditions or when directed by the Manager, WTCC QA. The Contractor shall submit the revised schedule to the Manager, WTCC QA within 30 days of the change. The Manager, WTCC QA must be notified in writing 6-weeks days in advance of the date, time and location of each audit. The Manager, WTCC QA may witness any or all such audits. The audit results shall be documented and used to correct deficiencies and prevent their recurrence. Copies of the audits shall be made available to the Manager, WTCC QA, as required.

L. Inspection And Testing Plan.

The Contractor's CQP shall include an inspection and testing plan subject to approval by the Authority to verify that items conform to the requirements of the Contract Documents. The Contractor's plan shall contain a list of tests, which the Contractor is to perform. The list shall give the test name, specification paragraph containing the test requirements and identify if the Contractor, subcontractor or supplier is responsible for each type of test. During the life of the contract, the Contractor shall update the plan to reflect changes in inspection and testing procedures. The Contractor's inspection and testing procedures shall be approved by the Engineer prior to any such inspection or test and shall include test requirements, acceptance criteria and test conditions. Procedures should, as a minimum:

- 1.) identify the characteristics to be inspected, examined, and tested at each activity point;
- 2.) specify inspection and test procedures and acceptance criteria to be used;
 - a. include inspection checklists;
 - b. identify hold points as described below.

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

The detailed inspection or test procedures shall, as applicable, include items such as who is responsible for what, how, when, and where for all steps to be performed; what materials, equipment, and documentation are to be used; and how it is controlled. The procedures must be included in the CQP.

The Contractor shall use competent inspection personnel and shall not depend exclusively upon inspections performed by persons performing or directly supervising the work being inspected. Inspection personnel shall not report directly to the immediate foreman or supervisors responsible for constructing or installing the work being inspected. Inspection personnel shall be given the necessary authority and independence to perform their roles effectively.

Personnel performing inspections and tests shall possess a demonstrated competence in the specific area of interest and have an adequate understanding of the requirements. Written guidelines shall be established to assure that suitable education, experience and technical qualifications are maintained for such personnel.

The Contractor shall establish a listing of hold points as part of the inspection and testing plan for the approval of the Authority. Hold points are pre-determined inspection points for work in progress, which may become inaccessible as the work progresses, where the Contractor shall "hold" until the Authority verifies that the inspection and testing has been performed. In-process inspection activities shall be planned and performed to ensure the quality of the finished work. Any non-conforming conditions shall be tagged, documented, physically segregated to prevent inadvertent use and corrected before continuing.

The Contractor shall demonstrate the acceptability of the construction activities with objective evidence through suitable inspections and testing records. Inspection and testing records shall be prepared, reviewed, safely stored and maintained by the Contractor.

The Contractor shall distinguish between inspected and uninspected items by using suitable control devices. Inspection and test status identification of structures, systems or components should be maintained and controlled from initial receipt through installation to operation of the constructed work.

M. Control Of Construction Processes.

- 1.) The Contractor shall assure that the work complies with the Contract Documents. Controls shall be adequate to cover all construction operations, including both onsite and offsite fabrication, shall be integrated with the provisions of the clause entitled "Progress Schedule" and shall provide written records indicating that the results obtained for the various phases described below are documented and maintained. The controls shall include at least three phases of control for all definable features of work as follows:

PREPARATORY PHASE - This phase occurs prior to beginning any work on any definable feature of work.

A definable feature of work is a task which is separate and distinct from other tasks and has separate control requirements.

It shall include the following:

- a. review of the contract requirements;
- b. check to assure that all materials and/or equipment have been tested, submitted and approved;

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

- 2.) a check to assure that provisions have been made to provide required control inspection and testing;
examination of the work areas to ascertain that all preliminary work has been completed;
a physical examination of materials, equipment and sample work to assure that they conform to approved shop drawings or submitted data and that all materials and/or equipment are on hand.

INITIAL PHASE - This phase must be accomplished at the beginning of a definable feature of work and shall include the following:

- a. check of preliminary work (first item inspection) to
- verify full compliance
 - establish acceptable levels of workmanship
 - resolve all discrepancies

IN-PROCESS PHASE

- b. Daily checks shall be performed to assure continuing compliance with contract requirements and shall include the following:
- control testing until the completion of the particular feature of work;
 - suitable maintenance of equipment used in construction to ensure continuing process capability.
- c. The Contractor shall ensure that the work is performed in accordance with codes and standards that would apply if the Authority were a private corporation and with specifications and other special contractual requirements using qualified personnel and/or equipment. The procedure shall identify equipment to be used as well as any special requirements to be observed.

N. Control Of Measuring And Testing Equipment.

- 1.) The CQP shall describe the methods for ensuring that equipment used for measuring and testing is in calibration or condition to provide accurate test or inspection results. At intervals established to ensure continued validity, measuring devices shall be verified or calibrated against certified standards that are traceable to national standards or naturally occurring physical constants.
- 2.) The Contractor shall use methods to assure proper handling, storage, care and control of measuring and testing equipment in order to maintain the required accuracy of such equipment. Material and testing equipment that are consistently found to be out-of-calibration or have been subjected to possible damage shall be identified as nonconforming and be removed from service, repaired or replaced. The CQP shall also contain a contingency plan in the event inaccurate measurement may have occurred as evidenced by measuring and testing equipment found to be out of calibration at specified interval.

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

- 3.) The Contractor shall also assure that all measuring and testing equipment selected for measurements, tests, or calibration is of the proper range, type, and is controlled, adjusted, and maintained at specified intervals identified in the CQP or prior to use to assure conformance to the established requirements or predetermined accuracy. The equipment shall have some indication attesting to the current calibration status and show date (or other basis) on which inspection or recalibration is next required and by whom last calibrated.
 - 4.) The Contractor's measuring and testing equipment shall be made available for use by the Authority. The Contractor shall make personnel available for operation of the equipment if requested by the Authority.
- O. Preventive Action and Control Of Nonconforming Conditions.
- 1.) The CQP shall contain provisions for implementing preventive and corrective actions and identifying, recording, controlling and correcting nonconforming items, including provisions for the reinspection and retesting of repaired and reworked items to the original requirements. Any "Use-As-Is" determinations shall require approval by an Engineer who represents the Authority. It is the Contractor's responsibility to promptly identify, tag and segregate items detrimental to quality to prevent inadvertent use.
 - 2.) The Contractor shall investigate the cause of the nonconformance and take appropriate corrective actions to prevent recurrence. The identification, determination, justification for planned actions and actions taken shall be documented on a nonconformance report. At a minimum, dispositions for nonconformances shall include 'Rework', 'Repair', 'Use-As-Is', 'Scrap' or 'Reject'. 'Reworked' and 'repaired' items shall be re-inspected using a documented procedure to ensure the item meets requirements. All 'Repair' and 'Use-As-Is' dispositions shall be reviewed and approved by an Engineer representing the Authority prior to any corrective action. Personnel performing evaluations to determine conformance shall have demonstrated competence in the specific area of interest, have an adequate understanding of the requirements and have access to pertinent background information.
 - 4.) A procedure to describe the process for corrective actions to address issues identified during audits or other activities shall be included in the CQP. The procedure must include the analysis of any process/actions to help identify the cause of the condition, identify the corrective actions needed and specific actions needed to prevent recurrence. Actions to ensure that corrective actions are taken and are effective must also be described.
- P. Documentation OF Quality Records.
- 1.) The CQP shall contain provisions for identification of types of quality records to be maintained, their retrievability and retention periods and shall include a sample or blank copy of all quality records and checklists to be utilized on this Project. The Contractor shall maintain quality records as evidence that all of its activities and those of its subcontractors and suppliers comply with the requirements of the CQP. Additionally, the Contractor shall maintain records as evidence that:
 - The item meets the requirements of the Contract Documents;

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

- Personnel, procedures and equipment for special construction processes are qualified;
- Selection and surveillance of subcontractors and suppliers are performed;
- Corrective action and action taken to prevent recurrence is being taken for nonconforming conditions.

2.) Additional Types of Records to be Maintained:

a. Contractor Internal and External Audit records which:

- Provide a schedule of Contractor and subcontractor/supplier audits
- Document quality programs, plans and procedures audited
- Identify items and services for which audit was performed
- Reveal results obtained
- Demonstrate analyses of audit data for use in corrective action

b. Inspection and Test records which:

- Include completed inspection checklists signed by the QCM
- Include nonconformance reports and logs
- Identify inspector or data recorder
- Identify date of inspection or test
- Reference drawing number and specification reference
- Define applicable requirements
- Identify specific inspections or tests performed and results

c. Daily Reports

Under the provisions of the Contract, the Contractor shall prepare reports on a daily basis for the Work Site. This report shall also include a brief description of any inspections of the work performed. If an inspection or test was performed a copy of the inspection or test record must accompany the report. The report with the attachment must be forwarded to the Engineer's office by the end of the next business day. The report must be filed for each site including days in which no work was performed. The report must be signed and dated by the QCM or the Contractor's designated representative.

d. Inspection and test records shall be maintained for both conforming and nonconforming work. Unless otherwise required by the Authority the Contractor shall retain all quality records for a minimum period of three years after substantial completion and make them available to the Authority upon request.

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

Q. Contractor Internal Audit.

The Contractor shall perform internal audits of his own Quality Management System to assess compliance with the requirements of the approved QC Program and the Contract Documents. The scope of such audits shall be commensurate with factors such as the work schedule, volume, complexity, relative importance of work activities, etc. The audits shall be performed on a quarterly basis and shall begin within 6 months of the acceptance of the Proposal. An audit schedule shall be submitted to the Authority within 45 days after the acceptance of the Proposal. The Contractor shall change the schedule when warranted due to changed conditions or when directed by the Authority. The Contractor shall submit the revised schedule to the Authority's Manager, WTCC QA within 30 days of the change. The Authority's Manager, WTCC QA must be notified in writing 10 days in advance of the date, time and location of each audit. The Authority's Manager, WTCC QA may witness any or all such audits. The audit results shall be documented and used to correct deficiencies and prevent their recurrence.

R. Training.

- 1.) The Contractor shall provide all required training. Such training shall occur within 30 days after acceptance of the Proposal.
- 2.) The Contractor shall notify the Authority at least one week in advance of the date, time and location of the above training. The Authority shall have the option of attending the training. Records shall be kept of the above training documenting the date, time, duration, location, attendees, trainer's name and qualifications, and the items discussed. Copies of these records shall be forwarded to the Authority not later than one week after such training occurs.
- 3.) This requirement for training is in addition to other training requirements contained in this Contract.

S. Statistical Analysis.

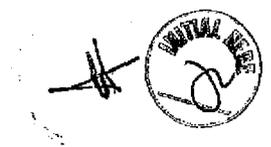
- 1.) The Contractor shall identify, where appropriate, the need for statistical techniques to verify the acceptability of construction process capabilities and work characteristics. These include, but are not limited to: control charts, sampling plans and trend analyses of nonconformances.
- 2.) The Contractor may employ, subject to approval of the Authority, sampling inspection in accordance with applicable nationally recognized standards or other statistically valid plans.

T. Design Process Control.

- 1.) Procedures shall be established, documented, implemented and maintained to control the preparation, review and approval of design work required by this Contract. Design work includes, but is not limited to, the preparation of Shop Drawings, Record Drawings ("As-Built" drawings), working drawings, design details and engineering analyses/calculations as well as software development.
- 2.) Persons performing design work shall be identified, their responsibilities defined, their qualifications stated and a description of the resources assigned for their use shall be given within the procedures.

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

- 3.) The procedures shall include methods to identify and document input requirements relating to the scope of design work so as to reflect applicable statutory, regulatory and contract requirements as well as industrial codes or Authority standards, if any.
- 4.) The procedures shall state how design work outputs shall be documented, verified against the design input requirements and validated as part of the approval process.
- 5.) The procedures shall contain a formal program of in-process design work review(s) that shall identify: the stages of design at which work review(s) shall occur, the representatives of all concerned functions that shall participate in the review(s) and the documentation of the review(s) results.
- 6.) The procedures shall include methods to identify, document and review any and all changes, revisions or modifications to the original design work prior to resubmittal for approval.



RIDER "S"
WTC SITE SECURITY REQUIREMENTS
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER & TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

January 28, 2010

The requirements in the attached WTC Site Security Requirements, undated, (10 pages), is included in the Contract.



WTC SITE SECURITY REQUIREMENTS

ACCESS TO THE WTC SITE

All personnel, vehicles, and materials entering the site shall comply with the requirements described herein. The word "vehicle" as used herein shall be construed to include all self-propelled or towable vehicles or equipment whatsoever.

The requirements described herein apply to all contractors, subcontractors, vendors, suppliers and all others performing work or providing services or materials or equipment within the site. All such entities are required to coordinate and cooperate with each other and with the Port Authority in planning and performing the required activities. The facilities and services provided by the Port Authority are to be shared in common by all parties requiring access to the site. The direct costs to perform the screening and credentialing described herein shall be reimbursed by the Port Authority. All other costs, including but not limited to compensation for time spent by the contractors or their employees in performing any of the activities described herein, shall be borne by the contractors.

A) Personnel Access

All persons accessing the site shall have been background screened so as to ascertain that they satisfy the requirements set forth in the "WTC ID Process-Disqualifying Crimes" document which is attached hereto as Exhibit A. The Port Authority will conduct such background screening upon written request of the contractor on behalf of the individual, or an individual himself/herself. The background screening is contingent upon the following:

- Every individual requesting access to the site must agree to have a background screening.
- Every individual shall be required to fill out and sign a background screening application and consent form.
- Individuals must be citizens of the U.S., Lawful Resident Aliens, or otherwise lawfully permitted to work in the U.S.
- Every individual shall be required to complete the Secure Worker Access Consortium Application (www.secureworker.com)

The Authority shall conduct the background screening and shall report its findings in a timely manner. Successful screenings are expected to be completed within 3 business days. Individuals found to have received a "fail" classification due to any reason shall be prohibited from entering the site.

After successful background screening individuals will be required to complete a one-hour training period and to pass a test regarding the WTC Site rules and regulations. Upon successful completion a personal identification card shall be issued by the Authority to the individual. The individual's access to the site shall be limited to the level deemed appropriate by the Authority.

As part of the individual credentialing and identification process each individual may be required to provide biometric data, which may include finger-printing, hand geometry, and/or iris mapping. Such data shall be developed and recorded by the Authority for its sole use on this particular WTC Project, and shall be invalidated when no longer needed. The individual is prohibited from the site once the data has been invalidated.

Personnel entry to and exit from the site shall be through a number of Personnel Screening Portals provided, installed, maintained, and operated by the Authority. It is expected but not guaranteed that there shall be at least two such portals distributed around the perimeter of the site. The Authority shall operate, relocate, and if necessary reconfigure, the portals to accommodate the work to the greatest degree feasible.

Personnel entering the site will be required to present their individual identification cards for entry. The ID cards may contain the personal biometric data that will be used to process individuals thru a turnstile. In all cases packages and tools are subject to inspection at all times. Individuals may be randomly screened.

Personnel who have not been background screened and approved to enter the site as described above, either because the background screening process has not yet been completed or because a permanent ID card is not being sought due to the infrequency of use, may nevertheless be allowed onto the site. For this purpose the Authority will provide, install, maintain, and operate credentialing stations at or near the WTC Site. The Authority will issue a Temporary ID card to the individual upon the following conditions:

- The contractor requests the Temporary ID card on behalf of the individual. This request must be made by a permanently credentialed representative of the contractor who must accompany and vouch for the individual requiring the Temporary ID card.
- The individual presents two (2) forms of personal identification. One (1) such ID must be a government issued Photo ID such as a current driver's license or US Passport.
- The individual must be a citizen of the U.S., a lawful Resident Alien, or otherwise lawfully permitted to work in the U.S.

The Temporary ID cards will allow access to the site for a period not to exceed five (5) business days. Every Temporary ID cardholder's person shall be inspected, together with any packages, tools or equipment he/she intends to bring onto the site.

The contractor shall notify the Authority of personnel terminations or reassignments so that access credentials can be invalidated as soon as no longer needed. The Authority may, at any time for any reason, invalidate credentials allowing individuals access to the

site. In all instances, where the Authority issued credentials are no longer valid, the Contractor is responsible for ensuring that they are returned to the Authority in a timely manner.

