FOI #16603

Torres-Rojas, Genara

From: chris.glorioso@nbcuni.com
Sent: Monday, January 11, 2016 10:55 AM
To: Olivencia, Mildred
Cc: Torres-Rojas, Genara; Van Duyne, Sheree; Ng, Danny; Shalewitz, William
Subject: Freedom of Information Online Request Form

Information:

First Name: Chris
Last Name: Glorioso
Company: WNBC
Mailing Address 1: 30 Rockefeller Plaza
Mailing Address 2: 7th Floor
City: New York
State: NY
Zip Code: 10112
Email Address: chris.glorioso@nbcuni.com
Phone: 718-685-9269
Required copies of the records: Yes

List of specific record(s):
Digital copies of the following complete and executed contracts between the Port Authority and the construction managers Tishman Construction and Turner Construction? a. All contracts involving Tishman on One World Trade Freedom Tower b. All contracts involving Tishman or Turner on the WTC Transportation Hub c. All contracts involving Turner on the JFK Airport Jet Blue Terminal

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

March 2, 2016

Mr. Chris Glorioso
WNBC
30 Rockefeller Plaza, 7th Floor
New York, NY 10112

Re: Freedom of Information Reference No. 16603

Dear Mr. Glorioso:

This is in response to your January 11, 2016 request, which has been processed under the Port Authority's Freedom of Information Code, copy enclosed, for copies of the main construction management services contracts between the Port Authority and Tishman Construction and Turner Construction for One World Trade Center and the World Trade Center Transportation Hub as well as the contract with Turner Construction at the JetBlue Terminal at John F. Kennedy International Airport.

We have searched our records and found no documents responsive to the portion of your request for contracts with Turner Construction at the John F. Kennedy Airport Jet Blue Terminal.

Material responsive to your request can be found on the Port Authority's website at http://corpinfo.panynj.gov/documents/16603-WTC. Paper copies of the available records are available upon request.

Certain portions of the material responsive to your request are exempt from disclosure as, among other classifications, privacy and security.

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

Very truly yours,

Danny Ng
FOI Administrator

Enclosure

4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 3642 F: 212 435 7555

THE PORT AUTHORITY OF NY & NJ

August 12, 2009

UPS (212-399-3600)
Tishman/Turner, A Joint Venture
666 Fifth Avenue, 38th Floor
New York, NY 10103
Attn: Jay Badame, President and Chief Operating Officer, Tishman Construction Corporation of New York and Pat A. Di Filippo, Executive Vice President, Turner Construction Company

SUBJECT: Construction Management Services for the World Trade Center Site – Transportation Hub – Contract #4600007871; Purchase Order #4500060608

Dear Sirs:

The Port Authority of New York and New Jersey ("Authority") hereby accepts the proposal of Tishman/Turner, A Joint Venture ("Tishman/Turner") for a contract to provide Construction Management Services for the World Trade Center Site – Transportation Hub ("Contract"), subject to the following:

1. Total compensation under this Contract for the five (5) year base period shall not exceed the amount of $93,949,780, inclusive of the Construction Manager's Fee as set forth in Section 10.2.1 of the Agreement. The Construction Manager shall inform the Director in writing when the Construction Manager's compensation reaches eighty percent (80%) of the total maximum compensation.

2. Tishman/Turner shall not perform any on-site work under the Contract prior to the procurement of the insurance required by the clauses of the Construction Management Agreement entitled "Insurance Procured by the Authority" and "Insurance Procured by the Contractor."

The Contract, which shall be deemed modified as set forth above, shall be the complete and exclusive statement of the agreement between the parties, notwithstanding any other documents, discussions, meetings, representations or agreement. In the event of a conflict between the provisions of any document previously issued by the Authority or submitted by Tishman/Turner in connection with the Contract, and anything contained in this Award Letter, this Award Letter shall control.

If the above meets with your approval, please indicate such concurrence by having the duplicate originals of this letter; the enclosed Construction Management Agreement; and

One Madison Avenue
New York, NY 10010
T: 212 435 7000

of Ms. Patricia Cose, Procurement Department, at the address below. Fully executed originals of this letter will be returned to you following execution by the Port Authority.

A Notice to Proceed with performance of the Work, subject to Item 2 above, will be issued to Tishman/Turner upon execution of the Contract, this letter and submission of a signed Exhibit F, Non-Disclosure and Confidentiality Agreement.

For purposes of administering this Contract, Mr. Mark Pagliettini is hereby designated by the Director as Port Authority Representative. Questions in regard to the Agreement may be directed to the Engineer of Construction, Mr. Richard Behnke, at 212-435-5676.

Please use the above referenced Purchase Order number on all invoices and correspondence submitted to the Port Authority.

Very truly yours,

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

BY: _____
~~Director, WTC Construction~~

BY: _____
~~Director, Procurement~~

Approved as to form:

Darrell Buchbinder, General Counsel

BY: _____
Attorney Timothy G Strickelman

DATE: 8-14-09

CONCURRED IN AND CONFIRMED:

TISHMAN/TURNER, A JOINT VENTURE

BY: _____

TITLE: President COO, TCCNY
Tishman Construction Corporation of New York

DATE: 8-13-09

BY: _____

TITLE: Executive vice president
Turner Construction Company

DATE: 8/13/09

CONSTRUCTION MANAGEMENT AGREEMENT

Between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

As Owner

and

Tishman/Turner, a Joint Venture

As Construction Manager

Dated as of August 10, 2009

Pertaining To

DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER SITE HUB PROJECT
NEW YORK CITY, NEW YORK

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List of Attachment/Exhibits

Each attached hereto and incorporated herein:

Attachment A	Scope of Services dated July 30, 2009
Exhibit B	Contractor Quality Program Requirements
Exhibit C	Downtown Restoration Program, World Trade Center Site Safety, Health and Environmental Program
Exhibit D	Schedule of Personnel Hourly Rates dated July 31, 2009
Exhibit E	Insurance Requirements
Exhibit F	Non-Disclosure and Confidentiality Agreement
Exhibit G	WTC Site Security Requirements
Exhibit H	Federal Transit Administration Requirements, including: Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower-Tier Covered Transactions
Exhibit I	FTA Lower Manhattan Recovery Office Third Party Contracting Requirements
Exhibit J	Agency for Rental of Construction Equipment, Exemption from New York State and New York City Sales Taxes
Exhibit K	Minority and Women's Business Enterprises Program

CONSTRUCTION MANAGEMENT AGREEMENT

THIS CONSTRUCTION MANAGEMENT AGREEMENT ("Agreement") made and effective as of the 10th day of August, 2009, by and between the **PORT AUTHORITY OF NEW YORK AND NEW JERSEY**, a body corporate and politic created by a Compact between the States of New York and New Jersey with consent of the Congress of the United States of America having an office at 225 Park Avenue South, New York, N.Y. 10003 **("Owner"** or **"Port Authority" or the "Authority")**, and Tishman/Turner, a Joint Venture comprised of Tishman Construction Corporation of New York, a Delaware corporation having an office at 666 Fifth Avenue, New York, New York 10103 and Turner Construction Company, a New York corporation having an office at 375 Hudson Street, New York, New York 10014 (collectively, **"Construction Manager")**, (individually a **"Party"** and collectively **"Parties")**.

WITNESSETH

WHEREAS, the World Trade Center Site –Hub Project involves the design, permitting, approval, construction, and construction administration for the Hub Project located on the World Trade Center site in New York City ("Property"); and

WHEREAS, all of the descriptions of the World Trade Center Site –Hub Project in this paragraph shall be referred to in this Agreement as the "Project," or the "Hub Project." This Agreement between the Port Authority and Construction Manager is made in connection with such construction management services and in consideration of the mutual covenants contained herein; and

WHEREAS, this Agreement sets forth terms and conditions that shall apply to the relationship between the Port Authority and Construction Manager when Construction Manager acts as a construction manager with respect to the Hub Project under the circumstances more specifically described in this Agreement; and

WHEREAS, the Project is to be funded, in whole or in part, by monies from the Federal Transit Administration; and

NOW THEREFORE, in consideration of the payments hereinafter specified to be made by the Port Authority to Construction Manager, and in consideration of the agreements and mutual covenants of the parties herein contained, the parties hereto hereby agree as follows:

I. DEFINED TERMS.

1.1 All terms initial capitalized in this Agreement are defined below or, to the extent not listed below, are as defined in other Contract Documents for the Project.

1.2 **Port Authority Representative**. The term "Port Authority Representative" shall have the meaning set forth in Section 5.2.3 of the Agreement.

1.3 **Port Authority.** The term "Port Authority" shall have the meaning set forth in the preamble to this Agreement. Any reference to the Port Authority's approval, discretion, consent, action, review, or otherwise, shall be performed by the Port Authority Representative, regardless of whether the Port Authority is explicitly stated in such reference.

1.4 **Affiliate**. The term "affiliate" shall mean as follows: two or more firms are affiliates if a parent owns more than fifty percent (50%) of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent (50%) of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

1.5 **Agency or Governmental Agency**. The term "agency" or "governmental agency" shall mean any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

1.6 **Agreement**. The term "Agreement" shall have the meaning set forth in the first paragraph of the preamble.

1.7 **Anything of Value**. The term "anything of value" shall have the meaning set forth in Section 30.2 of the Agreement.

1.8 **Authority's Office of Business and Job Opportunity**. The term "Authority's Office of Business and Job Opportunity" shall mean the Authority's program known as the Office of Business and Job Opportunity ("OBJO").

1.9 **Certificate for Payment**. The term "Certificate for Payment" shall have the meaning set forth in 2.3.13.4 of **Attachment A** (Scope of Services).

1.10 **Change Orders**. The term "Change Order" shall mean a written modification to a Contract impacting the monetary value of or time requirements set forth in the Contract.

1.11 **Chief Engineer**. The term "Chief Engineer" shall mean the Chief Engineer of the Authority for the time being, or his successor in duties, acting personally.

1.12 **Confidentiality Agreement**. The term "Confidentiality Agreement" shall have the meaning set forth in Section 23.1 of the Agreement.

1.13 **Construction Change Directives**. The term "Construction Change Directive" shall mean a writing from Construction Manager, as authorized by the Port Authority, directing a Contractor to modify its scope of work pending an agreement on the cost or time impact of such change.

1.14 **Contract Drawings**. The term "Contract Drawings" shall mean those drawings and specifications, completed in sufficient detail by Design Team, used by Contractors to perform the Work.

1.15 **Construction Manager**. The term "Construction Manager" shall be interchangeable with the term "Consultant" and shall have the meaning set forth in the preamble to the Agreement.

1.16 **Construction Manager's Fee**. The term "Construction Manager's Fee" or "Fee" shall have the meaning set forth in Section 10.2 of the Agreement.

1.17 **Contract Documents**. The term "Contract Documents" shall include the Agreement, including all of the exhibits and attachments thereto; the Contract Drawings; all as may be amended in writing by the parties from time to time.

1.18 **Contractors**. The term "Contractors" shall mean those trade contractors contracting directly with the Port Authority by executing Contracts as defined in this Section 1.18 to perform a portion of the Work for the Project, and all subcontractors of such Contractors of whatever tier.

1.19 **Contracts**. The term "Contracts" shall mean those executed contracts between Contractors and the Port Authority, signed on the Port Authority's behalf by Construction Manager, defining the rights and responsibilities of the respective Contractor and the Port Authority for the execution of a portion of the Work for the Project by the Contractor.

1.20 **Design Team**. The term "Design Team" shall mean all of the design professionals hired by the Port Authority, either directly or indirectly, to provide professional services with respect to the Project.

1.21 **Director**. As used herein, the "Director" shall mean the Director of the World Trade Center Construction Department of the Port Authority of New York and New Jersey, acting either personally or through his duly authorized representatives acting within the scope of the particular authority vested in them unless specifically stated to mean acting personally.

1.22 **Emergency Costs**. The term "Emergency Costs" shall have the meaning set forth in Section 10.4.5.3 of the Agreement.

1.23 **Excluded Emergency Costs**. The term "Excluded Emergency Costs" shall have the meaning set forth in Section 10.4.5.3 of the Agreement.

1.24 **Final Completion**. The term "Final Completion" shall mean the satisfactory completion of all Services under this Agreement and all work under any Contract, in full compliance with the Contract Drawings and Specifications and the requirements of the Port Authority. Final Completion shall be indicated by the issuance of a Certificate of Final Completion by the Port Authority to the Construction Manager.

1.25 **General and Administrative Costs**. The term "General and Administrative Costs" or "G&A" shall have the meaning set forth in Section 10.4.1 of the Agreement.

1.26 **General Conditions Costs**. The term "General Conditions Costs" shall have the meaning set forth in Section 10.4 of the Agreement.

1.27 **Hub Project**. The term "Hub Project" shall have the meaning set forth in the first paragraph of the recitals to the Agreement.

1.28 **Hazardous Materials**. The term "Hazardous Materials" shall have the meaning set forth in Section 13.1 of the Agreement.

1.29 **Indemnitees**. The term "Indemnitees" shall have the meaning set forth in Section 19.1 of the Agreement.

1.30 **Insurance Program**. The term "Insurance Program" shall have the meaning set forth in Section 20.1 of the Agreement.

1.31 **Integrity Monitor**. The term "Integrity Monitor" shall have the meaning set forth in Section 33.9 of the Agreement.

1.32 **Intellectual Property Rights**. The term "Intellectual Property Rights" shall have the meaning set forth in Section 22.4 of the Agreement.

1.33 **Investigation**. The term "investigation" shall mean any inquiries made by any appearance before a grand jury by representatives of Construction Manager, any oral or written inquiry, or review of Construction Manager's documents, 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 Construction Manager by any federal, state or local criminal prosecuting or other investigative bodies, including inspectors general and temporary commissions. The term "investigation" shall also mean federal, state or local criminal prosecuting agency 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.

1.34 **IP Claims**. The term "IP Claims" shall have the meaning set forth in Section 22.3 of the Agreement.

1.35 **Legal Requirements**. The term "Legal Requirements" shall have the meaning set forth in Section 32 of the Agreement.

1.36 **Minority Business Enterprise**. The term "minority business enterprises" or "MBE" shall have the meaning set forth in Section 15 of the Agreement.

1.37 **OCIP**. The term "OCIP" shall mean the Owner Controlled Insurance Program, if any, as provided for in the Insurance Program.

1.38 **Officer.** The term "officer" shall mean any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Construction Manager by whatever titles known.

1.39 **Parent**. The term "parent" shall mean an individual, partnership, joint venture or corporation that owns more than 50% of the voting stock of the Construction Manager.

1.40 **PATH**. The term "PATH" shall mean the Port Authority Trans-Hudson Corporation.

1.41 **Personnel.** The term "Personnel" shall have the meaning set forth in each section of this Agreement where such term is used.

1.42 **Project**. The term "Project" shall have the meaning set forth in the first paragraph of the recitals to the Agreement.

1.43 **Project Schedule**. The term "Project Schedule" shall have the meaning set forth in Section 7 of the Agreement.

1.44 **Property**. The term "Property" shall have the meaning set forth in the first paragraph of the recitals of the Agreement.

1.45 **Reimbursable Expenses**. The term "Reimbursable Expenses" shall have the meaning set forth in Section 10.4.5 of the Agreement.

1.46 **Remediation Contractor**. The term "Remediation Contractor" shall have the meaning set forth in Section 13.1 of the Agreement.

1.47 **Services**. The term "Services" shall have the meaning set forth in Section 4.1 of the Agreement.

1.48 **Shop Drawings**. The term "Shop Drawings" shall mean drawings, diagrams, schedules and other data specially prepared for the Work by a Contractor, subcontractor of any tier, manufacturer, supplier or distributor to illustrate some portion of the Work.

1.49 **Standard of Care**. The term "Standard of Care" shall have the meaning set forth in Section 3.1 of the Agreement.

1.50 **Subconsultant**. The term "Subconsultant" shall have the meaning set forth in Section 9.1 of the Agreement.

1.51 **Submittals**. The term "Submittals" shall mean Shop Drawings, samples, product data, supplementary product literature, mockups, calculations, statements of manufacturer's review, or other information for specific portions of the Work as required by the Contract Drawings.

1.52 **Trade Costs**. The term "Trade Costs" shall have the meaning set forth in Section 10.3 of the Agreement.

1.53 **Women Business Enterprises**. The term "women business enterprises" or "WBE" shall have the meaning set forth in Section 15 of the Agreement.

1.54 **Work**. The term "Work" shall mean the construction and services required by the Contract Documents and the Contract Drawings, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by each of the Contractors to fulfill their respective obligations. The Work may constitute the whole or a part of the Project.

1.55 **Works**. The term "Works" shall have the meaning set forth in Section 21.1 of the Agreement.

1.56 **Works for Hire**. The term "Works for Hire" shall have the meaning set forth in Section 21.1 of the Agreement.

1.57 **World Trade Center Construction Department**. The term "World Trade Center Construction Department" shall mean the Authority's World Trade Center Construction Department, which is principally responsible to represent the Authority with respect to the design and construction of the World Trade Center Transportation Hub project (WTC/HUB).

2. AUTHORITY POINT OF CONTACT

2.1 For the purpose of administering this Agreement, the Director has designated the Assistant Director, World Trade Center Construction - Hub, to act as his duly authorized representative and the Construction Program Director, to manage the day-to-day work of the Project.

3. STANDARD OF CARE AND EXPERTISE.

3.1 Construction Manager acknowledges that the Hub Project is part of a project of symbolic and commercial importance that has local, regional, national, and international significance and visibility. Construction Manager represents and warrants that it has expert experience in the construction management and project management of projects with similar prominence and prestige located in comparable urban locations. Construction Manager shall perform its duties under this Agreement in conformance with its expert experience and with the very highest standard of care practiced by construction managers ("Standard of Care"). Nothing to the contrary herein shall erode the Standard of Care, including a requirement that Construction Manager use its best efforts to comply with the provisions in this Agreement.

3.2 Construction Manager represents that it is familiar with the Property and the complexity of the World Trade Center site.

3.3 Construction Manager accepts the relationship of trust and confidence established between Construction Manager and the Port Authority by the Agreement.

3.4 Construction Manager shall do the following:

3.4.1 Construction Manager shall perform its Services under this Agreement and, consistent therewith, shall furnish the very highest professional skill and judgment necessary to fulfill its duties under this Agreement and maintain the Standard of Care set forth in Section 3.1 above;

3.4.2 In performing its Services, Construction Manager shall furnish professional business administration and superintendence by the best, most efficient, and most economical method, all in a manner consistent with the Contract Documents, the Standard of Care set forth in Section 3.1 above, and the best interests of the Port Authority;

3.4.3 Construction Manager may contract, on behalf of the Port Authority, the Work in accordance with all requirements in, reasonably inferable from, and consistent with the Contract Drawings;

3.4.4 Construction Manager shall furnish at all times an ample supply of workers and resources necessary to meet the requirements of the Contract Documents. Construction Manager shall manage the workers, materials, and Project in such a manner that the Project can be safely and successfully completed within the Project Schedule and the Project budget; and

3.4.5 Construction Manager shall manage, direct, supervise, coordinate, and cooperate with all of the Port Authority's Contractors, agents, and other contractors in furthering the best interests of the Port Authority with respect to the Project; and shall cause the entire Work described in the Contract Documents to be executed in accordance with the very highest standard of care and skill for trade contractors experienced and specialized in the construction of major, superior facilities operated in comparable settings.

3.5 Construction Manager represents to the Port Authority that Construction Manager understands the complexity involved and has the ability to meet the standards of care required by this Section 3.

3.6 The Authority reserves the right to assign to the Construction Manager any contract in connection with the Transportation Hub Project to ensure the continuity and proper management of the Contractors at the Work Site.

3.6.1 Assignments to the CM shall be incorporated by referenced into this Agreement along with any subsequent amendments and/ or modifications.

3.6.2 Notwithstanding the duties and responsibilities of the Construction Manager under this Agreement, the applicable duties and responsibilities of all parties shall be outlined and detailed in the Agreement of Assignment. Subsequent to the successful execution of an assignment, the Construction Manager shall enter into an Agreement with the Contractor for all future work to be performed at the Work Site.

3.6.3 Authority's right of assignment will remain in force over the term of this Agreement.

4. CONSTRUCTION MANAGER'S RESPONSIBILITIES.

4.1 Construction Manager shall perform professional construction management services ("Services") as set forth in and in accordance with the provisions of this Agreement, the Contract Documents, and as otherwise requested by the Port Authority.

4.2 Construction Manager shall comply with all of the obligations and provisions set forth in this Agreement.

4.3 Construction Manager shall provide sufficient organization, personnel, and management to carry out the requirements of this Agreement in an expeditious and economical manner consistent with the interests of the Port Authority and the Standard of Care set forth in the Agreement.

4.3.1 Contract Management Plan: The Consultant shall maintain, for the duration of its Services, an updated Contract Management Plan. The Plan shall contain the following:

4.3.1.1 An organization chart of the Consultant and each Subconsultant, detailing the names, titles, level of authority and functions of the key management personnel and technical personnel directly employed in the performance of the Work. A current resume of each person describing the individual's qualifications in terms of experience and education.

4.3.1.2 An organizational plan specifying responsibilities and levels of authority for the various areas of the Work to ensure the expedient and proper resolution to the various types of problems typically experienced during a project of this nature.

4.3.1.3 A description of specific roles and responsibilities of, and the interfaces and channels of communication between the firms constituting the Consultant and the Subconsultants. Identify the Consultant employee in charge of project personnel.

4.3.1.4 A description of specific roles and responsibilities, interfaces and channels of communication between the Consultant, Authority, Trade Contractors and other agencies.

4.3.1.5 A description of the management systems to be utilized for control of the Work.

4.3.1.6 Procedures governing review and sign off, interoffice and inter-company coordination, internal review and checking, calculations, key personnel change notifications, meetings, document and drawing control, public relations (including response to questions from the public sector), geotechnical investigation, analytical methods, field investigation methods, health and safety, road closings, and all other aspects of the Work.

4.3.1.7 Not used.

4.3.1.8 The Construction Manager's staff may not include any staff who were working on a Port Authority project at the WTC site or otherwise at the time of the release of the Proposal and has not be completed.

4.4 A description of the Services is set forth in **Attachment A** (Scope of Services), attached hereto and made a part hereof; provided, however, the Port Authority, in its sole discretion, may direct Construction Manager to render other professional construction management services in furtherance of the Project, which professional construction management services shall be included in the Services, notwithstanding that such professional construction management services do not appear on the Scope of Services attached hereto at the time of execution of the Agreement. Nothing contained in this Agreement shall be deemed to require or authorize Construction Manager to perform with its own forces any act that would constitute the rendering of professional architecture or engineering services or laboratory testing.

4.5 Construction Manager shall coordinate the performance of its Services with the performance of activities of such other persons or entities, each with the other, so that all are performed in a harmonious manner. Construction Manager, when requested, shall review the contract schedules of others or facilitate a joint review among relevant parties and shall provide that the activities of all shall be carried out in a proper and appropriate sequence in the best interests of the Project. Construction Manager shall cooperate fully with other persons or entities performing services for or working on behalf of the Project.

4.6 Construction Manager shall promptly give notice to the Port Authority upon becoming aware of the following:

4.6.1 Any act, omission, event, or occurrence that might reasonably be anticipated to result in the allegation of a claim, lien, or other demand against the Port Authority, Construction Manager, or any of the Contractors arising out of the execution of the Project;

4.6.2 Any claim, demand, or request asserted, filed, or made, or that Construction Manager anticipates may be asserted, filed, or made, for extensions to time or for additional money with respect to work or services rendered on the Project.

4.7 The Construction Manager shall comply with the Authority's Contractor Quality Program Requirements, as set forth in **Exhibit B**, hereto.

4.8 The Construction Manager shall comply with the Downtown Restoration Program, World Trade Center Site Safety, Health and Environmental Program, as set forth in **Exhibit C**, hereto.

5. CONSTRUCTION MANAGER'S AUTHORITY.

5.1 Notwithstanding anything in this Agreement to the contrary, each Contract to be executed in connection with the Project (i) shall be between a Contractor and the Port Authority, and (ii) shall be signed on behalf of the Port Authority by Construction Manager.

5.2 Construction Manager shall assume and perform all duties of the Port Authority as set forth in the Contracts and shall act on behalf as the Port Authority; provided, however:

5.2.1 Construction Manager shall not have authority to enter into any Contracts, Change Orders, or Construction Change Directives for any Contract without prior written approval from the Port Authority;

5.2.2 Construction Manager shall not take any action that may result in additional time or money to any Contract, a modification to the quality of the Work or Project or a change in the safety or security requirements without obtaining prior written approval from the Port Authority as set forth below in this Section 5.2; and

5.2.3 For purposes of this Agreement, approval of the Port Authority means approval of the Port Authority Representative or its designee(s). The term "the Port Authority Representative" shall mean (i) an officer of the Port Authority, or (ii) the Director of the World Trade Center Construction Department or his designee(s). The Port Authority Representative is the only authorized representative of the Port Authority to act, or receive, on behalf of the Port Authority with respect to any duty, obligation, notice, or other action set forth in this Agreement.

5.2.4 The Port Authority Representative's authority with respect to the quality of Work includes, without limitation:

5.2.4.1 interpreting the Contract Documents

5.2.4.2 determining the amount, quality, acceptability, and fitness of all parts of the Work;

5.2.4.3 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;

5.2.4.4 objecting to the employment of any equipment, materials, methods, men, or workers used in performance of the Work; and

5.2.4.5 withholding permission to remove materials, equipment, or other facilities from the Project site, which permission Construction Manager must seek prior to any such removal.

5.3 In no event shall this be considered an agreement of employment or partnership between the Port Authority and Construction Manager.

5.4 The Port Authority shall have the right, but shall not be obligated, to control or supervise the particular manner or method by which Construction Manager accomplishes the performance of the Services. Such right shall in no event relieve Construction Manager of any duty, responsibility, or obligation whatsoever under this Agreement. Each Contract where the Contractor is not insured under the OCIP shall contain a provision requiring such Contractor to defend and indemnify Construction Manager in connection with the Work of that Contractor and to add Construction Manager as an additional insured to each of such Contractor's insurance policies. Each Contract shall require that the Contractor insert the same language in each of its subcontracts.

6. ADDITIONAL SERVICES.

6.1 The Port Authority reserves the right, at any time, by written order, to authorize additional services for the Project to be performed by Construction Manager that may increase the scope of Services set forth in **Attachment A** (Scope of Services), or otherwise to make changes or additions to any portions of the Work that are within the general scope of the Work, in any one or more of the following areas:

6.1.1 Management Approach

6.1.2 Schedule

6.1.3 Deliverables

6.1.4 Staffing Plan.

6.2 All such Construction Manager duties for the Project shall be part of the Services compensated in accordance with Section 10 (Compensation) of this Agreement.

6.3 The Authority must authorize any such changes or additions in a writing ("Change Order") that states the maximum, not-to-exceed amount that may be payable to the Construction Manager, before the Construction Manager commences the additional or changed work. The executed Change Order is a condition precedent to the Construction Manager's reimbursement for such work.

6.4 In the event that the parties are unable to agree on the amount to be paid under a Change Order, the Authority may nonetheless require that the Construction Manager is to begin the work, pending final negotiation of the Change Order amount or resolution of dispute. No payments shall be authorized by the Authority to the Construction Manager until a final agreement or resolution of dispute is made on the payment terms applicable to the Change Order.

6.5 If the Construction Manager does not agree with any schedule or cost decision of

the Authority relating to a Change Order, nonetheless the Construction Manager shall diligently perform all such work without delay. In the event that the Construction Manager wishes to issue any related claim to the Authority, written notice must be given to the Authority within five (5) days of the Authority's written request to perform the additional or changed work. Upon receipt, the Authority may consider the claim and if accepted, in whole or in part, the Authority will issue a Change Order.

7. TIME.

7.1 The term of this Agreement is a five (5) year period commencing on August 13, 2009. The Authority reserves the right to extend this Agreement for one (1) additional two-year period. Said extension shall be by letter from the Director of Procurement at least thirty (30) days prior to the end of the base term.

7.2 Time is of the essence with respect to Construction Manager's performance of Services under this Agreement.

7.3 Without limiting the foregoing, Construction Manager shall perform its Services under this Agreement so as to permit the Port Authority, Design Team, Contractors and other Project participants to perform their services and Work in accordance with the overall construction schedule for the Project consistent with the Contract Documents, and achieve Final Completion of each Contractor's Work in accordance with the dates set forth in the Contracts and the Authority's schedule for the Project ("Project Schedule").

7.4 Construction Manager shall perform its Services as expeditiously as possible and at the time or times required by the Port Authority Representative.

8. APPROVAL OF PERSONNEL.

8.1 Construction Manager shall hire and assign sufficient number of appropriately experienced (a) full-time personnel, and (b) part-time personnel on site, to carry out the duties under this Agreement and in accordance with the terms of such Agreement; provided, however, that (i) Construction Manager shall assign personnel to the Project only after such personnel are approved by the Port Authority in writing; and (ii) such personnel assigned to the Project shall begin performing Services and bill time to the Project only after the Port Authority has so approved in writing ("Personnel"). Subject to Section 8.2 below, Personnel who are dedicated to the Project on a full-time basis, shall continue performing Services on a full-time basis for the Project unless a member of such Personnel becomes deceased, goes on medical leave, voluntarily leaves the employment of Construction Manager, or is terminated for a violation of Construction Manager's sexual harassment, drug, or violence in the workplace policies or such other similar bad acts. Construction Manager shall not reassign full-time Personnel to work on any other project other than the Project for any other reason without the prior written consent of the Port Authority.

8.2 The Port Authority considers the individual(s) designated in Exhibit D (Schedule of Personnel Hourly Rates) as the Construction Manager's Project Executive and/or Project Director to be essential to the Construction Manager's performance under this Agreement. As such, the Construction Manager shall not remove such individual(s) from this Project without

prior written approval by the Authority. The Authority's approval will not be unreasonably withheld if the Construction Manager is able to provide a replacement with similar credentials, expertise and experience, in the Authority's sole discretion. In the event that the Construction Manager's Project Executive and/or Project Director ceases full time service for the Project anytime during execution of the Project without such written approval by the Authority, the Construction Manager shall provide a credit in the amount of $1 million to the Port Authority.

8.3 The Port Authority shall have the right in its sole and absolute discretion to direct Construction Manager to remove from or replace any Personnel on the Project.

8.4 Construction Manager shall comply, and shall require that its subconsultants and the Contractors and vendors comply with the provisions of the Background Qualifications Questionnaire Package ("BQQ . Package") available at http://www.panynj.gov/wtcprogress/pdf/PANYNJ_OIG_WTC_BQQP.zip and Construction Manager shall obtain from each Contractor and Subconsultant the certifications and all necessary disclosure forms.

9. SUBCONSULTANTS.

9.1 Construction Manager may contract with entities to perform a portion of Construction Manager's Services, which entities may be retained only upon the prior written approval of the Port Authority ("Subconsultant"). Such approval, to be effective, must authorize the following: (i) the Subconsultant; (ii) the form of the contract with the Subconsultant, which form must be pre-approved by the Port Authority; and (iii) the amount of compensation to be paid to the Subconsultant. No changes may be made to a pre-approved form of Subconsultant agreement except as thereafter approved in writing by the Port Authority, which authorization and approval must be obtained prior to execution of such agreement by Construction Manager and Subconsultant.

9.2 This Agreement is based upon Construction Manager's special qualifications for the Services herein contemplated; accordingly, any assignment, subletting, or other transfer of this Agreement or any part hereof or of any moneys due or to become due hereunder without the prior express consent in writing of the Port Authority shall be void and of no effect.

9.3 All persons to whom Construction Manager sublets Services shall be deemed to be Construction Manager's agents, and no subletting or approval thereof shall be deemed to release Construction Manager from its obligations under this Agreement or to impose any obligation on the Port Authority to such Subconsultant or give the Subconsultant any rights against the Port Authority.

9.4 For each agreement entered into by Construction Manager with a Subconsultant, or by a Subconsultant with a subconsultant of any tier, Construction Manager shall (i) for each contract in an amount greater than $100,000, obtain the certifications and all necessary disclosure forms from each such Subconsultant and its subconsultants of any tier, including those set forth in **Exhibit H** (FTA Provisions) and (ii) require that all Subconsultants and their subconsultants of any tier comply with the provisions of Sections 8.3 and 33.9 of this Agreement.

10. COMPENSATION.

10.1 Payment to Construction Manager for Services performed hereunder will be based on the following categories, each of which are described in more detail below:

10.1.1 Construction Manager's Fee, and

10.1.2 Cost of Work. The term "Cost of the Work" shall mean and include:

10.1.2.1 Trade Costs, as set forth in Section 10.3, below.

10.1.2.2 General Conditions Costs, as set forth in Section 10.4, below.

10.2 Construction Manager's Fee.

10.2.1 For Construction Manager's satisfactory performance of its Services and all of its obligations in connection with this Agreement, the Port Authority shall pay, subject to Section 24 (Suspension and Termination), the Construction Manager a fixed fee in the amount of $19,500,000 ("Construction Manager's Fee" or "Fee") representing Construction Manager's profit on the base Agreement and not on any option period, if so exercised by the Authority.

10.2.1.1 In no event shall a Change Order, which is within the general scope of this Agreement and increases the Cost of the Work, result in an increase in the Fee. Change Orders which are not within the general scope of this Agreement and which increase the Cost of the Work may result in an increase in the Fee.

10.3 The term "Trade Costs" shall mean and include any money due and owing Contractors in accordance with the Contracts for Work on the Project, including without limitation the procurement of required insurance set forth in the Contracts. If the Construction Manager pays for such costs, the Authority will reimburse Construction Manager for amounts equal to the lump sum amount of the Trade Contract, plus the amount(s) of any subsequent change orders approved by the Authority and issued pursuant to the Change Order procedures established under this Agreement.

10.3.1 Under no circumstance shall any subcontract with a Contractor of any tier contain a cost-plus-percentage-of-cost compensation structure.

10.4 "General Conditions Costs" shall mean and include the costs set forth in this Section 10.4.

10.4.1 General and Administrative ("G&A") Costs. The G&A rate of 60.7% ("G&A Rate") shall be applied to the Personnel Direct Labor cost as permitted in Section 10.4.2 below. Computation of the G&A rate shall only include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining

10.4.1.1 A G&A rate is applicable for a one-year accounting period ("Provisional G&A Rate"). Ninety (90) days prior to the expiration of the Construction Manager's of the applicable accounting period, the Construction Manager shall submit one of the following: i) a current indirect cost audit (not currently under dispute) by a cognizant federal or state government agency; ii) a new calculation by the Construction Manager of the G&A rate in accordance with 10.4.1; or iii) the Construction Manager shall submit to an audit of the G&A rate by the Authority. Should a subsequent audit rate differ from the rate set forth in this subparagraph, said rate shall be adjusted by a contract modification.

10.4.1.2 The G&A rate shall represent reimbursement to Construction Manager for all other costs incurred by Construction Manager for such Personnel provided; however, for purposes of this Section 10.4.1 only, Personnel shall exclude any non exempt personnel eligible to receive overtime pay who belong to a labor union, perform work on the project under the terms of a collective bargaining agreement and in accordance with the contract documents, and are paid wages for such work. General Conditions Costs for such excluded personnel are to be calculated in accordance with Section 10.4.3 below (Costs of Non-Exempt Union Labor). For the avoidance of doubt, the term "Personnel" for purposes of this Section 10.4.1, shall include members of a labor union who are exempt from receiving overtime pay and render superintendents services on the project.

10.4.1.3 The G&A rate shall not apply to non-exempt union labor described in Section 10.4.3 below.

10.4.1.4 The G&A rate shall not apply to partners, principals or temporary employees of Construction Manager.

10.4.1.5 The Construction Manager's actual G&A rate(s) during the term of this Agreement shall be subject to an audit by the Port Authority. The Authority reserves the right to retroactively adjust the Construction Manager's compensation in the event that a final audit of G&A/overhead indicates the actual rate applicable during the Agreement to be less than the rate(s) used during the Agreement. Construction Manager is responsible for monitoring its actual rates to ensure compliance with the Provisional G&A rate applicable at the time.

10.4.1.6 The G&A rate shall not include any element that is not provided for in Section 10.4.1 above; attributable to the Construction Manager's Profit/Fee; or addressed as a reimbursable expense or cost under this Agreement.

10.4.2 Direct Labor: General Conditions Costs shall include the actual hourly rates of Construction Manager's full-time employees ("Personnel") for service on the Project.

10.4.2.1 Attached hereto as **Exhibit D** (Schedule of Personnel Hourly Rates) is a schedule of the actual hourly labor rates and titles of all Construction Manager's Personnel assigned to the Project who have been approved by the Port Authority, including an organizational chart showing name and title of all staff working

on the project.

10.4.2.2 It is understood that such employee shall only bill time to the Project for work actually performed on the Project and shall not bill time to the Project for holidays, vacation days, sick leave, or personal days, maternity, medical, or family leave, nor for any other item included in the G&A rate, as set forth in Section 10.4.1 above.

10.4.2.3 When requesting salary or billing rate adjustments for one or more of its personnel, the Construction Manager shall submit his/her name, title, current direct hourly rate or billing rate, proposed new direct hourly salary or billing rate, resulting percentage increase, effective date and reason for the requested change setting forth in detail any increased costs to the Construction Manager of providing the Services under this Agreement which has given rise to the request for increased salary. For adjustments submitted after the effective date of this Agreement, it is the intention of the Port Authority to grant an increase in pay if Construction Manager demonstrates compliance with all of the following conditions: that an increase in salary is (a) in accordance with the program of periodic merit and cost of living increases normally administered by the Port Authority; (b) warranted by increased costs of providing Services under this Agreement; (c) based upon increases in salaries and billing rates which are generally applicable to all of Construction Manager's clients; and (d) in accordance with the Authority's salary rate increase policy for the current year for Port Authority employees possessing comparable skills and experience. If, during any calendar year, the Port Authority limits are not available to Construction Manager in a timely fashion, increases falling within such limits may be approved retroactively, as appropriate. The amount of increase in salary or billing rate, if any, to be applicable under this agreement shall, therefore, in all cases, be finally determined by the Director or his/her designee, in his/her sole and absolute discretion.

10.4.3 Costs of Non-Exempt Union Labor. In the event that any of Construction Manager's Personnel are non-exempt union labor, then General Conditions Costs shall include the actual wages plus actual fringe benefits paid by Construction Manager to a worker for work performed on the Project, where such worker is (i) non-exempt and eligible to receive overtime pay, and (ii) a member of a labor union; provided, however, that such work is performed and payment made under the terms of an applicable collective bargaining agreement and in accordance with the Contract Documents. In addition, Construction Manager shall be entitled to an administrative fee not to exceed five (5) percent of such non-exempt union labor cost.