B) Vehicle Access

All vehicles, with their contents, entering the site shall have been screened by the Authority prior to being allowed access to the site. Such screening shall be for the purposes of validating that the vehicle requesting entry is in fact what it is stated to be, and that it contains or includes no item or material considered by the Authority to be, actually or potentially, deleterious to the site. All personnel driving, managing or accompanying the vehicles and their contents, shall be subject to the same conditions described above for all personnel, and shall not be allowed entry to the site except in conformance therewith.

The Authority shall provide, install, maintain, and operate vehicle Screening access points and adjacent off site Vehicle Screening Facilities. These Facilities shall be located at the points of entry to the site best placed" to accommodate the construction. There are expected, but not guaranteed, to be four such points at all times. The Authority shall operate, relocate, and reconfigure as required, the access points to the site to accommodate the work to the greatest degree possible.

In order to maintain orderly access to the site and not impact the local streets and or the arterials the contractor, in coordination with the Authority, shall be responsible for scheduling "on time " deliveries of all vehicles requiring access to the site to include deliveries covered by the "Trusted Vendor" program. Important: "Vehicles are not allowed to utilize the local streets or arterials for lay by or staging purposes" unless approved per NYCDOT permit. The Contractor shall notify the Authority of all deliveries a minimum of 24 hours in advance. Notification for deliveries shall be made by the contractor in writing (e mail is acceptable), in a format to be determined by the Authority. Such request shall include, at a minimum, the following information:

- Vehicle Registration and Insurance information. (Copies to be submitted to the Authority).
- Description of vehicle and manifest of its contents.
- Identity of driver and other accompanying personnel.
- Proposed time for arrival at site.
- Proposed point of entry to site.
- Description and duration of activity while on site.

Requests for screening of oversize loads are subject to the same requirements except that 72 hours notice may be required.

The contractor shall be responsible to ensure that the vehicle to be screened presents itself, together with all required documentation, at the assigned location and time. Failure to do so, and the resulting delays, that may require rescheduling of the appointment for

screening, shall be the sole responsibility of the contractor. If a particular vendor, supplier, contractor, or other entity is consistently late or does not supply the required information for scheduled screenings, in the sole opinion of the Authority, the Authority may institute different requirements that it deems necessary to avoid or mitigate future delays.

It is the intent of the Authority in order to reduce on site screening time and provide flexibility in the scheduling of deliveries that the contractor will be allowed to substitute or add a critical delivery under the following conditions:

- The delivery does not conflict with other scheduled deliveries nor is disruptive to on going site activities.
- The vendor/vehicle/driver is in the "Trusted Vendor" program

It is the intent of the Authority to establish a "Trusted Vendor" program. The "Trusted Vendor" program will include the enrollment of vehicles and their drivers in order to expedite their access to the site. These types of vehicles will be primarily company owned vehicles and trucks such as concrete, tanker, haul, heavy construction equipment and other delivery trucks, which frequent the site. These vehicles shall be required as previously outlined to schedule deliveries in advance and if requested, provide sufficient time to allow the Authority adequate time to determine and provide the necessary pre-screening.

For "Trusted Vendor" screening the vehicle shall present itself at the assigned place within the allotted timeframe. Screening shall include:

- Verification of vehicle and personnel identity and credentials.
- Physical examination of the vehicle including the undercarriage, and its contents, as deemed necessary by the Authority.

Upon successful screening the vehicle will be allowed direct entry to the site.

For vehicle companies wishing to participate in the "Trusted Vendor program" the company will be required to provide the information as previously outlined for the vehicle - identify and have credentialed the driver or group of drivers in accordance with the credentialing requirements, assign a supervisory employee (Trusted Individual) of the firm who will over-see the loading and dispatching of the vehicles and be willing to be subject to a bi-annual audit of their procedures.

EXHIBIT G

WTC SITE SECURITY REQUIREMENTS

EXHIBIT A

WTC Identification Process - Disqualifying Crimes
June 2006

Standard Level Access for Unescorted Access to Secure Access Control Areas

Individual workers must agree to have a background check by filling out and signing a background screening application and consent form.

Identity Validation Check will be completed to determine that the individual is who the individual says he/she is.

Individual must be a United States Citizen, Lawful Resident alien, or otherwise lawfully permitted to work in the United States.

Validate applicant-supplied data to assess truthfulness. Willful falsification or omission disqualifies individual.

Identify criminal, terrorist, or other security-related information.

List of Disqualifying Criminal Offenses for Access to the World Trade Center Site

(a) Permanent disqualifying criminal offenses. An individual will be permanently disqualified from receiving credentials to access the World Trade Center Site if he or she is convicted, or found not guilty by reason of insanity, of any of the following crimes:

1. Violation(s) of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. 1961, et seq., or a State law that is comparable.
2. A crime listed in 18 U.S.C. Chapter 113B-Terrorism, or a State law that is comparable.
3. Espionage
4. Sedition
5. Treason
6. Unlawful, possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device, or hazardous materials.
7. Conspiracy or attempt to commit any of the above offenses.

(b) Interim disqualifying criminal offenses. The crimes listed in paragraphs (b)(1) through (b)(3) of this section are disqualifying if either of the following factors is true: the applicant was convicted or found not guilty by reason of insanity of the crime in a civilian or military jurisdiction, within the 10 years preceding the date of application; or the applicant is currently on probation or parole for the crime regardless of the date of conviction.

1. Unlawful sale, distribution, manufacture, import or export of a controlled substance that resulted in the conviction of an A Felony in the New York State Penal Law, or any comparable law in any State, or comparable Federal Law.
2. Theft, dishonesty, fraud, extortion, or misrepresentation.
3. Conspiracy or attempt to commit any of the above crimes listed in (b).

(c) Interim disqualifying criminal offenses. The crimes listed in paragraphs (c)(1) through (c)(2) of this section are disqualifying if either of the following factors is true: the applicant was convicted or found not guilty by reason of insanity of the crime in a civilian or military jurisdiction, within 5 years preceding the date of application; or the applicant is currently on probation or parole for the crime regardless of date of conviction.

1. Violation of Felony Offenses (as defined in the New York State Penal Law 70.02) or any comparable law in any State.
2. Conspiracy or attempt to commit any of the above crime.

NOTE: An individual will be disqualified from receiving credentials to the WTC site if he or she is wanted or under indictment in any civilian or military jurisdiction for any of the crimes listed above until the want or warrant is released. Additionally, a person will not receive credentials if he or she is on the Terrorist Watch List.

Medium Level Access for Unescorted Access to Secure Access Control Areas

Individual workers must agree to have a background check by filling out and signing a background screening application and consent form.

Identity Validation Check will be completed to determine that the individual is who the individual says he/she is.

Individual must be a United States Citizen, Lawful Resident alien, or otherwise lawfully permitted to work in the United States.

Validate applicant-supplied data to assess truthfulness. Willful falsification or omission disqualifies individual.

Identify criminal, terrorist, or other security-related information.

No convictions against below listed 49CFR 1542.209 (d) within seven (7) years preceding the date of application, except as noted*

- (13) Murder.
- (14) Assault with intent to murder.
- (15) Espionage.
- (16) Sedition.
- (17) Kidnapping or hostage taking.
- *(18) Treason.
- (19) Rape or aggravated sexual abuse.
- *(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.
- ** (21) Extortion.
- ** (22) Armed or felony unarmed robbery.
- (23) Distribution of, or intent to distribute, a controlled substance.
- (24) Felony Arson.
- (25) Felony involving a threat.
- (26) Felony involving-
 - (i) Willful destruction of property;
 - ** (ii) Importation or manufacture of a controlled substance;
 - ** (iii) Burglary;
 - ** (iv) Theft;
 - ** (v) Dishonesty, fraud, or misrepresentation;
 - ** (vi) Possession or distribution stolen property;
 - (vii) Aggravated assault;
 - ** (viii) Bribery; or

- (ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year; or
 - (27) Violence at international airports;
 - (a) Terrorism.
 - * (b) RICO (Racketeer Influenced and Corrupt Organizations Act).
 - (c) A crime involving a severe transportation security incident.
 - (d) Felony involving-
 - (i) Smuggling;
 - (ii) Immigration violations;
 - (28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.
-

Note * No convictions in their lifetime since birth

Note ** No convictions within the past ten (10) years preceding the date of this application

High Level Access for Unescorted Access to Secure Access Control Areas

Individual workers must agree to have a background check by filling out and signing a background screening application and consent form.

Individual must be a United States Citizen or a Lawful Resident Alien.

Identity Validation Check will be completed to determine that the individual is who the individual says he/she is.

Validate applicant-supplied data to assess truthfulness. Willful falsification or omission disqualifies individual.

Identify criminal, terrorist, or other security-related information.

No convictions against below listed 49CFR 1542.209 (d) within ten (10) years preceding the date of application, except as noted*

- (1) Forgery of certificates, false marking of aircraft, and other aircraft regulation violation;
- (2) Interference with air navigation;
- (3) Improper transportation of a hazardous material;
- (4) Aircraft piracy;
- (5) Interference with flight crewmembers or flight attendants;
- (6) Commission of certain crimes aboard aircraft in flight;
- (7) Carrying a weapon or explosive aboard aircraft;
- (8) Conveying false information and threats: (e.g., bomb threats, explosives in briefcase, etc. in security areas);
- (9) Aircraft piracy outside the special aircraft jurisdiction of the United States;
- (10) Lighting violations involving transporting controlled substances;
- (11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;
- (12) Destruction of any aircraft or aircraft facility;
- (13) Murder.
- (14) Assault with intent to murder.
- *(15) Espionage.
- *(16) Sedition.
- (17) Kidnapping or hostage taking.
- *(18) Treason.
- (19) Rape or aggravated sexual abuse.

WORLD TRADE CENTER TRANSPORTATION HUB

- (20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.
- (21) Extortion.
- (22) Armed or felony unarmed robbery.
- (23) Distribution of, or intent to distribute, a controlled substance.
- (24) Felony Arson.
- (25) Felony involving a threat.
- (26) Felony involving-
 - (i) Willful destruction of property;
 - (ii) Importation or manufacture of a controlled substance;
 - (iii) Burglary;
 - (iv) Theft;
 - (v) Dishonesty, fraud, or misrepresentation;
 - (vi) Possession or distribution stolen property;
 - (vii) Aggravated assault;
 - (viii) Bribery; or
 - (ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment: of more than 1 year; or
- (27) Violence at international airports:
 - *(a) Terrorism.
 - *(b) RICO (Racketeer Influenced and Corrupt Organizations Act).
 - (c) A crime involving a severe transportation security incident.
 - (d) Felony involving-
 - (i) Smuggling;
 - (ii) Immigration violations;
- (28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.

Note * No convictions in their lifetime since birth



RIDER "T"
MILESTONE DATES AND LIQUIDATED DAMAGES
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER AND TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

December 16, 2009
(Revision #1)

TRADE: EXCAVATION & FOUNDATION

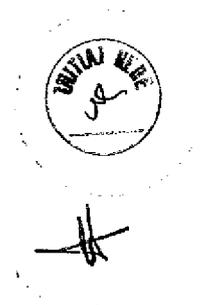
The following criteria defines the Liquidated Damages and the corresponding Milestone Durations included in the Contract;

- Complete the Phase 1 field installation (as defined in Rider A – Section E) 7 months from the start of its field work as directed by the Construction Manager.

- Complete the Phase 2 field installation (as defined in Rider A – Section E) 9 months from the start of its field work as directed by the Construction Manager.

- Complete the Phase 3 field installation (as defined in Rider A – Section E) 5 months from the start of its field work as directed by the Construction Manager.

In the event that the Contractor has not completed the work as defined in the Contract, **liquidated damages in the amount of Five Thousand Dollars (\$5,000.00) per day** shall be credit from the Contract.



RIDER "U"
ADDITIONAL PROVISIONS
WORLD TRADE CENTER –
VEHICULAR SECURITY CENTER AND TOUR BUS PARKING FACILITY
NEW YORK, NEW YORK

April 21, 2010
(Revision 1)

TRADE: EXCAVATION & FOUNDATION

The Lump Sum Contract includes the work as noted in the following documents which were issued to this Contractor in the Lump Sum Proposal Package:

- The World Trade Center – Procedure For The Approval Of Cranes & Derricks, Effective October 19, 2009 (10 Pages)
- Notification of MBE / WBE On-Line Directory and Forms, dated December 17, 2008 (Pages 521 thru 544; 1 Letter Page dated 1/26/10; and Analysis of Bid Chart – 3 pages)
- PANYNJ Subcontractor Approval Request Forms 2327B/03-09; 2327C/03-09
- PANYNJ Cutting and Welding Permit 2133/03-06
- Prevailing Wage Rates, dated February 1, 2020
(To be forwarded under separate cover)
- Responses to RFI's #1 thru 77 (except #4, 31, and 47) per Tishman Bid Addendum #5, dated April 14, 2010
- Responses to RFI's #4 and 31 per Tishman Bid Addendum #6, dated April 23, 2010
- Responses to RFI's #47, and 78 thru 104 per Tishman Bid Addendum #8, dated May 7, 2010
- Responses to RFI's #105 thru 108 per Tishman Bid Addendum #9, dated May 14, 2010

Notice To Proposers: Proposers are advised that New York Crane is not an approved vendor/subcontractor for this Lump Sum Contract.




**THE WORLD TRADE CENTER
PROCEDURE FOR THE APPROVAL OF CRANES AND DERRICKS
Effective March 8, 2010**

All Contractors and Subcontractors, regardless of tier shall comply with the requirements of Title 27/Subchapter 19 (currently in effect), Chapter 33/Section BC 33 19, and Reference Standard RS 19-2, of the Building Code of the city of New York ("BCCNY"). All submittals are to be sent to the Resident Engineer's Office at the WTC Site ("REO"). Acceptance will be granted by the REO's office with concurrence by the Engineering Department's duly Authorized Representative, Maureen Lynch-Jacobs. The current procedure for the approval to erect, use, and operate cranes or derricks at the World Trade Center Site ("WTC Site"), including the erection, jumping, climbing, and dismantling of tower and climber cranes, shall be as follows:

- I Prior to Delivery:** Prior to the delivery to the WTC Site of any crane or derrick, the contractor shall provide the following to the Resident Engineer's Office at the WTC Site ("REO"):
- A. A copy of a current and valid Form CD-2, entitled "Crane/Derrick/Mobile Work Platform-Approval and Operation Application/Certificate, "Revised 08/15/05, as issued by the New York City Department of Buildings-Cranes & Derricks Division ("NYDOB-C&D"). The Form CD-2 shall bear the approval stamp of NYCDOB_C&D as a "Temporary Certificate of Approval/Temporary Certificate of Operation," and must include an expiration date, a legible CD Number, and an authorized signature from a representative of NYCDOB-C&D. In the event that such a "Certificate of Approval/Operation," is not available, the owner of the crane or derrick must file a Form CD-2, directly with NYCDOB-C&D. Proof of the filing and a copy of the completed Form CD-2 shall be provided to the REO.
 - B. If the crane or derrick is diesel powered, and the diesel engine has a horsepower rating equal or greater than 50HP, a copy of the applicable catalogue cut and other relevant information describing the Diesel Emissions Control Device retrofitted to the engine. The retrofit device shall be a Diesel Particulate Filter ("DPF"), or other Best Available Technology ("BAT") as determined by the Materials Engineering Unit ("MEU") of the Port Authority Engineering Department.
 - C. If delivery and/or placement of the crane or derrick will require a movement on the West Haul Road either over the existing Acrow Bridge, or the slip road directly west of the South Projection, the contractor must comply with the following:
 - 1. For movements over the Acrow Bridge: The contractor must comply with the "Acrow Panel Bridge Overload Protocol, "dated April 30, 2002, copy attached. This protocol requires the submission to the REO of an "Acrow Panel Bridge – Vehicle Information Sheet" describing in detail the loading to be imposed on the bridge, and is to be accompanied by appropriate catalogue cuts detailing the specific configuration of the crane or derrick during the movement.

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PROCEDURE FOR THE APPROVAL OF CRANES AND DERRICKS
Effective March 8, 2010**

2. For movements on the slip road: Please note that the slip road is a bridge structure limited to loads not exceeding AASHTO(HS. In cases where the loading will exceed this threshold, an “Acrow Panel Bridge – Vehicle Information Sheet” is to be submitted to the REO describing in detail the loading to be imposed on the road, and accompanied by appropriate catalogue cuts detailing the specific configuration of the crane or derrick during the movement.
- D. A fully executed Form CD-11, entitled “Equipment Owner Identification Form,” Revised 12/03, as issued by NYCDOB-C&D.
- E. A fully executed Form CD-16, entitled “Cranes and Derricks Division – Applicants Statement of Notification to Community Boards, “ Revised 12/03, as issued by NYCDOB-C&D. Please note that it is the responsibility of the EOR to ensure that the Community Board has been appropriately notified. Proof of such notification is to be attached to the form. The web address for Community Board No. 1 is cbl@cbl.org. Please copy Mr. Quentin Brathwaite brathwai@panynj.gov on all such emails.
- F. **For Cranes or Derricks to be Operated Solely On the Property of the Port Authority, or On the Property of the State of New York:** The contractor shall procure the services of a New York State Licensed Professional Engineer to be designated as the Engineer of Record for the crane or derrick (“EOR”). The EOR is to prepare and submit the following to the REO for review and acceptance:
1. A fully executed Form CD-4, entitled “Crane/Derrick/Mobile Work Platform-On-Site Inspection Application/Certificate,” Revised 12/03, as issued by NYCDOB-C&D. The Form CD-4 shall be accompanied by plans, drawings, and calculations, all signed & sealed by the EOR. The plans, drawings, and calculations must clearly show and demonstrate the soundness of the following:
 - a. The proposed location of the crane or derrick;
 - b. All pertinent features of the site including, but not limited to, the assumed soil bearing values;
 - c. Ground elevations and slopes;
 - d. Vaults and other subsurface structures;
 - e. Supporting platforms and structures;
 - f. The swing and reach of the crane or derrick.
 - g. Loads in accordance with Drawings CS1, dated 10.9.09, entitled “ Allowable Crane Loading”
 - h. Plans for emergency high winds
- G. **For Tower or Climber Cranes:** In addition to the above documentation of this Section, the EOR must prepare and submit the following:
1. A fully executed Form CD-7, entitled “Notification of Erecting or Dismantling of Climber or Tower Crane,” Revised 07/07. The Form CD-7 shall be accompanied by plans for the erection, jumping,

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climbing, and dismantling of the crane. The form is to be accompanied by a copy of the license of the master or tower rigger designated to supervise the erection of the crane, signed & sealed plans, and all associated documentation required to ensure compliance with the manufacturer's recommendations. The plans shall include the following:

- a. The identification of the equipment proposed to be used for all such operations including all machines to be used for the erection,, or dismantling.
- b. A detailed identification of the assemblies and components required for the erection and dismantling of the equipment.
- c. The location of the equipment, sidewalk sheds, surrounding buildings, protection for their roofs and pick-up points, loads, and radius of swing of all loads. In addition, the safe load from the approved load radius chart shall be submitted for lift radius.
- d. A weight list certified by the crane manufacturer listing all assemblies and components proposed to be lifted. All components are to be clearly marked with their weight painted on the assembly, or stamped on metal tags attached to the assembly. In lieu of a manufacturer's certification, the EOR may certify the weight list indicating how such weights were determined.
- e. The center of gravity of all asymmetrical components shall be located and shown.
- f. A sequence of operation detailing the erection, jumping, climbing, and dismantling, along with the rigging materials to be used in such operations.
- g. All cranes or derricks located within the property lot lines or on the street, and being used to erect, jump, climb, or dismantle the crane.
- h. The names, license numbers (as applicable), and contact information for the licensed rigger, rigger foremen, site safety manager, crane safety coordinator, and the contractor performing the erection, jumping, climbing, and/or dismantling work.
- i. A signed & sealed load test procedure identifying the weights to be used, and the load moment and line pull testing to be conducted.

Only upon the review and acceptance by the REO with concurrence from the Engineering Department's Representative of all of the above listed submissions will the crane or derrick be permitted to enter the WTC Site. Please note that all such deliveries must be coordinated with WTC Facility Operations.

II Upon Deliver: Upon the delivery of the crane or derrick to the WTC Site, the contractor shall proceed as follows:

- A. In the event that a "Certificate of Approval/Operation" is not available, but a Form CD-2, has been filed with NYCDOB-C&D for the inspection of the crane or derrick at the WTC Site. The NYCDOB-C&D Inspector will be permitted access to the WTC Site for the purpose of conducting such an inspection.

Please note that a Contractor will not be permitted to use or operate a crane or derrick at the WTC Site unless a current and valid "Certificate of Approval/Operation," as issued by NYCDOB-C&D, is presented to the REO.

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For Tower or Climber Cranes: The NYCDOB-C&D inspection shall be conducted in both the unassembled and assembled states.

- B. The names, classifications, and license numbers of the crane or derrick operator and the master, tower, or climber crane rigger (as applicable).
- C. **For Cranes or Derricks to be Operated Solely On the Property of the Port Authority, or On the Property of the State of New York:** The contractor shall procure the services of a New York State Licensed Professional Engineer to be designated as the Engineer of Record for the crane or derrick ("EOR"). The EOR is to conduct a field inspection of the crane in the "unassembled state," and prepare and submit the following to the REO for review and acceptance:
1. A Form CD-8, entitled "Technical Report – Statement of Responsibility," Revised 12/03, as issued by the NYCDOB-C&D. The Form CD-8 shall be completed in its entirety with the exception of Box #5B, and signed and sealed by the EOR in Box #5A.

Only upon review and acceptance by the REO with the concurrence of the Engineering Department's representative of the Forms CD-4 and CD-8, and all plans and associated documentation will the contractor be permitted to proceed with the placement and assembly of the crane or derrick. Please note that REO acceptance of the above documentation under this Section does not constitute a release to commence with the erection of a **tower or climber crane**, additional submittals and inspections are required as stipulated in the next subsection of this procedure (Subsection 3).

- D. **For Tower or Climber Cranes:** In addition to the above documentation of this Section, the EOR must prepare and submit the following:
1. A fully executed Form CD-12, entitled "Designation of Safety Coordinator", Revised 12/03, as issued by NYCDOB-C&D.
 2. A signed & sealed report documenting the results of his field inspection of the crane in the "unassembled state", and certifying that all crane parts are in satisfactory condition, and acceptable for assembly and erection.
 3. A copy of the Safety Coordination Meeting Log as stipulated in Section BC 3319 entitled "Cranes and Derricks", of the BCCNY (3319.8.2 through 3319.8.8, and 3319.10.2), which require that the contractor conduct such a safety meeting prior to the erection, jumping, climbing, or dismantling of a tower or climber crane. These provisions stipulate the required meeting participants, topics of discussion, and record documents. Also, the inspections and certifications required by the EOR, crane operator, and rigger prior to the commencement of any such operation.

For Tower or Climber Cranes: Only upon review and acceptance by the REO of the all the documentation stipulated above will the contractor be permitted to proceed with the erection of the tower or climber crane.

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- E. For Cranes or Derricks to be Operated Within the Fence Line of the WTC Site on or Encroaching Upon the Property of the Cit of New York:** The Contractor shall file all forms, plans and associated documentation directly with NYCDOB-C&D. Only upon the presentation to the REO of a current and valid "Certificate of On-Site Inspection," as issued by NYCDOB-C&D, will the Contractor be permitted to assemble or erect the crane or derrick at the WTC Site.

III Prior to Use and/or Operation: Prior to the use and/or operation of a crane or derrick on the WTC Site, the contractor shall proceed as follows:

A. For Cranes or Derricks to be Operated Solely On the Property of the Port Authority or On the Property of the State of New York: Upon the completion of the placement, assembly, and/or erection of the crane or derrick, including the erection of a tower or climber crane, the contractor shall proceed as follows:

1. The EOR shall perform a field inspection of the crane or derrick in the "assembled state", as required under BCCNY Reference Standard RS 19-2. The EOR will be responsible for the verification, inspection and certification of the following:
 - a. That the crane or derrick has a current and valid "Certificate of Operation" as issued by NYCDOB-C&D for the configuration to be used at the WTC Site;
 - b. That the crane or derrick support, dunnage, configuration, and location have been constructed and positioned in accordance with the plans and drawings submitted to the REO with the Form CD-4.
 - c. That there are no vaults, or other below grade structures, affected by the crane or derrick other than those specifically shown on the plans and drawings submitted to the REO with the Form CD-4;
 - d. A visual inspection of the crane or derrick to ensure that there is no damage including, but not limited to , the following:
 - i. Bent or missing lacings;
 - ii. That the pins are properly installed, and have no visible fatigue;
 - iii. All items listed in Section 5-2.1.2 of ASME B30.5-2004.

Upon the completion of the field inspection by the EOR, and his/her determination that the crane or derrick is sound, and has been assembled and positioned in accordance with the plans and drawings submitted to the REO with the Forms CD-4 and CD-7, the EOR shall submit to the REO both a signed & sealed inspection report certifying conformance, and a fully executed Form CD-8, signed & sealed in Box #5B.

2. **For Tower or Climber Cranes:** In addition to the above, the contractor is to provide the following:
 - a. The EOR shall conduct a load test in accordance with the load test procedure submitted under Item I.G.1.j. above. Upon completion, and his/her determination that the results are satisfactory, the EOR shall submit to the REO a signed & sealed report certifying acceptance of the results.

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- b. Procure the services of a NYS Licensed Surveyor to perform a plumbness survey, a Licensed Testing Laboratory to perform anchor bolt pull-out testing, and a Licensed Rigger to certify compliance with the manufacturers bolt torque values connecting sections. Prepare and submit a fully executed Form CD-6 , entitled "Crane/Derrick and Work Platform – Plumbness And Torque Notification/Anchor Bolt Pull Out Test," Revised 12/03, as issued by NYCDOB-C&D.
- c. Written certification by the EOR that all safety devices on the crane involved in the erection, jumping, climbing, and dismantling procedure have been calibrated in accordance with the manufacturer's recommendations.

Only upon the review and acceptance by the REO of a signed & scaled inspection report and Final Form CD-8, (and the Form CD-6 for Tower and Climber Cranes), will the contractor be released by the REO to proceed with the use and operation of the crane or derrick. The Form CD-4 and Final Form CD-8, both as accepted by the REO, will constitute the "Certificate of On-Site Inspection.

B. For Cranes or Derricks to be Operated Within the Fence Line of the WTC Site On or Encroaching Upon the Property of the City of New York: The Contractor shall file the form CD-6 and final Form CD-8 directly with NYCDOB-C&D. Proof of the filing, and copies of the completed form, shall be provided to the REO. Upon receipt by the Contractor of the "Certificate of On-Site Inspection," issued by NYCDOB-C&D, a copy shall be provided to the REO.

Notes:

1. Should the "Certificate of Approval/Operation" issued by the NYCDOB-C&D expire while the crane or derrick is in use at the WTC Site, the owner of the crane or derrick shall file all renewals and/or extensions directly with NYCDOB-C&D. Proof of the filing along with a copy of the completed Form CD-2 shall be provided to the REO. Upon receipt of any such renewals or extensions issued by NYCDOB-C&D, a copy shall be provided to the REO.
2. Please note that the estimated review time for all crane and derrick submissions to the REO is five (5) business days.
3. The above procedure is subject to change by the Authority based on subsequent Local Laws promulgated by the City of New York, and Regulatory Notices issued by the NYCDOB-C&D.
4. Although not specifically referenced in the above procedure, all cranes and derricks at the WTC Site shall also comply with the regulations promulgated by the New York State Department of Labor ("NYSDOL") -- Part 23 entitled "Protection in Construction,

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Demolition, and Excavation,” – Subpart 23-8 entitled “Mobile Cranes, Tower Cranes, and Derricks”.

5. For questions regarding Diesel Emissions Control Devices and retrofits, refer to the Specification entitled “Environmental Performance Commitments,” contained in each WTC Contract.
6. If the proposed crane or derrick position is within two hundred feet (200’) of an NYC subway line or facility, approval from New York City Transit (“NYCTA”) is required prior to the placement, assembly, or erection of the crane or derrick. In such cases, please note that a Certificate of On-Site Inspection cannot be issued without NYCT written approval. The current NYCT contact is Mr. Stan Singh at (212) 510-2653.
7. Sometime following the delivery of any crane or derrick to the WTC Site, MEU will physically verify that the Diesel Emissions Retrofit has been completed in accordance with the BAT determination of paragraph 1.C, above.
8. Please note that in accordance with BCCNY under Title 27/Subchapter 19/Article 10/Section 1057 (27-1057), Reference Standard 19-2/Section 8 (8.1.3), and Chapter 33/Section BC 3319 (3319.3), the following equipment and/or cranes are, or are in part, exempt from the above approval procedures. However, in cases where the crane or derrick will be on the property of the City of New York, written notice must be provided to NYCDOB-C&D as per applicable regulations.
 - a. excavating or earth-moving equipment, except cranes used with clamshells (Full Exemption);
 - b. Augurs, churn-drills, and other drilling equipment not used for the hoisting of any objects (Full Exemption);
 - c. Cranes or derricks performing an emergency use pursuant to an order or direction issued by the REO (Full Exemption);
 - d. Cranes with less than 160 feet combined boom/jib length to be used for a period not exceeding 24 hours, operated entirely within the property lines, and at a location at least one boom/jib length away from all property lot lines (Exempt From Sections # I F, II C and III, above);
 - e. Service cranes and clamshells with a boom length of 110 feet or less to be operated entirely within the property lines and at a location that does not require the moving of any load over a roadway or sidewalk *(Exempt From Sections # I F, II C and III, above);
 - f. Pile drivers or clamshells used entirely within the property lines with a soil bearing pressure not exceeding allowable crane loading noted on Drawing CS1, dated 10.9.09 (Exempt From Sections # I F, II C and III, above);
 - g. Mobile cranes, including jibs and any other extensions to the boom ,not exceeding 50 feet in length and with a manufacturer’s rated capacity of 3 tons or less (Full Exemption);
 - h. Mobile cranes, including jibs and any other extensions to the boom, exceeding 50 feet but not exceeding 135 feet in length, and with a manufacturer’s rated capacity of 3 tons or less (Exempt from Sections # I F, II C and III, above),

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- i. Mobile cranes, including jibs and any other extensions to the boom, exceeding 50 feet but not exceeding 135 feet in length, and with a manufacturer's rated capacity of 3 tons or less used exclusively as a man-basket (Full Exemption);
 - j. Hoisting Machines permanently mounted on the bed of material delivery trucks that are used exclusively for the loading and unloading of such trucks, provided that the length of boom does not exceed the length of the truck bed by more than 5 feet, and any material transported thereon shall not be raised more than 2 feet in the unloading process (Full Exemption);
 - k. Derricks having a manufacturer's rated capacity not exceeding 1 ton (Full Exemption);
 - l. Mechanics trucks with a hoisting device used in activities related to the maintenance and repair of construction related equipment (Full Exemption);
 - m. Articulating boom cranes that do not have an integral hoisting mechanism, and that are used exclusively for the loading and unloading of trucks or trailers, provided that the length of boom does not exceed 135 feet, and that any material transported thereon shall not be raised more than 100 feet in the unloading process (Full Exemption).
9. For jurisdictional reference, refer to the drawing entitled "Record Property Map of World Trade Center," undated, which shows the current property lines of the Port Authority, the State of New York, and the City of New York within the WTC Site. Please note that the individual jurisdictions generally encompass the following:
- **City of New York:** All Vesey and Liberty Streets east of the West Street Haul Road, and the full length of Church Street.
 - **Port Authority of NY & NJ:** All areas bounded by the newly installed and existing slurry walls of the East and West Bathtubs.
 - **State of New York:** The full length of the West Street Haul Road.
10. The IRT Subway enclosure is limited to a maximum uniform vertical load of 200psf. Loading and Coordination is to be approved by the REO.
11. The Contractor is to maintain a copy of all documents in the crane cab.
11. At the present time, the duly authorized representative of the Engineering Department, Construction Division is Maureen Lynch-Jacobs, located at 115 Broadway, 8th Floor, phone 212-435-5115, Cell

Contacts:

For issues related to the above procedure, please contact the following Port Authority personnel:

- **Enforcement:**

For **NS11M&M**, Thomas J. O'Connor, P.E.

Office: (212) 435-5612 / Ex. 1

For **One World Trade (Tower 1)**, Lynda Tollner, P.E.