10.4.4 Costs of Subconsultants. General Conditions Costs shall include an amount equivalent to the aggregate amount actually paid to Subconsultants by Construction Manager. Under no circumstances shall any subconsultant contract, at any tier, contain a cost-plus-percentage-of-cost compensation structure.

10.4.5 Reimbursable Expenses. Out-of-pocket expenses are reimbursable to the Construction Manager to the extent such costs are (i) necessarily and reasonably incurred by Construction Manager in the reasonable opinion of the Port Authority, and

(ii) actually paid by Construction Manager in its performance of the Services hereunder ("Reimbursable Expenses"). Reimbursable Expenses include, as follows:

10.4.5.1 Reasonable expenses necessary for the operation and furnishing of Construction Manager's field office, including but not limited to rent, field office fit out, furniture, computer and telefax equipment, network charges, equipment, stationery, supplies, telefax, telegrams, long distance telephone calls, telephone service at the Project, express mail, messenger delivery, postage, pest control, and similar petty cash items in connection with the Services; provided, however, that such field office it utilized solely for the Project. Reasonable expenses of and usage charges for cell phones, walkie-talkies, and Blackberry® devices for those Personnel for whom the Port Authority has pre-approved in writing such expenses and charges. In the event any work occurs or Services are rendered from this field office for work other than the Hub Project, then the field offices and all of the expenses set forth in this Subsection (i) shall be excluded from Reimbursable Expenses as though such expenses were set forth in Section 10.4.7 below. In the event the Port Authority purchases any equipment pursuant to this Subsection (i), such equipment will belong to the Port Authority. In the event Construction Manager purchases any equipment pursuant to this Subsection (i), the purchase of such equipment must be pre-approved in writing by the Port Authority. In the event Construction Manager owns existing equipment that it moves to the field office pursuant to this Subsection (i), the Port Authority will approve payment for such existing equipment on a case by case basis. Construction Manager shall maintain inventory records of all equipment purchased by or on behalf of the Port Authority covered under this Subsection.

10.4.5.2 Costs of removal of all debris from the Project, except as to contaminated soils being removed in accordance with any remediation agreement, subject to Section 12 (Hazardous Materials) of the Agreement.

10.4.5.3 Costs incurred due to an emergency affecting the safety of persons and/or property ("Emergency Costs"), unless such Emergency Costs are due to Construction Manager's willful misconduct or negligence ("Excluded Emergency Costs"); Excluded Emergency Costs shall be reimbursed only to the extent the Port Authority receives reimbursement for such Excluded Emergency Costs from insurance proceeds. For purposes of this Section 10.4.5.3, the term "emergency" means the occurrence of an event requiring immediate action by Construction Manager to protect persons and/or property such that insufficient time exists to enable Construction Manager to seek prior approval from the Port Authority for the expenditure of the costs.

10.4.5.4 Costs of computer aided design and drafting (CADD) and the necessary printing of all drawings, specifications, and other Authority-approved reproductions.

10.4.5.5 Costs of photos of the construction, if required by the Port Authority.

10.4.5.6 Travel

(i) When the Consultant is asked to provide Services outside the Port District (a radius of 25 miles from the Statue of Liberty), the actual cost of transportation (coach class) as well as the cost for hotel accommodations and meals shall be reimbursable hereunder when approved in advanced in writing by the Director. The cost for all meals and lodging on approved overnight trips are limited to the amounts established by the United States General Services Administration or Department of State, as follows: for domestic travel, locality-specific per diem rates may be found at http://www.gsa.gov; and for non-contiguous United States (e.g. Hawaii, Alaska, Guam, etc.) and foreign travel per diem rates are available at http://aoprals.state.gov/

(ii) When the Consultant uses his personal vehicle to provide Services within the Port District, the Consultant shall be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the Internal Revenue Services, see http://www.irs.gov) per mile traveled by auto.

(iii) Construction Manager shall obtain the Director's written approval prior to making expenditures for out-of-pocket expenses in excess of $1,000 per specific expenditure and for all overnight trips, which are reimbursable expenditures as set forth above. Construction Manager shall substantiate all billings for travel-related out-of-pocket expenses in excess of $25 with receipted bills and provide said receipts with the appropriate billing.

10.4.5.7 Costs of final cleaning of windows, interior areas and curtainwall, if required by the Port Authority.

10.4.5.8 Costs for flagpersons and street cleaning, if required by the Port Authority.

10.4.5.9 Costs for temporary barricades and Project fence.

10.4.5.10 Costs incurred in connection with security Personnel.

10.4.5.11 Costs for surveys.

10.4.5.12 Costs for trailers, temporary toilets.

10.4.5.13 Costs incurred for pre-approved reasonable coach travel associated with the Project.

10.4.6 Other Reimbursable Costs. The following costs shall be reimbursed by the Port Authority to Construction Manager. Such reimbursable costs shall include an amount equal to the out-of-pocket expenses of Construction Manager (i) necessarily and reasonably incurred by Construction Manager in the reasonable opinion of the Port Authority, and (ii) actually paid by Construction Manager in its performance of the Services hereunder, as follows:

10.4.6.1 Insurance premiums, deductibles, any self-insured retention

for the benefit of the Port Authority with respect to any insurance or retention not provided by the Port Authority, and any required taxes on all such costs; but only to the extent reimbursement for any cost set forth in this clause 9.2.6.1 is not otherwise provided for in the Agreement; and only if such cost is (a) required by the terms of the Agreement, and (b) beyond the scope of the OCIP;

10.4.6.2 Direct costs in connection with the administration of warranty work by Construction Manager after Final Completion;

10.4.6.3 Reasonable legal fees and costs pre-approved in writing (a) to prosecute a default under a Contract, (b) to enforce a Contract provision, or (c) to enforce the Port Authority's rights under the Contract; provided, however, it shall not be the responsibility of Construction Manager to pursue any such legal process for the benefit of the Port Authority unless the Port Authority authorizes same and agrees to reimburse Construction Manager for its out-of-pocket costs.

10.4.7 Excluded Expenses. Construction Manager agrees that the following expenses, even if incurred in furtherance of its Services, shall not be Reimbursable Expenses and shall not be paid by the Port Authority:

10.4.7.1 Construction Manager's overhead, including, without limitation, expenses necessary for the operation and furnishing of Construction Manager's principal office, such as furniture, equipment, stationery, supplies, telefax, telegrams, long distance telephone calls, telephone service, express mail, messenger delivery, utilization of computer systems (other than network charges), cameras, recording or measuring devices, flashlights and other small, portable equipment, safety supplies and similar petty cash items in connection with the Services.

10.4.7.2 Salaries or other compensation of Construction Manager's Personnel at Construction Manager's principal office and branch offices, unless Construction Manager obtains prior written approval from the Port Authority, in which case such salaries or other compensation will be subject to the terms of Section 9.2.2 above.

10.4.7.3 Expenses of Construction Manager's branch offices except as otherwise explicitly allowed herein.

10.4.7.4 Any part of Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Services.

10.4.7.5 Rental or depreciation costs.

10.4.7.6 General expenses of any kind, except as may be expressly included in Section 10.4.5 above or approved in writing by the Port Authority, in accordance with Section 10.4.7.15 below.

10.4.7.7 Costs incurred due to the willful misconduct or negligence of, or breach of the Agreement by, Construction Manager, any Subconsultant, anyone directly or indirectly employed by any of them (other than the Contractors), or for whose acts any of them may be liable.

10.4.7.8 Except as set forth herein, costs incurred by reason of Construction Manager's membership in, or fees paid by Construction Manager, to trade or professional organizations.

10.4.7.9 Workers' compensation costs and any other costs covered under the OCIP with respect to Construction Manager's field office supervisor and field office staff.

10.4.7.10 All fees for obtaining building permits shall be paid directly by the Port Authority, but Construction Manager shall provide any services reasonably necessary to assist the Port Authority in obtaining any permits.

10.4.7.11 Construction Manager's federal, state, or local income taxes.

10.4.7.12 Indirect costs and expenses of Construction Manager in connection with the administration of the warranty after Final Completion.

10.4.7.13 Other than for non-exempt union labor who shall be billed at cost, overtime or hazardous pay, including, without limitation, overtime work or night work or pay for performing hazardous duties.

10.4.7.14 Any tax paid with respect to any purchase or rental charge, including, without limitation, New York State or New York City sales tax, where the purchase or rental charge is exempt from such tax pursuant to Section 33.10 of this Agreement.

10.4.7.15 The cost of any item not specifically and expressly included in the items described in Section 10 above, unless Construction Manager obtains prior written approval from the Port Authority for each reimbursement of a specific, extraordinary, single, and non-reoccurring item of expense, which approval shall be granted or denied at the Port Authority's sole, subjective, and absolute discretion.

(i) To be eligible for approval under this Section 10.4.7.15, Construction Manager must demonstrate that the proposed cost was (i) necessarily and reasonably incurred by Construction Manager in the reasonable opinion of the Port Authority, and (ii) actually paid by Construction Manager in its performance of the Services hereunder.

11. PROGRESS PAYMENTS.

11.1 Progress Payments

11.1.1 Construction Manager shall requisition the Port Authority monthly for (a) General Conditions Costs that have been incurred by Construction Manager during the previous calendar month; and (b) any Trade Costs for work performed in the prior month; and (c) the portion of Construction Manager's Fee that has been earned in accordance with 11.1.1.1 below ("Requisition"). The Requisition shall be submitted to the Port Authority no later than the first day of each calendar month (or, if such day is not a business day, then the first business day thereafter). Construction Manager shall provide all payment documentation requested by, and in form and substance satisfactory to, the Port Authority.

11.1.1.1 Payment of Construction Manager's Fee shall be made in installments based upon the percentage of completion of the Work as approved by the Port Authority, but subject to the withholding provisions of Section 11.2 below. 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 social security number of each such employee, 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 must submit these weekly payroll records to the Authority (on forms furnished by the Authority) of all his payroll records and those of each of his subcontractors 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.

11.1.2 After the Requisition has been approved and certified for payment by the Port Authority Representative, the Port Authority shall pay such Requisition in a reasonable time, not to exceed thirty (30) calendar days from the date that the Requisition has been approved. Construction Manager shall pay each Contractor its respective approved amount no later than seven (7) business days after receipt of payment, or later if directed by the Port Authority in writing.

11.2 Payments Withheld.

11.2.1 The Port Authority, at its discretion, may withhold an appropriate portion or all of any payment for any of the following reasons: (1) a lien or other claim made, asserted, or filed, or reasonable evidence indicating such a lien or claim may be asserted, regarding the Project for payments made to or authorized by Construction Manager; (2) failure of Construction Manager to properly make a payment to a Subconsultant or Contractor or the failure of a Contractor (first-tier Subcontractor) to properly make a payment to a subcontractor or materialperson; (3) improper, erroneous, or incomplete invoices from Construction Manager; (4) unauthorized deviation by Construction Manager from performance of its Services in accordance with the Standard of Care; or (5) breach of this Agreement by Construction Manager. Once the

condition justifying withholding has been removed, the amount withheld shall be released with payment of the following Requisition.

11.2.2 Notwithstanding the above, the Port Authority may dispute any payment, deposit, or disbursement, and deduct from future payment requests the amount in dispute until such time as the dispute is resolved in accordance with the Contract Documents.

11.3 The Port Authority may perform an audit, investigation, or otherwise independently verify any payment request or certification by Construction Manager. The Construction Manager shall not be entitled to reimbursement or other compensation for costs associated with such audit, investigation, verification or certification.

12. INTENTIONALLY OMITTED.

13. HAZARDOUS MATERIALS.

13.1 Except as otherwise provided in Section 13.2, Construction Manager shall not have any duties or obligations regarding the existence, remediation or removal of any hazardous waste, hazardous material, toxic substance, asbestos-containing material, petroleum product, or related materials, including, but not limited to, substances defined as "hazardous substances" or "toxic substances" as defined in the following: Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9061 *et. seq.;* Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802; and the Resource Conservation Act and Recovery Act, as amended, 42 U.S.C. Sec. 6901 *et. seq.;* and the corresponding regulations (as amended) issued pursuant to these acts (collectively, "Hazardous Materials"); provided, however, that Construction Manager will assist the Port Authority in the procurement of Contracts with remediation trades to perform any needed remediation work. It is the Port Authority's responsibility to directly contract with remediation contractors for the removal, transport, and disposal of all asbestos and hazardous waste from the site (each such contractor, hereinafter a "Remediation Contractor"). At the Port Authority's request, Construction Manager shall bid at the Port Authority's request and recommend to the Port Authority an award for both the asbestos and hazardous waste survey and monitoring firm as well as the Remediation Contractor(s). The Remediation Contractor(s) shall be directly responsible to the Port Authority for the monitoring and supervision of all asbestos and hazardous waste removal/remediation. Construction Manager shall in no way be responsible for supervision of the work of remediating, removing, transporting, or disposing of the asbestos or hazardous waste as performed by the Port Authority's Remediation Contractor. The Port Authority shall, in its contract(s) with Remediation Contractors, use reasonable efforts to, and where possible, require each such Remediation Contractor to: (i) name the Port Authority and Construction Manager as additional insureds on all relevant insurance policies relating to work on the Project; and (ii) defend, indemnify and hold harmless in connection with the Remediation Contractor's work the following entities: The Port Authority and Construction Manager and the parents and affiliates, successors and permitted assigns of each of the foregoing entities and the officers and directors of each of them.

13.2 Construction Manager shall be responsible for the remediation, removal or damages arising from the following: (i) any Hazardous Material introduced to the Project by Construction Manager or its Subconsultants, or anyone for whom either or both are responsible; (ii) any Hazardous Material handled either improperly or unsafely or not in keeping with the Legal Requirements setting forth the requirements for handling or disposing of such Hazardous Materials; and/or (iii) any condition arising from the existence, remediation, removal or damages of a Hazardous Material that is negligently exacerbated by Construction Manager or its Subconsultants. Construction Manager shall ensure that both Construction Manager and the Port Authority are listed as additional insureds on any remediation contractor's Environmental and Comprehensive General Liability policies hired with respect to this Section 13.2.

14. PUBLIC RELATIONS.

Construction Manager shall not communicate with the media regarding the Project without the prior written approval of the Port Authority and shall comply with the requirements of Section 23 (Confidentiality) below at all times with respect to any communication whatsoever.

15. MINORITY/WOMEN BUSINESS ENTERPRISE PROGRAM.

15.1 The Authority has a long-standing practice of encouraging Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) to seek business opportunities within Port Authority, either directly or as Contractors or subcontractors. The Port Authority's policy is articulated in **Exhibit K** (Minority and Women's Business Enterprises Program). "Minority-owned business" or "MBE" means a business entity which is at least 51 percent owned by one or more members of one or more minority groups, or, in the case of a publicly held corporation, at least 51 percent of the stock of which is owned 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 51 percent owned by one or more women; or, in the case of a publicly held corporation, 51 percent of the stock of which is owned 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. A "Minority" group means any of the following racial or ethnic groups:

15.1.1 Black persons having origins in any of the Black African racial groups not of Hispanic origin;

15.1.2 Hispanic persons of Puerto Rican, Mexican, Dominican, Cuban, Central or South American culture or origin, regardless of race;

15.1.3 Asian and Pacific Islander persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;

15.1.4 American Indian or Alaskan Native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

15.2 To ensure maximum participation in the Project, to the extent feasible and consistent with the exercise of good business judgment, the Port Authority has established an overall combined contract goal of seventeen percent (17%) participation by MBEs and WBEs for (i) all procurement, construction subcontracting, architectural & engineering services and ancillary service opportunities for the Construction Manager's Services and the Work performed by Contractors. The Port Authority has also established goals that the construction labor force reflect the minority and female participation goals that will be applicable to Trade Contracts, and any subcontracts thereto.

15.3 Construction Manager shall use its good faith efforts to achieve the goals and policies described in Section 15.2 above for Construction Manager's Services. Construction Manager shall facilitate, oversee, and scrutinize achievement of the goals and policies described in Section 15.2 above for Contractor's Work. Construction Manager also shall report monthly to the Port Authority regarding progress and issues with respect to compliance and progress regarding the provisions of this Section 15.

15.4 The provisions of this Section 15 shall be available and applicable to all Trade Contract bidders and those selected to be Contractors, both during the bidding process and at time of execution of each respective Contract; and to all Subconsultants and their subconsultants of any tier.

15.5 In order to facilitate meeting the MBE/WBE goals, Construction Manager shall use every good faith effort, to the maximum extent feasible, to utilize Contractors and Subconsultants who are Port Authority-certified MBEs or WBEs.

15.5.1 The Port Authority has a list of certified MBE/WBE service firms, which list is available to Construction Manager at its request.

15.5.2 Construction Manager will be required to submit to the Office of Business and Job Opportunity for certification the names of MBE/WBE firms that Construction Manager proposes to use who are not on the list of Port Authority-certified MBE/WBE firms.

15.5.3 In order for a firm to be "certified" as an MBE or WBE, the Office of Business and Job Opportunity must make the determination and so certify.

16. PREPARATION OF DOCUMENTS AND GRAPHICS.

16.1 When Services to be performed by Construction Manager include the preparation of Contract Documents, or the performance of post-award Services, Construction Manager shall submit a specific quality control/quality assurance program to the Port Authority prior to the performance of said Services. When Construction Manager has completed preparation of any Contract Documents required hereunder, Construction Manager shall submit a letter to the Port Authority certifying Construction Manager's conformance with the aforementioned quality control/quality assurance program.

16.2 When Services to be performed by Construction Manager include the preparation of computer aided design and drafting (CADD) documents, Construction Manager shall submit said documents in the format of the latest available version of AutoDesk's design CADD

software (.dwg), or as directed by the Port Authority prior to performance of specific Services, and such documents shall be submitted to the Port Authority on compact disks or as otherwise required by the Port Authority.

16.3 When Services to be performed by Construction Manager include the preparation of architectural graphics, Construction Manager shall prepare said graphics using a system fully compatible with the Port Authority's standard computer system. The graphics shall be prepared using the latest revision of the following software packages, as required by the Port Authority: Adobe Illustrator; Quark Xpress; Microsoft Word, and Microsoft PowerPoint. Such graphics shall be submitted to the Port Authority on compact disk or as otherwise required by the Port Authority.

17. PORT AUTHORITY REVIEW.

17.1 Any deliverable, such as Project Schedule, to be submitted or prepared hereunder by Construction Manager shall be subject to review or, where applicable, approval by the Port Authority.

17.1.1 The Port Authority may disapprove, if, in the Port Authority Representative's sole opinion, any deliverable is not in accordance with the requirements of this Agreement, all applicable jurisdictional codes, the Port Authority's standards previously disclosed by the Port Authority to Construction Manager, sound engineering practices, or are impractical, uneconomical, or unsuitable for the purpose for which the construction is intended.

17.1.2 If any deliverable is so disapproved, Construction Manager shall forthwith revise said items until approved by the Port Authority, but Construction Manager shall not be compensated under any provision of this Agreement for performance of such revisions.

17.2 No approval or disapproval by the Port Authority shall relieve Construction Manager of its responsibilities under this Agreement.

18. RECORDKEEPING.

18.1 Construction Manager shall keep, and shall cause each Subconsultant under this Agreement to keep, daily records of the time spent in the performance of Services by all persons whose salaries or amounts paid thereto will be the basis for compensation under this Agreement, as well as records of the amounts of such salaries and amounts actually paid for the performance of such Services, and records and receipts of the General Conditions Costs, or other expenditures hereunder. In addition, the Construction Manager shall also keep records associated with the calculation of General and Administrative Costs.

18.2 Notwithstanding any other provision of this Agreement, failure to comply with Section 18.1 shall be a conclusive and final waiver of any right to compensation for such Services or expenses that are otherwise compensable hereunder.

18.3 The Port Authority shall have the right to audit all of the records of Construction Manager and Subconsultants of any tier with respect to the Project.

18.4 The Port Authority shall have the right to inspect Construction Manager's records, and those of Construction Manager's Subconsultants of any tier, pertaining to any compensation payable or to be paid hereunder.

18.5 Construction Manager's files and records with respect to the Project must be maintained by Construction Manager and its Subconsultants for a period of four (4) years after completion of Services to be performed under this Agreement and final payment is made to the Construction Manager.

18.6 As used in this Section 18, "Subconsultants" shall also include Contractors, subcontractors, vendors and suppliers at all tiers.

19. INDEMNIFICATION.

19.1 The Construction Manager assumes the following distinct and several risks to the extent arising from the negligent or willful intentional acts or omissions of the Construction Manager or its subconsultants in the performance of Services hereunder:

19.1.1 The risk of loss or damage to Authority property arising out of or in connection with the performance of Services hereunder;

19.1.2 The risk or loss or damage to any property of the Construction Manager or its subconsultants arising out of or in connection with the performance of Services hereunder;

19.1.3 The risk of claims, arising out of or in connection with the performance of Services hereunder, whether made against the Construction Manager or its subconsultants or the Authority, for loss or damage to any property of the Construction Manager's agents, employees, subcontractors, subconsultants, materialmen or others performing Services hereunder; or

19.1.4 The risk of claims, just or unjust, by third persons made against the Construction Manager or its subconsultants or the Authority on account of injuries (including wrongful death), loss or damage of any kind whatsoever arising in connection with the performance of Services hereunder including claims against the Construction Manager or its subconsultants or the Authority for the payment of workers' compensation, whether such claims are made and whether such injuries, damage and loss are sustained at any time both before and after the completion of Services hereunder.

19.2 The Construction Manager shall indemnify the Authority against all claims described in subparagraphs 19.1.1 through 19.1.4 above and for all expense incurred by it in the defense, settlement or satisfaction thereof, including expenses of attorneys. If so directed, the Construction Manager shall defend against any claim described in Sections 19.1.2, 19.1.3 and 19.1.4 above, in which event it 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 statues respecting suits against the Authority, such defense to be at the Construction Manager's cost.

19.3 The provisions of this 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 clause if they were named at each place above at which the Authority is named, including a direct right of action against the Construction Manager to enforce the foregoing indemnity, except, however, that the Authority may, at any time in its sole discretion and without liability on its part, cancel the benefit conferred on any of them by this clause, whether or not the occasion for invoking such benefit has already arisen at the time of such cancellation.

19.4 Neither the completion of Services hereunder nor the making of payment (final or otherwise) shall release the Construction Manager from its obligations under this clause. Moreover, neither the enumeration in this clause or the enumeration elsewhere in this Agreement of particular risks assumed by the Construction Manager or of particular claims for which it is responsible shall be deemed (a) to limit the effect of the provisions of this clause or of any other clause of this Agreement relating to such risks or claims, (b) to imply that it assumes or is responsible for risks or claims only of the type enumerated in this clause or in any other clause of this Agreement, or (c) to limit the risks which it would assume or the claims for which it would be responsible in the absence of such enumerations.

19.5 No third party rights are created by the Agreement, except to the extent that the Agreement specifically provides otherwise by use of the words "benefit" or "direct right of action".

19.6 Inasmuch as the Authority has agreed to indemnify the Cities of New York and Newark against claims of the types described in Section 19.1.4 above made against said cities, the Construction Manager's obligation under Section 19.1.4 above shall include claims by said cities against the Authority for such indemnification.

20. INSURANCE.

20.1 The Port Authority, at its sole and absolute discretion, may provide an insurance program ("Insurance Program") in accordance with Section I, Insurance Procured by the Authority, of **Exhibit E** (Insurance Requirements).

20.2 Construction Manager shall procure, and cause its Subconsultants to procure, the insurance in accordance with the requirements set forth in Section II, Insurance Procured by Contractor, of **Exhibit E** (Insurance Requirements), other than those described in Section 20.1 above.

20.3 Construction Manager shall cooperate with the Insurance Program insurers, if any, and shall respond timely to all reasonable requests from same.

20.3.1 Prior to execution of the Agreement, Construction Manager agrees to provide the Port Authority with the policy number and certificate of insurance for each such policy for all insurance coverages purchased or obtained by Construction Manager for or on behalf of the Port Authority with respect to the Project.

21. OWNERSHIP OF WORK PRODUCT.

21.1 Mylars of the Contract Drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes and disks, and other documents of any type whatsoever (collectively, "Works") and mechanical or electronic copies of the Works, whether in the form of writing, figures, or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of the Port Authority, and the Port Authority shall have the right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided herein. For purposes of copyright creation and ownership, such Works shall be considered "Works for Hire" and shall be deemed created and owned by the Port Authority; Construction Manager shall otherwise assign such rights to the Port Authority and execute such documents and undertake such actions to effectuate such assignments and ownership.

21.2 Construction Manager hereby warrants and represents that the Port Authority will have at all times the ownership and rights provided for in Section 21.1 above, free and clear of all claims of third persons, whether presently existing or arising in the future, and whether presently known to either of the parties to this Agreement or not.

21.3 If research or development is furnished in connection with the performance of this Agreement and if, in the course of such research or development, patentable subject matter is produced by Construction Manager, its officers, agents, employees, or Subconsultants, then the Port Authority, without cost or expense to it, shall have an irrevocable, non-exclusive royalty-free and worldwide license to make, have made, and use, either by itself or by anyone on the Port Authority's behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by the Port Authority under this Agreement.

21.4 With respect to any license the Port Authority may be entitled to pursuant to this Section 20, promptly upon request by the Port Authority, Construction Manager shall furnish or obtain from the appropriate person a form of license satisfactory to the Port Authority, but it is expressly understood and agreed that, as between the Port Authority and Construction Manager, the license herein provided for shall nevertheless arise for the benefit of the Port Authority immediately upon the production of said subject matter and shall not await formal exemplification in a written license agreement as provided for above.

21.4.1 Any license agreement obtained pursuant to this Section 21 may be transferred by the Port 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 Port Authority, and such license may be otherwise transferable at the Port Authority 's sole discretion.

22. INTELLECTUAL PROPERTY.

22.1 Construction Manager shall promptly and fully inform the Port Authority in writing of any intellectual property right(s) disputes, whether existing or potential, of which Construction Manager has knowledge, relating to any idea, design, method, material, equipment, or other matter related to the subject matter of this Agreement or coming to Construction Manager's attention in connection with this Agreement.

22.2 Construction Manager hereby acknowledges that, except as set forth herein, all Intellectual Property Rights (as such term is defined in Section 22.4 below) necessary for the development, construction, and marketing of the Hub Project are owned by, licensed to, or have been otherwise secured by the Port Authority, its Contractors, Subconsultants, and employees and agents thereof, and that any uses by Construction Manager and its agent, employees, and Subconsultants are incidental and for the benefit of the Port Authority as part of the Project.

22.3 In the event that the Port Authority is accused of infringing any Intellectual Property Rights, including, but not limited to, those rights set forth in Section 21.1, as a result of any action taken by the Construction Manager, its Subconsultants, officers, employees, or agents thereof, the Construction Manager shall defend, indemnify, and hold harmless, and hereby does indemnify and hold harmless the Indemnitees from and against any and all claims, demands, suits, causes of action, damages, losses, costs, and expenses, including reasonable attorneys' and experts' fees and costs, arising directly or indirectly from or out of the design, creation, manufacture, advertising, promotion, distribution, sale, use, or misuse of any third-party Intellectual Property Rights or any alleged action or omission by Construction Manager, its Subconsultants, or their respective officers, directors, employees, agents, successors, assigns, or customers (collectively, "IP Claims"), including, but not limited to, any IP Claims that may be asserted by customers, suppliers, Contractors, Subconsultants, manufacturers, sales representatives (independent and otherwise), employees, and all other persons and entities which may assert any such claims. Construction Manager shall not settle or otherwise compromise any IP Claims naming the Port Authority without the Port Authority's prior written consent, which shall not be unreasonably withheld. The Port Authority shall have the option to assume the defense of any IP Claims and to hire counsel of its choice, at Construction Manager's expense. Construction Manager shall give immediate notice to the Port Authority of any occurrence that might reasonably be expected to result in any IP Claim against any one or more of the Indemnitees. All of Construction Manager's indemnification obligations hereunder shall survive the expiration or termination of this Agreement.

22.4 For purposes of this Agreement, "Intellectual Property Rights" shall be defined as patents, unpatented inventions, patent applications in process, rights in expired patents, designs, processes, know-how, inventions, mask works, common law trademarks and service marks, active, expired or cancelled trademark or service mark registrations, trade names, slogans, unregistered trade dress, registered and unregistered copyrights, agreements, licenses, trade secrets, rights of publicity, and any tangible media (including film negatives and electronic files) embodying the same.

23. CONFIDENTIALITY.

23.1 Construction Manager has entered into a Confidentiality Agreement with the Port Authority and other parties ("Confidentiality Agreement"), a copy of which is attached hereto as **Exhibit F** (Non-Disclosure and Confidentiality Agreement) and made a part hereof. Construction Manager acknowledges and agrees that such Confidentiality Agreement is applicable to both the Project and the Agreement. Construction Manager shall obligate its Subconsultants and their employees in accordance with the requirements of Section 26 (Security Requirements) and shall require in all Contracts that Contractors comply with such requirements and require the Contractor's employees to do the same. A breach of the

Confidentiality Agreement by Construction Manager or its Subconsultants shall be a material breach of this Agreement.

23.2 In addition to the obligations set forth in Section 23.1 above, Construction Manager shall comply with Sections 23.3 through 23.7 below, unless a requirement of any such provision conflicts with a requirement set forth in the Confidentiality Agreement. In the event of such a conflict, the most stringent requirement upon Construction Manager shall apply. In the event there is a dispute or it cannot be determined which provision is most stringent upon Construction Manager, then the Port Authority shall select the requirement with which Construction Manager must comply.

23.3 Without the express written approval of the Port Authority, Construction Manager shall keep confidential, and shall require its Subconsultants and employees to keep confidential, the information set forth in Sections 23.3.1 and 23.3.2 below. Disclosure of any such information shall constitute a material breach of the Agreement.

23.3.1 all information identified as confidential, or some other similar identifying mark or statement indicating that such item is confidential, privileged, sensitive security, and/or proprietary information, disclosed to Construction Manager by the Port Authority or PATH or their respective contractors, consultants, or construction managers, if any; or

23.3.2 all information developed by Construction Manager or its Subconsultants in the performance of Services.

23.4 Construction Manager shall execute, and shall cause its employees and its Subconsultants, and the Subconsultant's respective employees, to execute non-disclosure agreements as directed by the Port Authority concerning intellectual property and proprietary information of the Port Authority, PATH, and any third person. Disclosure of any information covered under such non-disclosure agreements shall constitute a material breach of the Agreement.

23.5 The obligation of confidentiality under this Section 23 shall not pertain to:

23.5.1 information in the public domain;

23.5.2 information lawfully received from a third party;

23.5.3 information independently developed or obtained by Construction Manager or its Subconsultants prior to any disclosure or development contemplated in Sections 22.3.1 or 22.3.2, above; or

23.5.4 information that must be disclosed under law, provided the Port Authority is given reasonable notice of the legal obligation or legal process to disclose the same and provided Construction Manager is permitted to give such notice by applicable law.

23.6 Construction Manager shall not issue or permit to be issued any press release, advertisement, or literature of any kind that refers to the Port Authority or the Services performed in connection with this Agreement, unless Construction Manager obtains prior

written approval from the Port Authority. Such approval may be withheld at the sole discretion of the Port Authority if, for any reason, the Port Authority believes that publication of such information could or would be harmful to the public interest or is in any way undesirable.

23.7 Under no circumstances shall Construction Manager or its Subconsultants communicate in any way with any contractor, department, board, agency, commission, or other organization, or any person, whether governmental or private, in connection with the Services unless required by law, except upon prior written approval and instruction of the Port Authority; provided, however, that data from manufacturers and suppliers of material shall be obtained by Construction Manager when Construction Manager finds such data necessary, unless otherwise instructed by the Port Authority .

24. SUSPENSION AND TERMINATION.

24.1 If, at any time, it is impracticable or undesirable from the viewpoint or judgment of the Port Authority to proceed with or continue the performance of the Agreement or any part thereof, whether or not for reasons beyond the control of the Port Authority, then the Port Authority shall have authority to suspend performance of any part or all of the Agreement until such time as the Port Authority may deem it practicable or desirable to proceed.

24.2 This Agreement may be terminated for the convenience of the Port Authority without cause upon thirty (30) days' prior written notice from the Port Authority, in which event the Port Authority shall pay Construction Manager the amounts calculated in Sections 24.2.1 through 24.2.4, as follows:

24.2.1 The portion of Construction Manager's Fee based upon the percentage of completion of Services performed through the effective date of termination;

24.2.2 Plus General Conditions Costs incurred up to the effective date of termination provided that such General Conditions Costs are reasonable and necessary to the wrap-up of Construction Manager's Services.

24.2.3 Plus the Port Authority shall pay Construction Manager for related expenses up to the effective date of termination except to the extent Construction Manager has legal or written obligations that extend beyond the termination date, which shall be transferred to the Authority; or if not transferable, the Authority shall pay the related termination fee or costs for such written or legal obligations. These obligations, where possible, shall carry a thirty (30)-day cancellation clause and to the extent they do not, such longer or non-transferable obligations (but not legal obligations which cannot, by their nature, be pre-approved) shall require the Authority's written pre-approval.

24.2.4 Plus Trade Costs based on amounts actually paid to Contractors up to the effective date of termination.

24.2.5 Less any back charges against the Construction Manager under 'this Agreement, which amounts shall be determined by the Port Authority in its sole and absolute discretion.

24.3 In no event shall Construction Manager be entitled to anticipated or unearned Fee or profits for (i) Services not executed, or (ii) Cost of the Work (a) to be incurred or (b) incurred after the effective date of termination.

24.4 Construction Manager shall assign all of the Subconsultants' agreements and Contractors' contracts to the Port Authority by the effective date of termination.

24.5 Construction Manager shall remain liable for Services as if contract was completed in full.

25. DISPUTE RESOLUTION.

25.1 To resolve all disputes and to prevent litigation the parties to this Agreement 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 Agreement (including claims in the nature of breach of Contract or fraud or misrepresentation before or subsequent to acceptance of the Construction Manager's Proposal and claims of a type which are barred by the provisions of this Agreement) and his decision shall be conclusive, final and binding on the parties. His 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 Director or others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Agreement.

25.2 All such questions shall be submitted in writing by the Construction Manager 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 Construction Manager 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.

25.3 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 law provisions.

26. SECURITY REQUIREMENTS.

26.1 The Non-Disclosure and Confidentiality Agreement entered into by Construction Manager (see **Exhibit F** hereto) contains a Security Program Handbook for the Project. Although Construction Manager acknowledges in Section 23.1 above Construction Manager's prior and continuing agreement to comply with the provisions of the Confidentiality Agreement, which agreement includes the Security Program Handbook for the Project, for the avoidance of doubt, Construction Manager acknowledges and agrees that such Security Program Handbook is applicable to both the Project and the Agreement and Construction Manager shall: (i) cause its Subconsultants, Contractors, and employees of such entities performing work or services on the Project to execute the Confidentiality Agreement and Security Program Handbook, (ii) cause Subconsultants and their employees to comply with the provisions therein, and (iii) use best efforts to cause Contractors and their employees to comply with the provisions therein. A

breach of the Security Program Handbook for the Project by Construction Manager or its Subconsultants shall be a material breach of this Agreement.

26.2 Construction Manager acknowledges and agrees that the Port Authority has facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. The Port Authority reserves the right to impose multiple layers of security requirements on Construction Manager, its staff, Subconsultants and their staffs, Contractors and their staffs, and all others participating in the Project, depending upon the level of security required, as determined by the Port Authority in its sole, absolute, and subjective discretion. Accordingly, Construction Manager, if requested after execution of this Agreement, shall execute and comply with any security agreement or new security provision required by the Port Authority or Authority or with any new governmental regulation; or with any modification, increase, and/or upgrade to existing security requirements or governmental regulation, which modification, increase, and/or update is imposed after execution of this Agreement; and Construction Manager shall create an obligation and require that all Subconsultants and Contractors, and their respective staffs, shall do the same and Construction Manager shall cause its Subconsultants to comply with the provisions therein and shall use diligent commercially reasonable efforts to cause its Contractors to comply with the provisions therein.

26.3 Security requirements include, but are not limited to, those attached hereto as **Exhibit G** (WTC Site Security Requirements).

26.4 In addition to the obligations set forth in Sections 26.1 through 26.3 above, Construction Manager shall comply with Sections 26.5 through 26.7 below unless a requirement of any such provision conflicts with a requirement set forth in the security requirements described in Section 26.3 above. In the event of such a conflict, the most stringent requirement upon Construction Manager shall apply. In the event there is a dispute or it cannot be determined which provision is most stringent upon Construction Manager, then the Port Authority shall select the requirement with which Construction Manager must comply.

26.5 In accordance with Section 26.4 above, security requirements include as follows:

26.5.1 Construction Manager, Subconsultant, and Contractor criminal background checks, performed by firms acceptable to the Port Authority, and identity checks and background screening, including, but not limited to, inspection of not less than two (2) forms of valid/current government-issued identification (at least one having an official photograph) to verify person's name and residence;

26.5.2 Screening federal, state, and/or local criminal justice agency information databases and files; screening of any terrorist identification files;

26.5.3 Multi-year check of personal, employment, and/or credit history;

26.5.4 Access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning, or the like;

26.5.5 Issuance of photo identification cards; and

26.5.6 Access control, inspection, and monitoring by security guards.

26.6 Construction Manager shall require that its staff and Subconsultants, and the staff of such Subconsultants, undergo a criminal history background check; and shall furnish proof to the Port Authority, in a form acceptable to the Port Authority, that such check has been performed. No employee of Construction Manager or any Subconsultant will be permitted to perform Services under this Agreement without proof that such check has been performed and submission of the results to the Port Authority.

26.7 Construction Manager shall enforce the security provisions provided for in this Section 25 with all of its Subconsultants, Personnel, and the staff and employees of all foregoing persons and entities, and Construction Manager shall use best efforts to enforce the security provisions provided for in this Section 26 with all of the Contractors and their subcontractors of any tier.

27. CERTIFICATION OF NO INVESTIGATION (CRIMINAL OR CIVIL ANTI-TRUST), INDICTMENT, CONVICTION, DEBARMENT, SUSPENSION, DISQUALIFICATION AND DISCLOSURE OF OTHER INFORMATION.