Office: (212) 435-5632 Ex. 1

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For **Towers 2, 3, 4, 5, 7, and Retail**, Carla Bonacci, A.I.A.
Office: (212) 435-5532

For **Transportation Hub**, Mr. Richard Benke, P.E.
Office: (212) 435-5676, Ex. 1

For **Vehicle Security Center**, Debra Simonelli
Office: (212) 435-5148, Ex. 1

For all other **WTC Site Projects**, Contact the Resident Engineer's office

- **Incident Response:** In the event of an accident or emergency involving a crane, please refer to the current WTC Site Emergency Incident Response Map (the "IR Map") available from the WTC Site Safety Director, Joseph Schwed [@jschwed@panynj.gov](mailto:jschwed@panynj.gov).
- **Engineering Department Representative:** Maureen Lynch-Jacobs --
mjacobs@panynj.gov
- **Best Available Technology ("BAT") Retrofits:** Dorian Bailey
Office: (201) 216-2963
- **WTC Site Deliveries:** Robert Schutz /

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Revision Tracking:

<u>Revision</u>	<u>Date</u>	<u>Comments</u>
-	7/31/08	Original Issuance
1	8/20/08	Revised to reflect current Letter of Agreement with NYCDOB-C&D
2	9/4/08	Revised to reflect findings of OIG Integrity Monitor following NYCDOB-C&D Gap Audit.
3	9/16/08	Amended to reflect Revised Protocols for Erecting and Dismantling (Including Jumping) Tower Cranes as issued by NYCDOB-C&D.
4	10/17/08	Revised to reflect OIG Integrity Monitor review of the 9/16/08 version.
5	12/30/08	Revised to include NYCDOB-C&D emergency contact number.
6	4/1/09	Revised to reflect Memorandum of Understanding between Port Authority and NYC Department of Building, executed on March 5, 2009.
7	5/27/09	Revised to reflect manbaskets and the transfer of crane approval responsibilities to the PA Engineering Department. CD 11 & CD16 to be Included for all cranes and Load test for Tower Cranes only
8	7/17/09	Revised to include concurrence by the Engineering Department
9	10/19/09	Added II.D.1.g. and corrected Notes 8.f. to include Drawing CS1, dated 10.9.09, entitled "Allowable Crane Loading". Updated Contact List
10	10/27/09	WTC other projects contact
11	3/3/10	II B,C, and D1 became I D,E, and F, -information required prior to delivery I. F. 1. h. note added for emergency high winds plan Note 10 is added for loading on the IRT subway enclosure Note 11 is added for the maintainance of documents I. B. was moved to II.B. -names of operators after delivery I. G.1.g.moved to III. A. 2. c. -cert. of safety devices at time of load test

**NOTIFICATION
OF
MINORITY BUSINESS ENTERPRISES
AND
WOMEN'S BUSINESS ENTERPRISES
ON-LINE DIRECTORY
AND
FORMS**

The Port Authority has a long-standing practice of making its contract available to as many firms as possible and has taken affirmative steps to encourage Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) to seek business opportunities with it. The Port Authority's on-line Directory of Qualified MBE/WBEs lists the firms that are registered to assist Contractors in meeting and exceeding their Good Faith Goals.

The MBE/WBE Directory specifies the firms the Authority has determined to be (1) MBEs/WBEs and (2) experienced in performing work in the trades and contract dollar ranges indicated.

Contractors are provided with an interactive directory and the ability to view and print a current listing of M/WBE contractors. Information may be selected and sorted according to categories, state, dollar range, and type (MBE, WBE, DBE, and SBE).

To view the directory, type in www.panynj.gov/business-opportunities/mwsbe-search.cfm. For further information about MWBE Qualified Vendors, contact the Office of Business and Job Opportunity at (212) 435-7802.

THE PORT AUTHORITY OF NY & NJ

Certification Application for the Minority and Women-owned Business Enterprise Program

PLEASE PRINT OR TYPE CLEARLY

General Instructions:

- DO NOT LEAVE ANY SPACES BLANK ON THE APPLICATION - if a question is not applicable to your business insert "N/A" in the space provided for your answer
- Whenever the space is insufficient to answer the questions completely, attach additional sheets as necessary. Use the question number to identify any answer continued on an additional sheet
- For questions, call the Certification Helpline at 212-435-7808 or E-mail objocert@panynj.gov.
- Once you have completed the application, please return it and all required documentation to:

The Port Authority of NY & NJ
 Office of Business & Job Opportunity - Certification Unit
 233 Park Avenue South, 4th floor
 New York, NY 10003

SECTION I: MAIN COMPANY INFORMATION

1. Business Name

Legal name of company applying to be certified

2. D.B.A.

"Doing Business As"- Complete if company does business under a name which is different from its legal name.

3. Business Address (must represent a physical location; cannot be a Post Office Box)

Street Address	Suite / Apt / Room/ Unit	
City	State	Zip/Zip+4
County		

4. Business Mailing Address (complete only if different from the address given in Question 3)

Street Address	Suite / Apt / Room/ Unit	
City	State	Zip/Zip+4

5. Business Phone () ---

5a. Business Fax () ---

6. Business Website

7. Your E-mail Address

7a. Your Cell Phone Number ()

8. Federal EIN or SSN

9. Name/title of an authorized representative to contact during the application review process:

Mr./Miss/Mrs./Ms.	First Name	:	Last Name
Title	Phone Ext.		E-Mail Address

10. This company is applying for certification as ("X"all that apply)

- Minority-owned Business Enterprise (MBE) Refer to page _____ of the Application Guidelines to determine the appropriate designation for your company.
- Women-owned Business Enterprise (WBE)

11. Are you currently involved in the bidding process or other contract/purchase order negotiations with the Port Authority or Port Authority tenants?

Yes _____ No _____

If "Yes", identify the department within the Port Authority and/or name of tenant and contact name

12. Has your company ever applied for certification as an M/W/SBE, or a DBE (whether SBA 8(a), Transportation, or other) with another governmental agency, department, or authority?

Yes _____ No _____

If "Yes", provide the following details

Name of Governmental Entity	Program (MBE, WBE, SBE, DBE)	Status (Pending, Certified, Decertified, Denied, Rejected, Revoked, On Appeal)	Date (mm/yy)

13. How did you first hear about The Port Authority of NY & NJ's M/W/DBE Certification program(s)? (please choose only one)

Letter/Call/E-mail Port Authority Web site

Event

Please specify name or sponsor of event and date

Other

Please specify what and when

SECTION II: COMPANY OWNERSHIP

14. Business Structure

- Sole Proprietorship Partnership (including LLP)
 Limited Liability Company (LLC) Corporation (including S-Corp.)

15. Date company was established _____ / _____ / _____

16. Has the business existed under a different type of business structure prior to the Date Established indicated in question? 16

Yes _____ No _____

If "Yes", please provide copy of original Business Certificate

17. Has your Certificate of Incorporation, Business Certificate, or Certificate of Trade Name been amended?

Yes _____ No _____

If "Yes", please provide copy of amended Business Certificate

18. Method of Business Origination or Acquisition (check all applicable)

- Started New Business Secured Franchise
 Bought Existing Business Secured Concession
 Merger or Consolidation Inherited Business
 Other _____

19. Date of origination (or acquisition, if later) _____ / _____ / _____

For the remaining questions in Section II which ask for ethnic identification of owners, shareholders, officers, board members, and managers, please use the following group codes to identify the ethnicity of each individual where required.

01 Black	02c Spanish	04 Native American
02a Hispanic	03a Asian-Pacific	05 White (Non-Minority)
02b Portuguese	03b Asian-Indian	06 Other

20. Please provide the following information for all person(s) with ownership interest in the company (all proprietors, partners, and members OR, in the case of a corporation, all shareholders).

Name (First and Last)	Position In Company	% Owned	Date Ownership Established (mm/yy)	Gender (M/F)	Ethnicity (see group code table)	US Citizen or Permanent Resident Alien (Y/N)

*** QUESTIONS 22-24 APPLY ONLY TO CORPORATIONS. *** *** IF YOUR COMPANY IS NOT A CORPORATION, SKIP TO QUESTION 25 ***

21. If the company is a corporation, please provide the following information for all shareholders identified in Question 21

Name (First and Last)	Position In Company	Number of Shares Owned	Unit Share Price Paid When Purchased

22. State the number of company shares in each of the following

Common Authorized _____ Common Issued _____
 Preferred Authorized _____ Preferred Issued _____

23. Name and position of current Officers and/or Board of Directors

Name (First and Last)	Position	Position Effective Date (mm/yy)	Gender (M/F)	Ethnicity (see group code table)

**** ALL APPLICANTS SHOULD RESUME COMPLETING THE APPLICATION HERE ****

24. Please identify the capital contributions to the company by each person identified in Question 21, including cash, equipment, property, and expertise

Name (First and Last)	Type of Contribution	Total Dollar Value	Date of Contribution (mm/yy)

25. If your company is owned in whole or in part by another company, please identify the company and the percentage of ownership interest. Include venture capitalists and other similar investors

Company Name	Percentage Owned	Date Ownership Established (mm/yy)

SECTION III: COMPANY MANAGEMENT

26. Identify individuals responsible for managerial operations (*state if owner or non-owner*). Refer to group code definitions on prior page.

Name & Title	Gender (M/F)	Group Code	Owner? (Y/N)
a) Financial Decisions			
b) Estimating			
c) Preparing Bids			
d) Negotiating Bonding			
e) Marketing & Sales			
f) Hiring & Firing			
g) Supervising Field Operations			
h) Purchasing Equipment/Supplies			
i) Managing & Signing Payroll			
j) Negotiating Contracts			
k) Signatures for Business Accounts			

27. Do any principals, officers, employees and/or owners of the firm have an affiliation, i.e. business interest or employment with any other firm?

Yes _____ No _____ (If "Yes", complete the following)

Name (First and Last)	Name and Address of Affiliated Firm	Nature of Business	Nature of Affiliation

28. Number of Employees (if necessary, average over the past year)

<u>Permanent</u>	<u>Temporary</u>	<u>Field</u>
Full-Time _____	Full-Time _____	Full-Time _____
Part-Time _____	Part-Time _____	Part-Time _____

SECTION IV: COMPANY FINANCES

29. Does your company have a Line of Credit?

Yes _____ No _____ If "Yes", please provide details:

Bank	Dollar Limit	Name of Guarantor(s)
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30. Please list all major current lenders to the company

Name of Lender	Amount of Loan	Terms of Repayment

31. Identify bank(s) where company accounts are maintained

Bank Name	Address	Contact Name	Contact Title	Type of Account

32. Please provide gross receipts (sales) for each of the last three fiscal years. (If in business for less than three years, complete as applicable)

Current Year	_____	\$ _____
Last Year	_____	\$ _____
Previous Year	_____	\$ _____

SECTION V: COMPANY OPERATIONS

33. Check the industry which best describes your PRIMARY line of business

- Construction-related
- Consultants
- Consumer Service
- Manufacturer/Supplier
- Professional Service
- Purchasing
- Technical Service
- Other _____

34. If a license, permit or certification (e.g. Master Electrical License, PE for engineers, CDL for truck drivers, etc.) is required to conduct any part of your company's business, please identify the individual(s) holding the license, permit or certification and provide a copy

Name of the Holder/Registrant	Type of License/ Permit/Certification	Issued by	Issue Date (mm/yy)	Exp. Date (mm/yy)

35. Is your company bonded? Yes _____ No _____

If "Yes", please provide detail:

Name of Agent/Broker	Surety Co.	Bonding Limit	
		Single \$	Aggregate \$

36. Is your company insured? Yes _____ No _____ If "Yes", please provide detail:

Carrier Name

\$ Amount of Liability Insurance

37. Please list the company's major equipment or machinery

Type	Depreciated \$ Value	Acquisition Date (mm/yy)	Owned or Leased

38. List rented, leased or owned warehouse, plant and office facilities – Submit copy of lease, deed or mortgage

Facility Type	Owner or Name of Lessor and/or rental agent	Amt of yearly payment

39. Does your company share office space, personnel or equipment with any other company?

Yes _____ No _____

If "Yes", please provide details.

Company Name	Phone	Personnel (X)	Office Space ("X")	Yard Space (X)	Equipment ("X")	Machinery (X)

ACKNOWLEDGEMENTS AND VERIFICATION

FIRST, this certification application form, the supporting documents, and any other information provided in support of the application is considered part of the application. Any false statements or misrepresentations in the application may result in the applicant's disqualification from certification as Minority and/or Woman-owned Business Enterprise (M/WBE) by The Port Authority of New York and New Jersey for him/herself and its subsidiaries, which are included in the term "Port Authority".

SECOND, the information contained herein is subject to the Port Authority's Freedom of Information policy as reflected in the resolution adopted by the Committee on Operations of the Port Authority on August 13, 1992.

THIRD, the Port Authority may require further proof of eligibility for certification in addition to the information disclosed in this application and the applicant shall cooperate with the Port Authority in supplying the additional information. By completing this application, the applicant agrees to submit the additional proof required and acknowledges that the Port Authority may decide to deny the application if the additional proof is not submitted within 30 days after it is requested.

FOURTH, by filing this application, the applicant consents to examination of its books and records and interviews of its principals and employees by the Port Authority for the purpose of determining whether the applicant is, or continues to be, an eligible M/WBE. The applicant acknowledges that its certification may be denied if such examinations or interviews are refused or if the Port Authority determines, as a result of the examinations or interviews, that the applicant does not qualify for certification as a M/WBE.

FIFTH, by filing this application, the applicant consents to inquiries being directed by the Port Authority to the applicant's bonding companies, banking institutions, credit agencies, contractors, clients and other certifying agencies for the purpose of ascertaining the applicant's eligibility for certification. If the applicant fails to permit such inquiring to be made, such failure may be grounds for denying or revoking the applicant's certification.

SIXTH, the applicant agrees that it will advise the Port Authority of any change in the ownership or operational and managerial control of applicant's business after the certification application has been filed within 30 days of such change.

SEVENTH, certification is normally granted for a period of five (5) years. However, the Port Authority may require submission of a new application, additional information, examinations of the applicant's principals and employees at any time before the expiration of the five-year certification period. The applicant's failure to submit such material or to consent to such examinations and interviews will be grounds for revocation of certification.

EIGHT, the filing of this application, its acceptance by the Port Authority, and any subsequent certification of the applicant by the Port Authority, is not intended to and does not create any procedural or substantive rights enforceable at law by the applicant against the Port Authority, its Commissioners, officers, agents or employees and any such certification is only intended to facilitate the identification of qualified and bona fide M/WBEs.

NINTH, the Code of Ethics-certification attached hereto shall be considered part of this certification application and the applicant is advised to familiarize him/herself with the terms of the certification prior to submitting this application.

TENTH, in submitting this application the applicant and each person signing on behalf of the applicant certifies that, to the best of their knowledge and belief, the following statements are true and correct:

A) No individual who is current or former employee of the Port Authority or its subsidiaries (i.e., Port Authority Trans-Hudson Corporation (PATH), Newark Legal and Communications Center Urban Renewal Corporation) other than those individuals identified in the space immediately below (1) owns an interest in; or (2) has involvement in a relationship with the applicant firm (a) from or as a result of which the individual has received within the past year, or is entitled to receive in any future year, more than \$1,000 or its equivalent; or (b) which has a market value in excess of \$1,000. *(List here any such current or former Port Authority Employee (s))

B) No individual who is a current or former employee of the Port Authority or its subsidiaries other than those individuals identified in the space immediately below (1) holds a position in the applicant firm such as an officer, director, trustee, partner, employee, or a position of management; or (2) acts as a consultant, agent or representative of the firm in any capacity. *(List here any current or former Port Authority Employee (s))

*Included within the scope of this certification are the individuals identified by the applicant in response to questions 4, 4a, 8d, 9, 10, 10a, 17, 18, 19, 24 and 25.

ELEVENTH, the criteria for certification by the Port Authority as a Small Business Enterprise are outlined in the documentation entitled "Small Business Enterprise Program (SBE) Administered by The Port Authority of New York and New Jersey" which accompanies this application. If the applicant believes that he/she is eligible for SBE certification, he/she may request that this application also be treated as an SBE certification application by signing below. If signature is provided, all acknowledgments and provisions of this M/WBE certification shall also apply.

Applicant _____ Date _____

VERIFICATION

STATE OF _____)

SS:

COUNTY OF _____)

(A) (For Sole Proprietorships, Partnerships, and Limited Liability Partnerships)

_____, being duly sworn, states that he or she is the owner of (or a Partner in) the entity making the foregoing application and that the statements and representations made in the application are true to his/her own knowledge.

Signature

Date

(B) (For Corporations and Limited Liability Companies)

_____, being duly sworn, states that he/she is the
Name of Corporate Officer

_____ of _____
Title of Corporate Officer Name of Corporation

the entity making the foregoing application, that he/she has read the application and knows its contents, that the statements and representations made in the application are true to his/her knowledge, and that the application is made at the direction of the Board of Directors of the Corporation.

Corporate Seal

Signature Date

Sworn to before me this _____ day of _____, 20_____

Notary Public

Mail to: *The Port Authority of New York and New Jersey
Office of Business & Job Opportunity - Certification Unit
233 Park Avenue South, 4th Floor
New York, NY 10003*

CODE OF ETHICS CERTIFICATION

In signing and submitting the annexed Certification Application, each applicant and each person signing on behalf of any applicant certifies that they have not made any offers or agreements or given or agreed to give anything of value or taken any other action with respect to any employee or former employee of The Port Authority of New York and New Jersey or any of its subsidiaries (hereinafter referred to as the "Authority") or any immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of July 18, 1994 (a copy of which is available upon request to the Office of Regional and Economic Development /Business & Job Opportunity), nor do they have any knowledge of any act on the part of such employee or former employee relating either directly or indirectly to the applicant which constitutes a breach of the ethical standards set forth in said code.

As used herein, "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by an Authority contract), etc., which might tend to obligate the Authority employee to the Contractor and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by any Authority contract.

The foregoing certification shall be deemed to have been made by the applicant as follows: If the applicant is a corporation, such certification shall be deemed to have been made not only with respect to the application itself, but also with respect to each director and officer, as well as, to the best of the certifier's knowledge and belief, each stockholder with an ownership interest in excess of 10%; if the applicant is a partnership, such certification shall be deemed to have been made not only with respect to the applicant itself, but also with respect to each partner. Moreover, the foregoing certification, if made by a corporate applicant, shall be deemed to have been authorized by the Board of Directors of the applicant, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the applicant cannot make the foregoing certification, the applicant shall so state and shall furnish with the application, a signed statement that sets forth in detail the reasons thereof.

The foregoing certification or signed statement shall be deemed to have been made by the applicant with full knowledge that it would become part of the records of the Authority and that the Authority will rely on its truth and accuracy in granting certification.

Applicants are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g., New York Penal Law, Section 175.30 et. Seq.). Applicants are also advised that the inability to make such certification will not, in and of itself disqualify an applicant, and that in each instance the Authority will evaluate the reasons therefore provided by the applicant.

Supporting Documentation Checklist

REQUIRED FOR ALL APPLICANTS Attach copies of the following documents, as applicable. Indicate documents submitted by checking appropriate boxes. **PLEASE PROVIDE COPIES OF SUPPORTING DOCUMENTS ONLY - NOT THE ORIGINALS.** The minimum documentation required for certification is listed below, but is not limited to this list. A representative may request additional documents during the application review process, if warranted.

- 1 Résumés for all principals, partners, officers and/or key employees of the firm. Provide home address, telephone number, education, training, and employment with dates and specific duties with the company
- 2 Proof of ethnicity for each person with ownership interest (valid passport, ethnic birth certificate)*
- 3 Proof of U.S. Citizenship (valid U.S. passport, ethnic birth certificate, naturalization certificate)*
- 4 Proof of permanent resident alien status (valid permanent resident alien "green" card showing expiration date)*
- 5 Bank signature card, bank resolution or letter from bank identifying persons authorized to conduct transactions on each account
- 6 Lease agreement or proof of ownership (deed/mortgage) for business location(s)
- 7 Proof of any certification (including SBA 8(a)), decertification, or denial from another governmental agency, department, or authority
- 8 Copies of any licenses, permits and/or accreditations required for conducting business
- 9 Proof of sources of capitalization/investments (purchase receipts, any loan agreements)
- 10 Any employment agreements
- 11 All third party agreements including: equipment rental, purchase agreements, management service agreements, etc.
- 12 Vehicle registration(s) for any vehicle used for business purposes
- 13 Current financial statement (statement of cash flows, balance sheet, or profit and loss statement)
- 14 Most recent three years' business Federal, State and City tax returns (all pages, all schedules); Prior two (2) years of personal tax returns (1040's) for each person with ownership interest, including all applicable W-2 forms and schedules if in business less than three years

****If you have one document that satisfies the requirements for numbers 2 – 4, submit only one copy.***

REQUIRED FOR A SOLE PROPRIETORSHIP

- Copy of Business Trade Name or Certification Trade Name filed with County Clerk
(If doing business under an assumed name)

REQUIRED FOR A PARTNERSHIP AND JOINT VENTURE PARTNERSHIP

Attach copies of the following: (Indicate documents submitted by checking appropriate boxes)

- 1. Business Certificate
- 2. Partnership Agreement

REQUIRED FOR A LIMITED LIABILITY COMPANY (Check appropriate boxes below)

- 1. Sole Proprietorship
- 2. Corporation
- 3. Partnership Agreement

Attach required documents and indicate documents submitted by checking appropriate boxes

- 1. Certificate of formation and/or organization
- 2. Operating and/or managing agreements
- 3. Franchise and/or third-party agreement

REQUIRED FOR A CORPORATION

Attach documents of the following: (Indicate documents submitted by checking appropriate boxes)

- 1. Articles of incorporation, including date approved by State
- 2. Corporation By-Laws
- 3. Minutes of first corporate organizational meeting and amendments
- 4. Copies of all issued stock certificates front and back, as well as next un-issued certificate
- 5. Copy of stock ledger
- 6. If applicable, furnish copies of agreements relating to:
 - a. stock options
 - b. shareholder agreements
 - c. shareholder voting rights
 - d. restriction on the disposal of stock loan agreements
 - e. facts pertaining to the value of shares
 - f. buy-out rights
 - g. restrictions on the control of the corporation

**SMALL BUSINESS ENTERPRISE PROGRAM
ADMINISTERED BY
THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**

The Small Business Enterprise Programs are designed to promote New York and New Jersey businesses and to provide them with the advantage of competing against firms of like size and expertise in a limited competitive environment. In order to be eligible to participate in opportunities set-aside for the programs, the Port Authority must certify a firm as a Small Business Enterprise. To be eligible for certification, firms at a minimum:

- Must have a principal place of business in either New York or New Jersey.
- Must have operated that specific type of business for at least three (3) years.
- Must not exceed the average annualized gross revenue limitations cited below for the last three (3) fiscal years.

Average Annualized Gross Revenue Limitation and other Port Authority Pre-requisites by Procurement Category.

□ Construction - \$14 million

The Port Authority's Engineering Department must also qualify construction firms. This requires the submittal of acceptable references for completed contracts. A minimum of three acceptable references is required for each construction specialty area.

□ Architectural & Engineering (A&E) - \$4.5 million

- *Landscape Architectural Services - \$7 million*
- *Marine Engineering & Naval Architecture - \$18.5 million*

In addition to adhering to maximum gross revenues Thresholds, A&E firms must also have minimum average annual revenues of more than \$100,000 over the last three (3) fiscal years.

□ Commodity - \$7 million

Commodity firms eligible to participate are provided a five percent (5%) price preference in designated contracts solicited by the Port Authority's Procurement Division.

□ Janitorial Maintenance - \$16.5 million

□ Unarmed Guard Service - \$18.5 million

□ Financial Services - \$7 million

INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY

Return your submittal to:	<i>The Port Authority of NY & NJ Office of Business and Job Opportunity 233 Park Avenue South, 4th Floor New York, NY 10003</i>
<i>Firms not currently certified should call (212) 435-7808 for information</i>	

(NOTE: This form need not be completed if all joint venture firms are *M/W/DBEs*
The Joint Venture approval is valid through the duration of the Port Authority contract)

1. NAME OF JOINT VENTURE: _____

2. ADDRESS OF JOINT VENTURE: _____

3. TELEPHONE NUMBER (S) OF JOINT VENTURE: _____

4. (A) IDENTIFY THE FIRMS WHICH COMPRISE THE JOINT VENTURE. (THE MINORITY OR WOMAN-OWNED OR DISADVANTAGED BUSINESS ENTERPRISE PARTNER MUST COMPLET A UNIFORM CERTIFICATION APPLICATION – SCHEDULE A)

(B) DESCRIBE THE ROLE OF THE M/W/DBE IN THE JOINT VENTURE:

5. NATURE OF THE JOINT VENTURE'S BUSINESS: _____

6. PROVIDE A COPY OF THE JOINT VENTURE AGREEMENT.

SCHEDULE B

7. WHAT IS THE CLAIMED PERCENTAGE OF MBE OR WBE OF DBE OWNERSHIP? _____

8. OWNERSHIP OF JOINT VENTURE: (THIS NEED NOT BE FILLED IN IF DESCRIBED IN THE JOINT VENTURE AGREEMENT)

(A) PROFIT AND LOSS SHARING: _____

(B) CAPITAL CONTRIBUTIONS, INCLUDING EQUIPMENT:

(C) OTHER APPLICABLE OWNERSHIP INTERESTS:

9. CONTROL OF AND PARTICIPATION IN THIS CONTRACT. IDENTIFY BY NAME, RACE, SEX AND "FIRM" THOSE INDIVIDUALS AND THEIR TITLES WHO ARE RESPONSIBLE FOR DAY-TO-DAY MANAGEMENT AND POLICY DECISION-MAKING, BUT NOT LIMITED TO, THOSE WITH PRIME RESPONSIBILITY FOR:

<u>NAME & TITLE</u>	<u>SEX</u>	<u>GROUP CODE*</u>	<u>FIRM</u>
<u>FINANCIAL DECISIONS</u>			
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	_____
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	_____
<u>MANAGEMENT DECISIONS, SUCH AS:</u>			
<u>ESTIMATING</u>			
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	_____
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	_____
<u>MARKETING AND SALES</u>			
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	_____
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	_____

HIRING AND FIRING OF MANAGEMENT PERSONNEL

_____ M F _____
_____ M F _____

PURCHASING OF MAJOR ITEMS OR SUPPLIES

_____ M F _____
_____ M F _____

SUPERVISION OF FIELD OPERATIONS

_____ M F _____
_____ M F _____

***GROUP CODE KEY**

01 - BLACK	02A - HISPANIC	03A - ASIAN-PACIFIC	04 - NATIVE AMERICAN
	02B - PORTUGUESE	03B - ASIAN-INDIAN	05 - NON-MINORITY
	02C - SPANISH		06 - OTHER

Affidavit

"The undersigned swear that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of the joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned agree to provide to the grantee current and complete information and any proposed changes to the joint venture arrangement. The undersigned also agree to permit authorized representatives of the grantee or the Federal-funding agency to audit and examine the books, records and files of the joint venture, or those of each joint venturer relevant to the joint venture. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statement."

NAME OF FIRM	NAME OF FIRM
SIGNATURE	SIGNATURE
NAME	NAME
TITLE	TITLE
DATE	DATE
State of _____	County of _____

On this _____ day of _____, 20____, before me appeared (name) _____ to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her free act and deed.

Notary Public

State of _____ County of _____

On this _____ day of _____, 20____, before me appeared (name) _____ to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her free act and deed.

Notary Public

CONTRACT DESCRIPTION AND ANTICIPATED MBE, WBE, DBE GOALS

Office of Business and Job Opportunity

PAGE _____ OF _____

NOTE: The Contractor is required to submit to the Engineering Dept. a MODIFIED PLAN for any changes to the original plan: i.e.; subcontractor, dollar amount or work performed. If more than 1 page is used, complete totals on last page.

Contract Number: _____	Contract Description: _____
Contractor Name: _____	Contract Amount: _____
Mailing Address: _____	Contract Goals: MBE _____ WBE _____ DBE _____
Telephone Number: _____	

Name, Address, Phone Number of PA Certified MBE/WBE/DBE subcontractor (including name of contact person)	Indicate MBE, WBE Or DBE	Description of Work, Services to be provided. Where applicable, specify, "supply" or "install" or both "supply" and "install."	Anticipated date work will start and finish	*Approximate \$ amount of M/W/DBE Subcontract	MBE/WBE/DBE % of Total Contract Amount
TOTAL:					

540

Signature of Contractor: _____

Print Name: _____

Title: _____ Date _____

FOR OBJO USE ONLY

Contract Goals: Approved Waived Rejected

Reviewed by: _____

OBJO Business Development Representative

Print Name: _____ Date _____

Distribution: Original - OBJO; Copy 2 - Engineer of Construction; Copy 3 - Contractor; Copy 4 - Line Department
 *Please Note: supplies, equipment and material men are only credited 60% towards the M/W/DBE goal. Please adjust calculations accordingly.

INSTRUCTIONS

CONTRACTOR INSTRUCTIONS: Contractor is required to submit a MBE/WBE Participation Plan and/or best efforts documentation to the designee identified in the contract book within 7 days after the opening of the Proposals for this Contract.

ENGINEER OF CONSTRUCTION INSTRUCTIONS: After the review of the submitted MBE/WBE Participation plan, forward to the Office of Business and Job Opportunity via fax at (212) 435-7828 or PAD to 233 PAS 4th Floor for review and approval. Approved/waived/rejected plan will be returned within 10 business days of receipt of this document. Engineer of Construction will advise vendor of the results of the MBE/WBE Participation Plan review.

THE PORT AUTHORITY OF NY & NJ
Office of Business and Job Opportunity

CONSTRUCTION
MBE/WBE/DBE PARTICIPATION PLAN
MODIFIED

Contract Number: _____

Contract Description: _____

Contractor Name: _____

Mailing Address: _____

Contract Amount: _____

Telephone Number: _____

Contract Goals: MBE _____ WBE _____ DBE _____

Name, Address, Phone Number of PA Certified MBE/WBE/DBE subcontractor (including name of contact person)	Indicate MBE, WBE Or DBE	Description of Work, Services to be provided. Where applicable, specify "supply" or "install" or both "supply" and "install."	Anticipated date work will start and finish	*Approximate \$ amount of M/W/DBE Subcontract	MBE/WBE/DBE % of Total Contract Amount
					TOTAL:

542

Signature of Contractor: _____

Print Name: _____

Title: _____ Date: _____

FOR OBJO USE ONLY	
Contract Goals: <input type="checkbox"/> Approved <input type="checkbox"/> Waived <input type="checkbox"/> Rejected	
Reviewed by: _____	_____
OBJO Business Development Representative	
Print Name: _____	Date: _____

Distribution: Original - OBJO; Copy 2 - Engineer of Construction; Copy 3 - Contractor; Copy 4 - Line Department

*Please Note: supplies, equipment and material men are only credited 60% towards the M/W/DBE goal. Please adjust calculations accordingly.