27.1 By signing this Agreement, Construction Manager and each person signing on behalf of Construction Manager certifies, and in the case of a joint proposal that resulted in formation of this Agreement, each party to such proposal certifies, as to its own organization, that Construction Manager and each parent and/or affiliate of Construction Manager has not:

27.1.1 been indicted or convicted in any jurisdiction;

27.1.2 been suspended, debarred, found not responsible, or otherwise disqualified from entering into any agreement with any governmental agency or been denied a government agreement for failure to meet standards related to the integrity of Construction Manager;

27.1.3 had an agreement terminated by any governmental agency for breach of agreement or for any cause based in whole or in part on an indictment or conviction;

27.1.4 ever used a name, trade name, or abbreviated name, or an employer identification number (other than in connection with Construction Manager's reorganization in 1998) different from those inserted in any such proposal or furnished to the Port Authority;

27.1.5 had any business or professional license suspended or revoked or, within the five (5) years prior to submission of any proposal or execution of this Agreement, whichever occurred earlier, had any sanction imposed in excess of Fifty Thousand Dollars ($50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state, or local law, rule, or regulation, including environmental laws, rules, and regulations;

27.1.6 had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, proposal rigging, embezzlement, misrepresentation, or anti-trust, regardless of the dollar amount of the any sanction or the date of its imposition; and

27.1.7 been and is not currently, or been and is 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.

27.2 Construction Manager shall include the provisions of this Section 27 in each subcontract (at any tier) it enters into under this Agreement and shall cause its Subconsultants and their Subconsultants of any tier to so include such provisions.

28. CODE OF ETHICS.

28.1 By signing this Agreement, Construction Manager and each person signing on behalf of Construction Manager certifies that:

28.1.1 the prices proposed or quoted have been arrived at independently and without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Construction Manager or with any competitor;

28.1.2 the prices proposed or quoted have not been and will not be knowingly disclosed, directly or indirectly by Construction Manager or any person identified in Section 28.1 above prior to the official opening of any such proposal, to any other Construction Manager or to any competitor;

28.1.3 no attempt has been made and none will be made to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition;

28.1.4 Neither Construction Manager nor any person identified in Section 28.1 above has made any offer or agreement or taken any other action with respect to any Port Authority employee or former employee, or immediate family member of either, that would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of Authority), nor does such Construction Manager or person have any knowledge of any act on the part of a Port Authority employee or former the Port Authority employee relating either directly or indirectly to Construction Manager or such person that constitutes a breach of the ethical standards set forth in said Code; and

28.1.5 no person or selling agency, other than a bona fide employee or bona fide established commercial or selling agency maintained by Construction Manager for the purpose of securing business, has been employed or retained by Construction Manager to solicit or secure this Agreement on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency.

28.2 The certifications in Section 27 and Section 28 shall be deemed to be made by Construction Manager as follows:

28.2.1 if Construction Manager is a corporation, such certification shall be deemed to have been made not only with respect to Construction Manager itself, but also with

respect to each parent, affiliate, director, and officer of Construction Manager, as well as, to the best of the certifier's knowledge and belief, each stockholder of Construction Manager with an ownership interest in excess of ten percent (10%).

28.2.2 if Construction Manager is a partnership, such certification shall be deemed to have been made not only with respect to Construction Manager itself, but also with respect to each partner.

28.2.3 if Construction Manager is a corporation, such certification shall be deemed to have been authorized by the board of directors of Construction Manager, and such authorization shall be deemed to include the signing and submission of any proposal and the inclusion therein of such certification as the act and deed of the corporation.

28.3 If Construction Manager cannot make every certification required under Section 26 or Section 27, Construction Manager shall so state and shall furnish to the Port Authority prior to executing this Agreement a signed statement that sets forth in detail the reasons therefor. If Construction Manager is uncertain as to whether it can make the foregoing certifications, it shall so indicate to the Port Authority in a signed statement furnished to the Port Authority prior to executing this Agreement, setting forth in such statement the reasons for its uncertainty.

28.4 Notwithstanding that Construction Manager may be able to make the certifications required under Section 27 or Section 28 prior to or at the time of executing this Agreement, Construction Manager shall immediately notify the Port Authority in writing during the term of this Agreement of any change of circumstances that might make Construction Manager unable to continue to make such certifications or require disclosure.

28.5 Certifications or signed statements made pursuant to Section 27 and Section 28 shall be deemed to have been made by Construction Manager with full knowledge that they shall become a part of the records of the Port Authority and that the Port Authority shall rely on their truth and accuracy in awarding this Agreement.

28.6 If the Port Authority determines at any time prior or subsequent to the award of this Agreement that Construction Manager has falsely certified as to any material item in such certifications or statements, or has willfully or fraudulently furnished a certification or signed statement that is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the certifications and statements required to be disclosed, then the Port Authority may determine that Construction Manager is not a responsible Construction Manager with respect to its proposal regarding the Services or the Agreement or with respect to future proposals for Services or the Port Authority agreements, and the Port Authority may exercise such other remedies as are provided to it by the Agreement with respect to these matters.

28.7 Construction Manager acknowledges that knowingly providing a false certification or statement in any proposal for Services or under this Agreement 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.). Construction Manager also acknowledges that the inability to make

such certification will not in and of itself disqualify a Construction Manager, and that in each instance, the Port Authority will evaluate the reasons therefor provided by such Construction Manager.

28.8 Construction Manager shall include the provisions of this Section 28 in each subcontract (at any tier) it enters into under this Agreement and shall cause its Subconsultants and their Subconsultants of any tier to so include such provisions.

29. CONSTRUCTION MANAGER ELIGIBILITY.

29.1 Construction Manager acknowledges and shall abide by any determination with respect to the Port Authority's policy to honor any determination by any agency of either the State of New York or New Jersey that a Construction Manager is not eligible to submit a proposal or be awarded a public agreement because such Construction Manager has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

29.2 Construction Manager acknowledges that with respect to the policy set forth in Section 29.1 above, such policy permits a Construction Manager whose ineligibility has been so determined by an agency of either the State of New York or New Jersey to submit a proposal with respect to a Port Authority agreement and then to establish that Construction Manager is eligible to be awarded an agreement because (i) the state agency determination relied upon does not apply to the Construction Manager; or (ii) the state agency determination relied upon was made without affording the Construction Manager the notice and hearing to which the Construction Manager 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 violation of a prevailing rate of wage law.

29.3 The full text of the resolution adopting the policy described in this Section 29 may be found in the Minutes of Authority's Board of Commissioners meeting of September 9, 1993.

30. NO GIFTS / GRATUITIES / OFFERS OF EMPLOYMENT.

30.1 During the term of this Agreement, Construction Manager shall not offer, give, or agree to give anything of value either to an the Port Authority employee, agent, job shopper, Construction Manager, or other person or firm representing the Port Authority, nor to a member of the immediate family (i.e., spouse, child, parent, brother, or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, Construction Manager, or other person or firm representing the Port Authority of duties involving transactions with Construction Manager on behalf of the Port Authority, whether or not such duties are related to this Agreement or any other the Port Authority agreement or matter. Any such conduct shall be deemed a material breach of this Agreement.

30.2 As used herein, the phrase "anything of value" shall include, but not be limited to, any (a) favor, such as meals, entertainment, transportation, etc., (other than that contemplated by the Agreement) that might tend to obligate an Authority or the Port Authority

employee to Construction Manager, 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 phrase shall not include compensation contemplated by this Agreement. For purposes of this provision in Section 30, the term "the Port Authority" shall be deemed to include all subsidiaries of the Authority.

30.3 Construction Manager and its personnel shall not accept anything of value, for any reason whatsoever, from any subconsultant, contractor, subcontractor, vendor, passenger, tenant, customer, or other person with whom Construction Manager comes in contact during the course of performing the Services and shall so instruct its personnel.

30.4 During the term of this Agreement, Construction Manager shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of Authority).

30.5 Construction Manager shall include the provisions of this Section 30 in each subcontract (at any tier) it enters into under this Agreement and shall cause its Subconsultants and their Subconsultants of any tier to so include such provisions.

31. CONFLICT OF INTEREST.

31.1 During the term of this Agreement, Construction Manager shall not do any of the following:

31.1.1 participate in any way in the preparation, negotiation, or award of any contract (other than a contract for Construction Manager's own services or for those of potential Contractors to the Port Authority) to which it is contemplated the Port Authority may become a party other than contracts in connection with the construction of the Project;

31.1.2 participate in any way in the review or resolution of any claim under any contract described in Section 31.1.1 above if Construction Manager has a substantial financial interest in the contractor or potential contractor of the Port Authority or if Construction Manager has an arrangement for future employment or for any other business relationship with said contractor or potential contractor; or

31.1.3 take any other action that might be viewed as or give the appearance of a conflict of interest on the part of Construction Manager.

31.2 If any of the following situations exist, then Construction Manager shall inform the Port Authority immediately in writing of such situation, giving the full details thereof:

31.2.1 if the possibility of an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion between Construction Manager and a contractor or construction manager that has a business relationship with or has entered into a contract with the Port Authority;

31.2.2 if Construction Manager has reason to believe an arrangement as described in Section 31.2.1 above may be the subject of future discussion;

31.2.3 if Construction Manager has any financial interest, substantial or not, in a construction manager (other than Construction Manager), potential construction manager, Contractor, or potential Contractor of the Port Authority; or

31.2.4 if Construction Manager has reason to believe any situation exists that might be viewed as or give the appearance of a conflict of interest.

31.3 Construction Manager shall give the Port Authority (i) specific prior written notice of Construction Manager's intent to take any action that might be viewed as or give the appearance of a conflict of interest, including, without limitation, performing any work or services for any of the other projects involving the reconstruction of the area surrounding the Project, and (ii) a mitigation plan acceptable to the Port Authority, prior to Construction Manager taking any such action.

31.4 If the Port Authority determines that Construction Manager's performance of a portion of its Services (a) is precluded by any provision of this Section 31, or (b) is no longer appropriate because of such preclusion, then the Port Authority shall have full authority on behalf of Construction Manager to order that such portion of Construction Manager's Services not be performed by Construction Manager; provided, however, that the Port Authority reserves the right to have the Services performed by others, and any compensation payable hereunder that is applicable to the deleted work shall be determined by the Port Authority, in its sole discretion.

31.5 Construction Manager's execution of this Agreement shall constitute a representation by Construction Manager that, at the time of such execution, except as set forth in Section 28.1.4 and in other written disclosures by Construction Manager, Construction Manager knows of no circumstances, present or anticipated, that come within the provisions of this Section 31 or that might otherwise be viewed as or give the appearance of a conflict of interest on Construction Manager's part.

31.6 Construction Manager acknowledges that the Port Authority may preclude Construction Manager from involvement in certain disposition/privatization initiatives or transactions that result from the findings of the Port Authority's evaluations hereunder or from participation in any agreements that result, directly or indirectly, from Services provided by Construction Manager.

31.7 Construction Manager acknowledges that it is the opinion of the Port Authority that any entity performing construction management or general contracting services for the Port Authority or other stakeholders at the World Trade Center site (such as LMDC, NYSDOT, WTC Net Lessee), where such entity is responsible for building portions of the World Trade Center site, has a potential conflict of interest with Construction Manager under this Agreement during its pendency, except as expressly disclosed in writing by the Construction Manager and approved by the Port Authority .

31.7.1 If Construction Manager desires to enter into a third-party relationship with an entity described in Section 31.7 above, and Construction Manager believes it can provide a mitigation plan that addresses the Port Authority's perceived conflict of interest, then Construction Manager, before entering into such third-party relationship, shall give written notice of Construction Manager's interest to the Port Authority and submit such plan for evaluation to the Port Authority.

31.7.2 The Port Authority will evaluate the mitigation plan submitted under the provisions of Section 31.7.1 above and will notify Construction Manager of the Port Authority's decision as to whether the Port Authority will permit Construction Manager to enter into the third-party relationship described in such mitigation plan. If the Port Authority determines that a conflict of interest exists that, in the Port Authority's sole opinion, makes such third-party relationship inappropriate, then Construction Manager agrees not to enter into such relationship. This provision is of the essence of this Agreement.

32. LEGAL REQUIREMENTS.

32.1 Construction Manager's Services shall comply with all provisions of federal (including the FTA provisions that are attached as **Exhibit H**), state, and local laws, ordinances, codes, rules, regulations, and orders that would affect or control its Services to the Project if the Project were being performed for a private corporation; provided, however, that if Port Authority's standards are more stringent, then Port Authority's standards shall prevail and be followed, unless Construction Manager receives written notification to the contrary from the Port Authority, in which case the requirements of said notification from the Port Authority shall apply ("Legal Requirements").

33. MISCELLANEOUS.

33.1 No certificate, payment (final or otherwise), acceptance of any Work nor any other act or omission of the Port Authority or the Port Authority Representative shall operate to release Construction Manager from any obligations under or upon this Agreement, or to estop the Port Authority from showing at any time that such certificate, payment, acceptance, act, or omission was incorrect or to preclude the Port Authority from recovering any money paid in excess of that lawfully due, whether under mistake of law or fact.

33.2 This Agreement, and any exhibits and attachments annexed hereto, and any written amendments entered into from time to time, constitute the entire agreement between the parties. No change in or modification, termination, or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith, or such party's duly authorized representative; provided, however, that termination in a manner expressly provided for in this Agreement shall be effective as so provided.

33.3 No officer, director, agent, or employee of the Port Authority shall be charged personally with any liability or be held liable under any term or provision of this Agreement, or because of the execution or attempted execution.

33.4 This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

33.5 This Agreement shall be binding and inure to the benefit of the respective heirs, executors, administrators, and successors of the parties hereto.

33.6 Construction Manager shall not assign or transfer any interest in this Agreement without the prior written consent of the Port Authority.

33.7 No consent or waiver by the Port Authority shall be effective unless it is in writing and then only to the extent specifically stated. Failure on the part of any party to enforce any provision of this Agreement or failure to act or to declare the Construction Manager in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of any right of the Port Authority hereunder. The Port Authority's payment for Services shall not be deemed an approval of Construction Manager's Services or a waiver of any rights the Port Authority may have.

33.8 If any inconsistency or contradiction exists within the Agreement and the remaining Contract Documents, this Agreement shall govern.

33.9 The Authority has hired and retained an integrity monitor in connection with the Property ("Integrity Monitor"). The Construction Manager shall cooperate and cause its Subconsultants and the Contractors to cooperate fully with the Integrity Monitor and the Port Authority and its Inspector General, including but not limited to providing complete access to all personnel and records related to the performance of this Agreement. Failure to comply with this provision shall be a material breach of this Agreement.

33.9.1 Construction Manager shall look solely to the Port Authority for payment of any amount due and owing Construction Manager under this Agreement or for any claim, cause of action or damages in connection with the Project. Notwithstanding anything to the contrary, Construction Manager shall have no recourse in connection with this Agreement or the Project against any present or future Commissioner, officer, director, trustee or employee or agent of the Authority. Such exculpation of liability is absolute and without any exception, and shall survive any termination, expiration or assignment of this Agreement.

33.10 To the extent Construction Manager purchases tangible personal property or incurs rentals charges for construction equipment with respect to the Project, and any such purchase or rental charge is exempt from New York State or New York City sales or other taxes, Construction Manager agrees to comply with the required rules and regulations in order to achieve the exemption as more fully set forth in **Exhibit J** (Agency for Rental of Construction Equipment, Exemption from New York State and New York City Sales Taxes).

33.11 This Agreement represents the entire and integrated agreement between Construction Manager and the Port Authority and supersedes all prior negotiations, arrangements, representations, or agreements, either oral or written.

33.12 Notices. All notices, approvals and consents required or desired to be given under this Agreement ("**Notices**") shall be in writing, and shall be (i) personally delivered, (ii)

transmitted by certified mail, postage prepaid, return receipt requested, or (iii) transmitted by telecopier or facsimile (as elected by the party giving such notice). Notices shall be addressed and delivered as follows:

To Owner:	The Port Authority of New York and New Jersey Attention: Steven Plate Director, World Trade Center Construction 115 Broadway – 10th Floor New York, New York 10006
With a copy to:	The Port Authority of New York and New Jersey Attention: General Counsel 225 Park Avenue South New York, New York 10003
To Construction Manager:	Tishman Construction Corporation of New York 666 Fifth Avenue New York, New York 10103 Attention: Jay Badame and Turner Construction Company 375 Hudson Street New York, New York 10014 Attention: Pat Di Filippo

33.13 **Waiver of Consequential Damages.** Anything in this Agreement to the contrary notwithstanding, both parties agree that neither shall be liable to the other for damages in the nature of consequential damages

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: DAVID TWEEDY

Title: Chief Capital Planning

Date: 8/14/09

CONSTRUCTION MANAGER

TISHMAN/TURNER, A JOINT VENTURE

by: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

by: _____ 8-13-09
Jay Badame, President and
Chief Operating Officer; and

by: TURNER CONSTRUCTION COMPANY

by: _____ 8-13-09
Pat A. Di Filippo, Executive Vice President

ATTACHMENT A

CONSTRUCTION MANAGEMENT SERVICES AS CONSTRUCTION MANAGER FOR THE WTC SITE HUB PROJECT

SCOPE OF SERVICES

BACKGROUND

The Port Authority of New York and New Jersey (the "Port Authority" or "Authority") is an agency of the States of New York and New Jersey, created and existing by virtue of the Compact of April 30, 1921, made by and between the two States, and thereafter consented to by the Congress of the United States. It is charged with providing transportation, terminal and other facilities of trade and commerce within the Port District. The Port District comprises an area of about 1,500 square miles in both States, centering about New York Harbor. The Port District includes the Cities of New York and Yonkers in New York State, and the cities of Newark, Jersey City, Bayonne, Hoboken and Elizabeth in the State of New Jersey, and over 200 other municipalities, including all or part of seventeen counties, in the two States. The Authority manages and/or operates all of the region's major commercial airports (Newark Liberty International, John F. Kennedy International, Teterboro, LaGuardia and Stewart International Airports, marine terminals in both New Jersey and New York (Port Newark and Elizabeth, Howland Hook and Brooklyn Piers); and its interstate tunnels and bridges (the Lincoln and Holland Tunnels; the George Washington, Bayonne, and Goethals Bridges; and the Outerbridge Crossing), which are vital "Gateways to the Nation."

1.0 PROJECT BACKGROUND

The World Trade Center Transportation Hub is a project of unprecedented size and complexity.

1.1 PROJECT DESCRIPTION

The WTC project's sheer size, geographic constraints, operational necessities and overall construction environment make it arguably the most complex building project in the Region's history. The plan endeavors to build on just 16 acres – the equivalent of a few city blocks – the following: (A project map with all of the site's projects is provided at the end of this section.)

- Five major skyscrapers, which will house Class A office space comparable to all of downtown Atlanta;
- One of the world's most significant memorials and museums;

- The third-largest transportation hub in New York City;
- A world-class retail venue serving all WTC users;
- A major performing arts center;
- A state-of-the-art vehicle security center;
- Two brand-new city streets (Greenwich and Fulton) and two brand-new pedestrian ways (Cortlandt and Dey); and,
- All of the critical infrastructure to support these projects (chiller plant, utility and communication networks, etc).

Furthermore, this rebuilding effort, with thousands of workers and heavy construction equipment crammed within the space of a few city blocks, is all taking place within the confines of a transportation corridor that moves 150,000 commuters a day through the active construction site via the MTA # 1 subway line, which literally cut through the center of the site, and the WTC PATH station, which runs beneath the site. (An aerial graphic at the end of this section shows just how imbedded this transportation system is into the site.) Finally, and most importantly, the work must be completed in a manner that pays perpetual tribute to the memory of more than 2,900 people, adding an immeasurable and unique element that informs every aspect of the WTC program.

In addition to the project's unprecedented size and complexity, the engineering challenges faced on each project are daunting. For example, before they can even begin building up, construction workers must dig down seven-stories deep through the remnants of the original WTC to create space for a below-grade network of roads, loading docks, bus and car parking, mechanical areas, and pedestrian concourses, as well as the foundations for each of the site's five office towers. The perimeter of these deeply excavated holes must be supported by a thick concrete "Bathtub" – both to assure that the surrounding streets and other structures where thousands of New Yorkers walk, work, live and play, remain structurally unaffected, and to hold back the subterranean water from the Hudson River – all the while ensuring the continued uninterrupted operations of the MTA # 1 and R/W subway lines. The soil and rock removed from the excavations for the foundations from just Towers 3 and 4 alone is enough material to fill Giants Stadium and fill a line of dump trucks 45 miles long. Put another way, if one were to lay down the steel that is reinforcing these foundation walls, it would extend from New York City to Washington, DC.

In addition, the entire length of the MTA # 1 subway line that cuts directly through the middle of the site has had to be "underpinned" – literally suspended in air by steel rods – to allow the subway to operate and usual, while construction continues over, under, and around it. To put this in perspective, for the first time in history, engineers are suspending on steel rods a train structure unparalleled in length – over 1,000 feet long – that cannot move more than two inches under the weight of the passing subway cars, and that resides directly in the middle of the most congested construction site in New York City.

Other engineering hurdles include:

- Designing a WTC Transportation Hub roof structure strong enough to support the hundreds of trees that will be placed above it as part of the Memorial Plaza;
- Building a state-of-the-art Vehicle Security Center below ground that can provide security as well as structural support for a large church and park directly above it on street level; and,
- Building the most environmentally sustainable project of its size in the world that will include: five commercial towers pursuing LEED Gold certification, a water harvesting system that will reclaim rainwater and use it for the cooling towers; generating electricity from what otherwise would be waste steam; overall energy performance that will be 20 percent more efficient than required by the New York State Energy Conservation Construction Code; and constructing one of the largest fuel cell installations in the world to generate electricity totaling 4.8 million watts an hour – enough to light 480,000 compact fluorescent bulbs.

Interdependencies of Each Project

Beyond the unprecedented size and complexity of the project, nearly all components of the WTC program are interdependent. Put another way, it is not as if each project is being built in a vacuum or on an isolated "Greenfield" site; rather, the reality is more akin to a game of pick-up sticks, where if you move one stick, it is nearly impossible not to move all of the others. As a result, delays and challenges associated with any one project whose design and construction, in some cases, may reside with stakeholders other than the Port Authority, can have ripple effects on all other projects, further complicating construction.

These projects interdependencies can be illustrated by examining the linkages between the WTC Transportation Hub, the Memorial and the rebuilding of the MTA # 1 subway line – which are contiguous and therefore have interdependent design, phasing and construction issues. A change to one will necessarily change the others.

This is not to say that there isn't a greater need to set priorities at the site. But in setting priorities we must acknowledge that most of these projects are intrinsically linked, and that prioritization will therefore necessarily require certain trade-offs.

Logistical Challenges

If a project of this size and complexity were being managed by a single owner, with overall control of the design and construction processes, it would be a much simpler story altogether. However, the WTC site is far more complex because of the overall program's size, and large number of program partners – who both must work separately to advance their respective projects on time and on budget, and also work together toward a common goal. Consider the following facts.

Working within a few city blocks are:

- 600-700 construction workers, soon to be thousands;
- 101 different construction contractors and sub-contractors;
- 33 different designers, architects and consulting firms;
- 19 different governmental entities from every level of government each laying claim to some component of the overall project. The Port Authority of New York and New Jersey; the Federal Transit Administration; the MTA; the U.S. Department Housing and Urban Development; the Environmental Protection Agency; the Occupational Safety and Health Administration; the New York State Department of Transportation; the Empire State Development Corporation; the Lower Manhattan Development Corporation; the Lower Manhattan Construction Command Center; the Office of the Governor of New York; the Office of the Governor of New Jersey; the Office of the Mayor of New York; the New York City Council; the New York City Department of Transportation; the New York City Department of Environmental Protection; the New York City Police Department; the New York City Fire Department; the New York City Department of City Planning; and the New York City Department of Buildings;
- Multiple public and private stakeholders including: the National September 11 Memorial and Museum; Silverstein Properties, Inc.; Westfield; JP Morgan Chase; Goldman Sachs; Brookfield Properties; the Greek Orthodox Church; and Battery Park City Authority;
- Dozens of elected officials and family groups representing victims and survivors of the September 11th attacks and 1993 bombing; and,
- Community and civic organizations including: Community Board 1; the Downtown Alliance; the Partnership for New York City; the Association for a Better New York; and the New York Building Congress.

1.2 WTC HUB PROJECT

The PATH rail system provides the primary transit link to Lower Manhattan from New Jersey serving local markets in Hudson and Essex counties and providing a key link for New Jersey Transit rail commuters on routes at major transit hubs at Newark Penn Station and Hoboken Terminal. Prior to September 11, 2001, over 67,000 PATH riders boarded PATH at the World Trade Center (WTC) station each day. The facility was operating at capacity during peak rush hours. Although the temporary WTC PATH station restored PATH service to Lower Manhattan in November 2003, it did not restore all of the facilities and capacities that previously existed at the World Trade Center.

The Authority has identified over $2 billion in transportation recovery projects at the WTC to restore and enhance mass transit services to and from Lower Manhattan, and to provide for other transportation functions. In particular, the Permanent WTC PATH Terminal Project (WTC/Hub) is needed to re-establish and enhance transportation facilities and infrastructure that existed at the WTC complex prior to September 11, 2001. This project will greatly contribute to the recovery of Lower Manhattan by meeting the transportation needs of commuters, residents, and visitors to the proposed WTC Memorial.

The Permanent WTC PATH Terminal will be a world-class transportation facility. The WTC/Hub will be fully climate and feature sufficient openness to provide passengers with a sense of security as well as clear visual orientation to both interior and exterior building functions. The WTC/Hub facilities will incorporate sustainable architectural design, and conform to Americans with Disabilities Act (ADA) requirements and ensure safety and security as required by code, and engineering analysis.

Prior to September 11, 2001, more than 150,000 pedestrians traveled through the World Trade Center complex each day, including over 100,000 daily PATH and subway riders. The future WTC/Hub will act as a gateway to Lower Manhattan potentially for as many as 250,000 pedestrians daily (upon full build-out of the WTC site). Currently there are 40,000 commuters that use the temporary PATH Station on a daily basis. The WTC/Hub will include sub grade pedestrian connections that will connect the PATH system with the New York City Transit (NYCT) subway system, surrounding site development, and other transit facilities. These connections extend from the WTC site into the World Financial Center (WFC) Winter Garden on the west; the planned MTA/NYCT Fulton Street Transit Center on the east; 7 World Trade Center and TriBeCa to the north; and Wall Street and the Financial District on the south.

The Port Authority is in various stages of completion of its early works construction packages required for the permanent construction. The early works packages are being performed by Phoenix Constructor's Joint Venture. The current ongoing work in the east bathtub of the site includes the demolition of the existing H&M Structure, soil removal and temporary underpinning of the # 1 Subway line. This work is anticipated to be completed by the third quarter of 2009. The current ongoing work in the west bathtub includes the structural slab for Fulton street and the erection of the steel and decking and foundations in the south east corner of the west bathtub. This work is anticipated to be completed by the second quarter of 2009 for the slab and fourth quarter of 2009 for the structural steel. Phoenix is also currently constructing the eastern part of the 9A underpass and it is anticipated to be completed by second quarter of 2011.

The Port Authority is at the stage to construct the permanent PATH Hall Station in the west bathtub and Transit Hall and connectors below grade in the east bathtub and the Oculus structure above grade The CM will be responsible for permanent construction elements as part of this Contract.

The Authority is in the process of issuing the contracts for the permanent construction for bidding.

The Authority anticipates issuing the following packages, including but not limited to:

1. A series of work packages for the Platform Foundations, Demolition of the Roof Structure, Fulton Street Access, Stair Fabrication, and other work to support the start of steel fabrication and Memorial opening of 2011.

2. Structure to Grade/ Fitout /MEP Contract

3. Greenwich Street Corridor Contract

4. Oculus Structures Contract

Several of the packages may be already awarded based on when the Construction Manager contract is awarded. The Advertisements are noted on the Port Authority website.

1.1 PROJECT DESCRIPTION

The following project description is based on the overall project and contains a description of the project that is part of the early works packages and permanent work packages. The design for the permanent project is substantially complete, with the Authority's goal to award all components of the project by end of the year. Signed and Sealed drawings for all the packages except the Oculus have been completed, with the Oculus design completion targeted for end of the second quarter of 2009.

The WTC/Hub Project (the "Project") incorporates the components broadly outlined below.

1. Site Preparation and Underpinning of 1 and 9 subway
2. PATH Facilities (Tracks, Platforms, Mezzanine)
3. PATH Terminal Building (Transit Hall)
4. Pedestrian Connections (North/ South & East/West)
5. Street Entries

The approximate value of this work is in the range of $1.2 to $1.6 billion.

1.1.1 Site Preparation and Underpinning of 1 and 9 Subway

Work includes demolition and removal of remaining existing and damaged structures, underpinning of the NYCT 1/9-subway tunnels for pedestrian connections, new site foundations, and related excavation on the WTC Site (particularly the area east of the NYCT 1/9 subway).

1.1.2 PATH (Tracks, Platforms, Mezzanine)

The PATH tracks, platforms, and mezzanine levels would all be located within the western portion of the WTC site or "bathtub" as they were prior to September 11, 2001. At platform level, work includes full restoration of three station platforms to accommodate 10-car PATH trains (the current temporary platforms accommodate 8-car trains), and adding a fourth platform to accommodate the anticipated phasing of the Work with ongoing PATH Operations. The project also includes installation of permanent escalators, elevators and stairs.

The mezzanine/fare zone level would be expanded to allow for multiple points for entry/exit from platform level, including construction of a two-story mezzanine, additional turnstiles and expansion of operational spaces and Authority police facilities. This will include installation of heating and air conditioning systems and vertical circulation components (escalators and elevators). These facilities would provide all-weather protection and facilitate circulation for PATH riders, restoring functions that existed prior to September 11, 2001. New fare collection equipment utilizing the latest technology would also be installed.

1.1.3 PATH Terminal Building (Transit Hall/ Oculus)

This component is defined by the creation of a multi-level transit hall (above and below grade), including highly visible connections to all mass transit services and streets, which would enable passengers to connect quickly and easily to subway, bus and PATH services, similar to transit functions provided at Grand Central Terminal in midtown Manhattan. The PATH Terminal Building will incorporate direct entrances to PATH, as well as the NYCT IRT 1/9, BMT R/W, and IND E subway lines, and accommodate pedestrian connections extending in all directions to connect with the rest of the WTC Site development and adjacent streets. The PATH Terminal Building is configured to connect to MTA's Dey Street concourse to Fulton Street Transit Center and connections on or immediately adjacent to the WTC Site.

1.1.4 Pedestrian Connections (North/South & East/West)

The pedestrian connections are a system of underground public circulation spaces connecting the WTC Site development with PATH, the NYCT system, the World Financial Center Winter Garden, and various street access points around the perimeter of the site. The connections would be environmentally spaces that with multiple locations of vertical circulation including high performance escalators and elevators.

1.1.5 Street Entries

The WTC/Hub will provide various street entrances on Church, Greenwich, Vesey, Liberty and West Streets. Each entrance connects the WTC/Hub with the surrounding neighborhoods.

1.1.6 East Bathtub

The east bathtub has been completed by the installation of the slurry walls and tiebacks that form the perimeter of the east bathtub along Vesey Street, Greenwich Street, Liberty Street and Church Street within the eastern portion of the WTC site. The NYCT 1/ 9 subway has been temporarily underpinned between Vesey and Liberty Streets and the permanent support is of the subway line will be a separate contract to be awarded.

Attached are the current site photo, plan drawings indicating the Hub Scope of Work and renderings of the WTC HUB. See Attachment I, which include Project Photos and additional information.

1.2 ANTICIPATED PROJECT SCHEDULE OF MAJOR MILESTONES

The CM will be responsible to administer the contracts to achieve the following:

Major Milestone	**Timeline**
Commencement of Steel Erection for PATH Roof	*4th quarter 2009*
Completion of PATH Hall Roof Concrete	*2nd quarter 2011*
Completion of Greenwich Street superstructure	*4th quarter 2010*
Completion of PATH Station	*4th quarter 2013*
Completion of Oculus	*4th quarter 2013*

For additional milestones for the WTC Program, please see the attached graphic from the World Trade Center Report, "A Roadmap Forward", dated October 2, 2008 at

http://www.panynj.gov/wtcprogress/milestones.html

2.0 SCOPE OF SERVICES.

The Services to be performed by Construction Manager consist of (i) all of the duties and obligations set forth in this Attachment A; and (ii) all of the duties and obligations of the Port Authority identified in the Port Authority Construction Contracts. A list of the contracts will be finalized and made available to the CM prior to award.

2.1 Specific Tasks, Duties and Obligations. In addition to the other duties and obligations set forth in Section 2.0 above, Construction Manager's Services may include but not be limited to:

2.1.1 Task 1 – DESIGN MANAGEMENT SERVICES

2.1.2 Construction Manager shall expeditiously analyze, review, and evaluate design documents as requested during their development and advise on proposed site use and improvements, construction feasibility, availability of labor and materials, procurement duration, installation and construction, selection of materials, building systems and equipment, and methods of Project delivery. Construction Manager shall manage and oversee value engineering of alternative materials, methods, and systems and analyze and recommend the relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to construction cost, including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies.

2.1.3 Construction Manager shall coordinate and synchronize its design reviews with the Port Authority and the Design Team.

2.1.4 Construction Manager shall assist the Port Authority in reaching the Port Authority's goal that its requirements and requests are properly reflected in the design documents, and Construction Manager shall review and report its findings to the Port Authority.

2.1.5 Construction Manager shall coordinate and synchronize design development with the Design Team and the Port Authority; shall continue to review and monitor design development throughout the design development process; and shall analyze and then review same with the Port Authority and obtain approval prior to proceeding to the construction phase.

2.2.1 Task 2 – ESTIMATING SERVICES

2.2.2 The Construction Manager shall prepare and update, with increasing detail and refinement and at appropriate intervals and format agreed to by the Port Authority, the Construction Manager's estimates of the construction cost of each of the Contracts. Such estimates shall be provided for the Port Authority's approval. Construction Manager shall advise the Port Authority if it appears that the construction cost may exceed the latest approved Project budget and research, analyze, and recommend corrective action.

2.2.3 Construction Manager shall analyze and update the Project budget based upon changes in design development.

2.2.4 Construction Manager shall prepare and update estimates of the construction cost for post-award contract changes, equitable adjustments, and claims. Such estimates shall be provided for the Port Authority's approval.

2.2.5 Following the Port Authority's approval of the Contract Drawings, Construction Manager shall update and submit the latest detailed estimate of construction cost and the Project Schedule for Design Team's review and the Port Authority's approval.

2.3.1 Task 3 – SCHEDULING SERVICES

2.3.2 The Construction Manager shall prepare and update monthly a Critical Path Method Project Schedule for review and approval by the Port Authority. The, Construction Manager shall analyze, coordinate, and integrate the Construction Manager's Services, Design Team's services, and the Port Authority's responsibilities with the anticipated Project Schedules, and Construction Manager shall highlight critical and long-lead time items. The Construction Manager shall use Primavera P6 in performing all schedule updates and analysis in order to ensure proper conformity with PA Master Schedules.

2.3.3 Construction Manager shall evaluate and prepare a Project Schedule providing for the components of the Work, including phasing of construction, times of commencement and completion required of each contractor, ordering and delivery of products requiring long-lead time, and the occupancy requirements of the Port Authority that shall be consistent with all Contractor's construction schedules incorporated into the Contracts. Such Project Schedule also shall meet the Port Authority's requirements for construction schedules as set forth in the Contract Documents. Construction Manager shall provide the current Project Schedule for each set of bidding documents.

2.3.4 Construction Manager shall oversee and manage compliance with the construction schedule, scrutinize any delays, and report the status each month to the Port Authority, providing analysis of and recommendations regarding any delay, concern, problem, or other issue resulting in a recovery plan.

2.3.5 Construction Manager shall review and advise the Port Authority and Design Team regarding the Contract Drawings and make recommendations whenever design details adversely affect constructability, cost or schedules.

2.4.1 Task 4 – EXPEDITING SERVICES

2.4.2 Construction Manager shall assist the Port Authority with local, city, regional, state, and federal jurisdictional agencies; research and identify municipal permitting processes; manage, administer, and secure building permit approval as necessary; coordinate and oversee with local permitting officials with respect to permit submissions; and assist the Authority, and other contractors or entities in

securing all other necessary permits and required approvals from public agencies and others.

2.4.3 Construction Manager shall assist the Port Authority in obtaining building permits, or the equivalent of a building permit as provided by Authority, and special permits for permanent improvements, except for permits required to be obtained directly by the various Contractors.

2.5.1 Task 5 – SAFETY MONITORING

2.5.2 Using as its source the Authority's Health and Safety Plan attached hereto as Exhibit C of the Agreement, Construction Manager shall analyze, evaluate, and then recommend a comprehensive plan to the Port Authority regarding the allocation of responsibilities for safety programs among the Contractors, including, without limitation, the Site Wide Health and Safety Plan, Site Wide Security, and Tenant Construction Review Manual. During execution of the Project, Construction Manager shall be responsible to review, comment upon, and provide information to the Port Authority upon its request regarding the testing and inspection of plans and safety features and monitoring the compliance of the Contractors with respect to their responsibilities for the safety programs; and reporting regularly to the Port Authority on such compliance and the effectiveness of the Authority and Construction Manager's comprehensive plan.

2.5.3 Construction Manager shall immediately inform the Port Authority Representative of any unsafe condition discovered at any time during the course of performing these Services.

2.5.4 Pedestrians (including PATH and NYCT patrons), vehicular traffic, and PATH operations at the World Trade Center site always shall have priority over any and all of Construction Manager's operations, except as directed by Authority.

2.5.5 Construction Manager shall limit its work to the areas necessary for the performance of the tasks herein and shall not interfere with the operation of the facility without first obtaining specific approval from the Port Authority.

2.5.6 During all periods of time when Construction Manager is not performing operations at the Project site, Construction Manager shall store all equipment being used for performance of such operations related to the tasks herein in areas designated by the Port Authority Representative, and the Port Authority shall provide all security required for such equipment unless the Port Authority requests that Construction Manager shall perform such tasks, in which case Construction Manager shall do so at the Port Authority's expense.

2.5.7 Construction Manager shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways, or structures at any time except with proper permits.

2.6.1 Task 6 – CONTRACT PACKAGING / PROJECT COORDINATION

2.6.2 Construction Manager shall analyze, evaluate, and recommend specific division of the Project into individual Contracts for various categories of trades and Work, including the method to be used for selecting Contractors and awarding Contracts in compliance with FTA Lower Manhattan Recovery Office requirements where appropriate. If multiple Contracts are to be awarded, Construction Manager shall analyze and review the Contract Drawings and recommend, as required, how to assure that (1) the services and Work of the Contractors are coordinated; (2) all requirements for the Project have been assigned to the appropriate Contract; (3) the likelihood of jurisdictional disputes has been minimized; and (4) proper coordination has been provided for phased construction.

2.6.3 Construction Manager shall oversee, manage, expedite, and coordinate the ordering and delivery of materials requiring long-lead time.

2.6.4 Construction Manager shall analyze, evaluate, and provide input as to constructability, methods, and materials.

2.6.5 Construction Manager shall analyze and recommend, and assist the Port Authority in selecting, retaining, and coordinating, the professional services of surveyors and testing laboratories required for the Project.

2.6.6 Construction Manager shall investigate and analyze the types and quantities of labor required for the Project and determine the availability of appropriate categories of labor required for critical phases. Construction Manager shall recommend actions designed to minimize adverse effects of labor shortages.

2.6.7 Construction Manager shall research, obtain, and review applicable requirements and information for equal employment opportunity programs for inclusion in the Contraet Documents.

2.6.8 Construction Manager shall perform and prepare a final review, analysis, and evaluation of all documentation regarding purchasing of good or services from vendors and obtain approval from the Port Authority prior to award of the contracts or change orders.

2.7.1 Task 7 – PROCUREMENT SERVICES.

Prior to commencing this Task, the Construction Manager shall submit to the Authority for approval a comprehensive Procurement Plan. This plan must cover all of the requirements outlined below. This Plan shall include but not be limited to flow charts, forms, sample bid documents, and sample Subcontract Agreements.

The Construction Manager shall conduct all Procurements that are awarded as agent on behalf of the Authority (i.e. suppliers, trade contractors, consultants, etc.) in accordance with the FTA requirements set forth in the Lower Manhattan Recovery Office ("LMRO") Third Party Contracting Requirements, attached as Exhibit J of the Agreement.

2.7.2 Solicitation

For the purposes herein the term "Bid" and/or "Bidding" shall refer to the various methods of Procurement Solicitation (i.e. Request for Proposals, Invitation to Bid, Request for Quotation, etc.) in accordance with LMRO") Third Party Contracting Requirements.

2.7.3 As may be required, Construction Manager shall develop a Procurement Outreach Program to encourage bidders' interest in the Project and to promote fair and open competition. Construction Manager shall prepare and submit to the Port Authority for approval the advertising venues utilized, a list of prospective bidders for each solicitation, including written justification for the selected list of bidders for that solicitation, and establish bidding schedules. All solicitations shall be advertised on the Construction Manager's website and in accordance with PA practices and advertising venues subject to PA approval. Construction Manager shall post a Procurement "look-ahead" on its website, listing upcoming contracts for the following ninety (90) days and post critical information relevant to the Procurement (i.e. bid due dates, addenda issuance date, site walk-through, award dates, etc.)

2.7.4 Construction Manager will secure bids from at least three (3) potential contractors for any Work that is competitively bid per the Construction Manager's approved Procurement Plan, as noted above.

2.7.5 In instances where less than three (3) bids are received, Construction Manager shall provide a written explanation to the Port Authority setting forth the reasons therefore. This may include conducting interviews and soliciting reasons for "no-bid" responses from potential bidders.

2.7.6 Where the nature of the Work to be solicited requires special construction, experience or expertise, or has critical operational constraints or special situations, prior to employing a solicitation other than a method that is intended to result in a competitive bid with three bids, Construction Manager shall submit such solicitation to the Port Authority for its approval setting forth the reasons therefore prior to commencement of award.

2.7.7 Prior to each solicitation, Construction Manager shall submit to the Port Authority for review and approval a Procurement Schedule, which includes the length of time of the bidding period, compensation method and basis for award.

2.7.8 Bid Documents

2.7.8.1 Bid documents shall be prepared and distributed by Construction Manager.

2.7.8.2 Bid documents are to be submitted for the written approval of the Port Authority. Construction Manager shall not make changes to any approved documents without the prior written approval of the Port Authority.

2.7.8.3 Bid documents shall include specific instructions regarding the date, time and method of bid submission, and such instructions shall be subject to the approval of the Port Authority.

2.7.8.4 Construction Manager shall provide copies of any addenda issued for a bid and the reasons therefore which are subject to the review and approval of the Port Authority.

2.7.9 Bid Submission

2.7.9.1 Bids are to be submitted to Construction Manager in accordance with the instructions for bid submission contained in the bid documents.

2.7.9.2 The bids should be submitted in sealed envelopes and the envelopes date/time stamped upon receipt by the Construction Manager. Bidders must not be allowed to submit bids via phone or fax unless specifically requested and approved by the Project Executive or his/her designee or as directed by the Port Authority.

2.7.9.3 Construction Manager, prior to receipt and opening of bids, shall provide a written detailed estimate of the Work required in the bid documents, including unit prices and lump sum amounts, to the Port Authority.

2.7.9.4 Construction Manager shall maintain a written record of bid submissions, including the solicitation identified by a title and/or number, name and address of bidders, and dollar value of bid, and shall provide a copy of the record to the Port Authority.

2.7.9.5 The Port Authority shall be notified in a timely of all bid openings and will have the right to be present at the bid opening.

2.7.9.6 All bids for a particular trade or portion of the Work will be gathered by the Construction Manager and opened with the Project Executive or his/her designee.

2.7.9.7 During the bid opening, Construction Manager should have the budget breakdown for the trade and a copy of the bid package in the event that questions regarding the scope of Work arise.

2.7.9.8 Construction Manger shall prepare Bid Tabulations for all incoming bids. All bid proposal information (i.e., base bid, unit price, lump sum amounts, alternatives, etc.) shall be formatted on a spreadsheet prepared for the bid opening. This information shall be compiled by Construction Manager and, when completed, initialed by all present during the bid opening.

2.7.9.9 All bids and/ or proposals shall be stored in a secure location or safe, which is accessible only to authorized personnel. The files must contain bid folders and the Bid Tabulations.

2.7.9.10 The Bid Tabulation spreadsheet shall be prepared in an Excel format, and the computer file shall be accessible only to Construction Manager and approved personnel. Information contained on the spreadsheet shall include the following:

(i) Project Description, date, trade

(ii) Contractor's name, address, phone number

(iii) Primary Contact Information

(iv) Base bid

(v) Budget (adjusted with each revised bid to reflect bid package and bid addenda)

(vi) Unit Prices

(vii) Alternates

(viii) Bidder's alternates

(ix) Schedule duration

(x) Qualifications

(xi) Exclusions

2.7.9.11 All revised information is to be documented on a new spreadsheet and denoted as revised. All superseded spreadsheets are to be maintained in the safe bid folder.

2.7.9.12 Project Executive or his/her designee must approve of any procedure that differs from those set forth herein. The procedures shall be submitted to the Port Authority for review and approval.

2.7.10 Scope Review Meetings

2.7.10.1 Scope review meetings are to be held with the Contractors, the Construction Manager, the Port Authority, and the Architect. Prior to the meeting, an agenda will be prepared containing a complete checklist of items to be reviewed during the meeting, including but not limited to:

(i) Contract boiler plate review

(ii) Retainage

(iii) Payment schedule

(iv) General Conditions

(v) MBE, WBE and EEO Requirements

(vi) Insurance requirements

(vii) Sales tax requirements

(viii) List of Contract Documents

(ix) Building and other rules and regulations

(x) Scope of Work review and value engineering opportunities

(xi) Special requirements, sequencing

(xii) Clarifications, modifications

(xiii) Alternates

(xiv) Time of performance

(xv) Environmental/EPC Compliance Monitoring

(xvi) Safety

2.7.11 Contract Bid Review

2.7.11.1 Construction Manager and the Port Authority may meet with all prospective bidders to discuss scope of work and bid specifications. Upon completion of the scope review sessions, a revised scope of work and/or drawings may be issued as a bid addendum. Subsequently, all bids shall be received and opened in conformance with the bid submission procedures set forth in Section 2.7.9 above. The Construction Manager shall review the bids with the Port Authority for strategy and award target.

2.7.11.2 Construction Manager shall prepare Contracts and evaluate and advise the Port Authority on the acceptability of proposed Contractors. Such Contract shall be in the form of contract referenced as Rider V in **Attachment 2 to Exhibit A** (Form of Trade Contract). Construction Manager shall enforce all of the provisions of the Contract, and no changes may be made to the form of Contract without prior written approval by the Port Authority; provided, however, Construction Manager shall not be required to retain legal counsel to enforce provisions of the Contract unless the Port Authority pre-approves the retention of such counsel and agrees to reimburse Construction Manager in accordance with Section 9.2.2.5(iii) of this Agreement.

2.7.12 Contractor Award

2.7.12.1 Construction Manager shall provide a written recommendation for review and approval by the Port Authority setting forth the basis for award. [Such written recommendation shall be a timeline of the solicitation followed by a summary of the procurement process and shall include but not be limited to method of solicitation, including advertising venues, form of solicitation, number and nature of addenda, number of bids/proposals received, details regarding selection process including but not limited to questions received by bidders/proposers and answers provided thereto, any specific issues arising during solicitation process, and clear, defensible reasons for the final selection. Such written summary shall be submitted to the Authority for review and comment within one week of receipt of bids/proposals and resubmitted for approval with all Authority comments incorporated within one week of receipt of such comments.

2.7.12.2 Construction Manager shall prepare and submit to the Port Authority a comparison of bids, which shall include all unit prices, lump sum amounts, alternatives, etc., for each bid and the Construction Manager's estimate; a statement regarding the reasonableness of the bids and an explanation when there is a disparity between the estimate and the bids received and/or when there is a disparity between the bid of the recommended contractor and the estimate and/or between the bid of the recommended contractor and the other bids received.

2.7.12.3 Construction Manager shall comply, and shall require that its subconsultants and the Contractors and vendors comply with the provisions of the Background Qualifications Questionnaire Package ("BQQ Package") available at www.panynj.gov/wtcprogress/procurement.html <http://www.panynj.gov/wtcprogress/procurement.html> and Construction Manager shall obtain from each Contractor and Subconsultant the certifications and all necessary disclosure forms.

2.7.12.4 Following the selection of a Contractor by the Port Authority, Construction Manager shall prepare and forward to Project Executive an award letter requesting approval for Construction Manager to enter into an agreement as the Port Authority's agent with the selected Contractor. The award letter shall provide the following information:

(i) Number of bidders

(ii) Final bid summary

(iii) Contractor's name and amount

(iv) Budget trade line items and amount

(v) Line for authorization signature and date

2.7.13 Issuance, Execution and Distribution of Contract

2.7.13.1 Upon receipt of executed award letter, Construction Manager shall prepare the Contract document.

2.7.13.2 The Contract shall be in the same format as the bid package incorporating modifications made during the scope review process and final negotiation. All documents are to be based on the most current information provided during scope review; Rider B (List of Drawings and Specifications) is to incorporate the latest documents available at time of award.

2.7.13.3 The draft of the Contract should be reviewed and approved in writing by the Port Authority prior to issuance to the Contractor for execution.

2.7.13.4 Prior to signing, a copy of the Contract shall be issued to the Contractor for review, with a cover page stating when the Contractor is scheduled to meet at Construction Manager's office for execution of the actual Contract.

2.7.13.5 Construction Manager shall assemble five (5) execution originals of each Contract for signing. Each of the five (5) execution originals shall be signed by the Contractor and Construction Manager; the first and last page of every rider shall be initialed by the Contractor and Construction Manager.

2.7.13.6 Upon signing by the Construction Manager and Contractor, the five original signed Contracts will be distributed as follows:

(i) Contractor

(ii) the Port Authority/Document Control

(iii) Safe bid folder

(iv) Construction Manager

2.7.14 Notification of Awards

2.7.14.1 Construction Manager shall post notices of awarded Contracts on its Web site including Contractor name, Contract number and title.

2.7.14.2 New Contracts shall be posted within five (5) business days of Contract execution.

2.7.14.3 Construction Manager shall include contact information for the Construction Manager staff designated to receive questions.

2.7.15 Protests

2.7.15.1 Construction Manager shall manage protest and appeal processes in a manner consistent with Port Authority protest procedures, which are available at:

http://www.panynj.gov/DoingBusinessWith/contractors/pdfs/Protest_Procedures.pdf.

2.7.15.2 Construction Manager shall receive protests related to the procurement or award of Contracts and give notice to the Port Authority of receipt of such protest.

2.7.15.3 Construction Manager shall designate a management employee of the Construction Manager as Protest Officer to review the protest and supportive documents and 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.

2.7.15.4 Construction Manager shall forward the written decision to the protesting party within two (2) business days of receipt of the Port Authority's approval.

2.7.15.5 Construction Manager shall receive appeals of protest decisions and give notice to the Port Authority of receipt of such appeal.

2.7.15.6 Construction Manager shall designate a higher level management employee of the Construction Manager as Appeals Officer to review the appeal and supportive documents and the decision of the Protest Officer

and issue a written decision within five (5) business days of receipt if feasible.

2.7.15.7 Construction Manager shall forward the written decision to the appealing party within two (2) business days of receipt of the Port Authority approval.

2.7.16 Contract File Administration

2.7.16.1 Construction Manager shall maintain a contract file for each Contract award and provide a copy of the Contract to the Port Authority.

2.7.16.2 Construction Manager shall include records of any protests, appeals and associated decisions as part of the contract file for each Contract award and provide copies to the Port Authority.

2.7.16.3 Any Change Orders required under the Contract shall be processed in accordance with the Authority's change order process for FTA funded procurements. This process shall included but not be limited to contractor proposal review, cost analysis, and change order negotiations. Change Orders shall be subject to the review and approval of the Port Authority prior to award. Upon award, the Construction Manager shall provide copies of approved Change Orders to the Port Authority.

2.7.16.4 The Construction Manager must perform careful monitoring and reporting of all construction change orders. Accordingly, the Construction Manager must prepare and maintain an Outstanding Change Order Log report, which is due **monthly** to authority showing the status of all un-negotiated/unsigned change orders in process. The Outstanding Change Order Log report must include a step-by-step schedule for completion, such as (1) Contract change order direction to proceed issued; (2) Dated proposal received; (3) Cost analysis completed; (4) Negotiations held; and (5) Contract modification issued..

2.7.16.5 Construction Manager shall provide to the Port Authority a record of all payments made to each Contractor and shall be subject to audit by the Port Authority.

2.8.1 Task 8 – CONSTRUCTION PHASE CONTRACT ADMINISTRATION SERVICES

2.8.2 Construction Manager shall manage, and oversee construction activities at the Project site and with respect to administration of the Contracts, including but not limited to performing inspection and /or inspections of the work.

2.8.3 Construction Manager shall manage, administer, direct, supervise, and perform other related services in order to coordinate the activities and responsibilities of the Contractors, each with the other, and those with the activities and responsibilities of the Construction Manager, the Port Authority, and other contractors at the site in order to manage the Project in accordance with the latest approved Project budget, Project Schedule, and Contract Documents. This shall include the services of Master Mechanic(s), Maintenance Engineer(s) and Teamster Steward(s) to support the construction required for the World Trade Center Transportation Hub Project. The services should be based on the following duration assumptions:

- 9/09 to 3/11 – WTC Hub work will consist of heavy construction such as excavation, demolition, concrete, and structural steel operations. The Authority will require continuous support for three (3) shifts/day for seven (7) days a week.

- 3/11 to 6/14 – WTC Hub work will consist of some heavy construction operations such as concrete and structural steel. The primary operations will consist of MEP and Fitout work. The Authority will require support for two (2) shifts/day for six (6) days a week.

- 6/14 to 6/15 – WTC Hub work will be punchlist and the Authority does not expect to require these trades during this period.

2.8.4 Construction Manager shall (i) execute and perform all of the duties and obligations required or requested of the Port Authority under each of the Contracts, and (ii) protect and exercise all of the Port Authority's rights and benefits under each of the Contracts; provided, however, that prior to Construction Manager determining a Contractor in breach of its Contract or selecting and pursing any remedy, Construction Manager shall obtain the written approval of the Port Authority.

2.8.5 Construction Manager shall schedule, facilitate, administer, and conduct regular Project meetings, including the Port Authority, Design Team, Contractors, and others approved or requested by the Port Authority. Construction Manager shall facilitate discussion of such matters as procedures, progress, and scheduling. Construction Manager shall prepare and promptly distribute minutes of such meetings to the Port Authority, Design Team, and Contractors.

2.8.6 Construction Manager shall confirm that Design Team and Contractors have established the shop drawing process, and Construction Manager shall manage and administer delivery and review of Shop Drawings and Submittals.

2.8.7 Utilizing the construction schedules provided by Contractors, Construction Manager shall evaluate and update the Project Schedule monthly, incorporating the activities of all of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Submittals, and delivery of products requiring long-lead time and procurement. The Project Schedule shall include the Port Authority's occupancy requirements showing portions of the Project having occupancy priority as the appropriate information becomes available. Construction Manager shall update and reissue the Project Schedule as required to show current conditions. If an update indicates that the previously approved Project Schedule's Final Completion date of any Contractor may not be met, Construction Manager shall inform and warn the Port Authority of such deviation and recommend corrective action to the Port Authority.

2.8.8 Consistent with the various bidding documents, and utilizing information from the Contractors, Construction Manager shall manage, oversee, scrutinize, and coordinate the sequence of construction and assignment of space in areas where the Contractors are performing Work.

2.8.9 Construction Manager shall require and use best efforts to obtain satisfactory performance from each of the Contractors. Construction Manager shall evaluate and recommend courses of action to the Port Authority when requirements of a Contract are not being fulfilled.

2.8.10 Construction Manager shall oversee and monitor the approved estimate of construction costs. Construction Manager shall prepare an analysis showing actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with such approved estimate.

2.8.11 Construction Manager shall develop, analyze, and prepare monthly cash flow reports and forecasts for the Project, unless required more often by the Port Authority, and advise the Port Authority and Design Team as to variances between actual and budgeted or estimated costs. Construction Manager shall prepare, at least monthly, Contractor Earned Value Reports in a format required by the Authority.

2.8.12 Construction Manager shall submit quarterly to the Port Authority for its prior written approval a proposed budget estimating the General Conditions Costs for the remainder of the Project on a quarterly basis. For the duration of the Project, Construction Manager shall submit the proposed budget in a timely fashion in order to allow the Port Authority to review and approve same.

2.8.13 Construction Manager shall manage, coordinate, prepare, and maintain accounting records on authorized Work performed under unit

costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

2.8.14 Construction Manager shall evaluate, develop, and implement procedures for the review and processing of applications by Contractors for progress and final payments.

2.8.15 Based on Construction Manager's observations and evaluations of each Contractor's application for payment, Construction Manager shall scrutinize, evaluate, review, and certify the amounts due the respective Contractors.

2.8.16 Construction Manager shall scrutinize, oversee, monitor, and review all payments to Contractors and vendors and supporting documentation, including, without limitation, all lien waivers (partial and final) from all Contractors throughout the course of the Project.

2.8.17 Construction Manager shall analyze, evaluate, and prepare a Project application for payment based on the Contractors' requests for payment.

2.8.18 Construction Manager's certification for payment shall constitute a representation to the Port Authority, based on Construction Manager's determinations at the Project site and on the data comprising Contractors' Applications for Paymen, that the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents ("Certificate for Payment"). The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Final Completion of each Contract, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion, and to specific qualifications expressed by Construction Manager. The issuance of a Certificate for Payment shall further constitute a representation that Construction Manager and Contractors are entitled to payment in the amount certified.

2.8.19 Construction Manager shall implement the Authority's Health and Safety Plan for the WTC site and shall scrutinize, review, and monitor the safety programs developed by each of the Contractors for the purposes of compliance thereto and coordinating the safety programs with those of the other Contractors as well as with any other contractor.

2.8.20 Construction Manager shall develop, and implement a Quality Assurance Plan, including mockups, testing, and inspections. Solicitation of third-party- inspections must be approved in advance and in writing by the Port Authority.

2.8.21 Construction Manager shall oversee and manage Project site visits and provide or arrange for responses to Contractor inquiries.

2.8.22 Construction Manager shall provide the services and assistance necessary to avoid a construction conflict; when a conflict does occur, Construction Manager shall use best efforts to resolve the dispute.

2.8.23 Construction Manager shall scrutinize and determine, subject to review by the Port Authority, that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents, guarding the Port Authority against defects and deficiencies in the Work, including by means of but not limited to performing inspection and /or inspections of the work. As appropriate, Construction Manager shall have authority, upon written authorization from the Port Authority, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed, or completed. Construction Manager may reject Work that does not conform to the requirements of the Contract Documents; provided, however, Contractor may appeal Construction Manager's rejection of such Work to the Port Authority; and, in the event of an appeal, the Port Authority shall make the final decision as to whether the Work shall be rejected. Notwithstanding anything to the contrary herein, the Port Authority shall retain at all times the right to reject any Work at the Port Authority's sole, absolute, and subjective discretion.

2.8.24 Construction Manager shall scrutinize, schedule, oversee, and coordinate the sequence of construction in accordance with the Contract Documents and the latest approved Project Schedule.

2.8.25 Construction Manager shall transmit to The Port Authority's design team requests for interpretations of the meaning and intent of the Contract Drawings and, with the Design Team's assistance, shall resolve questions that arise.

2.8.26 Construction Manager shall review and evaluate requests for changes in costs and/or time, assist in negotiating Contractors' proposals for such changes, submit recommendations to Design Team and the Port Authority, and, if such proposals are accepted, prepare Change Orders and Construction Change Directives that incorporate Design Team's modifications to the Contract Drawings.

2.8.27 Construction Manager shall review, analyze, evaluate, and document any claim made or any claim Construction Manager anticipates may be made.

2.8.28 Construction Manager shall receive certificates of insurance from the Contractors, review and evaluate them for conformance with the requirements of the respective Contracts, and forward them to the Port Authority.

2.8.29 In collaboration with The Port Authority's procedures, the Construction Manager shall establish and implement procedures for expediting the processing and approval of Shop Drawings and other Submittals. Construction Manager shall review and evaluate all Shop Drawings and other Submittals from the Contractors. Construction Manager shall coordinate and synchronize Submittals with information contained in related documents and transmit to the design team those, which have been reviewed and deemed complete by Construction Manager. Construction Manager's actions shall be performed and completed with such reasonable promptness as to cause no delay in the Work or in the activities of the Port Authority or Contractors.

2.8.30 Construction Manager shall oversee, scrutinize, monitor, evaluate, analyze, and record the progress of the Project. Construction Manager shall prepare and submit written, detailed progress reports to the Port Authority, including information and evaluation with respect to each Contractor and each Contractor's Work, as well as on the entire Project, and determining and showing percentages of completion. Construction Manager shall maintain a daily Project log containing a record of weather, each Contractor's Work on the Project site, and, for each Contractor, the number of workers, identification of major equipment, Work accomplished, problems encountered, and other similar relevant data as the Port Authority may require.

2.8.31 Construction Manager shall arrange and be responsible for and maintain complete progress photos and other visual records, files, and documentation with respect to the progress of the Project, as requested by the Port Authority. Construction Manager shall make all photos and other visual records available to the Port Authority upon request and shall deliver them to the Port Authority upon Final Completion of all Contracts for the Project.

2.8.32 Construction Manager shall maintain at the Project site for the Port Authority one (1) record copy of all Contracts, Contract Drawings, addenda, Construction Change Directives, Change Orders, and other modifications, in good order and marked currently to record changes and selections made during construction; and, in addition, approved Shop Drawings and similar required Submittals. Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations certified by a qualified surveyor or professional engineer. Construction Manager shall make all such records available to the Port Authority and, upon completion of the Project, shall deliver all such records to the Port Authority. The Construction Manger shall maintain it's own Document Control function and shall establish the procedures and protocols to coordinate and function with the Port Authority's document Control

system. The Construction Manger shall submit its document control procedures and plan for review and approval by the Port Authority.

2.8.33 When Construction Manager determines that a Contractor's Work, or a designated portion thereof, is sufficiently complete to allow Contractor to prepare a punch list, then Construction Manager, jointly with the Contractor, shall prepare for the Port Authority a list of incomplete or unsatisfactory items and schedule and monitor them for completion. Construction Manager shall coordinate, oversee, and monitor the correction and completion of the Work. When the Work is ready for final inspections, then Construction Manager shall participate and assist in conducting inspections to determine whether the Work or designated portion thereof meets the Contract's requirements for Final Completion.

2.8.34 Construction Manager shall implement and manage the Minority and Woman Business Enterprise ("M/WBE") Plan for the contracts, which will be awarded for Construction.. This plan shall include but not be limited to working with the MBE/WBE Coordinator, World Trade Center Construction and the Office of Business & Job Opportunity to establish M/WBE goals and to identify contract opportunities for Minority and Women Owned Business.

As part of this effort, the Construction Manager shall assign a Minority and Women Business Enterprise Liaison. The M/WBE Liaison Officer may fulfill multiple roles on the Project, however, the primary responsibility of the M/WBE Liaison is to develop, managing, and implement the M/WBE Program.

2.9.1 Task 9 – FINANCING/COST CONTROL

2.9.2 During the course of the Project, Construction Manager shall assist with, monitor, and, as appropriate, administer any financing aspect of the Project, including the following:

2.9.3 Construction Manager shall prepare and provide necessary Project information, documentation, and materials as requested by various lenders and as approved by the Port Authority.

2.9.4 Construction Manager shall scrutinize and coordinate the financing requirements and cash flow reports of the contracts with the Contractors, and Subconsultants of any tier.

2.9.5 Construction Manager shall scrutinize and manage, and use best efforts to control construction costs and/or time, and negotiate on behalf of the Port Authority as necessary or required and pre-approved by Authority, in accordance with the schedule, Project, safety, and quality goals of the Port Authority.

2.10.1 Task 10 – FACILITY PLANNING SERVICES

2.10.2 Construction Manager shall analyze, recommend and inform the Port Authority and Design Team regarding the assignment of responsibilities for temporary Project facilities and equipment, materials, and services for common use of the Contractors. Construction Manager shall confirm and verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

2.10.3 Construction Manager shall analyze and determine the scope and requirements for furniture, fixtures, equipment, tele/data cabling, operational equipment, security requirements, etc., to be provided or purchased by the Port Authority, as requested by the Port Authority.

2.10.4 Construction Manager shall gather and evaluate information and product data that meets the scope and requirements of the Port Authority with respect to furniture, fixtures, equipment, tele/data cabling, operational equipment, security requirements listed in Section 2.5.1 above, as requested by the Port Authority.

2.10.5 Construction Manager shall evaluate and assist in qualifying vendors and reviewing pricing and product proposals with respect to furniture, fixtures, and equipment, as requested by the Port Authority.

2.10.6 Construction Manager shall coordinate and oversee the delivery, installation, and commissioning of furniture, fixtures, and equipment, and coordinate same with vendors, as requested by the Port Authority.

2.11.1 Task 11 – PROJECT CLOSEOUT

2.11.2 Construction Manager shall (i) oversee and manage preparation of and review of construction punch lists by Contractors and (ii) coordinate and, along with the Design Team, verify completion of punch list items.

2.11.3 Construction Manager shall oversee, manage, coordinate and confirm delivery of keys, manuals, plans and specifications, as-built drawings, etc.

2.11.4 Construction Manager shall schedule, manage, and oversee all product and equipment demonstrations.

2.11.5 Construction Manager shall oversee and manage (i) the delivery, installation, and commissioning of equipment; (ii) commissioning processes and procedures; and (iii) the initial start-up and testing of all systems to confirm compliance with specifications.

2.11.6 Construction Manager shall ensure and confirm that all equipment use permits and regulatory sign-offs are obtained and delivered to the Port Authority upon Project completion.

2.11.7 Construction Manager shall oversee, scrutinize, and coordinate activities and obtain sign-offs necessary for the issuance of a final certificate of occupancy or Authority's equivalent.

2.11.8 Construction Manager shall scrutinize, evaluate, review, administer, and process final payments and lien documentation.

2.11.9 Construction Manager shall coordinate, oversee, and confirm performance of corrective and warranty work prior to closeout of the Project.

2.12.1 Task 12 – GENERAL ADMINISTRATIVE SERVICES

2.12.2 Construction Manager shall prepare and deliver to the Port Authority not less than once each month a report addressing progress, problems, issues, and concerns with respect to the status of these Services and the status of any additional services Construction Manager is performing with respect to the Project.

2.12.3 Construction Manager shall perform other construction management services related to the Project as requested by the Port Authority.

2.12.4 Duties, responsibilities, and limitations of authority of Construction Manager as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Port Authority.

2.12.5 Construction Manager shall use the management software designated by the Port Authority, including, without limitation, Authority's document management software, LiveLink.

2.12.6 Construction Manager shall follow the Authority's policies and procedures as set forth in the Agreement, including all Attachments hereto, and as may be modified or established from time to time.

2.12.7 Construction Manger shall be responsible to coordinate all aspects of the World Trade Center Site Hub Project and to work in harmony with other contractors involved in the projects and activities at the World trade Center Site.

3.0 QUALITY ASSURANCE / QUALITY CONTROL

In addition to the Quality Assurance Plan for the Construction Contract Administration, the Construction Manager shall provide a Quality Assurance/ Quality Control Plan for the all the Tasks, Duties and Responsibilities of the Construction Manager. The objective of the CM's quality program is to verify that activities are performed accurately and in compliance with all Project, Contractual, and local, State and Federal requirements. The CM's quality process focuses on the fundamental elements of quality planning, performance, assessment, and continuous improvement.

The approach defined in the Project Quality Assurance Plan and subsequently in the Project Quality Assurance Manual includes a hierarchy of documents, policies, plans, procedures, work instructions, and forms. This hierarchy provides the management and procedural controls essential for successful performance. It also establishes the basic quality assurance requirements to verify that risks and project impacts are minimized and that and performance are maximized through the use of effective management systems through all phases of the Project. At a minimum, the CM's QA/ QC plan must address the effective management of the following:

- Design Management
- Estimating
- Scheduling
- Safety
- Contract Packaging / Project Coordination
- Procurement
- Contract Administration
- Budgeting / Cost Control
- Environmental Performance Commitments (EPCS) /Environmental Compliance

The Construction Manager shall implement and manage a quality program developed in accordance with the requirement above. The Construction Manager shall approve the Quality Control Programs and plans from the Contractor's and their respective subcontractor's, suppliers and vendors and submit them for review by the Port Authority. The Construction Manger shall approve the Contractor's suppliers and vendors Quality Assurance Plan and documented Quality Management system and submit them for review by the Port Authority.

4.0 DELIVERABLES

Construction Manager shall provide support to the PA in the formation and review of program documentation. All documents prepared by the Construction Manager shall be prepared on behalf of the PA and the Construction Manager may not independently

publish or distribute any document without prior written permission from the PA. The Construction Manager shall review and provide written comments on the technical accuracy and completeness of each document. No documents, reports, information, etc. may be released to the public or provided to any party other than the PA and its contractors without written approval of the PA.

The Construction Manager shall provide status reports, progress reports, and other deliverables as required in a format proposed by Construction Manager and agreed to by the Authority. The Construction Manager shall use Primavera P6 in performing all schedule updates and analysis in order to ensure proper conformity with PA Master Schedules.

The following does not constitute a complete list of deliverables that may be required during the performance of the Construction Manager's duties. Due dates are subject to change and dependent on the development of the Project and the Construction Contractor's milestones. All references to days are in calendar days. Contractor may be required to provide additional deliverables not listed below, as required.

Deliverable	**Due Date**
Progress Reports	Monthly
Project Design Requirements (Section 2.1.3)	15 Days from Notice to Proceed
Procurement Procedures/ Plan	As Required
Construction Contract Change Order Log	Monthly
Design Estimates	As required
Project Schedules	Monthly
Earned Value Report	Monthly

END SCOPE OF WORK

EXHIBIT B

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 Asssurance & 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.

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.

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

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 shell 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.

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

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.

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;

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.

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;

- 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.

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.

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.

EXHIBIT C

DOWNTOWN RESTORATION PROGRAM

THE WORLD TRADE CENTER SITE

SAFETY, HEALTH AND ENVIRONMENTAL PROGRAM

June 4, 2008
Revision 1

Approvals and Endorsements

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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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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 Authorirty, 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 Sling 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 contactor'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 CSM 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. Lightening 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;
- Manufactures 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 there 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 maintain 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 workers 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 contactor 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.

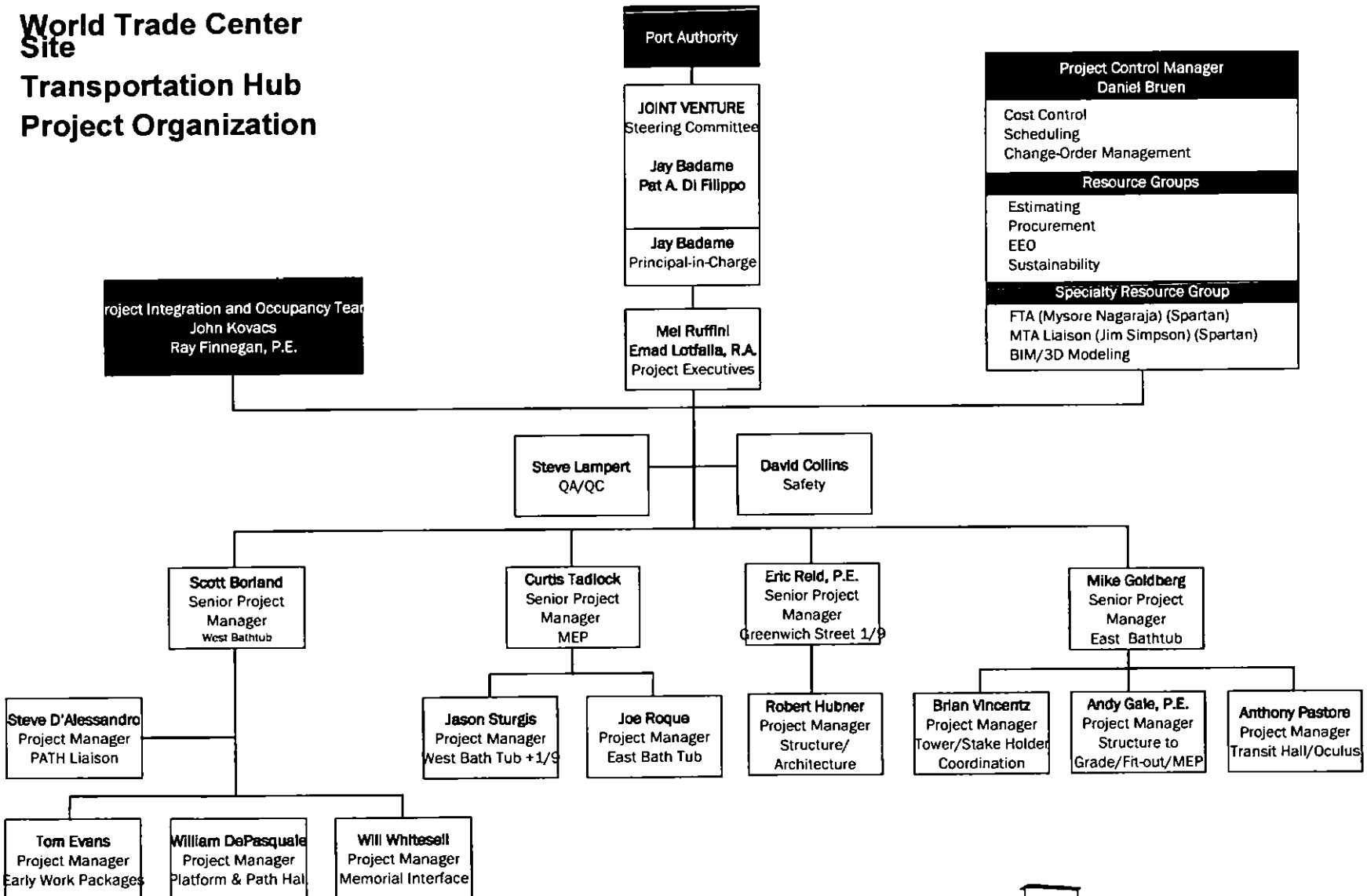
THE PORT AUTHORITY OF NY & NJ
CONSTRUCTION MANAGEMENT SERVICES
FOR THE WORLD TRADE CENTER SITE
TRANSPORTATION HUB

Exhibit D - SCHEDULE OF PERSONNEL HOURLY RATES

Position	Personnel	2009 Direct Rate per Hour
Principal in Charge	Jay Badame	172.14
Project Executive	Mel Ruffini	161.06
Project Executive	Emad Lotfalla	134.62
Project Integration and Occupancy	James Cornell	92.55
Project Integration and Occupancy	Ray Finnegan	144.23
Project Integration and Occupancy	John Kovacs	132.31
Project Integration and Occupancy Commissioning PM	Project Integration and Occupancy Commissioning PM	70.19
Project Integration and Occupancy MEP PM	Project Integration and Occupancy MEP PM	69.71
Project Integration and Occupancy MEP Project Engineer	Project Integration and Occupancy MEP Project Engineer	31.25
		-
Project Control Manager	Daniel Bruen	88.59
Safety	David Collins	96.15
QA/QC	Steve Lampert	85.67
FTA / MTA Liason	FTA / MTA Liason	79.33
EEO	EEO	84.13
		-
		-
Construction Staffing		-
Senior Project Manager	Scott Borland	111.34
PATH Liaison	Steve D'Alessandro	81.73
Safety / OSHA Superintendent	Safety / OSHA Superintendent	62.50
Accounting	Accounting	48.08
Plan Clerk	Plan Clerk	24.04
Administrative Assistant	Administrative Assistant	26.44
		-
Project Manager	Tom Evans	96.16
		-
Architectural / Structural APM	Structural APM	48.08
MEP APM	MEP APM	52.88
A / S Superintendent	A / S Superintendent	67.31
MEP Superintendent	MEP Superintendent	67.31
		-
Project Manager	William DePasquale	109.25
		-
Structural APM	Structural /Architectural APM	48.08
MEP APM	MEP APM	52.88
A / S Superintendent	A / S Superintendent	67.31
MEP Superintendent	MEP Superintendent	67.31
		-
Project Manager	Will Whitesell	87.04
		-
Structural APM	Structural /Architectural APM	48.08
		-
A / S Superintendent	A / S Superintendent	67.31
MEP Superintendent	MEP Superintendent	67.31
		-
Senior Project Manager	Curtis Tedlock	96.20
Project Manager	Jason Sturgis	100.92
Project Manager	Joe Roque	63.70
		-
Senior Project Manager	Eric Reid	63.78
Safety / OSHA Superintendent	Safety / OSHA Superintendent	62.50
		-
Plan Clerks	Plan Clerks	24.04
Administrative Assistant	Administrative Assistant	26.44
		-
Project Manager	Robert Hubner	89.87
		-
		-
Structural APM	Structural APM	48.08
		-
A / S Superintendent	A / S Superintendent	67.31
MEP Superintendent	MEP Superintendent	67.31
		-
Senior Project Manager	Michael Goldberg	108.17
Safety / OSHA Superintendent	Safety / OSHA Superintendent	62.50
Accounting	Accounting	48.08
Plan Clerks	Plan Clerks	24.04
Administrative Assistant	Administrative Assistant	26.44
		-
Project Manager	Andy Gale	69.71
Project Manager	Brian Vincentz	72.12
Project Manager	Austin Gelbard	64.90
Architectural APM	Architectural APM	48.08
Structural APM	Structural APM	48.08
		-
A / S Superintendent	A / S Superintendent	67.31
MEP Superintendent	MEP Superintendent	67.31
		-
Project Manager	Anthony Pastore	53.49
Architectural APM	Architectural APM	48.08
Structural APM	Structural APM	48.08
MEP APM	MEP APM	52.88