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
THREE GATEWAY CENTER, 3rd FLOOR
NEWARK, NJ 07102**

January 26, 2010

NOTICE TO BIDDERS

**TO PROSPECTIVE BIDDERS ON CONTRACT WTC-324.287 – WORLD TRADE
CENTER – WTC STREETS, UTILITIES AND RELATED INFRASTRUCTURE –
PHASE I – UTILITIES & INTERIM STREET & SIDEWALK SURFACES**

ANALYSIS OF BID form has been revised as of 01/26/2010. A copy of the revised form is attached hereto. Destroy the ANALYSIS OF BID form now in your possession & substitute therefor the revised form.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Francis J. Lombardi, P.E.
Chief Engineer



THE PORT AUTHORITY OF NY & NJ

ANALYSIS OF BID

PROJECT WTC STREETS, UTILITIES, AND RELATED INFRASTRUCTURE
PHASE I - UTILITIES & INTERIM STREET & SIDEWALK SURFACES

BID DATE _____

THIS IS NOT PART OF THE CONTRACT

SHEET _____

CONTRACTOR _____

CONTRACT NO. WTC-324.287

Unit No.	Descriptions ⁽¹⁾	Quantity	Unit ⁽²⁾	Unit Price	Amount
1	MOBILIZATION AND DEMOBILIZATION		LS		
2	SELECT BACKFILL		CY		
3	EXCAVATION		CY		
4	DENSE GRADED AGGREGATE BASE COURSE, 6" THICKNESS		CY		
5	ASPHALTIC CONCRETE SIDEWALK, MIX I-2A, 4" THICKNESS		TON		
6	ASPHALTIC CONCRETE SIDEWALK, MIX I-2A, 6" THICKNESS		TON		
7	CATCH BASINS, TYPE A		EA		
8	CATCH BASINS, TYPE B		EA		
9	CATCH BASINS, TYPE C		EA		
10	CATCH BASINS, TYPE D		EA		
11	DOUBLE CATCH BASINS TYPE A		EA		

1. Separate and list all items or operations of work included in your estimate in accordance with Specifications.
When listing subcontracts, the prime contractor will have each subcontractor complete an analysis of bid form.
2. Unit of measure, i.e., SF, CY, Bbls, Pcs, Ea., etc.
3. Include all charges, such as moving on site, removal, rental, etc.
4. In case of conflict between information hereon (whether supplied by the Authority or the bidder) and the terms or prices contained or inserted in the Contract Booklet or Contract Drawings, said Booklet and Drawings shall control.
5. The Analysis of Bid is not part of the contract. No information hereon (whether supplied by the Authority or the bidder) and no information deduced from information hereon, including quantities of materials or work, shall be deemed to vary, alter or modify any provision of the Contract, including provisions therein as to compensation and performance. The unit prices contained hereon serve the sole purpose of informing Port Authority as to components of the bidder's price quoted in the Contract. The items of materials or work contained hereon shall not be deemed to be an exhaustive list of the items of materials or work required.

ANALYSIS OF BID



THE PORT AUTHORITY OF NY & NJ

PROJECT WTC STREETS, UTILITIES, AND RELATED INFRASTRUCTURE
PHASE I - UTILITIES & INTERIM STREET & SIDEWALK SURFACES

THIS IS NOT PART OF THE CONTRACT

BID DATE _____

SHEET _____

CONTRACTOR _____

CONTRACT NO. WTC-324.287

Unit No.	Descriptions ⁽¹⁾	Quantity	Unit ⁽²⁾	Unit Price	Amount
by the Contract Drawings and Specifications in their present form.					
12	DOUBLE CATCH BASINS TYPE B		EA		
13	DOUBLE CATCH BASINS TYPE C		EA		
14	SHALLOW SQUARE BASIN		EA		
15	12" DI SEWER PIPE (CONCRETE ENCASED)		LF		
16	18" DI SEWER PIPE (CONCRETE ENCASED)		LF		
17	24" DI SEWER PIPE (CONCRETE ENCASED)		LF		
18	30" DI SEWER PIPE (CONCRETE ENCASED)		LF		
19	MANHOLES (4' DIAMETER)		EA		
20	MANHOLES (5' DIAMETER)		EA		
21	MANHOLES (6' DIAMETER)		EA		
22	SPECIAL MANHOLE		EA		
23	SUBSURFACE TRENCH DRAIN		LF		
24	SUBSURFACE DRAIN CLEANOUT		EA		
25	12" DI CEMENT LINED WATER PIPE (CLASS 56) W GRADLE		LF		
26	20" DI CEMENT LINED WATER PIPE (CLASS 54)		EA		
27	8" THICK CONCRETE PIER (2'-4' DEEP)		EA		
28	8" THICK CONCRETE PIER (4'-7' DEEP)		EA		
29	GROUND RODS		EA		
30	WATER VALVE FITTINGS (20 NPS)		EA		
31	WATER VALVE FITTINGS (12 NPS)		EA		
32	8" STEEL GAS PIPE		LF		

ANALYSIS OF BID



THE PORT AUTHORITY OF NY & NJ

PROJECT WTC STREETS, UTILITIES, AND RELATED INFRASTRUCTURE
PHASE I - UTILITIES & INTERIM STREET & SIDEWALK SURFACES

BID DATE _____
 SHEET _____
 CONTRACT NO. WTC-324.287

THIS IS NOT PART OF THE CONTRACT

CONTRACTOR _____

Unit No.	Descriptions ⁽¹⁾	Quantity	Unit ⁽²⁾	Unit Price	Amount
33	8" HDPE PIPE		LF		
34	12" HDPE PIPE		LF		
	MECHANICAL				
35	CONCRETE ENCASE 8" STEAM MAIN		LF		
36	CONCRETE ENCASE 10" STEAM MAIN		LF		
37	CONCRETE ENCASE 12" STEAM MAIN		LF		
38	CONCRETE ENCASE 16" STEAM MAIN		LF		
39	STEAM MAIN VALVE & FITTINGS		LS		
	LANDSCAPE				
40	SAND BASED STRUCTURAL PLANTING SOIL		CY		
41	MEMORIAL STRUCTURAL PLANTING SOIL		CY		
42	MEMORIAL PLANTER SOIL		CY		
43	PASSIVE AERATION HDPE PIPE		LF		
44	PASSIVE AERATION ACCESS BASIN		EA		
	Total Lump Sum				



**SUBCONTRACTOR APPROVAL REQUEST
(NO BOND - NY)**

PA-232717-03-09

FOR USE WHEN NO PERFORMANCE AND PAYMENT BOND IS REQUIRED TO BE PROVIDED BY THE GENERAL CONTRACTOR

Part One: (To be completed by General Contractor)		Telephone No.:	
Prime Contractor's Name:	Address:		
Facility	Contract No.		
Contract Title	Amount of Sub-Contract		
Request Approval of: Subcontractor's Name: Address: Telephone:	Materials \$		
	Labor \$		
	Total \$		
Type of Work:	Est. Start Date	Actual Start Date	
Has the Subcontractor done work under Port Authority contract? <input type="checkbox"/> Yes <input type="checkbox"/> No			

Part Two (To Be Completed by General Contractor)

Subcontractor References:
PA Contract Nos. or Three References (including Name and Telephone Numbers of Owner Rep., Contract Numbers and Estimate of Work Performed).

Signature of Prime Contractor's Officer

Date

Title

Part Three (To Be Completed by Subcontractor)

Notification to Contractor:
The Subcontractor should note that it has no recourse against the Port Authority for payments due from the General Contractor under the subcontract. The Subcontractor should also note that the General Contractor has NOT been required to furnish a Performance Bond in connection with the contract.

Subcontractor Certification:
By executing this form you certify that (a) you have not been indicted or convicted in any jurisdiction or suspended, debarred or otherwise disqualified from entering into contracts with any governmental agency or had a contract terminated by any governmental agency for breach of contract or for any cause related directly or indirectly to an indictment or conviction; (b) you have not taken any action which would be proscribed by the current Port Authority Code of Ethics or entered into any arrangement for the payment of a fee of any kind to any person or agency (other than a bona fide established commercial or selling agency maintained by you for the purpose of securing business) to solicit or secure the Authority's approval of you as a subcontractor; (c) you participate in a State registered apprenticeship program unless you are certified by the Port Authority as a Minority Business Enterprise, Women-Owned Business Enterprise, Small Business Enterprise (a firm that is located in New York and New Jersey and whose average gross income for the past three years did not exceed \$5 million annually) or Disadvantaged Business Enterprise. Participation in such an apprenticeship program shall mean that you either (i) are signatory to a collective bargaining agreement with a labor organization which sponsors an apprenticeship program registered in New York State or (ii) individually sponsors an apprenticeship program registered in New York State. This certification with respect to (a) and (b) shall be deemed, if made by a corporation, to include the officers, directors and shareholders with equity interest in excess of 10% and to have been authorized by your Board of Directors and, if a partnership, to be made by each partner. If you cannot so certify, then you shall submit to the contractor submitting this Request an explanatory statement directed to the Port Authority setting forth in detail why the certification cannot be made. The foregoing certification or signed statement shall be deemed to have been made by you with full knowledge that it would become part of the records of the Authority and that the Authority will rely on its truth and accuracy in approving you as a subcontractor. Knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g., N.Y. Penal Law, Section 175.30 et seq.)

Signature of Subcontractor's Officer

Date

Title

Part Four: (To be Completed by Port Authority)

Subject to the provisions of subject contract, the subcontractor submitted for approval on this application is hereby disapproved

Subject to the provisions of the subject contract, the subcontractor submitted for approval on this application is hereby approved for performance of work at the site only. Any materials to be furnished by this subcontractor shall be subject to inspection and approval as required by the contract.

Date

Signature

Title

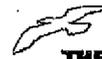
Part Five: (For Port Authority Use Only)

Subcontractor Certification/Status (Check all that applies)

Initial/Date _____

MBE DBE LBE

WBE SBE None



CUTTING AND WELDING PERMIT

PA 21-33 / 03-06

**THIS PERMIT MUST BE POSTED CONSPICUOUSLY AT WORK SITE
(* Must be laminated or otherwise protected)**

Facility		Contract No.	
Building No./Name of Ship		Location	
Contractor or Lessee Name		Sub-contractor/Welder Name	
Address		Welder Certified or Licensed by:	No.
		Certificate of Fitness <input type="checkbox"/> FDNY <input type="checkbox"/> Other:	No.
24 Hour Emergency Contact Name		<input type="checkbox"/> Gas <input type="checkbox"/> Electric	
24 Hour Emergency Telephone No.		Time Schedule	To Be Started To Be Completed
Proposed Work Includes <input type="checkbox"/> Burning <input type="checkbox"/> Welding <input type="checkbox"/> Cutting <input type="checkbox"/> Brazing <input type="checkbox"/> Other (Describe)			
Details of Location:			
I HAVE READ THE PERMIT CONDITIONS AND AGREE TO COMPLY			
Contractor or Lessee Representative		Sub-Contractor/Welder	
Signature	Print Name	Signature	Print Name
PERMIT APPROVED BY			
Signature	Print Name	ID No.	Title
			Date
			EXPIRES
TO REPORT A FIRE	Telephone No.	Nearest Fire Alarm Pull Station	

CONDITIONS

- No work shall be conducted, or equipment brought to the work area, until a permit has been issued by The Port Authority of NY&NJ.
- Operations shall be restricted to the designated area.
- Welding and cutting operations are prohibited in or near areas or equipment containing flammable vapors, dusts, or liquid, and on or in closed tanks or other containers that have held flammable liquids until all fire and explosive hazards have been eliminated as prescribed in the American Welding Society's recommended procedure for welding or cutting of containers that have held combustibles.
- Under no circumstances whatever are welding or cutting operations to be performed in or on containers, drums, tanks, ships, barges, or other vessels containing combustibles or flammable liquids, or other substances of a similar dangerous nature.
- The contractor's or lessee's personnel engaged in welding and cutting operations shall conform to all local municipal rules and regulations governing the licensing of same which would be applicable if the Port Authority were a private corporation. Moreover, when such work is performed at piers or wharves subject to security regulations, or aboard a ship, which is moored or berthed thereat, the contractor or lessee shall receive permission from the U.S. Coast Guard, or shall hold a U.S. Coast Guard General Welding Permit.
- A sprinkler system must not be made inoperative during cutting and welding operations unless specific permission is granted by the facility manager, or his designated representative, or, in the case of a contract, the Port Authority engineer as designated by the contract. If a torch is operated within three feet of sprinklers, baffles or temporary insulating wrappings shall be used to prevent accidental sprinkler operation.
- Combustible materials shall be moved 30 feet from operation; otherwise, combustibles shall be protected by flameproofed tarpaulins. If operations are to be conducted over a combustible floor, the floor shall be covered with flameproofed tarpaulins.

8. An extra man to watch for sparks and fire shall be provided for each single, or for multiple operations, if within 50 feet of the extra man. He shall have available at least one 2½ gallon water extinguisher or other equipment designated by the facility manager, or his designated representative, or in the case of a contract, the Port Authority engineer as designated by the contract.
9. If operations are to be conducted through a floor, deck, ceiling, or wall opening, areas on both sides must be wetted down prior to the actual welding operation. A fire watch shall be stationed not only at the scene of operations but also on the other side. If there are other openings within 50 feet, they shall be closed up or covered during welding operations.
10. All areas covered by a fire watch shall be checked both one-half hour and one hour after completion of work for possible signs of fire.
11. A nationally recognized laboratory or testing establishment, i.e., Underwriters' Laboratories, Inc., or Factory Mutual Laboratories, shall approve operating equipment. Equipment shall be maintained in good repair and safe operating condition.
12. Suitable barriers, protecting screens, and warning signs must be used to protect the public or others not involved in the welding or cutting operations.
13. Only experienced, trained, and qualified welders or operators shall be used, and all personnel shall be trained in emergency procedures and use of fire extinguishers.

If work is to be conducted aboard ship (in addition to all of the above)

14. Welding and cutting operations are prohibited upon ships, tanks, or barges which previously contained flammable or combustible liquids unless rendered gas free by standard acceptable methods and certified as gas free by the American Bureau of Shipping Approved Gas chemist with any or all costs of such certification to be borne by the contractor or parties other than the Port Authority .
15. Hatches and hold openings shall be closed or protected with flameproofed tarpaulins when welding is conducted on deck.
16. The fire watch indicated in Condition 9 above shall have, in addition to a portable extinguisher, a fire hose line equipped with a shut-off nozzle under water pressure for emergency.
17. The Captain and Deck Officer shall be advised as to "fire whistle signals" and the location of nearest fire alarm box.
18. All gasoline or diesel engine driven arc welding or compressor equipment, if operated on a combustible deck or asphalt surface, shall be fitted with a large metal drip pan, which shall be placed under the engines to collect waste oil and gasoline drippings. All such equipment shall be under constant surveillance of an attendant who shall supervise operations and act as a fire watch. At each piece of such equipment, there shall be available a 15 pound CO-2, or equal, fire extinguisher.
19. Gas cylinders shall not be stored on a pier. All oxygen or acetylene cylinders required for the operation shall either be on board the vessel or stored away from the mooring facility until required. When gas cylinders are in use for shipboard operations, such cylinders shall be placed on board the vessel.

If work is to be conducted at wharves or piers (in addition to all of the above)

20. The provisions of Condition 19 must be met.
21. During a welding operation on a pier, shed or any other structure at a marine terminal facility, the storage or extra cylinders of oxygen and gas shall be prohibited. These shall be brought to the scene of the operation only as required.

No requirement of or omission to require any precautions under this permit shall be deemed to limit or impair any responsibilities or obligations assumed by any person under or in connection with any agreement with the Port Authority or in connection with the work done to maintain adequate protection to safeguard the public and all persons engaged in the work performed.

The contractor shall not do or permit to be done any act or thing which will invalidate or conflict with any insurance policy covering any area which the contractor enters upon, and the contractor shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders, and directions of the New York Fire Insurance Exchange, National Fire Protection Association, and OSHA, or if the area is located in New Jersey of the National Board of Fire Under-writers, the Fire Insurance Rating Organization of New Jersey, National Fire Protection Association, OSHA, or any other board or organization exercising, or which may exercise, similar functions which may pertain or apply to the operations of the contractor hereunder .

The contractor understands that certain areas owned or leased to the Port Authority are in turn leased or licensed to third parties. Without in any way limiting the conditions, provisions, and requirements in this permit, if the contractor requires entrance upon an area leased or under license to a third party, the contractor shall make independent arrangements for such entry with any such lessee or licensee.

The contractor shall observe and obey (and compel its officers, members, employees, agents, sub-contractors, and other persons doing business with it to observe and obey) the present and future "Rules and Regulations" of the Port Authority.

This permit is subject to cancellation by the Port Authority immediately upon oral or written notice if, in the opinion of the Port Authority, such action is deemed justifiable for any reason whatsoever.