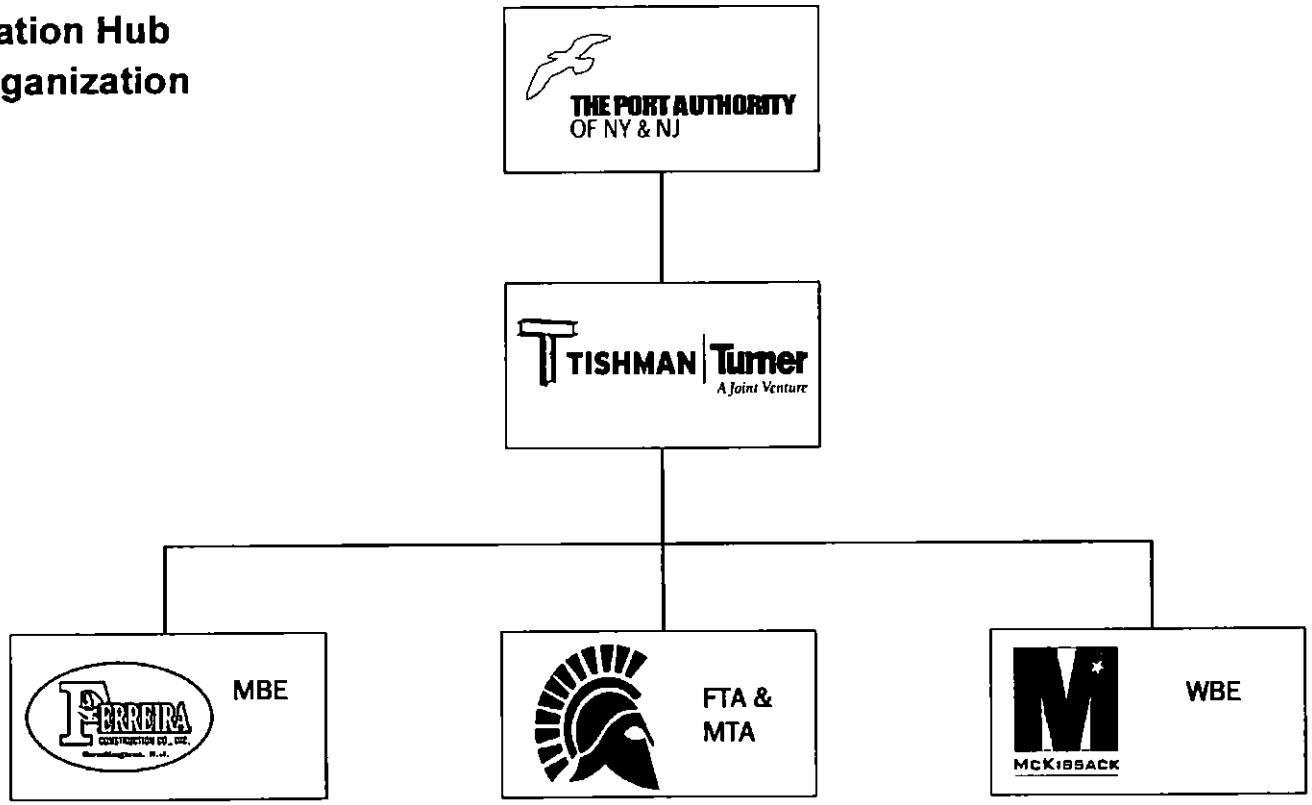
A / S Superintendent	A / S Superintendent	67.31
MEP Superintendent	MEP Superintendent	67.31
		-
Corporate Resources Group		-
Cost Control	Cost Control	52.88
		-
Project Planner / Scheduler	Project Planner / Scheduler	48.08
		-
		-
Project Controls (Live Link)	Project Controls (Live Link)	60.10
		-
Cost Estimator / Claims Analyst	Cost Estimator / Claims Analyst	72.12
Cost Estimator / Claims Analyst	Cost Estimator / Claims Analyst	72.12
		-
Procurement Manager	Procurement Manager	84.13
		-
EEO	EEO	38.46
		-
		-
Commissioning Agent	Commissioning Agent	55.29
Sustainability	Sustainability	48.08
Draft Person / CADD	Draft Person / CADD	52.88
		-
Specialty Consulting		-
Exterior Wall Consultants	Exterior Wall Consultants	84.13
FTA / MTA Liason	FTA / MTA Liason	67.31
BIM / 3D Modeling	BIM / 3D Modeling	56.39

World Trade Center Site
Transportation Hub
Project Organization



TISHMAN | Turner
A Joint Venture

World Trade Center Site
Transportation Hub
Project Organization



TISHMAN Turner
A Joint Venture

THE PORT AUTHORITY OF NY & NJ

EXHIBIT E – INSURANCE REQUIREMENTS

I. INSURANCE PROCURED BY THE AUTHORITY

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 Transportation Hub Owner 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 project work site. Coverage will include:

1. Workers' Compensation meeting the statutory limits of the State of New York, including Occupational Disease, and
2. Employers' Liability, subject to the laws of New York State;
3. 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 the Construction Manager and P.A. Treasury / Risk Management.

B. Commercial General Liability Insurance

Commercial General Liability Insurance to each Contractor, as follows:

1. $1,000,000,000 Combined Single Limit (CGL) each one occurrence and aggregate.
2. General Liability and Excess Liability policies include the following coverages and provisions:

- Bodily Injury and Property Damange 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").

- 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. $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).

2. Coverages include, but are not limited to:

    - All property to be used in or incidental to the project, 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.

D. Contractors Pollution Liability

Contractors Pollution Liability coverage is as follows:

1. 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.

2. Bodily injury, property damage, or environmental damage caused by pollution conditions resulting from covered operations (the project work) only, and must be unexpected and unintended from the standpoint of the Insured.

3. The bodily injury, property damage, or environmental damage must occur during the policy period.

E. Terrorism

1. 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.

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 Construction Manager, Contractor and/or subcontractors who perform any asbestos Work. In such cases, the Construction Manager, 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 $1million per occurrence)

Should the Construction Manager, 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.

The requirements for insurance procured by the Construction Manager, Contractor or subcontractors shall not in any way be construed as a limitation on the nature or extent of the obligations of the Construction Manager, 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. The policies under A and E above are subject to certain coverage exclusions. The Construction Manager, 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 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 Construction Manager, Contractor and the subcontractors themselves obtain insurance substituting in whole or part for that above referred to, provided always, however, that the Construction Manager, 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 for actual cost.

Neither the procurement of the above insurance or any substitute insurance nor the extent of the coverage or the limits of liability thereunder shall be construed to be a limitation on the nature or extent of the Construction Manager's obligations, or to relieve the Construction Manager 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 Construction Manager against the obligations imposed on the Construction Manager by law (except the applicable 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 Construction Manager other than rights, which may be available to the Construction Manager 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 Construction Manager 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.

All negotiations and adjustments with any insurer concerning payment for any loss, the risk of which is borne by the Construction Manager under this Contract, shall be the responsibility of and shall be conducted by the Contractor unless the applicable policy provides otherwise. The Construction Manager 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 Construction Manager 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 Construction Manager 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 Construction Manager or any subcontractor covered by such insurance nor shall it be liable for any of the obligations of such employer.

The Construction Manager, 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.

II. INSURANCE PROCURED BY CONTRACTOR

The Construction Manager, 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. **Commercial Automobile Liability Insurance** covering the use of all Owned, Non-Owned, and Hired Vehicles with a combined Bodily Injury and Property Damage Limit together with any excess liability or umbrella liability insurance coverage of at least Five Million ($5,000,000) Dollars. Automobile Insurance must include all Additional Insureds and be scheduled as primary on the Excess policy.

   a. Coverage is to be endorsed to reflect that the insurance provided is to be primary and non-contributory for the Contractor, and all Additional Insureds and indemnities named in the Contract.

   b. Should the Construction Manager 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 (5) Million Dollars per occurrence and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the Contractor.

B. **Commercial Professional Liability Insurance (CPLI)** covering the design and engineering services required by Contract of at least Ten Million ($10,000,000) Dollars. Should the Construction Manager engage a Subconsultant, the Subconsultant shall be required to maintain limits of liability of not less than Three (3) Million Dollars per occurrence and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the Contractor.

E. Where an Off Project Site property exposure exists, the Construction Manager at its sole expense shall furnish to the Port Authority, 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. Any materials that are stored offsite that will be permanently affixed to the project should be covered under the Builder's Risk policy, subject to the policy territory.

F. The above insurance shall each contain the following wording verbatim and provide an endorsement on the insurance certificate:

"The Port Authority is interested in the maintenance of this insurance and it is agreed that this insurance will not be canceled or not renewed without at least thirty (30) days' advance written notice to the Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York, 12th Floor, 10003, Attn: Boris Pisman."

G. The amount of insurance contained in aforementioned insurance coverages, shall not be construed to be a limitation of liability on the part of the Construction Manager or any of its Subcontractors, and the carrying of the insurance described shall in no way be interpreted as relieving the Construction Manager of any responsibility of liability under the Contract.

H. The Construction Manager shall file certificates of insurance prior to the commencement of Work and with the Port Authority which shall be subject to the Port Authority's approval of adequacy of protection and the satisfactory character of the Insurer. In the event of failure of the Construction Manager to furnish and maintain said insurance and to furnish satisfactory evidence thereof, the Port Authority shall have the right (but not the obligation) to take out and maintain the same for all parties on behalf of the Construction Manager who agrees to furnish all necessary information thereof and to pay the cost thereof to the Port Authority immediately upon presentation of a bill.

I. The Construction Manager 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.

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. The Construction Manager agrees to fully cooperate with the Port Authority including, but not limited to:

a. Cooperation with the WTC Safety Program as developed in conjunction with the Port Authority, the Port Authority's Consultants and Insurance Carrier.

b. Cooperating with any potential accident or claim investigations and any specific reporting requirements.

b. Allowing the Port Authority to audit Contractor's records to determine appropriate charges and credits for all insurance costs.

L. Further, the certificate of insurance and the liability Policy(ies) shall be specifically endorsed that " *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*"

M. 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 Port Authority, and shall have an A.M. Best Rating of A – "VII" or better.

N. A copy of the appropriate certificate(s) are to be submitted upon the request of the Port Authority.

O. Subrogation.

Any policies effected by the Construction Manager 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 Port Authority, and all Additional Insureds and indemnities named in the Contract.

P. Within five (5) days after the award of this Contract and prior to the start of Work, the Contractor must submit an original Certificate of Insurance to the Port

Authority at the location where the Work will take place. This Certificate of Insurance MUST show evidence of the above insurance policy or policies, stating the agreement/contract number prior to the start of Work. Upon request by the Port Authority, the Contractor shall furnish to the General Manager, Risk Management, a certified copy of each policy, including the premiums.

Schedule 1 - Additional Insureds (Pollution liability):

a) The Port Authority of New York and New Jersey
b) The Port Authority Trans-Hudson Corporation
c) STV Construction, Inc.
d) NYS Department of Transportation
e) The City of New York
f) The Lower Manhattan Development Corporation
g) The National September 11 Memorial and Memorial Museum at the World Trade Center Foundation, Inc.
h) Metropolitan Transportation Authority
i) Tishman Construction Corporation of New York
j) Turner Construction Company
k) Tishman/Turner Joint Venture

The term "Affiliate" means, as applied to any Person, any other Person or other business entity which is and continues to be Controlled By, or which Controls, or which is Under Common Control With or which is Controlled By an Entity which Controls, or into or with which the Entity is merged or consolidated if an assignment or other transfer is required in connection with such merger or consolidation with, that Person. The term "Control" means the power to direct or cause the direction of the business decisions of a Person, whether through the ownership of voting securities or by contract or otherwise (it being understood that the right of an owner of equity in a Person to make or veto major decisions shall not constitute such power to direct or cause the direction of the business decisions of such Person as would prevent another equity owner to have Control of such Person as contemplated by this definition); and the terms "Controlled By", "Controls", and "Under Common Control With" shall have the meanings correlative to the foregoing.

The term "Entity" means any individual, partnership, limited liability company, corporation, trust or other entity.

The term "Person" means any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, and any federal, state, county or municipal government or any political subdivision, bureau, department, authority or agency thereof.

EXHIBIT F –

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN

TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this 10th day of August, 2009, 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 Tishman Construction Corporation of New York, a Delaware corporation, having an office and place of business at 666 Fifth Avenue, New York, New York 10103 ("**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 construction of the Transportation Hub Project located on the World Trade Center site in New York City (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:

(a) **"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.

(b) **"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:

(i) 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.

(ii) 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.

(c) **"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.

(d) **"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.

(e) **"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.

(f) **"Critical Infrastructure Information"** (CII) has the meaning set forth in the Homeland Security Act of 2002 (42 U.S.C. §5195c(e)) 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 (6 U.S.C. §131-134). CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII", as provided for in the referenced rules and regulations.

(g) **"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.

(h) **"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.

(i) **"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.

(j) **"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.

(k) **"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.

(l) **"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).

2. **Use of Confidential Information.** All Confidential Information shall be used by the Recipient in accordance with the following requirements:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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 9.

If to the Port Authority:	The Port Authority of New York and New Jersey 225 Park Avenue South, 10th 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: Tishman Construction Corporation of New York
666 Fifth Avenue
New York, New York 10103
Attention: Jay Badame and Linda Christensen

with a copy to: Turner Construction Company
375 Hudson Street
New York, New York 10014
Attention: Pat Di Filippo

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
August 10, 2010

RECIPIENT:
TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____
Michael J. Mennella
Title: Executive Vice President
Date: August 10, 2009

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, Michael J. Mennella (name of authorized signatory), is the Executive Vice President of Tishman Construction Corporation of New York a Delaware corporation ("**Related Party**"), located at 666 Fifth Avenue, New York, New York 10103, 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 construction manager (as part of Tishman/Turner, a Joint Venture) in connection with construction of the Transportation Hub Project located on the World Trade Center site in New York City 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 October 10, 2009, between Tishman Construction Corporation of New York (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: Michael J. Mennella
Title: Executive Vice President
Date: August 10, 2009

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN

TURNER CONSTRUCTION COMPANY

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this 10th day of August, 2009, 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 Turner Construction Company, a New York corporation, having an office and place of business at 375 Hudson Street, New York, New York 10014 ("**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 construction of the Transportation Hub Project located on the World Trade Center site in New York City (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:

(a) **"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.

(b) **"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:

(i) 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.

(ii) 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.

(c) **"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.

(d) **"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.

(e) **"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.

(f) **"Critical Infrastructure Information"** (CII) has the meaning set forth in the Homeland Security Act of 2002 (42 U.S.C. §5195c(e)) 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 (6 U.S.C. §131-134). CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII", as provided for in the referenced rules and regulations.

(g) **"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.

(h) **"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.

(i) **"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.

(j) **"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.

(k) **"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.

(l) **"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).

2. **Use of Confidential Information.** All Confidential Information shall be used by the Recipient in accordance with the following requirements:

(a) 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.

(b) 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.

(c) 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.

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(e) 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.

(f) 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.

(g) 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.

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375 Hudson Street
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666 Fifth Avenue
New York, New York 10103
Attention: Jay Badame and Linda Christensen

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
August 10, 2010

RECIPIENT:
TURNER CONSTRUCTION COMPANY

By: _____
Pat A. Di Filippo
Title: Executive Vice President
Date: August 10, 2009

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, Pat Di Filippo (name of authorized signatory), is the Executive Vice President (Title) of Turner Construction Company (name of entity), a New York corporation (type of entity and jurisdiction of formation) ("**Related Party**"), located at 375 Hudson Street, New York, New York 10014 (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 construction manager (as part of Tishman/Turner, a Joint Venture) in connection with construction of the Transportation Hub Project located on the World Trade Center site in New York City 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 October 10, 2009, between Turner Construction Company (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: Pat A. Di Filippo
Title: Executive Vice President
Date: August 10, 2009

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: _____

EXHIBIT G

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)(l) 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)(l) 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.

<u>Medium</u> 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.

(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

EXHIBIT H

FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS

I. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS

This Agreement is anticipated to be partially funded by the Federal Transit Administration, pursuant to the Agreement entitled, "United States of America Department of Transportation Federal Transit Administration – Master Agreement for Lower Manhattan Recovery Grants", dated October 1, 2006 ("Master Agreement") . As used herein the term "Contractor" shall mean "Construction Manager" and the term "Contract" shall mean "Agreement".

Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests that would cause the Authority to be in violation of the FTA terms and conditions.

Each and every provision required by the FTA 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 herein. If any provision of this Contract shall be such as to effect non-compliance with any FTA requirement, such provision shall not be deemed to form part hereof, but the balance of this Contract shall remain in full force and effect.

2. FEDERAL CHANGES

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract. The most recent Federal laws, regulations, policies, and administrative practices apply to this Contract at any particular time, unless FTA issues a written determination otherwise. All standards or limits within the Master Agreement are minimum requirements, unless modified by the FTA.

3. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal Assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

4. ORGANIZATIONAL CONFLICT OF INTEREST

A. This Contract 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 contract may, without some form of restriction on future activities; result in an unfair competitive advantage to the Contractor.

1. The Contractor shall have access to confidential and/or sensitive Authority information in the course of contract performance. Additionally, the Contractor may be provided access to proprietary information obtained from other contracted entities during contract performance. The Contractor agrees to protect all such information from disclosure 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 (a) 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 (b) 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 compete.

B. The Contractor, by submitting its bid or proposal, agrees to the above stated conditions and terms and further agrees to perform all duties under the contract and, in doing so, 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.

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

5. CERTIFICATION - DEBARMENT AND SUSPENSION

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CRF 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CRF 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Port Authority of New York and New Jersey. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to the Port Authority of New York and New Jersey, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

A. FTA requires that each potential Contractor, for major third party contracts, complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion" for itself and its principals and requires each Subcontractor or Supplier [for Subcontracts and Supplier agreements expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 253(g) (currently $25,000)] to complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tiered Covered Transactions" for itself and its principals. Copies of the required Certification forms and accompanying instructions are set forth following the clause herein entitled "Integrity Monitor".

B. In the event that the Contractor has certified prior to award that it is not proposed for debarment, debarred, suspended, or voluntarily excluded from covered transactions by any Federal Department or agency and such certification is found to be false, this Contract may be canceled, terminated or suspended by the Authority and the Contractor will be liable for any and all damages incurred by the Authority because of such cancellation, termination or suspension because of such false certification.

C. The Contractor shall obtain certifications from all known potential Subcontractors and Suppliers [for which payments are expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 253(g) (currently $25,000)] and submit such certifications to the address set forth in E below.

D. Prior to the award of any Subcontracts or Supplier agreements expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 253(g) (currently $25,000), regardless of tier, any prospective Subcontractor or Supplier who has not previously submitted a certification for this Contract must execute and submit to the Contractor a certification in the form set forth following the clause herein entitled "Integrity Monitor" which will be deemed a part of the resulting Subcontract and Supplier agreement.

E. The originals of any Certifications or correspondence relating hereto shall be sent by the Contractor to the Director of Procurement, One Madison Avenue, 7th Floor, New York, NY 10010.

F. The Contractor shall not knowingly enter into any Subcontracts or Supplier agreements with a person that is proposed for debarment, debarred, suspended, declared ineligible or voluntarily excluded from covered transactions.

G. As required by FTA, the Contractor and its Subcontractors or Suppliers required to file the certification have a continuing duty to disclose, and shall provide immediate written notice to the Authority if, at any time, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

6. CERTIFICATION - LOBBYING RESTRICTIONS –CONTRACTS EXCEEDING $100,000

A. Definitions as used in this Clause:

1. "Agency," as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1). As used in the Certification set forth following the clause herein entitled "Integrity Monitor" t, it also includes any other public agency.

2. "Covered Federal action" means any of the following Federal actions:

a. The awarding of any Federal contract;

b. The making of any Federal grant;

c. The making of any Federal loan;

d. The entering into of any cooperative agreement; and

e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. As used in the above referenced Certification, it includes the award of the contract with which it is associated.

3. "Indian tribe" and "tribal organization" have the meaning provided in Section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan natives are included under the definitions of Indian tribes in that Act.

4. "Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employees of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a

Member of Congress in connection with any covered Federal action.

5. "Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government. It also includes a bi-state agency.

6. "Officer or employee of an agency" includes the following individuals who are employed by an agency:

a. An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment;

b. A member of the uniformed services as defined in section 101(3), title 37, United States Code;

7. A special government employee as defined in Section 202, title 18, United States Code;

a. An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code Appendix 2; and

b. An employee of a bi-state agency.

8. "Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian Organization with respect to expenditures specifically permitted by other Federal law.

9. "Reasonable Compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

10. "Reasonable Payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

11. "Recipient" includes all contractors and subcontractors at any tier in connection with a Federal Contract. The term excludes an Indian Tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

12. "Regularly Employed" means, with respect to an officer or employee of a person requesting or receiving a Federal Contract, an officer or employee who is employed by such person for at least one hundred and thirty (130) working days within one (1) year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than one hundred and thirty (130) working days within one (1) year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for one hundred and thirty (130) working days.

13. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-state, regional, or interstate entity having governmental duties and powers.

B. Prohibition

1. Section 1352 of title 31, United States Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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. For the purposes of the Certification included herein following the clause entitled "Integrity Monitor", it includes the award of the associated contract.

2. The prohibition does not apply as follows:

a. Agency and legislative liaison by own employees.

i. The prohibition on the use of appropriated funds, in subparagraph B.1.) of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or the contract associated with the certification if the payment is for agency and legislative liaison activities not directly related to a covered Federal Action.

ii. For purposes of subparagraph B. 2.) a.(i) of this Section, providing any information specifically requested by an agency or Congress is allowable at any time.

iii. For purposes of subparagraph B. 2.) a.(i) of this Section,

the following agency and legislative liaison activities are allowable at any time only where they are not related to specific solicitation for any covered Federal action.

a. Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sales and service capabilities; and,

b. Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

iv. For purposes of paragraph B. 2)a.(i) of this Section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

a. Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

b. Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

c. Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

v. Only those activities expressly authorized by subparagraph B. 2)a. of this Section are allowable under subparagraph B. 2)a.

b. Professional and Technical Services by Own Employees.

(i) The prohibition on the use of appropriated funds, in subparagraph B. of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract or the contract associated with the certification if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that contract.

(ii) For purposes of subparagraph B. 2.) b. (i) of this Section,

"professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this Section unless they provided advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this Section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this Section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(iii) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(iv) Only those services expressly authorized by subparagraph B. 2.) b. this Section are allowable under subparagraph B. 2.) b.

c. Reporting for Own Employees.
No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

d. Professional and Technical Services by Other than Own Employees.

(i) The prohibition on the use of appropriated funds, in subparagraph B. l.) of this Section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.

(ii) For purposes of subparagraph B. 2.) d. (i) of this Section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this Section unless they provided advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this Section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this Section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(iii) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(iv) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(v) Only those services expressly authorized by subparagraph B. 2.) d. of this Section are allowable under subparagraph B. 2.) d.

C. Disclosure

1. Each person who requests or receives from the Authority a Contract with Federal assistance shall file with the Authority a certification entitled "Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352," as set forth following the clause herein entitled "Integrity Monitor" that the person has not made, and will not make, any payment prohibited by subparagraph B. of this Clause. Each person who requests or receives from the Authority a Contract with Federal assistance shall file with the Authority a disclosure form entitled "Disclosure of Lobbying Activities Pursuant to 31 U.S.C. 1352" (Standard Form-LLL), as set forth following the clause herein entitled "Integrity Monitor", if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B. of this Clause if paid for with appropriated

funds.

2. Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph C.2) of this Section. An event that materially affects the accuracy of the information reported includes:

a. A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

b. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

c. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

3. Any person who requests or receives from a person referred to in subparagraph C.1) of this Section a subcontract exceeding $100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.

4. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in subparagraph C.1) of this Section. That person shall forward all disclosure forms to the Authority.

D. Agreement

1. In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this Clause.

E. Penalties

1. Any person who makes an expenditure prohibited under subparagraph A of this Clause shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

2. Any person who fails to file or amend the disclosure form to be filed or amended if required by the Clause, shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. Contractors may rely without liability on the representations made by their Subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this Clause is to be interpreted to make allowable or reasonable any

costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this Clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulations.

7. ACCESS TO RECORDS AND REPORTS

The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 CFR 633.15 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to the Contractor's records and construction sites pertaining to the project.

The Contractor agrees to provide the Authority, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions.

The Contractor shall make available records related to the contract to the Authority, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after final payment is made by the Authority and all other pending matters are closed, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

This requirement is independent of the Authority's requirements for record retention contained elsewhere in the contract documents.

8. CIVIL RIGHTS

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, and section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

C. The Contractor also agrees to include these requirements in each subcontract related to this project, modified only if necessary to identify the affected parties.

9. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS

If this Contract involves equipment, materials, or commodities which may be transported by ocean vessels, the Contractor herein agrees:

A. To utilize privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any

equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

B. To furnish within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) above to the FTA Administrator and grantee (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20230.

C. To include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

10. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS – CONTRACTS EXCEEDING $2000

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government." 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any construction contract over $2,000. 40 USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating." 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below and are applicable if this Contract is a construction contract (as delineated above) over $2000.

A. Minimum Wages

1. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which, if applicable, is attached hereto and made a part hereof (the attachment is the most current determination), regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Determinations may change during the term of the Contract, and the wages and fringe benefits required by the most recent determination of the Secretary of Labor are those to be used.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (A)(4) of this Section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (A)(2) of this Section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

2.

a. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination;

(ii) The classification is utilized in the area by the construction industry;

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(iv) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

b. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for

fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

c. In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs A (2)(ii) (b) or (c) of this Section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

3. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

4. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

5.

a. The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

b. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

c. In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs A (2)(ii)(b) or (c) of this Section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

B. Withholding

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and

mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

C. Payrolls and Basic Records

1. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

2.

a. The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Authority for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

b. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

c. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph C(2)(b) of this Section.

d. The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

3. The Contractor or subcontractor shall make the records required under paragraph C(1) of this Section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

D. Apprentices and Trainees

1. Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the

Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

2. Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any

trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

3. Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

E. Compliance with Copeland Act Requirements

The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

F. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

G. Contract Termination: Debarment

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

H. Compliance with Davis-Bacon and Related Act Requirements

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

I. Disputes Concerning Labor Standards

Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

J. Certification of Eligibility

1. By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

2. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

3. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

11. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – CONTRACTS EXCEEDING $100,000

The Contract Work Hours and Safety Standards Act applies to grantee contracts and subcontracts under 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 49 CFR 18.36(i)(6) for contracts for construction, and non-construction projects that employ "laborers or mechanics on a public work, where the contract amount is greater than $100,000.

A. Overtime Requirements

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; liability for unpaid wages; liquidated damages

In the event of any violation of the clause set forth in paragraph A of this Section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph A of this Section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph A of this Section.

C. Withholding for unpaid wages and liquidated damages

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under

any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph B of this Section.

D. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A through D of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this Section.

12. SEISMIC SAFETY

If this is a contract for the construction of new buildings or additions to existing buildings, the Contractor agrees that any new building or addition to an existing building will be constructed in accordance with standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance. The completed certification of compliance is to be submitted to the Engineer. The seismic safety standards applicable to this Contract are contained in Section 2312 ICBO Uniform Building Code (UBC), as modified by the Appendix to Title 27, Chapter 1 (Volume 7), of the Administrative Code and Charter of the City of New York at RS 9-6 Earthquake Loads.

13. ENERGY CONSERVATION

The Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §6321 et seq. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a Subcontractor is in compliance with the requirements of this Section.

14. CLEAN WATER REQUIREMENTS – CONTRACTS EXCEEDING $100,000

A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §1251 et seq.

B. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

C. The Contractor also agrees to include the requirements of this Article in all

subcontracts exceeding $100,000 issued pursuant to this Contract.

15. CLEAN AIR REQUIREMENTS – CONTRACTS EXCEEDING $100,000

A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §7401 et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B. The Contractor also agrees to include the requirements of this Clause in all subcontracts exceeding $100,000 issued pursuant to this Contract.

16. FLY AMERICA

The Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for this Contract unless that air transportation is provided by U.S.-flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

17. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

A. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

B. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

18. PREFERENCE FOR RECYCLED PRODUCTS

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recover Act (RCRA), as amended (42.U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

19. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR

RELATED ACTS

A. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. The Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the contract or project. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under this Contract, financed in whole or in part with Federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

C. The Contractor agrees to include the above two clauses in each subcontract related to this Contract. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

20. TRANSIT EMPLOYEE PROTECTIVE REQUIREMENTS

To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

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)(I)-(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 _____, 2009_____

By:_____

Signature of Authorized Official

_____

Official Name and Title of Authorized Official

STANDARD FORM LLL - DISCLOSURE OF LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

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:

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):

11. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more that $100,000 for such failure.

Signature_____ Print Name_____

Title_____ Telephone No._____ Date: _____

INSTRUCTIONS FOR COMPLETION OF DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

1. The prospective lower tier participant,

_____, certifies by submission of this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. The prospective lower tier participant shall provide immediate written notice to the Authority (and the Contractor, if applicable) if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Executed this day _____ of _____, 2009 _____.

_____

BY SIGNATURE OF AUTHORIZED OFFICIAL

_____

NAME AND TITLE OF AUTHORIZED OFFICIAL

INSTRUCTIONS FOR COMPLETION OF CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION -LOWER TIER COVERED TRANSACTIONS

1. By signing and submitting this Proposal, the prospective lower tier participant is providing the signed certification set out on the previous page.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Authority may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the Authority if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. The Proposer may contact the Procurement Representative for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Authority.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under sub-paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Authority may pursue available remedies including suspension and/or debarment.

EXHIBIT I

GUIDANCE

U.S. Department of
Transportation
Federal Transit
Administration

August 21, 2003

Subject: LMRO THIRD PARTY CONTRACTING REQUIREMENTS

1. **PURPOSE.** This document sets forth the requirements a grantee must adhere to in the solicitation, award and administration of its third party contracts funded by the FTA/FEMA grants for the Lower Manhattan Recovery projects. These requirements are based on the common grant rules, Federal statutes, Executive Orders and their implementing regulations, and FTA policy. This document is based on FTA Circular 4220.1E. Inapplicable provisions of that circular are marked "Not Applicable" in this document and are left in place for the benefit of grantees who also receive funds authorized under the Federal Transit Laws who are familiar with the section numbers.

2. **NOT APPLICABLE**

3. **REFERENCES.**

   a. Federal Transit Laws, 49 U.S.C. Chapter 53 – definitions only.

   b. 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, Public Law 107-38;the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107; the Fiscal Year 2002 Department of Defense Appropriations Act, Public Law 107-117; the Fiscal Year 2002 Department of Transportation and Related Agencies Appropriations Act, Public Law 107-206; the Consolidated Appropriations Resolution, 2003, Public Law 208-7; the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, 42 U.S.C. § 5121-5206.

   c. Sections 4001 and 1555 of the Federal Acquisition Streamlining Act of 1994, 41 U.S.C. § 403(11) and 40 U.S.C. § 481(b), respectively,

   d. 49 C.F.R. part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

   e. 49 C.F.R. part 19, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

   f. Executive Order 12612, "Federalism," dated 10-26-87.

   g. Not Applicable.

   h. LMRO Master Agreement.

   i. Appendix D, Best Practices Procurement Manual.

4. **APPLICABILITY**. This guidance applies to all FTA grantees and subgrantees that contract with outside sources under the joint FTA/FEMA assistance programs for the Lower Manhattan Recovery projects. These requirements do not apply to procurements undertaken in support of capital projects completely accomplished without FTA or FEMA funds.

5. **POLICY**. FTA's role in grantee procurements is reflective of Executive Order 12612, Federalism which directs Federal agencies to refrain from substituting their judgment for that of their recipients unless the matter is primarily a Federal concern and to defer, to the maximum extent feasible, to the States to establish standards rather than setting national standards.

   a. Grantee Self-Certification. Since most FTA grantees have experience with the third party contracting requirements of the "common grant rules" (49 C.F.R. parts 18 and 19), the LMRO will rely primarily on grantees' "self-certifications" that their procurement system meets FTA/FEMA requirements to support the required finding that a grantee has the technical capacity to comply with Federal procurement requirements. All grantees must "self certify" as part of the Annual Certification/Assurance Process.

      The LMRO will monitor compliance with this guidance as part of its routine oversight responsibilities and if it becomes aware of circumstances that might invalidate a grantee's self-certification, the LMRO will investigate and recommend appropriate measures to correct whatever deficiency may exist.

   b. Review of Third Party Contracts. The LMRO relies on the validity of each grantee's self-certification and on periodic, post-grant reviews rather than on a pre-award review of third party contracts to ensure that grantees comply with Federal requirements and standards. Grantees are still free to request FTA's pre-award review of their procurements as part of the LMRO's technical assistance program. Conversely, if the LMRO requests to review the record of a particular procurement, grantees must make their procurement documents available for the LMRO's pre-award (or post-award) review.

   c. Procurement System Reviews. The LMRO will fully review and evaluate the performance of grantees in carrying out grant programs with specific reference to their compliance with statutory and administrative requirements. Accordingly, the LMRO will perform a baseline procurement system review as part of its on-going oversight responsibility and may recommend "best practices" in order to assist the grantee in improving its procurement practices. In such cases, the LMRO will identify such recommendations as "advisory."

   d. Procurement Technical Assistance. The LMRO will provide procurement training and technical assistance as requested to enable the grantees to better understand and meet LMRO requirements.

   e. Contract Clauses and Provisions. The LMRO Master Agreement, issued annually and incorporated into each grant, lists many but not all the FTA/FEMA and other crosscutting Federal requirements applicable to LMRO grantees. Many of these requirements are related to grantee procurements. Further explanations and

interpretations of this guidance is can be found in the footnotes of FTA Circular 4220.1E. Suggested wording for contract clauses and provisions are available in FTA's "Best Practices Procurement Manual" available on the FTA website at fta.dot.gov.

f. Not Applicable.

6. **DEFINITIONS.** All definitions in 49 U.S.C. §5302 are applicable to this guidance. The following additional definitions are provided:

a. "Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine {or derive} the offer deemed most advantageous and of the greatest value to the procuring agency.

b. "Design-Bid-Build" refers to the project delivery approach where the grantee commissions an architect or engineer to prepare drawings and specifications under a design services contract, and separately contracts for at-risk construction, by engaging the services of a contractor through sealed bidding or competitive negotiations.

c. "Design-Build" refers to a system of contracting under which one entity performs both architectural/engineering and construction under one contract.

d. "FEMA" is the Federal entity with primary authority to provide federal assistance following a Presidentially-declared major disaster or emergency. It is part of the Emergency Preparedness and Response Directorate of the Department of Homeland Security.

e. "FTA" refers to the Federal Transit Administration

f. "Grantee" means the public or private entity to which a grant or cooperative agreement is awarded by the joint FTA/FEMA effort. The grantee is the entire legal entity even if only a particular component of the entity is designated in the assistance award document.

For the purposes of this circular, "grantee" also includes any subgrantee of the grantee. Furthermore, a grantee is responsible for assuring that its subgrantees comply with the requirements and standards of this guidance, and that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.

g. Lower Manhattan Recovery Office (LMRO) refers to the FTA office with responsibility for carrying out the Lower Manhattan Recovery projects.

h. "Piggybacking" is an assignment of existing contract rights to purchase supplies, equipment, or services.

i. "State" means any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. "State" does not include any public and Indian housing agency under the United States Housing Act of 1937.

j. "Tag-on" is defined as the addition of work (supplies, equipment or services) that is beyond the scope of the original contract that amounts to a cardinal change as generally interpreted in Federal practice by the various Boards of Contract Appeals. "In scope" changes are not tag-ons.

k. "Third party contract" refers to any purchase order or contract awarded by a grantee to a vendor or contractor using Federal financial assistance awarded by FTA.

7. GENERAL PROCUREMENT STANDARDS APPLICABLE TO THIRD-PARTY PROCUREMENTS.

a. Conformance with State and Local Law. Grantees and subgrantees shall use their own procurement procedures that reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law, including the requirements and standards identified in this circular. If there is no State law on a particular aspect of procurement, then Federal contract law principles will apply.

b. Contract Administration System. Grantees shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

c. Written Standards of Conduct. Grantees shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, agent, immediate family member, or Board member of the grantee shall participate in the selection, award, or administration of a contract supported by FTA/FEMA funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

(1) The employee, officer, agent, or Board member,

(2) Any member of his/her immediate family,

(3) His or her partner, or

(4) An organization that employs, or is about to employ, any of the above.

The grantee's officers, employees, agents, or Board members will neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantees may set minimum rules when the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations,

such standards of conduct will provide for penalties, sanctions, or other disciplinary action for violation of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

d. Ensuring Most Efficient and Economic Purchase. Grantee procedures shall provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.

e. Intergovernmental Procurement Agreements.

(1) Grantees are encouraged to utilize available state and local intergovernmental agreements for procurement or use of common goods and services. When obtaining goods or services in this manner, grantees must ensure all federal requirements, required clauses, and certifications are properly followed and included, whether in the master intergovernmental contract or in the grantee's purchase document.

(2) Grantees are also encouraged to jointly procure goods and services with other grantees. When obtaining goods or services in this manner, grantees must ensure all federal requirements, required clauses, and certifications are properly followed and included in the resulting joint solicitation and contract documents.