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #5**



4/14/2010

Item #	Question	Response
1	Request to extend Bid due date by 6 weeks.	Bid Addendum #1 issued to all bidders on 1/22/2010, extending the due date to February 26th, 2010.
2	Tishman's Logistics plan is referenced in Section A.3 and various others in Rider A — General Addendum. No Logistics plan has been provided with the bid documents received to date. With numerous trades and contracts working adjacent to and within the same work zone, whose own schedules and logistical requirements are unknown to this contractor, a Logistics Plan must be issued by the owner. Please provide this critical document at the earliest possible opportunity.	Logistics plan provided in previous addendum
3	Reference Rider A, Section A.17. This section requires this contract to cover costs associated with standby trades, specifically the Master Mechanic, whose costs are to be shared on a prorated basis for the entire WTC site. How is the proration calculated? And according to this calculation please provide the bidder with the basis for this project (what % of the entire site does the VSC represent?).	This site shall have a master mechanic separate from the rest of the WTC site. This Contractor shall bear the full cost of the Master Mechanic. Boring drawings sent in previous addendum
4	Reference Rider A, Section B, "Reports/Drawings/Requirements". Please provide a copy of the following documents listed in this section: 2. Transportation HUB Borings 12/20/2005, 5. Existing Conditions/Preconstruction Survey.	
5	Reference Rider A, Section B.I.16. Please provide a plan and details for the foundation elements left in place by the demolition contractor as described here.	See this addendum for all available drawings of the Deutsche Bank Building Foundations
6	Reference Rider A, Section B.II.1 .c. Please clarify what ramp is referenced in this note. Is this ramp left by the previous contract? Will this be clarified by TCC Logistics plan?	This paragraph was deleted in the 3/5/10 revision of Rider A
7	Reference Rider A, Section B.II.4. Please provide plans, details and schedules for elements a. to g. left in place by the demolition contractor as described here.	See this addendum for all available drawings of the Deutsche Bank Building Foundations
8	Reference Rider A, Section B.II.6. Please clarify regarding the two dirt ramps mentioned in this requirement. Will these be shown on TCC Logistics Plan?	Reference to dirt ramps was removed in the 3/5/10 revision of Rider A. Any correct reference to ramps refers to any access platforms or logistical means or methods installed by this contractor

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 BID ADDENDUM #5**



4/14/2010

Item #	Question	Response
9	Reference Rider A, Section B.II.11. Please review dewatering requirements for this project. This section appears to be completely out of line with the typical WTC dewatering requirements. For example on all past projects the PA had the discharge permit in place and assumed costs for all discharge fees. Additionally — will the preceding excavation contractor turn over a functioning dewatering system for the site? Is this contractor to assume operation of this system and only provide a system to handle all "local" dewatering related to this work?	All dewatering for this site, including proper disposal of the water is in this Contract. Contractor shall not assume an existing dewatering system will be available
10	Reference Rider A, Section B.VI.1.b/c. Elevator Tie-Down beams listed in both Furnish & Install and Install only lists, please clarify.	This contractor shall furnish and install any tie-down embeds whether beams or plates
11	Reference Rider A, Section B.VI.3.b. We cannot find where Rider C provides for plywood substrate alternate, please clarify.	Language deleted. See revised Ride A issued with this addendum
12	Reference Rider A, Section B.VIII.11. Define requirements of watchman service - doesn't the Port Authority provide 24 hr site security?	They provide security at gates but not between sites and they do not provide fire watch
13	Reference Rider A, Section F.4. Is the Independent Safety Manager the same as Concrete Safety Manager referenced in Section B.VIII.12?	No
14	Reference Drawing S001, General Note #13. This note eliminates blasting as a means to excavate rock. This is in conflict with Rider A and the specifications provided — please clarify.	Blasting not excluded. Contractor may submit blasting plan for approval and assuming it is approved, may blast.
15	Reference Drawing S111, Foundation Note #12. Provide Geotech report by MRCE discussed in note.	No Geotech plan is available
16	Reference Drawing S 114, Shear Wall Plan and Table. There are several walls shown on the plan but not listed on table: B-25 to A-33 and U4-27 through U4-33. Please clarify.	See revised drawings of 2/22/10
17	Reference Drawing S111/S112, Foundation Schedule. Foundation Schedule does not indicate the Type of Footing, as shown on S113 and S 114, for each column designation. Please provide footing type at all locations.	See revised drawings of 2/22/10
18	Reference Drawing S111/S112, Foundation Schedule, Marks: 109-40 to 113-40, H.8-17 to H.8-19, Z1-101 to Z1-120. Section view shows these footings as slab depressions however there is no detail for this type of footing — please provide.	See revised drawings of 2/22/10

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Item #	Question	Response
19	Reference Drawing S111/S112, Foundation Schedule, Marks: D-14 to D-23, D1, F1, J1, J28, L1, L28, N.5-37, P1, R1, U1, H.8-20 to H.8-23. There is no detail for a "top of wall" type of footing — please provide.	See revised drawings of 2/22/10
20	Reference Drawing S111/S112, Foundation Schedule, Marks: N.5-40, R.3-37, S-37, S.4-10.5, S.5-36, U.4-35. These footings cannot be found in either plan or sectional views — please clarify.	See revised drawings of 2/22/10
21	Reference Drawing S111/S112, Foundation Schedule, Mark: Z2-121. This footings cannot be found in either plan or sectional views — is this supposed to be F.7-25.9 shown on drawing S127 — please clarify.	See revised drawings of 2/22/10
22	Reference Drawing S111/S112, Foundation Schedule, Marks: B-1, B-14 to B-17, D-14, F-1, J-1, J-28, L-1, L-2, L-28, M5-28.6, Q.2-36, R.3-37, S-35, S.5-36, T.6- 32.9, U-1, Z-101 to Z1-120. Missing dimensional information — please provide.	See revised drawings of 2/22/10
23	Reference Drawing S401, Building Section — Line B. Pier and Footing shown at B-119 does not appear on Foundation Schedule (Drawing S111/1112) — please clarify.	See revised drawings of 2/22/10
24	Please provide insurance limits for the off-site General Liability policy required by Rider D.	See revised contract included as part of this addendum
25	Considering the fact that we have yet to receive answers to our previous RFI's or a logistics plan it will not be possible for E.E. Cruz to provide a complete bid by the February 26 th deadline. We will require a minimum of 4 weeks to complete our proposal once our previous RFI's have been addressed and a logistics plan has been provided.	Due date has been moved
26	Column r.3-37 & s.5-36 are noted in schedule, and are not indicated on plans. Please clarify.	See revised drawings of 2/22/10
27	Detail d/4 drawing s114 indicates #8 bar typical provide standard 180 degree hook. Are there just 2 on each side of the structural steel column? Are these bars welded to the structural steel column?	See revised drawings of 2/22/10
28	Wall reinforcing schedule s563 slab elevations 215, 225, & 240 indicate #11 @6", #9 @ 12", & #7 @ 12" respectively vert. into face balance #6 @ 12" top & bottom. Is the intent for #6 @ 12" vertical exterior face and # 6 @ 12" each face horizontal?	See revised drawings of 2/22/10

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4/14/2010

Item #	Question	Response
29	Wall reinforcing schedule s563 slab elevation 232 indicate #8 @ 12" top short direction, balance #6 @ 12" top & bottom. Is the intent for # 8 @ 12" vert. into face & #6 @ 12" vertical exterior face and # 6 @ 12" each face horizontal?	See revised drawings of 2/22/10
30	Foundation schedule sill indicates pier dowels embedments into footings. In some cases there are no footings indicated below these piers. Example b14 thru b23 etc. Please clarify.	See revised drawings of 2/22/10
31	Foundation schedule. Please indicate arrangement of stirrups for piers other than d/4 s114 steel column in shear walls. Pier schedule indicates various number of verticals.	
32	Foundation schedule s111 indicates dowels in concrete encasements. Please indicate elevations of encasements and stirrup arrangement for column encasements.	See revised drawings of 2/22/10
33	Drawing s114 longitudinal section s1 are we to assume this wall to be the 1 line?	See revised drawings of 2/22/10. Yes. See S523
34	Drawing s114 section s2 & s5 where are these sections taken from?	See revised drawings of 2/22/10. Known shown on S523. These are typical details
35	Drawing s114, section s5 indicates a 6'-0" wide min. footing see schedule. If this section is cut thru 1 line at structural steel columns as indicated by column line 1. There are no footings on column line 1. Is the intent to have a 6'-0" wide footing at 1 line columns? If so what is the length of this 6'-0" wide footing?	See revised drawings of 2/22/10. Use footings on footing schedule
36	Drawings s111, & s112 some footings indicate rebar and are not indicated on plans. Example z.1-101 thru z.1-120, only columns are indicated. Where do the # 5 @ 12" top ea. Way & the # 5 & # 8 bottom ea. way being placed?	See revised drawing of 2/22/10
37	Drawings s126 & s127 indicate a section a-a at a 4'-0" slab indicated on plan. Please provide section a-a, and reinforcing.	See revised drawing of 2/22/10
38	Drawing s114 shear walls 2 thru 6 indicate refer to contract #2 submitted by Mueser Rutledge. Are these shear walls in another contract and not part of this scope? If shear walls 2 thru 6 are part of this scope where can we obtain these documents?	Walls 2 thru 6, now shown on S523, are not part of this scope
39	Drawing s114 section s2 indicates # 10 @ 12" o.c. ea. face for add reinforcing see reinforcing for blast requirements. Where can this be found?	See revised drawings of 2/22/10

**CONTRACT #3 - EXCAVATION FOUNDATION
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4/14/2010

Item #	Question	Response
40	Drawing s114 shear wall schedule indicates flexural reinforcement, all # 10 @ 12" o.c. each face. Is this reinforcing vertical ef ?, horizontal ef ?	Vertical. Now shown on S523
41	Drawing s114 shear wall schedule indicates shear reinforcement from parking level to screening level and from screening level to street. Is this reinforcing vertical? , horizontal? If either one, what would be the reinforcing in the opposite direction?	Horizontal, each face. Unless noted otherwise, provide horizontal ties between each face of ACI minimum, or # 4 at 12" OC on each vertical bar. Now shown on S523
42	Part of Addenda # 2 included revised bid documents. Rider D, dated Feb. 11, 2010 (see attached) now requires the Contractor to provide all insurances which is in direct conflict with Rider A, page 42 of 52 para. C. 1 and Rider C, Alternate # 2. Please clarify which Rider controls such that bidders know whether to include insurances in the base bid or as an Alternate.	Follow Rider A. Use the scope called for in Rider D to provide the alternate for Rider C
43	Rider DX dated 3/5/10, on the bottom of page # 1 it notes that this page is 1 of 16 (see attached). Yet on the following pages they are numbered 2 of 13. Are we missing pages?	See revised contract issued with this addendum
44	What is the wall reinforcing for the 4' walls that occur on D & H.8, J lines between 16 & 23 lines?	See Section G and H/S562 as noted on S121 and S124
45	Although it is not listed in Rider B, reference is made to specification section 02052 "Pre-Construction Condition Survey of Existing Structures." We do not have this spec section. Please provide.	Spec. provided with this addendum
46	Reference Rider C, Alternate No. 4 CIP Foundation Wall — this wall and footing are shown on drawings S212, 5406 and S568. Please clearly define the scope of this wall constructed under previous contract, and the extent to be constructed under this contract. Which drawings are specifically to be used for construction of this wall? It appears that LSP bulletin No 10 deletes this wall?	Wall is entirely in this Contract. All Contract 2 work east of the temporary North-South slurry wall is in this contract. See paragraph I.1B.
47	Reference the following sections and details of material under slabs: a. Section A on S523 — "undisturbed structural till" b. D2 on S524 "well compacted structural fill" c. Section C on S569 "compacted structural fill" Please clarify if existing soil is to be excavated and replaced with a structural fill, below slabs as shown. If so, please indicate required excavation elevations, and define specifications and gradations for the structural fill material.	Excavate top of rock and provide structural fill

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #5**



4/14/2010

Item #	Question	Response
48	Please clarify if there is to be waterproofing installed at all locations where concrete makes contact with earth or rock.	See Paragraph IV.3. Waterproofing or vapor barrier shall be used at all such locations. Waterproofing shall be as shown on plans or called for in specs. Waterproofing is noted for all surfaces of the sub-basement level, but is not limited to this area.
49	Reference underslab drainage and conduits: what is the scope under this contract? Do we excavate for this only? Are we to install the pipe or just excavate and backfill for another contractor?	All underslab drainage system provided and installed by this contractor. For conduit and pipe other than this. This contractor shall coordinate with, excavate for, lath around and encase this work provided by others
50	On page 30 of 51, in Rider A, it is denoted that this contract is to provide a crane to set 65 ton core sections. Can you please provide details on this core for use in crane and rigging selection?	Provide crane for heaviest assembled steel core for all appurtenances
51	Sheet S125 shows a 3 ft wall at Section P/563. Section P on 5563 shows a 2 ft wall. Which is correct?	3'-0" thick
52	There is reference to Section E/565 on sheet S 127. We do not find this section. please clarify.	See E/S566 issued with addendum
53	Drawing 5651 denotes a 2" steel plate on the outside face of the typical liner wall. Is this steel plate required on the outside face of all liner walls?	The walls installed by this Contract will not have these plates
54	At what elevation is this contractor to stop the liner wall construction? Are we to carry it full height?	Liner wall above Bus parking Level slab not in contract. This contractor provides dowels for wall and concrete from Bus parking Level down, including any footings, foundations, piers, wall or wall extensions below slab
55	Drawing SK-GT031-01 shows a pocket and modified reinforcement in newly constructed slurry wall, for installation of Rock Pins. It is our understanding that this pocket and rebar detail was not incorporated into the slurry wall construction. Please advise how you would like to address?	Rockpin (Toe anchor) shall be included in this Contract. Other modifications shall be worked out at a later date, and is not to be included in the Contract Price
56	Contract drawing GT001 through GT004 show different quantities and patterns of rock bolts than contract drawings SK-GT021-02, SK-GT009-02 thru SK-GT021- 06. Which set should be used?	GT001 to GT004 GT005 to GT007 to be issued in this addenda SK-GT- should not be used for quantity or location of rock pins / dowels/anchors

CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #5



4/14/2010

Item #	Question	Response
57	It is our understanding the Eastern most row of tie backs in the newly constructed Panel 16 will not be installed. Please confirm that these are to be installed as the cut off wall demolition proceeds downward with excavation of Phase II.	Confirmed
58	Details have been included for installation of tie backs in Panel W-1. Are these tiebacks to be installed under this contract?	Do not include these tiebacks in this schedule
59	For storm pipe installation across the Duetsche Bank site, are we to use LSP bulletin NO. 10 plans or the original VSC contract plans for alignment?	Bulletin No. 10
60	Will this contractor be in contract with the PA or directly with Tishman?	With the PA
61	There are details in the plans provided for a cap beam on the newly constructed slurry wall. Is this work included in this contract? If so, at what elevation will the slurry wall be left along Cedar Street?	Cap beam is not included in this contract
62	We have just completed our initial review of the revised documents that your office issued approximately 3 weeks ago. As evident by previous RFI's submitted by our office there are several critical clarifications that must be addressed by your design engineers before a complex project like this can be properly estimated. Therefore we ask that your office consider allowing us and other bidders to submit questions up to April 16 th, followed by a minimum period of two weeks after your office issue the final addenda. We ask that your office consider our request for a postponement as soon as possible such that we will not be put in a position to withdraw from submitting a proposal on this project.	Due date has been moved
63	Drawing GT011 is titled "Existing Instrumentation Location Plan". It is our understanding that the instruments shown east of the cut-off wall will not be installed in the existing VSC Contract. Please confirm and revise the drawing.	The instrumentation east of temporary slurry wall is not installed. This contractor is to provide, install and maintain the instruments east of the temporary slurry wall

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #5**



4/14/2010

Item #	Question	Response
64	<p>On drawing S211, the slurry wall/liner wall section is indicated to be similar to Section C on drawing S565. Please clarify the following related to this detail:</p> <p>a. Is the gap/metal duct/plenum behind and below the liner wall typical at all locations, or specify at which locations this is applicable?</p> <p>b. The 3-ft thickened slab is shown to be 12'-0" in this section, however drawing S211 denotes a 10'-0" thickened slab. Which is correct?</p> <p>c. Is the thickened slab intended to be 3-ft thick, below the 3-ft slab at El.253.0?</p>	<p>Section cut should read B/S523 (SIM)</p>
65	<p>Contract Drawing C201-CS208 are referenced on page 118 of the contract documents, under "Hours of Work and Construction Staging" Section G.1. we have not received these drawings, and they are not listed in Rider B. Please provide these drawings.</p>	<p>See revised contract documents issued in this addendum</p>
66	<p>Please provide drawings GT005, GT006 and GT007. These drawings are not listed in Rider B; however, reference is made to sections shown on these drawings on GT001 and GT002</p>	<p>GT005,006,007 issued in this addendum</p>
67	<p>On Drawing SK-C001-01, SK-C004-01, SK-C005-01 - Sewer Modifications. The drawings indicate a sewer running east to west inside the bank building foundations. Is this the current location of the sewer? Also, Contract Drawing WTC-724-078 drawing GT-016 and 017 shows a sewer line installed on a trestle. Is this work in our scope to bid since there is no mention in Rider A scope of work regarding any sewer work. Please advise if we are to include any sewer related work</p>	<p>Sewer modifications are part of this Contract, and shall be performed per LSP Bulletin 10, SK-C-001-01, SK-C-004-01, SK-C-005-01</p>
68	<p>In the proposal form for Excavation & Foundations work, page 118, which is part of Division 1, under the Hours of Work and Construction Staging section, it mentions Contract Drawings C202, C201 - CS208. We do not have these drawings. Further, "All Work in Stage 1A (as shown on Contract Drawings C202) may only be performed between 06:00 PM and 04:00 AM" is mentioned, we do not have any drawings or specifications that indicate what this work is. Please provide these drawings since work hours are restricted in this area</p>	<p>See revised contract documents issued in this addendum</p>