(3) Grantees may assign contractual rights to purchase goods and services to other grantees if the original contract contains appropriate assignability provisions. Grantees who obtain these contractual rights (commonly known as 'piggybacking') may exercise them after first determining the contract price remains fair and reasonable.

f. Use of Excess Or Surplus Federal Property. Grantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property, whenever such use is feasible and reduces project costs.

g. Use of Value Engineering in Construction Contracts. Grantees are encouraged to use value engineering clauses in contracts for construction projects.

h. Awards to Responsible Contractors. Grantees shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

i. Written Record of Procurement History. Grantees shall maintain records detailing the history of each procurement. At a minimum, these records shall include:

(1) the rationale for the method of procurement,

(2) selection of contract type,

(3) reasons for contractor selection or rejection, and

(4) the basis for the contract price.

j. Use of Time and Materials Type Contracts. Grantees will use time and material type contracts only:

(1) After a determination that no other type of contract is suitable; and

(2) If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

k. Responsibility for Settlement of Contract Issues/Disputes. Grantees alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the grantee of any contractual responsibility under its contracts.

The LMRO will not substitute its judgment for that of the grantee or subgrantee, unless the matter is primarily a Federal concern. Violations of the law will be referred to the local, State, or Federal authority having proper jurisdiction.

l. Written Protest Procedures. Grantees shall have written protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding protests to the LMRO. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the grantee before pursuing a protest with the FTA.

Reviews of protests by FTA will be limited to:

(1) a grantee's failure to have or follow its protest procedures, or its failure to review a complaint or protest; or

(2) violations of Federal law or regulation.

An appeal to FTA must be received by the LMRO within five (5) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to the LMRO.

m. Contract Term Limitation. Grantees are expected to be judicious in establishing and extending contract terms no longer than minimally necessary to accomplish the purpose of the contract. Additional factors to be considered include competition, pricing, fairness and public perception. Once a contract has been awarded, an extension of the contract term length that amounts to an out of scope change will require a sole source justification

n. Revenue Contracts. Revenue contracts are those third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity, or to create business opportunities utilizing an FTA-funded asset. FTA requires these contracts to be awarded utilizing competitive selection procedures and principles. The extent of and type of competition required is within the discretionary judgment of the grantee.

o. Tag-ons. The use of tag-ons is prohibited and applies to the original buyer as well as to others as defined in paragraph 6f.

p. Piggybacking. Piggybacking is permissible when the solicitation document and resultant contract contain an assignability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, competed, evaluated, and awarded. If the supplies were solicited, competed and awarded through the use of an indefinite-delivery-indefinite-quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and maximum quantity that represent the reasonably foreseeable needs of the party(s) to the solicitation and contract. If two or more parties jointly solicit and award an IDIQ contract, then there must be a total minimum and maximum.

q. E-Commerce. E-Commerce is an allowable means to conduct procurements. If a grantee chooses to utilize E-Commerce, written procedures need to be developed and in place prior to solicitation and all requirements for full and open competition must be met in accordance with this circular.

8. COMPETITION.

a. Full and Open Competition. All procurement transactions will be conducted in a manner providing full and open competition. Some situations considered to be restrictive of competition include, but are not limited to:

(1) Unreasonable requirements placed on firms in order for them to qualify to do business;

(2) Unnecessary experience and excessive bonding requirements;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive awards to any person or firm on retainer contracts;

(5) Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered without listing its' salient characteristics.

Grantees may define the salient characteristics in language similar to the following:

(a) 'Original Equipment Manufacturer (OEM) part #123 or approved equal that complies with the original equipment manufacturer's requirements or specifications and will not compromise any OEM warranties'; or

(b) 'Original Equipment Manufacturer part #123 or approved equal that is appropriate for use with and fits properly in [describe the bus, engine, or

other component the part must be compatible with] and will not compromise any OEM warranties'; and

(7) Any arbitrary action in the procurement process.

b. Prohibition Against Geographic Preferences. Grantees shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

c. Written Procurement Selection Procedures. Grantees shall have written selection procedures for procurement transactions. All solicitations shall:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient characteristics of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

(2) Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.

d. Prequalification Criteria. Grantees shall ensure that all lists of prequalified persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition. Also, grantees shall not preclude potential bidders from qualifying during the solicitation period, which is from the issuance of the solicitation to its closing date.

9. **METHODS OF PROCUREMENT**. The following methods of procurement may be used as appropriate:

a. Procurement by Micro-Purchases. Micro-purchases are those purchases under $2,500. Purchases below that threshold may be made without obtaining competitive quotations. There should be equitable distribution among qualified suppliers and no splitting of procurements to avoid competition. (The Davis-Bacon Act applies to construction contracts above $2,000.) Minimum documentation is required: A determination that the price is fair and reasonable and how this determination was derived. The other requirements of paragraph 7(i) do not apply to micro-purchases.

b. Procurement by Small Purchase Procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that cost more than $2,500 but do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. § 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

c. Procurement By Sealed Bids/Invitation For Bid (IFB). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(a) A complete, adequate, and realistic specification or purchase description is available;

(b) Two or more responsible bidders are willing and able to compete effectively for the business;

(c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price; and

(d) No discussion with bidders is needed.

(2) If this procurement method is used, the following requirements apply:

(a) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids;

(b) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;

(c) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(d) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest;

Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(e) Any or all bids may be rejected if there is a sound documented business reason.

(3) The sealed bid method is the preferred method for procuring construction if the conditions in paragraph 9c(1) above apply.

d. Procurement by Competitive Proposal/Request for Proposals (RFP). The competitive proposal method of procurement is normally conducted with more than one source submitting an offer, i.e., proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. If this procurement method is used the following requirements apply:

(1) Requests for proposals will be publicized. All evaluation factors will be identified along with their relative importance;

(2) Proposals will be solicited from an adequate number of qualified sources;

(3) Grantees will have a method in place for conducting technical evaluations of the proposals received and for selecting awardees;

(4) Awards will be made to the responsible firm whose proposal is most advantageous to the grantee's program with price and other factors considered; and

(5) In determining which proposal is most advantageous, grantees may award (if consistent with State law) to the proposer whose proposal offers the greatest business value to the Agency based upon an analysis of a tradeoff of qualitative technical factors and price/cost to derive which proposal represents the "best value" to the Procuring Agency as defined in Section 6, Definitions. If the grantee elects to use the best value selection method as the basis for award, the solicitation must contain language which establishes that an award will be made on a "best value" basis.

e. Procurement of Architectural and Engineering Services (A&E). Grantees may use qualifications-based competitive proposal procedures (i.e., Brooks Act procedures) when contracting for A&E services as defined in 40 U.S.C. §541 and 49 U.S.C. §5325(d). Services subject to this method of procurement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

Qualifications-based competitive proposal procedures require that:

(1) An offeror's qualifications be evaluated;

(2) Price be excluded as an evaluation factor;

(3) Negotiations be conducted with only the most qualified offeror; and

(4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.

These qualifications-based competitive proposal procedures should only be used for the procurement of the services listed above. This method of procurement should not be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services.

These requirements apply except to the extent the grantee's State adopts or has adopted by statute a formal procedure for the procurement of these services.

f. Procurement of Design-Bid-Build. Grantees may procure design-bid-build services through means of sealed bidding or competitive negotiations. These services must be procured in a manner that conforms to applicable state and local law, the requirements of this guidance relative to the method of procurement used and all other applicable federal requirements.

g. Procurement of Design-Build. Grantees may procure design-build services through means of qualifications-based competitive proposal procedures based on the Brooks Act as set forth in Section 9e when the preponderance of the work to be performed is considered to be for architectural and engineering (A&E) services as defined in Section 9e, Qualifications-based competitive proposal procedures should not be used to procure design-build services when the preponderance of the work to be performed is not of an A&E nature as defined in Section 9e, unless required by State law.

h. Procurement By Noncompetitive Proposals (Sole Source). Sole Source procurements are accomplished through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract change that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.

(1) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

(a) The item is available only from a single source;

(b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(c) The LMRO authorizes noncompetitive negotiations—e.g., if FTA provides a joint procurement grant or a research project grant with a particular firm or combination of firms, the grant agreement is the sole source approval;

(d) After solicitation of a number of sources, competition is determined inadequate; or

(e) **NOT APPLICABLE**.

(2) A cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.

i. Options. Grantees may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a grantee may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If a grantee chooses to use options, the requirements below apply:

(1) Evaluation of Options. The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.

(2) Exercise of Options.

(a) A grantee must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.

(b) An option may not be exercised unless the grantee has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

10. CONTRACT COST AND PRICE ANALYSIS FOR EVERY PROCUREMENT ACTION. Grantees must perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals.

a. Cost Analysis. A cost analysis must be performed when the offeror is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost, (e.g., under professional consulting and architectural and engineering services contracts, etc.).

A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation.

b. Price Analysis. A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.

c. Profit. Grantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

d. Federal Cost Principles. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles. Grantees may reference their own cost principles that comply with applicable Federal cost principles.

e. Cost Plus Percentage of Cost Prohibited. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

11. **BONDING REQUIREMENTS.** For those construction or facility improvement contracts or subcontracts exceeding $100,000, the LMRO may accept the bonding policy and requirements of the grantee, provided the LMRO determined that the policy and requirements adequately protect the Federal interest. The LMRO has determined that grantee policies and requirements that meet the following minimum criteria adequately protect the Federal interest:

    a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified;

    b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and

    c. A payment bond on the part of the contractor. A payment bond is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts determined to adequately protect the federal interest are as follows:

        (1) Fifty percent of the contract price if the contract price is not more than $1 million;

        (2) Forty percent of the contract price if the contract price is more than $1 million but not more than $5 million; or

        (3) Two and a half million dollars if the contract price is more than $5 million.

    d. A Grantee may seek LMRO approval of its bonding policy and requirements if they do not comply with these criteria.

12. **PAYMENT PROVISIONS IN THIRD PARTY CONTRACTS.**

    a. Advance Payments. FTA does not authorize and will not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA.

    b. Progress Payments. Grantees may use progress payments provided the following requirements are followed:

        (1) Progress payments are only made to the contractor for costs incurred in the performance of the contract.

        (2) The grantee must obtain adequate security for progress payments. Adequate security may include taking title, letter of credit or equivalent means to protect the grantee's interest in the progress payment.

13. **LIQUIDATED DAMAGES PROVISIONS.** A grantee may use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult or impossible to determine.

The assessment for damages shall be at a specific rate per day for each day of overrun in contract time; and the rate must be specified in the third party contract. Any liquidated damages recovered shall be credited to the project account involved unless the LMRO permits otherwise.

14. **NOT APPLICABLE.**

15. **CONTRACT PROVISIONS.** All contracts shall include provisions to define a sound and complete agreement. In addition, contracts and subcontracts shall contain contractual provisions or conditions that allow for:

    a. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, including sanctions and penalties as may be appropriate. (All contracts in excess of the small purchase threshold.)

    b. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000.)

16. **STATUTORY AND REGULATORY REQUIREMENTS.** A current but not all inclusive and comprehensive list of statutory and regulatory requirements applicable to grantee procurements (such as Davis-Bacon Act, Clean Air, etc.) is contained in the LMRO Master Agreement. Grantees are responsible for evaluating these requirements for relevance and applicability to each procurement. Further guidance concerning these requirements and suggested wording for contract clauses may be found in FTA's Best Practices Procurement Manual.

    For specific guidance concerning the crosscutting requirements of other Federal agencies, grantees are advised to contact those agencies.

EXHIBIT J

AGENCY FOR RENTAL OF CONSTRUCTION EQUIPMENT

EXEMPTION FROM NEW YORK STATE AND NEW YORK CITY SALES TAXES

1. AGENCY FOR RENTAL OF CONSTRUCTION EQUIPMENT

A. General Provisions

The Construction Manager 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 Agreement (other than construction equipment owned and also used by the Construction Manager 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 Agreement. The Construction Manager may authorize any subcontractor to act as its subagent for rental of such equipment for use by such subcontractor, subject to all the provisions of this Agreement. "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 Construction Manager under the Agreement; provided, however, that the Authority will pay such charges, and the Construction Manager 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 Construction Manager under the Agreement; and provided further that the Construction Manager performs all the obligations relating to said agency imposed upon him by this Agreement.

The Authority will provide the Construction Manager with a statement to be furnished by him and the subcontractors to such lessors which will identify this Agreement as the one under which the Construction Manager is authorized to rent said equipment and which will identify the site to which delivery must be made. The Construction Manager 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 Construction Manager has certified by endorsement that such construction equipment is being or has been used in the performance of the Agreement, said invoices to be submitted through the Construction Manager 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 Construction Manager or for its account, the amounts still payable to the Construction Manager in connection with the Agreement 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 Construction Manager 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 Construction Manager's agency is limited accordingly. All obligations incurred by the Construction Manager or subcontractors for any other expenses, including repairs and damages for breach of the rental agreement, shall be obligations incurred by the Construction Manager or subcontractors as principal not as agent of the Authority. Moreover, as between the Authority and the Construction Manager, the Construction Manager shall be responsible for all amounts due to lessors of construction equipment notwithstanding the above agency arrangement.

The Construction Manager shall indemnify the Authority, the Construction Manager and the FTA against any claim of any kind whatsoever made against the Authority, the Construction Manager or the FTA by a lessor of construction equipment and the Construction Manager 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 Construction Manager of any of its duties and obligations elsewhere provided for under the Agreement.

B. Option Not to Act as Agent

Notwithstanding the provisions of A above, the Construction Manager 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 Construction Manager as principal and not agent, the provisions of A of this numbered clause shall be inapplicable as well as those provisions of the clause entitled "Exemption From New York State and New York City Sales Taxes" contained in any Trade Agreement, and which relate to rental of construction equipment.

2. EXEMPTION FROM NEW YORK STATE AND NEW YORK CITY SALES TAXES

A. Materials Incorporated in Permanent Construction

The attention of the Construction Manager is directed to the following provision of the New York State and New York City Sales and Compensating Use Tax Act:

> "#1115. Exemptions from sales and use taxes. (a) Receipts from the following shall be exempt from the tax on retail sales imposed under subdivision (a) of section eleven hundred five and the compensating use tax imposed under section eleven hundred ten:
>
> (15) Tangible personal property sold to a contractor, subcontractor or repairman for use in erecting a structure or building of an organization described in subdivision (a) of section eleven hundred sixteen, or adding to, altering or improving real property, property or land of such an organization, as the terms real property, property or land are defined in the real property tax law; provided, however, no exemption shall exist under this paragraph unless such tangible personal property is to become an integral component part of such structure, building or real property."

The Authority is an exempt organization of the type described in subdivision (a) of section eleven hundred sixteen.

In view of the foregoing, the Construction Manager should not include in its price(s) any amounts for New York State and New York City sales and compensating use taxes on such tangible personal property.

If (i) any claim is made against the Construction Manager by the State of New York or City of New York for such sales or compensating use taxes, or (ii) any claim is made against the Construction Manager by a materialman or a subcontractor on account of a claim against such materialman or subcontractor by the State of New York or City of New York for such sales or compensating use taxes, then the Authority will reimburse the Construction Manager in an amount equal to the amount of such tax required to be paid in accordance with the requirements of law, provided that:

1.) the Construction Manager, or the Construction Manager and any such subcontractor, as the case may be, have complied with such rules and regulations as may have been promulgated relating to the claiming of the exemption from such taxes and have filed all the forms and certificates required by the applicable laws, rules and regulations in connection therewith;

2.) and the Authority is afforded the opportunity before any payment of tax is made, to contest said claim in the manner and to the extent that the Authority may choose and to settle or satisfy said claim and such attorney as the Authority may designate is authorized to act for the purpose of contesting, settling and satisfying said claim; and

3.) the Construction Manager, or the Construction Manager and any such subcontractor, as the case may be, give immediate notice to the Authority of any such claim, cooperate with the Authority and its designated attorney in contesting said claim and furnish promptly to the Authority and said attorney all information and documents necessary or convenient for contesting said claim, said information and documents to be preserved for six years after the date of Final Payment or longer if such a claim is pending or threatened at the end of such six years.

If the Authority elects to contest any such claim, it will bear the expense of such contest.

B. Rental of Construction Equipment

The rental by the Construction Manager or subcontractor of construction equipment not owned by the Construction Manager or subcontractors for use in the performance of the Agreement will also not be subject to New York State or New York City sales or compensating use taxes, provided that:

1.) the Construction Manager's and any subcontractor's use of construction equipment rented from others, and any agreement for such rental, is based upon the agency arrangement provided for in the clause hereof entitled "Agency for Rental of Construction Equipment" and the Construction Manager and subcontractors have performed all their obligations under said clause;

2.) delivery of said equipment is to the construction site;

3.) the Construction Manager or subcontractor has furnished to the lessor the statement from the Authority identifying the Agreement as the one under which the Construction Manager or subcontractor has been authorized to rent said equipment and identifying the construction site to which delivery must be made;

4.) the invoice for said equipment is made out to the Authority and prescribes the place of delivery; and

5.) the amounts payable for rental of said equipment do not exceed the amount of compensation payable in connection with the Work.

AGENCY FOR RENTAL AND EXEMPTION FROM SALES TAX

In view of the above, the Construction Manager should not include in its price(s) any amounts for New York State and New York City sales and compensating use taxes on such rentals of equipment.

If (i) any claim is made against the Construction Manager by the State or City of New York for sales or compensating use taxes on such rental of construction equipment or (ii) any claim is made against the Construction Manager by a materialman, lessor or a subcontractor on account of a claim against such materialman, lessor or subcontractor by the State or City of New York for sales or compensating use taxes on rental of said equipment, then the Authority will reimburse the Construction Manager in an amount equal to the amount of such tax required to be paid in accordance with the requirements of law, provided that the provisos listed above in this numbered clause as A.1 through A.3 and B.1 through B.5 are complied with.

If the Authority elects to contest any such claim, it will bear the expense of such contest.

EXHIBIT K

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

The Port Authority has a 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 51 percent owned by one or more members of one or more minority groups, or, in the case of a publicly held corporation, at least 51 percent of the stock of which is owned 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 51 percent owned by one or more women, or, in the case of a publicly held corporation, 51 percent of the stock of which is owned 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 persons having origins in any of the black African racial groups not of Hispanic origin;

B. Hispanic persons of Puerto Rican, Mexican, Dominican, Cuban, Central, or South American culture or origin, regardless of race;

C. Asian and Pacific Islander 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 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 on this project, the Authority has established an overall combined contract goal of seventeen percent (17%) participation by firms controlled by minorities and firms controlled by women.

In the event that the Contractor subcontracts any portion of the Work, the Contractor shall use and document every good faith effort to ensure MBE and WBE participation in the Work. Such good faith efforts shall include at least the following:

E. Attendance at pre-bid meetings, if any, scheduled by the Engineering Department;

F. Utilization of the Port Authority's Directory of certified MBE/WBEs available on-line (see Notification of M/WBE On-line Directory and Forms in back of Contract booklet) and/or proposing for certification other MBE/WBEs which appear to meet the Port Authority's criteria for MBE/WBE certification and which are technically competent to perform the Work which the bidder plans to subcontract;

G. Active and affirmative solicitation of bids for subcontracts from MBE/WBEs;

H. Advertisement in general circulation media, trade association publications and minority-focused media for a reasonable period before bids or proposals are due;

I. 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;

J. 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; and

K. 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.

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:

L. Ensuring that progress payments are made in a timely fashion in accordance with the requirements of this Contract;

M. Not requiring bonds from and/or providing bonds and insurance for subcontractors where appropriate;

N. Soliciting specific recommendations on methods for enhancing MBE/WBE participation from Port Authority staff responsible for such participation; and

O. 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.).

Subsequent to Contract award, the Contractor shall also provide the Engineer, at his 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 Engineer, on a monthly basis, the Statement of Subcontractor's Payments annexed hereto as Schedule D.

In the event that, prior to Contract award and following review of the MBE/WBE Participation Plan submitted by the bidder pursuant to the clause hereof entitled "Qualification Information", the Director 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 Director may advise the bidder that it is not responsible and may reject the bidder'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 Director may advise the Contractor that it is not a responsible bidder and may reject such proposal(s).

Either prior or subsequent to acceptance of the bidder's Proposal, the bidder may request a full or partial waiver of the above described MBE/WBE participation goals by providing a reasonable demonstration to the Director 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 bidder shall provide such documentation to support its request as the Director may require.

Once approved, the MBE/WBE Participation Plan submitted by the bidder may be modified only with the written approval of the Engineer.

Following approval by the Engineer 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 Director in accordance with this numbered clause, the Authority may, at its sole option, provide to said approved M/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 M/WBE subcontractor. Prior to being accepted as a participant in the L.E.A.P. Program, the M/WBE subcontractor will be required to release the 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 Authority 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 Directory [1] 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 Authority to determine whether the firm is in fact an MBE/WBE and technically competent to perform portions of the Work.

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

2. Hispanic American Chamber of Commerce of Essex County
   P.O. Box 9146
   Newark, NJ 07104
   (973) 484-5441
   Fax (973) 350-9238

3. Association of Minority Enterprises of NY, Inc.
   135-20 Liberty Avenue
   Richmond Hill, NY 11419
   (718) 291-1641
   Fax (718) 297-2986

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

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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 Authority for a determination as to eligibility as provided above.

5. Newark Opportunity Center
17 Academy Street, Suite 501
Newark, NJ 07102
(973) 622-4537
Fax (973) 622-3914

6. Jamaica Business Resource Center
90-33 16th Street
Jamaica, NY 11432
(718) 206-2255
Fax (718) 206-3693

7. Council for Airport Opportunity
90-04 161st Street Jamaica,
NY 11432
(718) 523-7100
Fax (718) 526-3472

8. Urban Business Assistance Corp.
New York University Stern School of Business
44 West 4th Street, Suite 5-61
New York, NY 10012
(212) 995-4404
Fax (212) 995-4255

9. Greater Jamaica Development Corp.
90-04 161st Street
Jamaica, NY 11432
(718) 291-0282
Fax (718) 291-7918

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

11. Professional Women in Construction
315 E. 56th Street, Suite 202
New York, NY 10022
(212) 486-7745
Fax (212) 486-0228

12. NY/NJ Minority Purchasing Council
205 East 42nd Street
New York, NY 10017
(212) 573-2385
Fax (212) 522-4004

13. Jamaica Chamber of Commerce
90-25 161st Street, Room 505
Jamaica, NY 11432
(718) 657-4800
Fax (718) 658-4642

14. Queens Overall Economic Development Office
120-55 Queens Boulevard, Suite 309 Kew Gardens, NY 11424
(718) 263-0546
Fax (718) 263-0594

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

16. Small Business Development Center - Rutgers University, University Heights 49 Bleeker Street
Newark, NJ 07102
(973) 353-1927
Fax (973) 353-1110

17. Small Business Development Center - Kean University
East Campus, Room 242
Union, NJ 07083
(908) 527-2946
Fax (908) 527-2960

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

19. Caribbean-American Chamber of Commerce
Brooklyn Navy Yard Brooklyn,
NY 11205
(718) 834-4544
Fax (718) 834-9774

20. Manhattan Hispanic Chamber of Commerce
14 Wall Street, 20th Floor
New York, NY 10005
(212) 683-5955
Fax (212) 683-5999

21. Asian Women in Business
358 Fifth Avenue, Suite 504
New York, NY 10001
(212) 868-1368
Fax (212) 868-1373

22. Asian American Business Development Center
80 Wall Street, Suite 418
New York, NY 10005
(212) 966-0100
Fax (212) 966-2786

23. New York State Federation of
Hispanic Chambers of Commerce

2710 Broadway

New York, NY 10025

(212) 222-8300

Fax (212) 222-8412

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

The Contractor shall submit the names of proposed MBEs/WBEs for work on this Contract if their names do not appear in the Port 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 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 Contract Price required to be paid to MBEs/WBEs hereunder.

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

THE PORT AUTHORITY OF NY & NJ

October 5, 2015

Tishman/Turner, A Joint Venture
666 Fifth Avenue, 38th Floor
New York, NY 10103

Attention: Jay Badame
President and Chief Operating Officer, Tishman Corporation

Pat A. Di Filippo
Executive Vice President, Turner Construction Company

SUBJECT: TTJV CHANGE ORDER #CO-15-001 – CONTINUATION OF CONSTRUCTION MANAGEMENT SERVICES

Reference 1: PERFORMANCE OF CONSTRUCTION MANAGEMENT SERVICES FOR THE PERMANENT WORLD TRADE CENTER PATH TERMINAL ON A TASK ORDER BASIS (PA Agreement No. 4600007871 and PO No. 4500060608), as amended

Reference 2: Port Authority Request for Proposal letter dated August 6, 2015

Dear Sirs:

The Authority hereby accepts your proposal dated September 24, 2015, subject to the terms and conditions identified in the referenced agreement for performance of the services in the scope of additional services request, which formed the basis for submission of your proposal.

Total compensation for the performance of the above-mentioned services shall not exceed the amount of **$17,544,073**.

The total Fixed Fee for this change order shall not exceed **$638,668**. With regard to the OH Rate, please refer to Modification #13 which has been forwarded with this change order.

Therefore, the previously authorized total amount for the referenced agreement is increased from **$127,197,511** to **$144,741,584**.

The Consultant shall employ, to every extent possible, the most cost effective methods of performing the Scope of Services as defined in the attached. This includes, but is not limited to, utilizing appropriate staff as needed (i.e. combining management and technical efforts) and tracking hours of technical staff. Accordingly, the Consultant shall inform the Director when the Consultant's expenditures reach 80% of the not-to-exceed total amount noted above. The Consultant shall continue to render the additional services to the point when the Consultant's

WTC Construction
115 Broadway, 10th Floor
New York, NY 10006

compensation reaches 100% of such amount, at which time either additional written authorization will be given to continue or the scope of work will be deemed complete. The current completion date for these additional services is August 13, 2017.

The above referenced agreement remains in full force and effect and the performance of the requested additional services is subject to the terms and conditions of such referenced agreement.

Upon receipt by the Authority of a copy of this letter executed by a principal of your firm, you are authorized to proceed with performance of the requested additional services.

Please coordinate your efforts regarding this Direction to Proceed with the Asst. Director of WTCC, Ron Devito at (212) 435-5663.

Sincerely,

Steven Plate
Deputy Chief Capital Planning/ Director WTC Construction
WTC Construction Department

Accepted:
Tishman/Turner, A Joint Venture

Jay Badame, President and Chief Operating Officer — Date 10-13-15

Pat A. Di Filippo, Executive Vice President — Date 10/8/2015

Attachments: (1) TTJV Proposal, dated September 24, 2015
(2) Modification # 13

WTC Construction
115 Broadway, 10th Floor
New York, NY 10006

THE PORT AUTHORITY OF NY & NJ

10-14-15P01:23 RCVD

October 6, 2015

UPS (212-229-6207)
Tishman/ Turner, A Joint Venture
375 Hudson Street, 6th Floor
New York, NY 10014

Attention: (1) Pat A. Di Filippo, Executive Vice President, Turner Construction Company

SUBJECT: Construction Management Services for the World Trade Center Site – Transportation Hub – Contract No. 4600007871; Purchase Order No. 4500060608 – Modification to Agreement No. 13

Dear Mr. Di Filippo:

Enclosed herein are two (2) originals of the above referenced Modification. Please sign both copies of the Modification and return to my attention at the address below. One fully executed original will be returned to you following execution by the Authority.

If you have any questions or need additional information, feel free to contact me at 212-435-5383.

Sincerely,

Inaldo Chavarria
Senior Procurement Specialist
WTC Site Procurement Projects

Encl.

Procurement Department
4WTC Greenwich Street 21st Floor
New York, NY 10007

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608
Change Order No. C0-15-001
Continuation of Construction Management Services

COST SUMMARY - Rev. 2

Pricing and Compensation		Hurricane Sandy	Non-Hurricane Sandy	Total/Combined Addition to Contract
(1) Construction Manager's Fee (see Agreement, Section 10.2) - 5%		$ 486,440	$ 152,228	$ 638,668
General Conditions Costs (See Agreement Section 10.4)				
(a) **Overhead Costs (disregard Agreement, Section 10.4.1 - See below)**	a -	$ 5,287,246	$ 1,648,585	$ 6,935,831
Proposed Overhead Rate applied above_____%				
(b) Direct Labor (see Agreement, Section 10.4.2)	b -	$ 4,441,562	$ 1,395,979	$ 5,837,541
(c) Union Labor (see Agreement, Section 10.4.3) *(Supervisory & Non-Supervisory)*	c -			
(d) Cost of Sub-consultants (see Agreement, Section 10.4.4)	d -	$ 2,209,946	$ 614,033	$ 2,823,979
(e) Reimbursable Expenses (see Agreement, Sections 10.4.5& 10.4.6	e -	$ 1,049,590	$ 258,464	$ 1,308,054
(2) Total General Conditions Costs (sum of (a)- (e) above)		$ 12,988,344	$ 3,917,060	$ 16,905,405
(3) Total Proposed Pricing & Compensation (Item 1 + Item 2)		$ 13,474,785	$ 4,069,289	$ 17,544,073

Total Amount (Base): $17,544,073

Seventeen Million, Five Hundred Forty-Four Thousand, Seventy-Three Hundred Dollars.

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608
Change Order No. C0-15-001
Continuation of Construction Management Services

HURRICANE SANDY SUMMARY- Rev. 2

Pricing and Compensation		Tishman Staff	Turner Staff	Total/Combined Addition to Contract
(1) Construction Manager's Fee (see Agreement, Section 10.2) - 5%		$ 223,298	$ 263,143	$ 486,440
General Conditions Costs (See Agreement Section 10.4)		112.41%	125.00%	
(a) Overhead Costs (disregard Agreement, Section 10.4.1 --See below) *Proposed **Overhead Rate** applied above_____%	a -	$ 2,363,438	$ 2,923,808	$ 5,287,246
(b) Direct Labor (see Agreement, Section 10.4.2) (c) Union Labor (see Agreement, Section 10.4.3) *(Supervisory & Non-Supervisory)*	b -	$ 2,102,516	$ 2,339,046	$ 4,441,562
(d) Cost of Subconsultants (see Agreement, Section 10.4.4)	c -			$ -
(e) * Reimbursable Expenses (see Agreement, Sections 10.4.5& 10.4.6	d -			$ 2,209,946
	e -			$ 1,049,590
(2) Total General Conditions Costs (sum of (a)- (e) above)		$ 4,465,954	$ 5,262,854	$ 12,988,344
(3) Total Proposed Pricing & Compensation (Item 1 + Item 2)		$ 4,689,251	$ 5,525,997	$ 13,474,785

The Overhead Rate (as defined in the accompanying letter dated 8/6/15) is to be applied to the Personnel Direct Labor cost. The G&A Rate as defined in the contract will no longer be utilized. The relevant sections of the contract will be amended to reflect the new overhead definition.

Please refer to Article 10 - "COMPENSATION " for instructions and additional information.
Total Proposal price is to be filled out in both words and in figures.

Total Amount (Base): $13,474,785

Thirteen Million, Four Hundred Seventy-Four Thousand, Seven Hundred Eighty-Five Dollars.

Subconsultant Pricing

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608

Change Order No. CO-15-001
Revised Tasks for Construction Management Services - Hurricane Sandy

HURRICANE SANDY SUMMARY - SUBCONSULTANT'S - Rev. 2

	Ferreira	McKissack	Spartan	PB/URS	TOTAL
Pricing and Compensation	**Base Contract Term**	**Base Contract Term**	**Base Contract Term**	**Base Contract Term**	**Base Contract Term**
(1) Subconsultant's Fee (see Agreement, Section 10.2) - **5%**	$ 69,503	$ 12,646	$ 23,086		$ 105,236
General Conditions Costs (see Agreement, Section 10.4)					
(a) **Overhead Costs** (disregard Section 10.4.1 See below)	$ 609,127	$ 119,808	$ 218,710		$ 947,645
*Proposed **Overhead** Rate applied above _____ %	78.00%	90.00%	90.00%		
(b) Direct Labor (see Agreement, Section 10.4.2)	$ 780,932	$ 133,120	$ 243,011		$ 1,157,063
(c) Union Labor (see Agreement, Section 10.4.3)					$ -
(d) * Reimbursable Expenses (see Agreement, Sections 10.4.5 & 10.4.6)					$ -
(2) Total General Conditions Costs (sum of (a) - (d) above)	$ 1,390,060	$ 252,929	$ 461,722		$ 2,104,711
(3) Total Proposed Pricing & Compensation (Item 1 + Item 2)	$ 1,459,563	$ 265,575	$ 484,808	$ -	$ 2,209,946

**The Overhead Rate (as defined in the accompanying letter dated 8/6/15) is to be applied to the Personnel Direct Labor cost. The G&A Rate as defined in the contract will no longer be utilized. The relevant sections of the contract will be amended to reflect the new overhead definition.*

Please refer to Article 10 - "COMPENSATION " for instructions and additional information.

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608

Change Order No. CO-15-001
Revised Tasks for Construction Management Services - Hurricane Sandy

Hurricane Sandy - 8/14/15 to 7/15/16

Detailed Description		Amount
Tools and Supplies	$	135,000
Safety Supplies	$	7,139
Field Trailers, Storage Trailers	$	28,558
Job Office Set-up (Furniture, Signage, Electrical)	$	-
Rubbish Removal	$	220,000
General Protection & Safety - Labor	$	200,000
Office Supplies	$	34,269
Office Equipment (Computer Hardware and Software, Office Internet)	$	10,709
Telephone, Internet	$	50,690
Cell Phones	$	51,547
Blueprinting and Copiers	$	160,000
Turner's Network Charges (Metacon)	$	-
SWAC Charges	$	7,139
Living & Travel	$	3,570
Misc. General Expenses	$	3,570
Postage, Messenger, Overnight Mail	$	14,279
Expediting Services	$	-
Training	$	1,730
Consulting (As needed)	$	-
Radios	$	6,000
Shredding	$	7,850
Advertising/Networking	$	2,100
Surveys	$	-
Pest Control	$	3,300
Professional Liability Insurance (One Time charge)	$	102,139
Property Insurance (One Time charge)	$	-
Total Other Direct Costs /Out-of-Pocket Expenses	**$**	**1,049,590**

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608
Change Order No. C0-15-001
Revised Tasks for Construction Management Services

NON-HURRICANE SANDY SUMMARY- Rev. 2

Pricing and Compensation		Tishman Staff	Turner Staff	Total/Combined Addition to Contract
(1) Construction Manager's Fee (see Agreement, Section 10.2) - 5%		$ 81,312	$ 70,916	**$ 152,228**
General Conditions Costs (See Agreement Section 10.4)		112.41%	125.00%	
(a) Overhead Costs (disregard Agreement, Section 10.4.1 –See below) *Proposed **Overhead Rate** applied above_____%	a -	$ 860,625	$ 787,957	$ 1,648,585
(b) Direct Labor (see Agreement, Section 10.4.2)	b -	$ 765,613	$ 630,366	$ 1,395,979
(c) Union Labor (see Agreement, Section 10.4.3) *(Supervisory & Non-Supervisory)*	c -			$ -
(d) Cost of Subconsultants (see Agreement, Section 10.4.4)	d -			$ 614,033
(e) * Reimbursable Expenses (see Agreement, Sections 10.4.5& 10.4.6	e -			$ 258,464
(2) Total General Conditions Costs (sum of (a)- (e) above)		$ 1,626,238	$ 1,418,323	**$ 3,917,060**
(3) Total Proposed Pricing & Compensation (Item 1 + Item 2)		**$ 1,707,550**	**$ 1,489,240**	**$ 4,069,289**

The Overhead Rate (as defined in the accompanying letter dated 8/6/15) is to be applied to the Personnel Direct Labor cost. The G&A Rate as defined in the contract will no longer be utilized. The relevant sections of the contract will be amended to reflect the new overhead definition.

Please refer to Article 10 - "COMPENSATION " for instructions and additional information.
Total Proposal price is to be filled out in both words and in figures.

Total Amount (Base): $4,069,289

Four Million, Sixty-Nine Thousand, Two Hundred Eighty-Nine Dollars.

Subconsultant Pricing

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608

Change Order No. CO-15-001
Revised Tasks for Construction Management Services - Non Hurricane Sandy

NON-HURRICANE SANDY SUMMARY - SUBCONSULTANT'S - Rev. 2

	Ferreira	McKissack	Spartan	PB/URS	TOTAL
Pricing and Compensation	**Base Contract Term**	**Base Contract Term**	**Base Contract Term**	**Base Contract Term**	**Base Contract Term**
(1) Subconsultant's Fee (see Agreement, Section 10.2) - **5%**	$ 16,281	$ -	$ 12,958		$ 29,240
General Conditions Costs (see Agreement, Section 10.4)					
(a) **Overhead Costs** (disregard Section 10.4.1 See below)	$ 142,690	$ -	$ 122,764		$ 265,453
*Proposed **Overhead** Rate applied above _____ %	78.00%	90.00%	90.00%		
(b) Direct Labor (see Agreement, Section 10.4.2)	$ 182,935	$ -	$ 136,404		$ 319,340
(c) Union Labor (see Agreement, Section 10.4.3)					$ -
(d) * Reimbursable Expenses (see Agreement, Sections 10.4.5 & 10.4.6)					$ -
(2) Total General Conditions Costs (sum of (a) - (d) above)	$ 325,625	$ -	$ 259,168	$ -	$ 584,793
(3) Total Proposed Pricing & Compensation (Item 1 + Item 2)	$ 341,906	$ -	$ 272,127	$ -	$ 614,033

**The Overhead Rate (as defined in the accompanying letter dated 8/6/15) is to be applied to the Personnel Direct Labor cost. The G&A Rate as defined in the contract will no longer be utilized. The relevant sections of the contract will be amended to reflect the new overhead definition.*

Please refer to Article 10 - "COMPENSATION " for instructions and additional information.