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #5**



4/14/2010

Item #	Question	Response
69	Contract Drawings for Contract, WTC-744-235; refer to Drawing GT001 which has section S4 on GT005 and S5 on GT006, and Drawing GT002 which has section S4 on GT005, S5 on GT006 and S6 on Gt007. We do not have drawings GT005 thru GT007. Please provide since these drawing show rock bolt spacing and layout	GT-005, GT-006, GT-007 issued in this addendum
70	Since we are to include removal and demolition of the Deutsche Bank foundation, slabs and pile caps, please provide drawing which indicate more information than on the drawings we currently have. We cannot determine wall thickness, slab thickness, pile cap sizes, pile type and sizes, etc. This information is required to price this project.	All available Deutsche Bank drawings are included in this addendum
71	Our major subcontractors are requesting more time to properly provide pricing on this project. We therefore request the bid date be extended an additional 2 weeks plus it would also help to move the due date so as not to be on a Monday	Due date has been moved
72	In the Phase 1 portion of the project, on drawings GT001 for Contract Drawing WTC-744-235, rakers are shown along the north "Liberty" slurry wall. These rakers are installed by others and angle to the south into rock. The toe of the anchors is below elevation 253.00' which is the limit of concrete in our scope. 1) Will we be required to box around the rakers and leave them in place? 2) Will others remove the rakers and no cost is included in our scope.	1). Yes. Provide rebar couplers as required 2). Yes
73	In the Phase 2 portion of the project, on drawings GT001 for Contract Drawing WTC-744-235, rakers are shown along the north "Liberty" slurry wall. 1) Since we will be doing the excavation in this Phase, are we to include the cost of installing the (5) rakers? 2) Will others remove the rakers and no cost is included in our scope	1). Yes. 2). Yes
74	In the Phase 1 portion of the project, on drawings GT001 for Contract Drawing WTC-744-235, in the northwest corner along the "Liberty" slurry wall it shows that a portion of the wall existing slurry wall (panel L22 thru L19) is to be removed. 1) Since excavation is being done by others in Phase 1, is it correct that we are not to include cost to demo the wall in our scope?	Correct. This is removed by others

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #5**



4/14/2010

Item #	Question	Response
75	<p>In Phase 2 along Greenwich Street, we have been told by subcontractors that were involved in previous contracts at this site, there may be steel piling which was part of the Bankers Trust Plaza (Deutsche Bank) along the east side of the buildings foundation between the wall and the 1 and 9 subway box. The sheeting may interfere with the installation of the tieback anchors for the Secant Wall and it may require that the area be compensate grouted to prevent settlement of the subway structure. Please provide information, "asbuilts" of the Deutsche Bank.</p>	<p>All available drawings of the existing building are provided with this addendum. This contractor is responsible for working through all obstructions, and protection of existing structures</p>
76	<p>The previous contractor performing the excavation for Phase 1 will need to install and implement a dewatering system which will include header pipes, pumps, discharge tanks and discharge location. Prior to this contract starting, they would already have incurred cost to set up a system. 1) Will the dewater system remain for this contractor to take over? 2) Please provide information on what will be implemented and available for this contractor to take over.</p>	<p>Contractor should not assume an existing dewatering system will be available</p>
77	<p>Based on Contract WTC-724-078, Drawing MT001 thru MT006, what position will the site be in when the excavation and foundation contractor starts work? Will all of the precast barrier, fence gates, signs, etc and flood barrier be in position?</p>	<p>Barriers, fences, gates and signs will be present. Flood barriers will not be present</p>

CONTRACT #3 - EXCAVATION FOUNDATION
BID ADDENDUM #6



4/23/2010

Item #	Question	Response
4	Reference Rider A, Section B, "Reports/Drawings/Requirements". Please provide a copy of the following documents listed in this section: 2. Transportation HUB Borings 12/20/2005, 5. Existing Conditions/Preconstruction Survey.	Boring drawings issued with March 5 addendum per revised Rider A, this contractor is to now provide the pre-construction existing condition survey
31	Foundation schedule. Please indicate arrangement of stirrups for piers other than d/4 s114 steel column in shear walls. Pier schedule indicates various number of verticals.	Referenced detail now shown on S523, but additional details not provided. Provide ties consistent with ACI requirements

CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #8



Item #	Date	Question	Response
47	4/1/10	Reference the following sections and details of material under slabs: a. Section A on S523 — "undisturbed structural till" b. D2 on S524 "well compacted structural fill" c. Section C on S569 "compacted structural fill" Please clarify if existing soil is to be excavated and replaced with a structural fill, below slabs as shown. If so, please indicate required excavation elevations, and define specifications and gradations for the structural fill material.	Excavate top of rock and provide structural fill. The contractor is responsible to protect undistributed structural fill / compacted structural fill. Replacement backfill is per spec. 02221.
78	4/22/10	Please clarify the following: In Rider A, the Scope of Work, Paragraph 1.1.A "Phase 1 will be excavated to elevation +253'-0" by others	This work is performed by others
79	4/22/10	Please clarify the following: On Contract Drawings GTO4 and GTO11 shows sections thru West Street and Cedar Street with a slurry wall from elevation +305 to elevation +240. Is this slurry wall part of this contract?	West Street slurry walls are complete. Cedar Street slurry wall is complete west of temporary cut off wall
80	4/23/10	Are the hatches shown on the typical hand hole section on drawing S581 included in this projects scope of work?	Yes
81	4/23/10	Contract drawings do not clearly state where detail D-4 - Deck Support at Concrete Wall on drawing S502 applies	This is the typical detail for metal deck perpendicular to concrete wall. Refer to S211
82	4/23/10	Contract drawing A920 and A921 shows the location of 3/8" steel plate. There are no details or sections of this plate. Please clarify.	Furnish and install 3/8" plates at sub-basement level to underside of bus parking level (as per A920) only
83	4/23/10	If there is discrepancy for top of slab elevation between plan, column line, and structural detections/details, which will govern?	Submit specific location
84	4/23/10	In general, is the 253.5 slab and 12" slab or a 36" slab? Sheet S-403 shows a 3 ft slab, but numerous other sections denote a 12" slab?	Slab thickness varies. Refer to S211 and S212 concrete plan and referenced sections
85	4/23/10	We cannot locate detailed information for the elevator tie down beams referenced in Section B.VI.I.B or Rider A. Please provide additional information for the referenced beams.	See Rider A (B.VI.1.b.3) issued April 21, 2010
86	4/23/10	Previous RFI answers denoted that a revised Rider A attachment would be issued. We have yet to receive this document. When will this be issued?	See Rider A issued April 21, 2010
87	4/23/10	Please provide specification section 02052 for preconstruction survey	Specification Section 02052 issued in Addendum 8
88	4/23/10	Previous RFI answers denoted that a revised logistics drawings would be issued, specifically C201-CS208. We have yet to receive these documents. When will these be issued?	See addendum 6, Document ID: 261 for Phase 1 Logistics and document ID - 262 for Phase 2 and 3 Logistics

CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #8



Item #	Date	Question	Response
89	4/23/10	If the Alternate No. 4 is chosen, will the lightweight aggregate fill material denoted in LSP bulletin No. 10 be run out to the south face of the East/West Secant Pile wall? Or will this fill be eliminated in its entirety?	No. Assume backfill to be as per Thornton Tomasetti Deconstruction of 130 Liberty Street Drawings (Ref. Drawing 109)
90	4/23/10	Rider A, Page 32 of 51 denotes that this contractor is to perform a video inspection of all rock seating and rock sockets? Please confirm the specific work items that this will apply to.	Where ever steel cores or soldier piles etc, call for seating or socketing

CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #8



Item #	Date	Question	Response
91	4/26/10	Are the shear walls and liner walls the same?	In some instances
92	4/26/10	Do we install any work (walls) above elevation +253 + .	Yes. For instance, T5 wall, slurry wall, secant wall
93	4/28/10	Contract book page 7, list of specifications: we do not have the following specification sections. Please provide: (a) 02272 Soil erosion, (b) 02553 Asphalt concrete paving, (c) 02665 Exterior water supply system - ductile iron pipe for New York facilities, (d) 02711 Planting area subdrainage system, (e) 02712 Sand-based structural planting soil, passive aeration and watering system, (f) 02765 Cleaning storm drainage and sanitary sewer systems, (g) 02832 Metallic-coated steel chain link fence and gates, (h) 02844 Temporary concrete barriers, (i) 02920 Sand based structural planting soil, (j) 03601 Grouting (metallic)	All specs on page 7 are deleted; not applicable

CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #8



Item #	Date	Question	Response
94	4/28/10	<p>Contract book page 8, list of appendices (Riders): (a) Rider A is listed with date 3/5/10. We have most recent copy dated 4/21/10. Please revise. (b) Rider B is listed with date 3/5/10. We have most recent copy dated 4/23/10, (c) Rider DX is listed with date 9/30/10. we have most recent copy dated 3/5/10, (d) Rider DX was not included in this Addendum # 6 revised contract book. Is this rider still applicable?, (e) Rider F was not included in this Addendum # 6 revised contract book. Is this Rider still applicable?, (f) we do not have Rider J (Temporary Services for Construction Purposes, dated XXXX (NOT APPLICABLE TO THIS TRADE)". If this Rider is not applicable, please revise this sheet to indicate "Intentionally Deleted." (g) Rider K is listed with date 2/9/09. We have most recent copy dated 1/30/09. Please revise. (h) Rider K was not included in this Addendum # 6 revised contract book. Is this Rider still applicable? (i) Rider O was not included in this Addendum # 6 revised contract book. Is this Rider still applicable? (j) Rider O is titled "Available Documents" - this page is indicated as "Intentionally Blank". Is this correct? If so, should this list be updated to reflect Rider) "Intentionally Deleted"?, (k) Rider T was not included in this Addendum # 6 revised contract book. Is this Rider still applicable? (l) Under Rider U, the document "Prevailing Wage Rates, dated February 1, 2020 was not provided. Please provide this document. (m) In the Addendum # 6 revised package, we were given a document "analysis of Bid" for contract WTC-324.287. Was the intent to provide this document for this contract, WTC-744.235.01? Please clarify.</p>	<p>a) 4/21/10 is the correct date b) 4/23/10 is the correct date c) OCIP manual will be forwarded d) OCIP manual wii be forwarded e) Yes, remains unchanged from initial bid package f) Not applicable g) Owner to provide later document h) Yes; no change from initial bid package i) Yes; no change from initial bid package j) Yes k) Yes; no change from initial bid package l) Owner to provide m) Yes</p>
95	4/28/10	<p>Page 11 of the revised contract book from Addendum #6, section 2.E, References an "analysis of Proposal" form. Is this the same as the form given on pages 37 and 38 of the contract book? If so, please confirm. If not, Please provide the form</p>	<p>See pages 35 - 41 in Contract</p>

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #8**



Item #	Date	Question	Response
96	4/28/10	Page 11 of the revised contract book from Addendum #6, section 3.A references Riders VII and VIII "MBE/WBE Participation Equal Opportunity Policy." We do not have these riders. Please provide	Refer to article 8 in the contract
97	4/28/10	Page 36 of the revised contract book from Addendum # 6 references "Instructions for Bidders dated March 10, 2010". We do not have this document,. Please provide.	The correct date is 4/23/10. Bid Addendum # 6
98	4/28/10	Rider A dated 4/21/10, page 3 of 52, Section A.11 - reference is made to a separate Rider containing sustainable construction requirements and EPCs. Rider G has been deleted in Addendum 6. Please clarify this section of Rider A.	Correct; see Article # 111 in the Contract
99	4/28/10	Rider A dated 4/21/10, page 16 of 52, Section 1.2.C - in reference to the work in the Bermuda Triangle area, please clarify what the existing conditions of that area will be when the area will be turned over to this contractor.	Structur at the 30x and 27x level will have been installed by others
100	4/28/10	Rider A dated 4/21/10, page 18 of 52, Section 1.19.d - we are required to perform an Existing Condition Survey of all adjacent structures. Please clarify the structures/buildings to be included and the full scope of condition survey to be performed. For example, are we to perform an existing condition survey of the 130 Liberty Street building? Please clarify.	All Bidders, regardless of prior surveys are to survey existing structures along Greenwich,, Cedar, Washington and West Streets and the Memorial
101	4/28/10	Rider A dated 4/21/10, page 34 of 52, Section VI.1.b.3 - Reference is made to five elevator (and pits). We are unable to find this elevator pits in the contract documents. Please indicate where these pits are located.	Provide scope per Rider A

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #8**



Item #	Date	Question	Response
102	4/29/10	<p>Please confirm our understanding of paragraph 18 - Manpower/Trades on page 7 of 52 and paragraph VII 7-9 on page 39 of 52 of Rider A.</p> <p>The Contractor shall include its bid allowance of \$500,000, \$350,000, and \$400,000 for Master Mechanic, Maintenance Engineer, and Teamster costs respectively. During the course of the job, The Owner shall reimburse the contractor the cost for these individuals (including overtime, premium time, and holiday time) via the allowances items. If the cost of these individuals exceed the allowances, the owner will increase them via a change order. If the contractor works outside (beyond) the hours 6:00am to 6:00pm Monday through Saturday, he shall not be reimbursed by the owner for the cost of the master mechanic, maintenance Engineer and teamster via the allowances items. He shall carry additional cost in the bid to cover the overtime. Overtime costs for Labor Foreman (Local 79) and Site Safety Manager will only be charged to us for overtime caused by our failure to meet the approved schedule. Please confirm or correct our interpretation of these provisions.</p>	<p>Should the Contractor be required to work outside the hours referenced due to his failure to meet schedule, all overtime costs for master mach, labor foreman, teamster, maintenance engineer, site safety manager and other standby trades will be charged to this contractor</p>
103	4/29/10	<p>Page 37 of the proposal requires the proposer to submit a "Completed Section D - Options from Rider A - General Addendum". We can not locate options in Rider A. Please explain</p>	<p>Not applicable</p>
104	4/29/10	<p>Page 37 requires a compliance report consisting of Rider A & J annotated by C, D, or E. Rider J is not included with our package. Please further explain how the compliance report is to be structured.</p>	<p>Rider J- Not applicable (Ref. page 8 of proposal). Annotate each item on the Rider A and initial</p>

**CONTRACT #3 - EXCAVATION FOUNDATION
 BID ADDENDUM #9**



5/14/2010

Item #	Date	Question	Response
105	5/4/10	Reference is made to Rider "C", Unit Prices, Items A.1.f.3 and 4, Transportation and disposal of contaminated soil, Heavy Metals and Chemicals. In order to properly bid these items, please provide us with the types of heavy metals and chemicals and the associated concentration levels to be used as a basis for our unit prices	No response to this unit price needed at this time
106	5/4/10	Reference is made to Rider "C", Unit Prices, Item B.12, Schedule 40 and 80 HDPE Pipe. We have been informed by our material suppliers that Schedule 40 and 80 HDPE pipe, for 12" through 36" diameters, does not exist. Please clarify what type of pipe and its intended use is to be provided under these unit price items	To be used in subdrainage system. Reference spec. section 02711. If not applicable, indicate N/A.
107	5/7/10	Confirm if piles are required as part of the sewer modification as indicated on drawing SK-C001-01, C004-01 and C005-01. If piles are required to support this sewer line, provide details.	If they are not shown on the drawings, then they are not required at this time.
108	5/11/10	What will the elevations be for the east side of the site at the beginning of the contract?	Refer to Deutsche Bank deconstruction drawings from Thornton Tomasetti.