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608

Change Order No. CO-15-001
Revised Tasks for Construction Management Services - Non Hurricane Sandy

Non-Hurricane Sandy - 7/16/16 to 8/14/17

Detailed Description	Amount	
Tools and Supplies	$	45,000
Safety Supplies	$	2,861
Field Trailers, Storage Trailers	$	11,442
Job Office Set-up (Furniture, Signage, Electrical)	$	-
Rubbish Removal	$	60,000
General Protection & Safety - Labor	$	-
Office Supplies	$	13,731
Office Equipment (Computer Hardware and Software, Office	$	4,291
Telephone, Internet	$	20,300
Cell Phones	$	20,653
Blueprinting and Copiers	$	60,000
Turner's Network Charges (Metacon)	$	-
SWAC Charges	$	2,861
Living & Travel	$	1,430
Misc. General Expenses	$	1,430
Postage, Messenger, Overnight Mail	$	5,720
Expediting Services	$	-
Training	$	700
Consulting (As Needed)	$	-
Radios	$	2,500
Shredding	$	3,146
Advertising/Networking	$	750
Surveys	$	-
Pest Control	$	1,650
Professional Liability Insurance (One Time charge)	$	-
Property Insurance (One Time charge)	$	-
Total Other Direct Costs /Out-of-Pocket Expenses	**$**	**258,464**

TISHMAN | Turner
A Joint Venture

TTJV Terms and Conditions for Professional Services Change Order #CO-15-001 – Continuation of Construction Management Services.

1. This proposal includes staffing and GC costs authorized in the one-month extension Limited Notice to Proceed issued on August 5, 2015.

2. Tishman and Turner's overhead rates documentation are included separately in a sealed envelope. Sub-Consultant documents to be submitted upon receipt.

3. The fee covers TTJV and all TTJV sub-consultants providing staff to the project through August 13, 2017.

4. The stated fee on staff cost of $638,668 shall be paid in accordance with the compensation provisions of the original base contract.

5. TTJV has not included any staff or general conditions for work beyond the proposed end date of August 13, 2017.

6. The $1,308,054 GC's identified is an allowance only. All General Conditions costs beyond $1,308,054 will be funded via a change order to the contract.

    - This assumes that the requirement to provide fire watch in the East Bathtub will no longer be required as of Oct 1, 2015.
    - This assumes that rubbish removal costs will be capped at $280,000
    - This assumes that no consulting services will be provided. Should they be required, they will be provided by others/PANYNJ.
    - This assumes that the PA will provide all required survey needs and none is included herein.
    - The onetime charge for $102,138.80 for the extension of the professional liability policy is included in the $1,308,054 allowance.
    - This assumes that there will be no additional property insurance charges. Any additional required charges shall be paid for by PANYNJ.

7. This proposal does not include rental or fit-out of any additional office space for staff after the Port Authority leasing agreement expires in December 2017 at 100 Broadway – 5th floors.

8. The Professional Liability Insurance (PLI) is based on the values included in this proposal and direct work under management at the estimated value of $700,000,000 million dollars. The PLI is for the coverage period 8/31/15 to 8/31/17. If either of these values increases, the Port Authority will write a change order to TTJV for the additional cost for a policy that will cover the new volume of work.

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060808
Change Order No. 15-001

Revision #5 - 9/24/15

Staff	Company	Hourly Rate	HURRICANE SANDY Aug 14, 2013 - Apr 30, 2018 HOURS	$	HURRICANE SANDY May 1, 2018 - Jul 15, 2018 HOURS	$	Total Hours	Total $	P.A Requested Hours	Hours Deducted / Added
Alammari, Norman	Tishman	$44.57	720	$ 32,090			720	$ 32,090	720	0
Ambubuyog, Jonathan	Tishman	$31.16	1,336	$ 41,630	418	$ 13,009	1,754	$ 54,639	1,754	0
Anderson, Delano	Turner	$32.87	960	$ 31,555			960	$ 31,555	1,336	-376
Arnett, David	Tishman	$40.99	960	$ 39,350			960	$ 39,350	1,336	-376
Baker, Sterling - Part-time	Tishman	$27.12	668	$ 18,116			668	$ 18,116	668	0
Barrett, Jack	Tishman	$54.13	480	$ 40,382			480	$ 40,382	880	-400
Bascletto, Biagio	Tishman	$96.16	1,336	$ 128,458			1,336	$ 128,458	1,754	-418
Benmekki, Ely	Tishman	$55.29	720	$ 39,809			720	$ 39,809	720	0
Boling, Charles	Turner	$88.13	720	$ 64,174			720	$ 64,174	1,754	-1,034
Bonner, Paul	Ferreira	$88.97	1,336	$ 118,102	418	$ 36,310	1,754	$ 152,412	1,754	0
Borst, Brad	Tishman	$43.63	1,336	$ 58,280	418	$ 18,216	1,754	$ 76,503	1,754	0
Bova, Nicholas	Turner	$37.02	163	$ 6,034			163	$ 6,034	1,754	-1,591
Bradley, Pamela	Tishman	$28.85	480	$ 13,848			480	$ 13,848	720	-240
Browne, William	Turner	$53.82	1,336	$ 71,904	418	$ 22,470	1,754	$ 94,373	1,754	0
Campos, Cassandra	Ferreira	$33.85	1,336	$ 45,224	418	$ 14,149	1,754	$ 59,373	1,754	1
Carlsen, Chris	Turner	$54.05	1,336	$ 72,211	418	$ 22,566	1,754	$ 94,777	1,754	0
Carroll, Courtney	Ferreira	$33.65	1,336	$ 45,224	418	$ 14,132	1,754	$ 59,356	1,754	0
Chaamah-Shahi, Nima	Turner	$38.81	1,336	$ 51,860	418	$ 16,203	1,754	$ 68,063	1,754	0
Clark, George	Ferreira	$63.94	480	$ 30,691			480	$ 30,691	720	-240
Collins, David - Part-time	Tishman	$102.69	668	$ 68,587	200	$ 20,538	868	$ 89,125	868	0
Cruz, Jamie	Turner	$28.90	1,336	$ 38,610	418	$ 12,068	1,754	$ 50,678	1,336	418
Cruz, Jordan	Tishman	$33.75	1,336	$ 45,090	418	$ 14,091	1,754	$ 59,181	1,336	418
D'Alessandro,Anthony	Turner	$34.57	1,336	$ 46,188	418	$ 14,433	1,754	$ 60,618	1,754	0
DeBenedittis, Eric	Turner	$32.04	1,336	$ 42,805	418	$ 13,377	1,754	$ 56,183	1,336	418
Denehy, Justin	Turner	$45.52	1,336	$ 60,818			1,336	$ 60,818	1,754	-418
Eberhardt, Steven	Turner	$77.60	1,336	$ 103,674			1,336	$ 103,674	720	616
Fernandez, Debra	Tishman	$32.79	1,336	$ 43,807	418	$ 13,690	1,754	$ 57,497	1,754	0
Flynn, Thomas	Ferreira	$65.50	720	$ 47,160			720	$ 47,160	720	0
Garcia, Maritza - Part-time	Turner	$39.41	868	$ 28,376	209	$ 8,237	877	$ 34,613	877	0
Garzon, Fabian	Turner	$69.01	1,018	$ 69,954			1,018	$ 69,954	1,754	-736
Golub, George	Turner	$74.30					0	$ -	835	-835
Graff, Walter	Ferreira	$80.58	1,336	$ 107,656	418	$ 33,642	1,754	$ 141,297	1,754	0
Grosvea, Karon	Turner	$31.16	1,336	$ 41,630			1,336	$ 41,630	1,336	0
Guglielmo, Mario	Turner	$35.24	1,336	$ 47,081	418	$ 14,713	1,754	$ 61,793	1,754	0
Hiah, Jonathan	Tishman	$66.46	1,336	$ 88,791	418	$ 27,747	1,754	$ 116,538	1,754	0
Kola, Adam	Tishman	$68.75	1,336	$ 91,850	418	$ 28,738	1,754	$ 120,588	1,536	218
Lembrecht, James	Ferreira	$0.00					0	$ -	200	-200
Lenzo, Leonard	Tishman	$80.77	600	$ 48,462			600	$ 48,462	720	-120
Lewis, Aubrey	Tishman	$88.94	224	$ 19,923			224	$ 19,923	0	224
Marren, Kevin	Turner	$82.74	1,336	$ 110,641	418	$ 34,585	1,754	$ 145,126	1,754	1
Michaels, Matthew	Tishman	$38.05	640	$ 23,872			640	$ 23,872	0	640
Mishra, Prasanjeet	Tishman	$58.09	1,336	$ 77,608			1,336	$ 77,608	1,536	-200
Moore, Jason	Turner	$52.02	160	$ 8,323			160	$ 8,323	1,754	-1,594
Mosquera, Henry	Ferreira	$62.71	1,336	$ 83,781			1,336	$ 83,781	1,336	0
Murray, Walter	Turner	$133.85	673	$ 90,081			673	$ 90,081	720	-47
Ogando, Edwin	Turner	$61.74	1,336	$ 82,488	418	$ 25,778	1,754	$ 108,266	1,754	0
Paradiso, Joseph	Turner	$66.10	224	$ 14,806			224	$ 14,806	0	224
Pasquale, Damon	Tishman	$33.17	1,336	$ 44,316	418	$ 13,848	1,754	$ 58,164	1,754	0
Pastore, Anthony - Part-time	Tishman	$106.00	700	$ 74,200	200	$ 21,200	900	$ 95,400	1,754	-854
Percy, Pierre	Tishman	$76.82	1,336	$ 102,705	418	$ 32,114	1,754	$ 134,819	1,754	0
Peteklewicz, John	Spartan	$42.44	720	$ 30,557			720	$ 30,557	1,336	-616
Pinelli, Mike	Tishman	$144.23					0	$ -	0	0
Pulizzi, Jack	Tishman	$75.73	1,336	$ 101,175	418	$ 31,617	1,754	$ 132,793	1,754	0
Pulsfort, Mark	Turner	$0.00					0	$ -	0	0
Quinn, William - Part-time	McKissack	$77.01	720	$ 55,447	50	$ 3,851	770	$ 59,298	770	0
Rasul, Malcolm	Tishman	$41.47	1,336	$ 55,404	418	$ 17,314	1,754	$ 72,718	1,754	0
Reyes, Frederick	Ferreira	$40.86	500	$ 20,430			500	$ 20,430	720	-220
Ricco, Joseph	Tishman	$49.76	1,336	$ 66,479	418	$ 20,776	1,754	$ 87,254	1,754	0
Rivera, Armando	Turner	$85.58	1,336	$ 114,758	418	$ 35,856	1,754	$ 150,591	1,754	0
Roque, Jose	Tishman	$80.79	720	$ 58,169			720	$ 58,169	1,536	-816
Scarpmuzzi, Matthew	Spartan	$49.04	1,336	$ 65,517	418	$ 20,474	1,754	$ 85,992	1,754	0
Schnog, Samuel	Turner	$33.46	1,336	$ 44,729	418	$ 13,978	1,754	$ 58,707	1,754	0
Schupak, Goldie/ Edward Millauro	Tishman	$31.25	720	$ 22,500			720	$ 22,500	1,336	-616
Sertzoglou, Peter / (TBD)	Tishman	$56.05	960	$ 53,728			960	$ 53,728	1,496	-536
Sgro, Rick - Fulltime / Part-time	Turner	$132.69	1,336	$ 177,274	418	$ 55,484	1,754	$ 232,758	1,754	1
Sheeran, Patrick	Tishman	$61.27	1,336	$ 81,897	418	$ 25,580	1,754	$ 107,477	1,754	0
Smith, Eric	Turner	$41.78	1,336	$ 55,818	418	$ 17,445	1,754	$ 73,263	1,754	0
Smith, Patrick	Ferreira	$50.26	1,336	$ 67,147	418	$ 20,984	1,754	$ 88,131	1,336	418
Socha, Thomas/ Arthur Iwanaura	McKissack	$42.10	1,336	$ 56,246	418	$ 17,577	1,754	$ 73,823	1,754	0
Spelcher, Ronald	Turner	$97.60	1,112	$ 108,420	418	$ 40,758	1,530	$ 149,178	0	1,530
St.Elin, Marjorie	Turner	$57.20	1,336	$ 76,539			1,336	$ 76,539	835	501
Suarez, Kenneth	Turner	$87.53	960	$ 84,029			960	$ 84,029	835	125
Taylor William	Ferreira	$63.94	1,336	$ 85,424	200	$ 12,788	1,536	$ 98,212	1,536	0
Thomas, Espen	Tishman	$38.61					0	$ -	1,336	-1,336
Tomechko, Michael	Tishman	$38.70	1,336	$ 51,703	418	$ 16,157	1,754	$ 67,860	1,754	0
Toomey, Brian	Turner	$63.40	480	$ 30,432			480	$ 30,432	0	480
Torres, Anibal D	Tishman	$23.51	668	$ 15,703			668	$ 15,703	668	0
Vasquez, Trina	Turner	$58.12	1,336	$ 76,964			1,336	$ 76,964	1,336.00	0
Wardaki, Karim	Turner	$109.58	1,336	$ 146,412	200	$ 21,918	1,536	$ 168,330	1,536.00	0
Waxman, Michael	Tishman	$39.46	1,336	$ 52,719			1,336	$ 52,719	835	501
Weldon, Brian	Tishman	$49.04	1,336	$ 65,517	418	$ 20,474	1,754	$ 85,992	1,754	0
Yellen, Carmen	Spartan	$72.12	1,336	$ 96,352	418	$ 30,110	1,754	$ 126,462	1,754	0
Total			51,863	$ 4,639,872	16,091	$ 905,954	67,731	$ 5,599,825		

			Hours	Amount	Hours	Amount	Total Hours	Total Amount		
Number of Staff	32	Turner	32,520	$ 1,989,317	6,256	$ 359,829	38,776	$ 2,339,046	104,638	-7,087
Number of Staff	34	Tishman	32,640	$ 1,787,408	8,248	$ 355,108	38,888	$ 2,142,516		
Number of Staff	11	Ferreira	11,062	$ 548,927	2,288	$ 132,083	13,340	$ 681,032		
Number of Staff	3	Spartan	3,392	$ 192,427	835	$ 50,584	4,227	$ 243,011		
Number of Staff	2	McKissack	2,054	$ 111,693	470	$ 21,427	2,524	$ 133,120		
	82		81,663	$ 4,639,872	16,091	$ 905,954	97,731	$ 5,599,825		

Professional Services Work Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500000608
Change Order No. CO-15-001

Revision 66 - 9/24/15

Staff	Company	Hourly Rates	NON HURRICANE SANDY Jul 15, 2015 - Sept 30, 2015 HOURS	$	NON HURRICANE SANDY Oct 1, 2015 - Dec 31, 2015 HOURS	$	NON HURRICANE SANDY Jan 1, 2017 - Aug 14, 2017 HOURS	$	Total Hours	Total $	PA Requested Hours	Hours Deducted / Added
Alammari, Norman	Tishman	$44.57							0	$ -	0	0
Ambubuyog, Jonathan	Tishman	$31.18	418	$ 13,009	500	$ 15,590	1,250	$ 38,950	2,168	$ 67,539	918	1,250
Anderson, Delano	Turner	$32.87							0	$ -	0	0
Arnett, David	Tishman	$40.99							0	$ -	0	0
Baker, Sterling - Part-time	Tishman	$27.12							0	$ -	0	0
Barrett, Jack	Tishman	$84.13							0	$ -	0	0
Basciotto, Biagio	Tishman	$98.15							0	$ -	418	-418
Benmeldi, Ely	Tishman	$55.29							0	$ -	0	0
Boling, Charles	Turner	$89.13							0	$ -	418	-418
Bonner, Paul	Ferreira	$88.97	418	$ 38,310	418	$ 38,353			836	$ 76,663	2,168	-1,332
Borst, Brad	Tishman	$43.63	418	$ 18,218					418	$ 18,218	418	0
Bove, Nicholas	Turner	$37.02							0	$ -	0	0
Bradley, Pamela	Tishman	$25.65							0	$ -	0	0
Browne, William	Turner	$53.82	418	$ 22,476	418	$ 22,487			836	$ 44,967	918	-82
Campos, Cassandra	Ferreira	$33.85	418	$ 14,149					418	$ 14,149	418	1
Carlsen, Chris	Turner	$54.05	418	$ 22,588					418	$ 22,588	418	0
Carroll, Courtney	Ferreira	$33.85	418	$ 14,132					418	$ 14,132	418	0
Chaimeh-Shahi, Nima	Turner	$36.81	418	$ 15,203	500	$ 18,406			918	$ 33,608	918	0
Clark, George	Ferreira	$83.94							0	$ -	0	0
Collins, David - Part-time	Tishman	$102.68	200	$ 20,536					200	$ 20,536	200	0
Cruz, Jamie	Turner	$28.90	418	$ 12,086	500	$ 14,450			918	$ 26,536	0	918
Cruz, Jordan	Tishman	$33.75	418	$ 14,091					418	$ 14,091	0	418
D'Alessandro, Anthony	Turner	$34.57	418	$ 14,433					418	$ 14,433	418	0
DeBenedittis, Eric	Turner	$32.04	418	$ 13,377					418	$ 13,377	418	0
Donahy, Justin	Turner	$45.52							0	$ -	418	-418
Eberhardt, Steven	Turner	$77.60							0	$ -	0	0
Fernandez, Debra	Tishman	$32.79	418	$ 13,690	500	$ 16,395	230	$ 6,196	1,168	$ 36,282	1,168	0
Flynn, Thomas	Ferreira	$65.50							0	$ -	0	0
Garcia, Maritza - Part-time	Turner	$39.41	105	$ 4,138	135	$ 4,926	300	$ 11,823	540	$ 20,887	459	71
Garzon, Fabian	Turner	$59.01							0	$ -	418	-418
Golub, George	Turner	$74.30							0	$ -	0	0
Graff, Walter	Ferreira	$80.58	418	$ 33,642	500	$ 40,290	100	$ 8,058	1,018	$ 81,990	1,018	0
Greaves, Karen	Turner	$31.16							0	$ -	0	0
Guglielmo, Mario	Turner	$35.24	418	$ 14,730					418	$ 14,730	418	1
High, Jonathan	Tishman	$66.46	418	$ 27,747	500	$ 33,230			918	$ 60,977	918	0
Kolb, Adam	Tishman	$68.75	418	$ 28,738	500	$ 34,375			918	$ 63,113	200	718
Lambrecht, James	Ferreira	$0.00							0	$ -	0	0
Lanzo, Leonard	Tishman	$80.77							0	$ -	0	0
Lewis, Aubrey	Tishman	$85.94							0	$ -	0	0
Marren, Kevin	Turner	$82.74							0	$ -	418	-418
Michaels, Matthew	Tishman	$36.05							0	$ -	0	0
Mishra, Prasenjeet	Tishman	$55.09							0	$ -	200	-200
Moore, Jason	Turner	$52.02							0	$ -	2,168	-2,168
Mosquera, Henry	Ferreira	$62.71							0	$ -	0	0
Murray, Walter	Turner	$133.65							0	$ -	0	0
Ogando, Edwin	Turner	$61.74	418	$ 25,778	500	$ 30,870	500	$ 30,870	1,418	$ 87,518	2,168	-750
Paradiso, Joseph	Turner	$68.10							0	$ -	0	0
Pasquale, Damon	Tishman	$33.17	418	$ 13,848					418	$ 13,848	418	0
Pastore, Anthony - Part-time	Tishman	$108.00							0	$ -	418	-418
Percy, Pierre	Tishman	$78.92	418	$ 32,114	500	$ 39,460	1,250	$ 98,650	2,168	$ 169,724	2,168	0
Petelkiewicz, John	Spartan	$42.44							0	$ -	0	0
Pinell, Mike	Tishman	$144.23							0	$ -	0	0
Pulizzi, Jack	Tishman	$75.73	418	$ 31,617	500	$ 37,865	550	$ 41,652	1,468	$ 111,134	2,168	-700
Pulsfort, Mark	Turner	$0.00							0	$ -	0	0
Quinn, William - Part-time	McKissack	$77.01							0	$ -	50	-50
Rasul, Malcolm	Tishman	$41.47	418	$ 17,314	500	$ 20,735			918	$ 38,049	918	0
Revis, Frederick	Ferreira	$40.66							0	$ -	0	0
Ricco, Joseph	Tishman	$49.76	418	$ 20,775					418	$ 20,775	418	0
Rivera, Amando	Turner	$65.68	418	$ 33,838	600	$ 43,840	850	$ 55,822	1,868	$ 134,817	2,168	-600
Roque, Jose	Tishman	$60.79							0	$ -	200	-200
Scarlamuzzi, Matthew	Spartan	$49.04	418	$ 20,474	500	$ 24,520	1,250	$ 61,300	2,168	$ 106,294	2,168	0
Schnog, Samuel	Turner	$33.45	418	$ 13,978	500	$ 16,725	1,250	$ 41,850	2,168	$ 72,553	2,168	0
Schupak, Goldie/ Edward Milazzo	Tishman	$31.25							0	$ -	0	0
Sertzoglou, Peter / (TBD)	Tishman	$58.05							0	$ -	160	-160
Sgro, Rick - Full-time / Part-time	Turner	$132.69	200	$ 26,538	200	$ 26,538			400	$ 53,076	1,418	-1,018
Sheeran, Patrick	Tishman	$61.27	418	$ 25,580	418	$ 25,611			836	$ 51,191	738	98
Smith, Eric	Turner	$41.78							0	$ -	418	-418
Smith, Patrick	Ferreira	$50.26							0	$ -	0	0
Socha, Thomas/ Arthur Iwahkura	McKissack	$42.10							0	$ -	418	-418
Speicher, Ronald	Turner	$97.50	418	$ 40,755	500	$ 48,750			918	$ 89,505	0	918
St. Elin, Marjorie	Turner	$57.29							0	$ -	0	0
Suarez, Kenneth	Turner	$67.53							0	$ -	0	0
Taylor William	Ferreira	$63.94							0	$ -	200	-200
Thomas, Espen	Tishman	$38.61							0	$ -	0	0
Tomchiko, Michael	Tishman	$38.70	418	$ 16,167	500	$ 19,350	650	$ 25,155	1,568	$ 60,662	2,168	-600
Toomey, Brian	Turner	$63.40							0	$ -	0	0
Torres, Anibal D	Tishman	$23.51							0	$ -	0	0
Vasquez, Trina	Turner	$59.12							0	$ -	0	0
Wardaki, Karim	Turner	$109.59							0	$ -	200	-200
Waxman, Michael	Tishman	$39.46							0	$ -	0	0
Welson, Brian	Tishman	$49.04	418	$ 20,474					418	$ 20,474	418	0
Yolton, Carmen	Spartan	$72.12	418	$ 30,110					418	$ 30,110	2,168	-1,750
Total			13,450	$ 725,611	8,579	$ 669,880	8,000	$ 419,827	31,029	$ 1,715,318		

	Hours	Amount	Hours	Amount	Hours	Amount	Total Hours	Total Amount
Turner	4,899	$ 282,885	3,743	$ 227,116	2,700	$ 140,363	11,342	$ 630,364
Tishman	5,048	$ 313,908	4,418	$ 241,601	3,950	$ 210,104	14,414	$ 765,613
Ferreira	1,871	$ 98,794	818	$ 78,643	100	$ 5,058	2,589	$ 182,836
Spartan	836	$ 50,584	500	$ 24,520	1,250	$ 61,300	2,586	$ 136,404
McKissack	0	$ -	0	$ -	0	$ -	0	$ -
PB/URS	0	$ -	0	$ -	0	$ -	0	$ -
	13,450	$ 725,611	8,579	$ 669,880	8,000	$ 419,827	31,029	$ 1,715,318

39,986	-8,958

9/24/2015

July 9, 2014

UPS (212-399-3600)
Tishman/Turner, A Joint Venture
100 Park Avenue, 5th Floor
New York, NY 10017

Attn: Mr. Jay Badame
President and Chief Operating Officer, Tishman Corporation

Pat. A. Di Filippo
Executive Vice President, Turner Construction Company

SUBJECT: TTJV CHANGE ORDER # CO-14-001: EXERCISE OF THE ONE YEAR OPTION PERIOD: CONTINUED CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE TRANSPORTATION HUB

REF: PERFORMANCE OF CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB (Contract No. 4600007871 and PO No. 4500060608)

Dear Sirs:

Pursuant to clause 7 entitled "Time" on page 12 of the above-referenced Contract, the Authority hereby extends this Agreement for an additional one (1) year period ("Option Period") for Continued Construction Management Services for The World Trade Center Site Transportation Hub. The Option Period on said contract shall be effective as of August 14, 2014 through August 13, 2015.

As agreed upon in the execution of the Contract, the total compensation for the performance of the above-mentioned services for the Option Period shall be **$11,074,548** inclusive of the Construction Manager's Fixed Fee as noted below.

The total Construction Manager's Fixed Fee for this Option is $ 1,500,000.00.

The previously authorized total amount for the referenced agreement is increased from $116,122,963.00 to $127,197,511.00.

The above referenced Contract remains in full force and effect and the performance of the Option Period services is subject to the terms and conditions of such referenced Contract. Upon receipt by the Authority of a copy of this letter executed by a principal of your firm, you are authorized to proceed with performance of the requested additional services.

Any questions relating to the performance of the subject services may be directed to Mr. Frank Gallo, Project Coordinator, telephone where he can be reached at (212) 435-5333.

Sincerely,

Lillian Valenti
Chief Procurement Officer

Copy: S. Plate, F. Gallo, R. Perez, I. Morel, I. Chavarria, file

Accepted:

TTJV

Mr. Jay Badame
President and Chief Operating Officer,
Tishman Corporation

7-15-14
Date

Mr. Pat A. Di Filippo
Executive Vice President,
Turner Construction Company

7/28/14
Date

THE PORT AUTHORITY OF NY & NJ

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER TRANSPORTATION HUB
CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 1

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of August 10, 2009 as follows:

The Construction Management Agreement shall be modified as follows:

1. **Section 7, TIME.**

Paragraph 7.1 shall be deleted in its entirety and replaced with the following, in order to correct the term of the option period from a two-year to a one-year period:

> 7.1 The term of this Agreement is a five (5) year period commencing on August 13, 2009. The Authority reserves the right to extend this Agreement for one (1) additional one-year period. Said extension shall be by letter from the Director of Procurement at least thirty (30) days prior to the end of the base term.

2. **Section 10, COMPENSATION.**

Paragraph 10.4.1 shall be deleted in its entirety and replaced with the following, in order to remove reference to parking and car allowance:

> 10.4.1 General and Administrative ("G&A") Costs. The G&A rate of 60.7% ("G&A Rate") shall be applied to the Personnel Direct Labor cost as permitted in Section 10.4.2 below. Computation of the G&A rate shall only include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave,

disability benefits, bonuses, overtime pay, premium pay, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining

3. **Section 10, COMPENSATION.**

The following shall be inserted as Paragraph 10.4.6.4, under "Other Reimbursable Costs":

10.4.6.4 Reasonable parking fees and car allowance, pre-approved in writing by the Port Authority.

Except as provided herein, each of the Agreements remains unchanged and in full force and effect.

This Contract Modification No. 1 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 1 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 8-31-09

Jay Badame
President and Chief Operating Officer

and

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

JP

By: _____

Name: David Tweedy

Title: _____

Date: 9/8/09

THE PORT AUTHORITY OF NY & NJ

By: TURNER CONSTRUCTION COMPANY

By: Pat A. Di Filippo

Date: 8-31-09

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NY & NJ

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER TRANSPORTATION HUB
CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 2

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of August 10, 2009 as follows:

The Construction Management Agreement, as modified by Contract Modification to Agreement No. 1, shall be modified as follows:

1. **Section 10, COMPENSATION.**

Paragraph 10.4.1 shall be deleted in its entirety and replaced with the following, in order to reinstate reference to parking and car allowance:

> 10.4.1 General and Administrative ("G&A") Costs. The G&A rates of 64.3% and 64.94% (each, a "G&A Rate") shall be applied to the Personnel Direct Labor costs for Tishman Construction Corporation of New York and Turner Construction Company personnel, respectively, as permitted in Section 10.4.2 below. Computation of the G&A rate shall only include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining.

2. **Section 10, COMPENSATION.**

Paragraph 10.4.6.4, under "Other Reimbursable Costs" shall be deleted in its entirety.

3. **Section 10, COMPENSATION.**

The following shall be inserted as Paragraph 10.4.7.16 under "Excluded Expenses":

10.4.7.16 Any cost that has been accounted for in the G&A Rate.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 2 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 2 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 1-11-10

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____ VMB

Date: 1/13/10

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

JP By: _____

Name: Lillian D. Valenti

Title: Director, Procurement

Date: 2/4/10

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT NO. 4600007871, PURCHASE ORDER NO. 4500060608

MODIFICATION NO. 3

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract No. 4600007871; Purchase Order No. 4500060608 (hereinafter called the "Contract" or "Construction Management Agreement"), for Construction Management Services for the World Trade Center Site – Transportation Hub; and

WHEREAS, the parties hereto desire to modify said Contract in certain respects.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of August 10, 2009 as follows:

The Construction Management Agreement, as amended by Modification No. 1 and Modification No. 2, shall be further modified as follows:

1. **Section 10. COMPENSATION**

Paragraph 10.4.4 Cost of Subconsultants shall be amended by adding the following subparagraph, in order to modify the provisional G&A rates for subconsultants:

> 10.4.4.1 General and Administrative ("G&A") Costs. The G&A rates of 47.1% and 47% (each, a "G&A Rate") shall be applied to the Personnel Direct Labor costs for Ferreira Construction Co., Inc. and McKissack and McKissack personnel, respectively, as permitted in Section 10.4.2 above. Computation of the G&A Rate shall only include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Modification No. 3 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 3 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: April 26, 2010

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 5/4/2010

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: LILLIAN D. VAKOTI

Title: Director, Procurement

Date: May 25, 2010

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT NO. 4600007871, PURCHASE ORDER NO. 4500060608

MODIFICATION NO. 3

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract No. 4600007871; Purchase Order No. 4500060608 (hereinafter called the "Contract" or "Construction Management Agreement"), for Construction Management Services for the World Trade Center Site – Transportation Hub; and

WHEREAS, the parties hereto desire to modify said Contract in certain respects.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of August 10, 2009 as follows:

The Construction Management Agreement, as amended by Modification No. 1 and Modification No. 2, shall be further modified as follows:

1. Section 10. COMPENSATION

Paragraph 10.4.4 Cost of Subconsultants shall be amended by adding the following subparagraph, in order to modify the provisional G&A rates for subconsultants:

> 10.4.4.1 General and Administrative ("G&A") Costs. The G&A rates of 47.1% and 47% (each, a "G&A Rate") shall be applied to the Personnel Direct Labor costs for Ferreira Construction Co., Inc. and McKissack and McKissack personnel, respectively, as permitted in Section 10.4.2 above. Computation of the G&A Rate shall only include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Modification No. 3 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 3 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: April 26, 2010

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 5/11/2010

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: _____

Title: _____

Date: _____

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 4

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of June 18, 2010 as follows:

The Construction Management Agreement, as modified by Contract Modification to Agreement No. 1, Contract Modification to Agreement No. 2 and Contract Modification to Agreement No. 3, shall be modified as follows:

1. Clause B. Commercial Professional Liability Insurance (CPLI) on page six (6) of EXHIBIT E – INSURANCE REQUIREMENTS, shall be deleted in its entirety and replaced with the following:

   Commercial Professional Liability Insurance (CPLI) covering the design and engineering services required by Contract of at least Two Million ($2,000,000) Dollars per occurrence and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the Contractor. Should the Construction Manager engage a Subconsultant, the Subconsultant shall be required to maintain limits of liability of not less than Three (3) Million Dollars per occurrence and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the Contractor.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 4 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 4 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 7-12-10

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 7/14/10

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: Lillana Valenti

Title: Director, Procurement

Date: 7-21-10

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT NO. 4600007871, PURCHASE ORDER NO. 4500060608

CONTRACT MODIFICATION NO. 5

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract No. 4600007871; Purchase Order No. 4500060608 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of January 26, 2011 as follows:

The Construction Management Agreement, as modified by Contract Modification to Agreement No. 1, Contract Modification to Agreement No. 2, Contract Modification to Agreement No. 3 and Contract Modification to Agreement No. 4, shall be further modified as follows:

Attachment A of the Contract entitled "Construction Management Services as Construction Manager for The WTC Site Hub Project Scope of Services" shall be modified to include the following additional services:

1. Section 2.1.1 "Task 1 – Design Management Services" shall be amended by adding the following subparagraph:

   Section 2.1.6 Additional Building Information Modeling (BIM) for the West Bathtub-Early Works portion of the project and for structural steel.

2. Section 2.2.1 "Task 2 – Estimating Services" shall be amended by adding the following subparagraphs:

   Section 2.2.6 Additional estimating resulting from the introduction of multiple contractors/trade packages and their associated bid package estimates and potential change order estimates.

   Section 2.2.7 Validation of an existing West Side Structures-to-Grade estimate prepared by another of the Port Authority's consultants.

3. Section 2.3.1 "Task 3 – Scheduling Services" shall be amended by adding the following subparagraphs:

Section 2.3.6 Additional scheduling services resulting from the need to integrate schedules from multiple contractor's on the Transit Hall/East Bathtub portion of the project into the Integrated Master Schedule in lieu of a single general contractor's schedule.

Section 2.3.7 Additional scheduling services related to updates of the Integrated Master Schedule and the Port Authority's request for Tishman/Turner to review and validate all the individual project schedules.

4. Section 2.5.1 "Task 5 – Safety Monitoring Services" shall be amended by adding the following subparagraph:

   Section 2.5.8 Provide supervision and safety managers to monitor the compliance of the Contractors with respect to their responsibilities for the safety programs during night shift and weekend field activities in the PATH Hall, Transit Hall and at the Greenwich Street Corridor, which requires 24-hour shifts of field coverage, as required.

5. Section 2.7.12 "Contractor Award" under Task 7 – Procurement Services shall be amended by adding the following subparagraph:

   Section 2.7.12.5 Award and management of the Transit Hall/East Bathtub portion of the project such that there will be multiple contractors in lieu of a single general contractor.

6. Section 2.7.16 "Contract File Administration" under Task 7 – Procurement Services shall be amended by adding the following subparagraph:

   Section 2.7.16.6 As requested by the Port Authority, provide one dedicated full-time employee to assist the Port Authority with management and review of the design consultant's services during construction. All services shall be performed under the direction of the Port Authority staff.

7. Section 2.8.1 "Task 8 – Construction Phase Contract Administration Services" shall be amended by adding the following subparagraphs:

   Section 2.8.35 Coordination with the steel subcontractor hired by Phoenix for the 1A and 20 bcd steel.

   Section 2.8.36 Management of work transferred from Phoenix to Tutor-Perini.

   Section 2.8.37 Additional managerial and field resources to oversee the West Side Structures-to-Grade general contractor, especially for the MEP work and integration with the East Bathtub MEP systems.

   Section 2.8.38 As agent on behalf of the Port Authority, TTJV will retain subconsultants to perform inspection services, coordination with PATH

operations, and management of the Phoenix contract closeout for and under the management and direction of the Port Authority.

Section 2.8.38 Additional managerial resources to oversee Steel Contractor due to design changes and schedule impacts.

8. Section 2.11.1 "Task 11 – Project Closeout" shall be amended by adding the following subparagraph:

   Section 2.11.10 As requested by the Port Authority, provide one dedicated full-time employee to assist in monitoring compliance by the Contractor's with their sustainability requirements for material purchasing and tracking, waste tracking, IAQ and sustainability commissioning.

This Contract Modification No. 5 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 5 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 1-28-11

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 2-1-11

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: LILLIAN D. VALENTI

Title: Director, Procurement

Date: 2/14/11

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER TRANSPORTATION HUB
CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 6

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree that said Contract shall be deemed modified as follows and effective as of the date provided under each section:

The Construction Management Agreement, as modified by and through and including Contract Modification to Agreement No. 5, shall be modified as follows:

1. Section 2.5.1 Task 5 – SAFETY MONITORING

Section 2.5.2 on page eleven (11) of Attachment A "Construction Management Services as Construction Manager for The WTC Site Hub Project Scope of Services", shall be deleted in its entirety and replaced with the following effective as of June 15, 2011:

> Using as its source the most current "Downtown Restoration Program, The World Trade Center Site Safety, Health and Environmental Program (SHEP Document)", the Construction Manager shall analyze, evaluate, and then recommend a comprehensive plan to the Port Authority regarding the allocation of responsibilities for safety programs among the Contractors, including, without limitation, the current Site Wide Health and Safety Plan, Site Wide Security, and Tenant Construction Review Manual. During execution of the Project, Construction Manager shall be responsible to review, comment upon, and provide information to the Port Authority upon its request regarding the testing and inspection of plans and safety features and monitoring the compliance of the Contractors with respect to their responsibilities for the safety programs; and reporting regularly to the Port Authority on such compliance and the effectiveness of the Authority and Construction Manager's comprehensive plan.

The most current SHEP Document may be downloaded at the link below: http://newpa1.panynj.gov/wtcprogress/procurement.html As of the effective date of this Modification # 6 the most current SHEP Document is Revision Number 2.0 dated 5/3/2010.

2. Section 2.8.1 Task 8 – CONSTRUCTION PHASE CONTRACT ADMINISTRATION SERVICES

Section 2.8.19 on page twenty-three (23) of Attachment A "Construction Management Services as Construction Manager for The WTC Site Hub Project Scope of Services", shall be deleted in its entirety and replaced with the following effective as of June 15, 2011:

> Construction Manager shall implement the most current Downtown Restoration Program, World Trade Center Site Safety, Health and Environmental Program and shall scrutinize, review, and monitor the safety programs developed by each of the Contractors for the purposes of compliance thereto and coordinating the safety programs with those of the other Contractors as well as with any other contractor.

3. Section 3.0 – QUALITY ASSURANCE / QUALITY CONTROL

In Section 3.0 on page twenty-nine (29) of Attachment A "Construction Management Services as Construction Manager for The WTC Site Hub Project Scope of Services", the last paragraph shall be deleted in its entirety and replaced with the following:

> The Construction Manager shall implement and manage a quality program developed in accordance with Exhibit B, Contractor's Quality Program Requirements, attached to this Modification No. 6. The Construction Manager shall also ensure that each Prime Contractor develops, implements and maintains its own quality program in accordance with Exhibit B. The Construction Manager shall maintain copies of each Prime Contractor's Quality Control/Quality Assurance Programs and plans and submit them for review to the Port Authority. If the subcontractors, suppliers and vendors elect to submit their own quality program programs, it must be approved by the Prime Contractor's Quality Manager. All subcontractors, suppliers and vendors shall comply with the Prime Contractor's Quality Control Program or their own program.

Except as provided herein, the Contract and Modifications remain unchanged and in full force and effect.

This Contract Modification may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification to be duly executed by their respective duly authorized officers effective as of the dates set forth above.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 8-11-11

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 8/11/11

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

JP

By: _____

Name: Lillian Valenti

Title: Procurement Director

Date: August 31, 2011

EXHIBIT B

CONTRACTOR'S QUALITY CONTROL PROGRAM REQUIREMENTS

March 11, 2010

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.

E. Changes To The CQP

The Contractor shall notify 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	PARAGRAPH SPECS
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
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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.

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 worksite. 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

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 non-conformances, 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 shell 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 are available for inspection and audit of the Engineer. Where the Engineer requires certain shop drawings and other documents required by the specifications are 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.

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. Sub-Contractor and Supplier Control. - Purchasing

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.

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;

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

a) 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.

b) 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.

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 it was 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 non-conformances 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.

3) 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; 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.

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 non-conformances.

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.

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. 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.

5) 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.

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 7

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of January 1, 2011 as follows:

The Construction Management Agreement, as modified by and through Contract Modification to Agreement No. 6, inclusive, shall be modified as follows:

Section 10 - COMPENSATION.

Following Paragraph 10.4.1.1, the new subparagraph 10.4.1.1.1 shall be inserted:

10.4.1.1.1 In the event an audit review of a Provisional G&A Rate render a differing rate, the adjusted G&A Rate and the period for which it applies under this Contract, shall be set forth below:

10.4.1.1.1.1 Tishman Construction Corporation of New York
a. 2009 G&A Rate: 60.513%.
10.4.1.1.1.2 Turner Construction Company
a. 2009 G&A Rate: 61.29%.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 7 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 7 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 10/11/11

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 10/17/11

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: Lucia Valente

Title: Director, Procurement

Date: 11/2014

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 7 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 10/11/11

Jay Bademe
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 10/17/11

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: _____

Title: _____

Date: _____

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 8

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified, effective as of the date of the last signature below, as follows:

The Construction Management Agreement, as modified by and through Contract Modification to Agreement No. 7, inclusive, shall be modified as follows:

Section 10 - COMPENSATION.

Paragraph 10.4.4.1, shall be deleted in its entirety and replaced with the following:

> 10.4.4.1 General and Administrative ("G&A") Costs. The initial G&A rates of 47.1% and 47% (each, a "G&A Rate") shall be applied to the Personnel Direct Labor costs for Ferreira Construction Co, Inc. and McKissack and McKissack personnel, respectively, as permitted in Section 10.4.2 above. Computation of the G&A rate shall only include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining. In the event the Authority conducts an audit review of a G&A Rate that renders a differing rate, the adjusted G&A Rate and the period for which it applies under this Contract, shall be set forth below:
>
> 10.4.4.1.1 Ferreira Construction Co, Inc.
> a. 2009 G&A Rate: 31.97%.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 8 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 8 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 10/11/11

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 10/11/11

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: Lillian Valeri

Title: Director, Procurement

Date: 11/22/11

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 9

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified, effective as of the date of the last signature below, as follows:

The Construction Management Agreement, as modified by and through Contract Modification to Agreement No. 8, inclusive, shall be modified as follows:

Section 1.1 "Project Description" of Attachment A of the Contract entitled "Construction Management Services as Construction Manager for The WTC Site Hub Project Scope of Services" shall be modified as follows:

A. On page 6, the following components shall be added to the project description after component 5. Street Entries:

    6. MTA/NYCT #1 Subway Line Cortlandt Street Station Construction

    7. North Temporary Access Decommissioning and Demolition

B. On page 8, the following subsections shall be added after subsection 1.1.6 East Bathtub:

    1.1.7 MTA/NYCT #1 Subway Line Cortlandt Street Station Construction- Provide core and shell structure and architectural, mechanical, electrical, and plumbing fit-out for the #1 Line Subway Cortlandt Street station between Liberty and Vesey Streets at the World Trade Center site

1.1.8 North Temporary Access Decommissioning and Demolition- Provide for the decommissioning of electrical, mechanical, elevator, and escalator facilities. Provide protection, safe demolition, and removal of the North Temporary Access structure and equipment at Vesey and Greenwich Streets of the World Trade Center site.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 9 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 9 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 8-23-11

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 8/22/11

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: LILLIAN VALENTI

Title: Procurement Director

Date: August 31, 2011

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 11

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified, effective as of the date of the last signature below, as follows:

The Construction Management Agreement, as modified by and through Contract Modification to Agreement No. 10, inclusive, shall be modified as follows:

Section 10 - COMPENSATION.

1. Subsection 10.4.1.1.1.1 entitled "Tishman Construction Corporation of New York" shall be deleted in its entirety and replaced with the following:

    a. July 15, 2010 – September 30, 2011 G&A Rate: 56.94%.
    b. October 1, 2011 – September 28, 2012 G&A Rate: 57.44%.

2. Subsection 10.4.1.1.1.2 entitled "Turner Construction Company" shall be deleted in its entirety and replaced with the following:

    a. 2011 G&A Rate: 62.75%.
    b. 2012 G&A Rate: 64.11%.

3. Subsection10.4.4.1.1 entitled "Ferreira Construction Co, Inc." shall be deleted in its entirety and replaced with the following:

    a. 2011 G&A Rate: 44.44%.

b. 2012 G&A Rate: 47.10%.

4. Please insert this Subsection10.4.4.1.2 entitled "McKissack and McKissack" under Section 10.4.4.1:

   a. 2010 G&A Rate: 42.03%.
   b. 2011 G&A Rate: 29.86%.
   c. 2012 G&A Rate: 43.37%.

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 11 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 11 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 1-5-15

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 4-22-2015

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: LILLIAN D. VALEK

Title: Chief Procurement Officer

Date: 5/4/2016

1st form 4/29/15

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 12

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified, effective as of the date of the last signature below, as follows:

The Construction Management Agreement, as modified by and through Contract Modification to Agreement No. 11, inclusive, shall be modified as follows:

Section 10 - COMPENSATION.

1. Subsection a of subparagraph 10.4.1.1.1.2 entitled "Turner Construction Company" shall be deleted in its entirety and replaced with the following, for the effective period of January 1, 2013 through December 31, 2013:

    a. 2013 G&A Rate: 65.30%

2. Subsection a of subparagraph 10.4.4.1.1 entitled "Ferreira Construction Co, Inc." shall be deleted in its entirety and replaced with the following for the effective period of January 1, 2013 through December 31, 2013:

    a. 2013 G&A Rate: 46.72%

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 12 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 12 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 9-9-15

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 9/14/2015

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: Lillian D. Valenzi

Title: Chief Procurement Officer

Date: 9/16/2016

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER

CONSTRUCTION MANAGEMENT SERVICES FOR THE WORLD TRADE CENTER SITE – TRANSPORTATION HUB

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 13

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified, effective as of the date of the last signature below, as follows:

The Construction Management Agreement, as modified by and through Contract Modification to Agreement No. 12, inclusive, shall be modified as follows:

Section 10 - COMPENSATION.

1. Subsection 10.4.1 entitled "General & Administrative (G&A) Costs" shall be deleted in its entirety and replaced with the following, for the effective period of August 14, 2015 through August 13, 2017 :

   "Overhead Rate. The Overhead Rate shall be applied to the Direct Personnel Costs as permitted in the Construction Management Agreement. Computation of the Overhead Rate shall include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining, and corporate expenses as otherwise allowed in compliance with 48 CFR Part 31."

2. Reference to "G&A Rate" in all subsections of 10.4.1 shall be deleted and replaced by "Overhead Rate".

3. Subsection a of subparagraph 10.4.1.1.1.1.1 entitled "Tishman Construction Company" shall be deleted in its entirety and replaced with the following, subject to audit, as set forth in the Construction Management Agreement:

    a. Overhead Rate: 112.41%

4. Subsection a of subparagraph 10.4.1.1.1.1.2 entitled "Turner Construction Company" shall be deleted in its entirety and replaced with the following, subject to audit, as set forth in the Construction Management Agreement:

    a. Overhead Rate: 125.00%

5. Subsection a of subparagraph 10.4.4.1.1.1.1 entitled "Ferreira Construction Co, Inc." shall be deleted in its entirety and replaced with the following, subject to audit, as set forth in the Construction Management Agreement:

    a. Overhead Rate: 78.00%

6. Subsection a of subparagraph 10.4.4.1.1.1.2 entitled "McKissack and McKissack." shall be deleted in its entirety and replaced with the following, subject to audit, as set forth in the Construction Management Agreement:

    a. Overhead Rate: 90.00%

7. Subsection a of subparagraph 10.4.4.1.1.1.3 entitled "Spartan Solutions, LLC" shall be deleted in its entirety and replaced with the following, subject to audit, as set forth in the Construction Management Agreement:

    a. Overhead Rate: 90.00%

Except as provided herein, the Contract remains unchanged and in full force and effect.

This Contract Modification No. 13 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 13 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 10-13-15

Jay Badame
President and Chief Operating Officer

and

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 10/8/2015

Pat A. Di Filippo
Executive Vice President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: Lillian D. Valera

Title: Chief Procurement Officer

Date: 10/21/2015

May 4, 2011

Tishman/Turner, A Joint Venture
666 Fifth Avenue, 38th Floor
New York, NY 10103

Attention: Jay Badame
President and Chief Operating Officer, Tishman Corporation

Pat A. Di Filippo
Executive Vice President, Turner Construction Company

SUBJECT: SUPPLEMENTAL SERVICES FOR EARLY ACTION WEST BATHTUB VEHICULAR ACCESS (WBVA) HELIX INFRASTRUCTURE PROJECT IN THE PAC QUADRANT - B2 NORTH TRUCK RAMP PREP WORK (TASK ORDER NO. TO-10-001)

Ref.: PERFORMANCE OF CONSTRUCTION MANAGEMENT SERVICES FOR THE PERMANENT WORLD TRADE CENTER PATH TERMINAL ON A TASK ORDER BASIS (P.A. Agreement No. 4600007871 and PO No. 4500060608), as amended

Dear Sirs:

The Authority hereby accepts your proposal dated April 22, 2011, which is attached hereto and incorporated into the referenced agreement by reference, for performance of the services in the scope of additional services request, which formed the basis for submission of your proposal.

Total compensation for the performance of the abovementioned services shall not exceed the amount of $122,963. The Consultant shall inform the Director when the Consultant's compensation reaches 80% of such amount. The Consultant shall continue to render the additional services to completion after the point when the Consultant's compensation reaches 100% of such amount. The time for completion for the additional services is approximately within two (2) months from receipt of this notice.

The previously authorized total amount for the referenced agreement in increased from $93,949,780 to $94,072,743.

The above referenced agreement remains in full force and effect and the performance of the requested additional services is subject to the terms and conditions of such referenced agreement.

WTC Construction
115 Broadway, 10th Floor
New York, NY 10006

Upon receipt by the Authority of a copy of this letter executed by a principal of your firm, you are authorized to proceed with performance of the requested additional services.

Any questions relating to the performance of the subject services may be directed to Port Authority Project Manager, Kim Cifarelli, telephone (212) 435-5106.

Sincerely,

Frank Gallo
Assistant Director
WTC Construction Department

Accepted:
Tishman/Turner, A Joint Venture

President & COO — 5-9-11
Name, Title — Date

EVP — 5/10/11

WTC Construction
115 Broadway, 10th Floor
New York, NY 10006

TISHMAN | Turner
A Joint Venture

April 22, 2011

The Port Authority of New York & New Jersey
115 Broadway, 19th Floor
New York, NY 10010

Reference: CM Services for Early Action West Bathtub Vehicular Access Helix Infrastructure Project in the PAC Quadrant – Task Order# 10-001

Dear Mrs. Murphy,

Attached hereto is our revised proposal to provide Construction Management services for the Early Action West Bathtub Vehicular Access Helix Infrastructure Project in the PAC Quadrant.

We trust that you will find the following information responsive to your request however; should you require additional information, please feel free to contact me at 212-399-3600 or Pat DiFilippo at 212-229-6207. Once again, we look forward to continuing our long standing and successful relationship with The Port Authority of New York and New Jersey in seeing to completion this important project.

Very truly yours,

Jay Badame
Chief Operating Officer
Tishman Construction Corporation

Pat A. Di Filippo
Executive Vice President
Turner Construction Company

Professional Services Task Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608

Task Order No. TO-10-001
TTJV Early Action WBVA Helix Infrastructure PAC Quadrant - B2 North Truck Ramp Prep Work

Pricing and Compensation	Q2 - 2011
(1) Construction Manager's Fee (see Agreement, Section 10.2)	**$ 29,542**
*Proposed CM Fee Rate applied above	
(2) Total Labor Cost (sum of a + b below)	**$ 77,961**
(a) Direct Labor (see Agreement, Section 10.4.2)	$ 47,358
(b) Overhead Costs (see Agreement, Section 10.4.1)	$ 30,603
* Proposed OH Rate applied above - Per Contract Mod#2 64.3% Tishman & 64.94% Turner. Used Average 64.62%.	
(3) Total Direct Costs (sum of c + d below)	**$ 15,460**
(c) Cost of Subconsultants (see Agreement, Section 10.4)	$ 12,260
(d) Reimbursable Expenses (see Agreement, Section 10.5)	$ 3,200
(3) **Total Proposed Pricing & Compensation** (Item 1 + Item 2 + Item 3)	**$ 122,963**

** The General & Administrative rate is to be applied to the Personnel Direct Labor cost as permitted in Agreement Section 10.4.1 & 10.4.2*

This proposal is based upon the following:

2. A four (4) month preconstruction period commencing in April 2011.

3. Hourly rates are based upon 1800 hours/year.

4. This proposal excludes all costs for insurance and insurance deductables of any type. An OCIP is assumed.

5. Reimbursables are included as an allowance

6. This proposal is valid for thirty (30) days from April 8, 2011.

Please refer to Section 10 - "COMPENSATION " for instructions and additional information.

Total Proposal price is to be filled out both words and in figures.

Total Amount (Base):

One Hundred Twenty-Two Thousand Nine Hundred Sixty-Three Dollars

Professional Services Task Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608

Task Order No. TO-10-001
TTJV Early Action WBVA Helix Infrastructure PAC Quadrant - B2 North Truck Ramp Prep Work

	Ferreira	McKissack	Spartan
Pricing and Compensation			
(1) Direct cost of Subconsultants, if necessary (see Agreement, Section 10.4)	**$ 12,260**		

Subconsultants cost includes overhead, Fringes & Fee

Professional Services Task Order
P.A. Agreement No. 4600007871 / Purchase Order No. 4500060608

Task Order No. TO-10-001
TTJV Early Action WBVA Helix Infrastructure PAC Quadrant - B2 North Truck Ramp Prep Work

Tom	Staffing/ Individual Discipline (Itemize Below)	Average Hourly Rates	Q2 - 2011	
			HOURS	AMOUNT
Task 1 - Design Management Services	Project Manager	$ 72.12	300	$ 21,636
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
Task 3 - Scheduling Services	Project Manager	$ 72.12	30	$ 2,164
				$ -
				$ -
				$ -
				$ -
				$ -
Task 6 - Contract Packaging / Project Coordination	Project Manager	$ 72.12	180	$ 12,982
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
Task 7 - Procurement Services	Project Manager	$ 72.12	90	$ 6,491
	Purchasing Agent	$ 63.48	30	$ 1,904
	Cost	$ 51.92	12	$ 623
	Accounting	$ 51.92	30	$ 1,558
				$ -
				$ -
				$ -
				$ -
TOTAL DIRECT LABOR				$ 47,358.00

Itemize all reimbursable expenses included in Proposal

Detailed Description	Amount
Miscellaneous Reimbursable Allowance	$ 3,200.00
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
Total Other Direct Costs /Out-of-Pocket Expenses	**$ 3,200.00**

SCOPE OF WORK

CONSTRUCTION MANAGEMENT SERVICES AS CONSTRUCTION MANAGER FOR THE WORLD TRADE CENTER SITE - TRANSPORTATION HUB

TASK ORDER# 10-001 TO BASE CONTRACT:
CONSTRUCTION MANAGEMENT SERVICES AS CONSTRUCTION MANAGER FOR THE EARLY ACTION WEST BATHTUB VEHICULAR ACCESS (WBVA) HELIX INFRASTRUCTURE PROJECT IN THE PAC QUADRANT – B2 North Truck Ramp Prep Work

1.0 PROJECT DESCRIPTION

WTC B2 North Truck Ramp

The Early Action WBVA Helix Infrastructure Project ("Prep Work") in the PAC Quadrant scope consists of final design of the Vesey Greenwich Street West Liner up to El. 280' (+ / -), partial removal of the existing B4 slab, Fuel Oil Tank Room modifications and MEP relocations associated with this removal, and construction of the new slab (at El. 260' sloping up to 266' – as part of the full build double lane B2 North Truck Ramp).

The full build-out of the double lane ramp as part of the West Bathtub Vehicular Access (WBVA) Project is planned but cannot be constructed in full prior to the demolition of the existing North Temporary Access (NTA) servicing PATH, and prior to the issuance of a Temporary Certificate of Occupancy for 1WTC. In order to take advantage of the current Platform A track outage in the area of work, certain elements of work for this project can be accomplished during the current outage time frame (noted in the scope above). Prior to developing this scope of work, a feasibility study for a single-lane ramp (known as the B2 North Truck Ramp (NTR) Project was completed. A code analysis, completed during the feasibility analysis, established the life safety systems and egress requirements for the ramp.

A traffic analysis, also produced during the feasibility analysis, established the design criteria for the architectural, structural, mechanical and electrical recommendations for the single lane ramp.

The feasibility analysis, which consists of scope descriptions by discipline, drawings, sketches and an executive report, has been completed to date, and will serve as the design basis of Stage I, II, and III, project scope.

1.1 ANTICIPATED PROJECT SCHEDULE OF MAJOR MILESTONES

In accordance with the original scope of services outlined in the referenced agreement, the CM will be responsible to administer the contracts to achieve the following:

Major Milestones – Prep Work	Time Line
Design	Q2 - 2011
Procurement – Bid Process	Q2 - 2011

All work must be completed within approximately 4 months from the Notice to Proceed.

2.0 SCOPE OF SERVICES.

The Services to be performed by Construction Manager consist of (i) all of the duties and obligations set forth in the base "Construction Management Services as Construction Manager for the WTC Site HUB Project" Scope of Services Contract, (ii) all of the duties and obligations of the Port Authority identified in the Port Authority Construction Contracts, and (iii) all of the duties and obligations as set forth below.

2.1 Specific Tasks, Duties and Obligations.

Please refer to the "Construction Management Services as Construction Manager for the WTC Site HUB Project" Scope of Services Contract for all Task sections and sub-sections listed below.

In addition to the other duties and obligations, set forth in Section 2.0 above, Construction Manager's Services may include but not be limited to:

2.1.1 Task 1 – DESIGN MANAGEMENT SERVICES

2.3.1 Task 3 – SCHEDULING SERVICES

2.6.1 Task 6 – CONTRACT PACKAGING / PROJECT COORDINATION

2.7.1 Task 7 – PROCUREMENT SERVICES

Please submit proposals for the aforementioned tasks in accordance with "Attachment B."

3.0 DELIVERABLES

1. Construction Manager shall provide a staff Management Plan for the EARLY ACTION WEST BATHTUB VEHICULAR ACCESS (WBVA) HELIX INFRASTRUCTURE PROJECT – B2 North Truck Ramp Prep Work Project.
2. Task 1 – Review 90% Progress, 90% Final and 100% Final Design Documents and provide comments. Attend review meetings associated with these reviews (approximately 10).
3. Task 3 – Provide Schedule addressing TTJV Procurement Negotiation process, Mobilization/Submittals, Fabrication, and Construction.
4. Task 4 – Assist in finalizing final contract package to be added to PHTH Contract as a Volume within an Addendum to be determined. Assist in coordinating with DDP/HUB interface of work.
5. Task 5 – Procure Skanska to do work and negotiate construction price.

END SCOPE OF WORK

THE PORT AUTHORITY OF NY & NJ

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY
DOWNTOWN RESTORATION PROGRAM
WORLD TRADE CENTER TRANSPORTATION HUB
CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

CONTRACT #4600007871, PURCHASE ORDER #4500060608

CONTRACT MODIFICATION TO AGREEMENT NO. 1

WHEREAS, The Port Authority of New York and New Jersey (hereinafter called the "Authority") and Tishman/Turner, a Joint Venture (hereinafter called the "Construction Manager"), have heretofore entered into a Contract in writing known as Contract #4600007871 (hereinafter called the "Contract" or "Construction Management Agreement"); and

WHEREAS, the parties hereto desire to modify said Contract in certain respects:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties mutually agree the said Contract shall be deemed modified effective as of August 10, 2009 as follows:

The Construction Management Agreement shall be modified as follows:

1. Section 7, TIME.

Paragraph 7.1 shall be deleted in its entirety and replaced with the following, in order to correct the term of the option period from a two-year to a one-year period:

> 7.1 The term of this Agreement is a five (5) year period commencing on August 13, 2009. The Authority reserves the right to extend this Agreement for one (1) additional one-year period. Said extension shall be by letter from the Director of Procurement at least thirty (30) days prior to the end of the base term.

2. Section 10, COMPENSATION.

Paragraph 10.4.1 shall be deleted in its entirety and replaced with the following, in order to remove reference to parking and car allowance:

> 10.4.1 General and Administrative ("G&A") Costs. The G&A rate of 60.7% ("G&A Rate") shall be applied to the Personnel Direct Labor cost as permitted in Section 10.4.2 below. Computation of the G&A rate shall only include the following indirect cost items: applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave,

disability benefits, bonuses, overtime pay, premium pay, fringe benefits, retirement plans, union dues, contributions and assessments required by Law, and collective bargaining

3. **Section 10, COMPENSATION.**

The following shall be inserted as Paragraph 10.4.6.4, under "Other Reimbursable Costs":

10.4.6.4 Reasonable parking fees and car allowance, pre-approved in writing by the Port Authority.

Except as provided herein, each of the Agreements remains unchanged and in full force and effect.

This Contract Modification No. 1 may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Modification No. 1 to be duly executed by their respective duly authorized officers as of the day and year first above written.

TISHMAN/TURNER, A JOINT VENTURE

By: TISHMAN CONSTRUCTION CORPORATION OF NEW YORK

By: _____

Date: 8-31-09

Jay Badame
President and Chief Operating Officer

and

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

JP

By: _____

Name: DAVID TWEEDY

Title: _____

Date: 9/8/09

THE PORT AUTHORITY OF NY & NJ

By: TURNER CONSTRUCTION COMPANY

By: _____

Date: 8-31-09

Pat A. Di Filippo
Executive Vice President

GENERAL CONTRACTOR AGREEMENT

BY AND BETWEEN

1 WORLD TRADE CENTER LLC

2 WORLD TRADE CENTER LLC

4 WORLD TRADE CENTER LLC

5 WORLD TRADE CENTER LLC

AND

TISHMAN CONSTRUCTION CORPORATION

PROJECT

WORLD TRADE CENTER
NEW YORK, NEW YORK

DATED AS OF

SEPTEMBER 10, 2003

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GENERAL CONTRACTOR AGREEMENT

AGREEMENT (this "Agreement") dated as of September 10, 2003, by and between (1) 1 WORLD TRADE CENTER LLC, a Delaware limited liability company, 2 WORLD TRADE CENTER LLC, a Delaware limited liability company, 4 WORLD TRADE CENTER LLC, a Delaware limited liability company, 5 WORLD TRADE CENTER LLC, a Delaware limited liability company, (collectively, the "Lessee" or the "Lessees"), and (2) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, (the "General Contractor").

WITNESSETH:

WHEREAS, the Lessees lease various components of the World Trade Center complex in Block 58, Lot 1, New York, New York (the "Site") from The Port Authority of New York and New Jersey (the "Port Authority"); and

WHEREAS, the Lessee intends to construct certain improvements on the Site (including possible expansions of the Site), which will include not less than 10,000,000 square feet of useable, commercially viable Class A, above-grade office space (or the amount of space necessary to provide the Lessee with the same amount of Class A, above-grade carpetable office space as existed at the World Trade Center as of September 10, 2001), together with sub-grade, parking, loading, and other ancillary uses and together with tenant improvements required by the Lessee (the "Project"); and

WHEREAS, the Lessee wishes to retain the General Contractor to assist in development of the Project and to cause the construction and completion of the Project; and

WHEREAS, the General Contractor is willing to act in the capacity of a General Contractor, and cause to be provided through its own forces and independent contractors retained by the General Contractor in accordance with the terms of this Agreement, all labor, materials,

equipment, tools and services required for the Project and otherwise perform its obligations hereunder;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

(Contract Documents)

1.1. The "Contract Documents" consist of (i) this Agreement, (ii) all site plans described in **Exhibit "A"** hereto, (iii) at such time as the same shall have been prepared, all final Lessee-approved plans, drawings and specifications prepared by the architect or architects retained by the Lessee (the "Architect") or the Lessee's consultants with respect to the installation of improvements and finishes in those portions of the building to be occupied by tenants (collectively, "TI Plans & Specifications"), and all amendments, modifications and replacements to the foregoing by the Lessee; provided, however, that any Contract Documents solely relating to any agreed upon Sub-Project GMP shall not be amended, modified, or replaced after the parties shall have agreed upon a Sub-Project GMP except as otherwise provided herein with regard to Scope Changes.

1.2. The General Contractor acknowledges that the items listed in **Exhibit "A"** are at an early stage of development and will be revised, clarified and supplemented by the Lessee as the Project is developed. To the extent that any such revisions, clarifications, additional drawings, specifications and/or documents constitute a Scope Change (as hereinafter defined), the same shall be subject to the terms and provisions of Article IX.

ARTICLE II

(Scope of the Work)

2.1. The General Contractor shall act pursuant to and in accordance with the terms, covenants and provisions hereof and shall cause to be performed and provided, through Subcontracts (as hereinafter defined), or its own forces (as hereinafter provided), all labor, materials, equipment, tools and services required for (x) the complete construction of the Project in accordance with the terms of the Contract Documents and (y) the completion of the work contemplated by the TI Plans & Specifications and together with the foregoing, the "Work"), it being understood that the General Contractor's duties shall not include the handling or disposal of PCBs, contaminated waste or asbestos encapsulation, removal, transportation, hauling or disposal (other than with respect to contaminated soil as required under the Contract Documents), all of which, if any, is to be performed by and under the exclusive direction, supervision and control of others; however, the General Contractor will prepare bid packages, solicit bids and assist the Lessee in awarding direct contracts for such work.

2.2. Nothing contained in this Agreement shall be deemed to require or authorize the General Contractor to perform with its own forces any act which would constitute the rendering of professional services, such as the practice of architecture, engineering or laboratory testing. The reviews, recommendations and advice to be furnished by the General Contractor under this Agreement pertaining to engineering or architectural matters shall not be deemed to be warranties or guaranties or constitute the performance of professional services other than as a general contractor, it being understood that any such recommendation or advice pertaining to engineering or architectural matters shall only be considered as a recommendation by the General Contractor, which is subject to the review and approval of the Lessee and its

professional consultants. The General Contractor warrants that all Work will be performed in a competent manner, will be of good quality and workmanship, free from faults and defects and in accordance with the Contract Documents and that materials installed into the Project shall be new, unless otherwise specified in the Contract Documents. The General Contractor agrees that the Port Authority shall be a third party beneficiary of any and all warranties contained in this Agreement and/or by the Contract Documents.

ARTICLE III

(General Contractor's Duties; Cost-Plus; Sub-Project GMPs)

3.1. The General Contractor accepts the relationship of trust and confidence established between it and the Lessee by this Agreement. The General Contractor shall furnish its best efforts and best skill and judgment and shall cooperate with the Architect in the performance of this Agreement and in furthering the interests of the Lessee. The General Contractor shall furnish efficient business administration, coordination and management, and shall use its best efforts and best skill and judgment to cause the Work to be performed in the most expeditious and economical manner consistent with the interests of the Lessee as made known to the General Contractor. The General Contractor shall cooperate with the Architect and the Lessee and their respective consultants and engineers in furthering the interests of the Lessee and the Project.

3.2. With the exception of General Conditions (as hereinafter defined) or other portions of the Work performed by the General Contractor's own forces, all Work shall be performed and materials supplied under subcontracts ("Subcontracts") with independent trade contractors or suppliers ("Subcontractors"). Such Subcontracts shall be in writing and shall be

entered into by the General Contractor, subject to the terms and conditions in this Agreement. Each Contract shall be substantially the form of Exhibit "B" hereto.

3.3. The General Contractor shall construct the Project, including, without limitation, by providing all services, material, and labor (either directly or through Subcontractors) required to construct the Project, including any tenant improvements to be constructed in such space that the Lessee shall require, and the Lessee shall pay the General Contractor the cost of such services and a construction services fee in an amount that is equal to (x) the sum of the Cost of Work plus the Construction Services Fee pursuant to Article X (the basis upon which such price is calculated, the "Cost-Plus Basis"), or (y) with regard to any Sub-Project in connection with which the parties shall have agreed upon a Sub-Project GMP, a price equal to such Sub-Project's Sub-Project GMP, as such terms are defined below.

3.3.1. Except to the extent that the parties shall have agreed upon a Sub-Project GMP for any Sub-Project, all Work shall be paid for on the basis of the Cost of Work plus the applicable Construction Services Fee.

3.3.2. From time to time, as planning and construction for the various buildings and other components of the Project (each such building or other component, a "Sub Project") progresses, the Lessee may provide written notice to the General Contractor (each such notice a "GMP Notice") stating that the Lessee wishes to proceed with the construction of such Sub-Project on a guaranteed maximum price basis, rather than on the basis of Cost of Work plus a Construction Services Fee. Upon receipt of a GMP Notice in respect of any Sub-Project and provided that all trades have been bid and tentatively awarded in connection with such Sub-Project, the General Contractor shall, within 40 days of receipt of such GMP Notice in respect of such Sub-Project, prepare and deliver to the Lessee a proposed guaranteed maximum price for

the construction of such Sub-Project (such proposal to include a budget describing the various line items of such guaranteed maximum price and a proposed construction schedule and date of substantial completion) (a "Sub-Project GMP Proposal") and, upon delivery of such Sub-Project GMP Proposal, the Lessee and the General Contractor shall negotiate in good faith in an effort to agree on a mutually acceptable guaranteed maximum price and related budget and construction schedule for the applicable Sub-Project (any such agreed-upon guaranteed maximum price, budget and schedule, a "Sub-Project GMP"). If a Sub-Project GMP shall have been agreed upon for any Sub-Project, then the General Contractor shall no longer be paid on a Cost-Plus Basis in respect of such Sub-Project. If the parties shall be unable to agree upon a Sub-Project GMP for any Sub-Project for any reason, then, subject to Article XIII, (i) the General Contractor shall continue to be paid on a Cost-Plus Basis in respect of such Sub-Project, and (ii) the Lessee may terminate this Agreement (pursuant to, and without limiting, the Lessee's termination rights set forth in Article XIII) in respect of such Sub-Project and retain another general contractor other than the General Contractor to construct such Sub-Project.

3.3.3. Each Sub-Project GMP Proposal shall include, in addition to the items described above, as applicable, (A) the sum of (i) all Subcontracts and/or approved Change Orders to same, if any; (ii) an estimate of items then uncontracted for, but required, to complete the Work; (iii) an estimate of General Conditions costs, together with any actual General Conditions costs expended; General Conditions costs to be based on the construction schedule and the complexity of the Sub-Project; (iv) an agreed upon contingency; and (v) the Construction Services Fee, and (B) a construction schedule in a form suitable to the Lessee, showing each major trade, critical path and milestone dates.

3.3.4. Each Sub-Project GMP Proposal shall also include (a) a trade breakdown annexed thereto including budgeted amounts for each division of the Work required for the Sub-Project, including General Conditions costs, the Construction Services Fee and any proposed contingency; (b) copies of all written Subcontracts and/or Proposals received from Trade Contractors and vendors for the work covered by the proposed Sub-Project GMP Proposal; and (c) copies of the General Contractor's cost estimates for the work not covered by Contracts, but required to complete the Work. The trade breakdown shall be accompanied by a list of qualifications, allowances or alternates (as applicable) and exclusions. Unless otherwise agreed in any Sub-Project GMP, by accepting any Sub-Project GMP, the Lessee shall be deemed to have acknowledged that those qualifications, allowances or alternates and exclusions shall become a part of and conditions of the Sub-Project GMP provided, however, that the Lessee acknowledges that the cost of alternates are not included in any Sub-Project GMP and if any alternates are exercised, such alternates will be treated as of the Lessee elected a Scope Change increasing a respective Sub-Project GMP.

3.3.5. Unless otherwise agreed in any Sub-Project GMP, each Sub-Project GMP shall be provided for the total cost of the Work for the applicable Sub-Project, and not the cost for each or any division thereof except as otherwise set forth herein. As subsequent Subcontracts, Purchase Orders or other Fixed Contract Prices are obtained and are awarded for each of the separately-priced divisions of the Work required for each Sub-Project as shown in the trade breakdown, the trade breakdown shall be adjusted as follows (subject to Section 3 below):

(a) If the cost of any division as awarded is less than the amount shown on the trade breakdown, the amount indicated in the trade breakdown for such item shall be reduced by an amount equal to the difference between such cost and the amount shown on the

trade breakdown for such item and the contingency shall be increased by the same amount. The applicable Sub-Project GMP shall not be adjusted.

(b) If the cost of any division is greater than the amount shown in the trade breakdown, to the extent that the contingency is sufficient, the amount shown in the trade breakdown for such item shall be increased by an amount equal to the difference between such cost and the amount shown in the trade breakdown for such item and the contingency shall be reduced by the same amount and the applicable Sub-Project GMP shall not be adjusted except for allowances referenced in any Sub-Project GMP Trade Breakdown which shall be part of each Sub-Project GMP Proposal.

(c) If the cost of any division is greater than the amount shown in the trade breakdown and the Contingency is not sufficient, the amount shown in the trade breakdown for such item shall be increased by an amount equal to the difference between such cost and the amount shown in the trade breakdown for such item and the applicable Sub-Project GMP shall not be adjusted.

3.3.6. Unless otherwise agreed in any Sub-Project GMP, certain portions of each Sub-Project GMP shall be specifically allocable to certain divisions of work as follows:

(a) A portion of each Sub-Project GMP equal to five percent (5%) of the sum of Costs of Work, General Conditions and the Contingency, or, alternatively, 5% of the Sub-Project GMP, is specifically allocable to an Lessee's design contingency fund (the "Design Contingency"). The General Contractor shall not be permitted to incur Costs of the Work or General Conditions which are to be paid from funds constituting the Design Contingency or to apply any portion of the Design Contingency to any portion of the Cost of the Work, General Conditions or Construction Services Fee without, in each instance, the express prior written approval of the

Lessee. In the event that upon completion of the Work, all or any portion of the Design Contingency remains unspent and/or unallocated to any items in the budget, then the applicable Sub-Project GMP shall be reduced by such amount (and the same shall not be considered "savings" under Section 3.3.14 hereof) and the Lessee shall have no obligation to pay that portion of the applicable Sub-Project GMP allocable to said remaining portion of the Design Contingency.

3.3.7. Each Sub-Project GMP shall contain a line item defined as Contingency which shall be equal to ten percent 10% of the Sub-Project GMP. This line item shall be used by the General Contractor to pay for costs occasioned by: (a) unpredicted construction conditions not rising to the level of Force Majeure and/or which require re-design, (b) coordination of trade work, (c) increases in the cost of portions of the Work which are only estimated at the time of execution of the Agreement, and (d) other unanticipated construction costs required for the full completion of the Work, (e) cost overruns on General Conditions costs, and (f) costs of premium time provided that such premium time expense is incurred to keep any Sub-Project on schedule (and not used for the purposes of being ahead of schedule). The Contingency is not a fund designed for, nor is it to be used for, increases in the Cost of the Work caused by (a) increases in scope from the Lessee and/or design errors, omissions, modification and changes, (b) or the elimination of any Sub-Project GMP Trade Break-Down set forth in a Sub-Project GMP Proposal (each a "Sub-Project GMP Trade Allowance"), (c) Force Majeure occurrences. The General Contractor acknowledges that it is responsible for prudently supervising the portions of the Work to be performed by Subcontractors and Materialmen and shall use and exercise all prudent efforts to preserve and protect the Lessee's interest in the Contingency. The General Contractor agrees to maintain an accounting of the proposed

disbursements from the subject account for the Lessee's use at Project end and to advise the Lessee in writing of all transfers from the Contingency to any line item in the budget. At the Project end, any unapplied portion of the Contingency shall be deemed to constitute "savings" pursuant to Section 10 hereof.

3.3.8. [Intentionally deleted.]

3.3.9. Unless otherwise agreed in any Sub-Project GMP, each Sub-Project GMP accepted by the Lessee (including, without limitation, General Conditions costs) shall be subject to revision on account of actual additional costs incurred as a result of: (a) Scope Changes, as defined in Article IX of the Agreement and (b) the act or neglect of the Lessee, the Architect, the Port Authority in its capacity as Lessee's landlord or their consultants, employees, agents or Contractors; (c) any material delay, disruption, suspension or stoppage caused, created or directed by the Lessee, the Architect, the Port Authority in its capacity as Lessee's landlord or other consultants provided that such delay, disruption, suspension or stoppage was not caused by the negligence of the General Contractor in the performance of the Work or any other failure of the General Contractor to comply with the terms of the Agreement (for the purpose of this subsection, the term "material" shall be defined as a period of time of at least one day; and (d) material changes directed by the Lessee or the Architect in the manner, sequence or method of performing the Work. In the event of the occurrence of any of the foregoing events, which causes the General Contractor to incur additional out-of-pocket costs, the applicable Sub-Project GMP shall be increased by an amount equal to the actual cost incurred thereby by the General Contractor.

3.3.10. If, after acceptance by the Lessee of a Sub-Project GMP, the Lessee refuses to accept a Trade Contractor recommended by the General Contractor, the

General Contractor shall recommend a substitute, and the applicable Sub-Project GMP shall be increased by the difference in the cost occasioned by substitution, plus the difference in cost on account of additional General Conditions.

3.3.11. If, after submission by the General Contractor of any Sub-Project GMP, the Lessee directs the General Contractor to award a subcontract to a Trade Contractor who is not reasonably acceptable to the General Contractor, then actual costs, direct, indirect or consequential, including General Conditions, incurred by the General Contractor in connection with or arising out of the performance of the subject Trade Contract by the Lessee's Trade Contractor shall be borne by the Lessee, and shall increase the applicable Sub-Project GMP by the amount of such actual costs.

3.3.12. All savings generated in the cost of the General Conditions covered by each Sub-Project GMP, and as same may be adjusted pursuant to Change Orders, shall accrue to the General Contractor.

3.3.13. All savings generated in the Cost of the Work covered by each Sub-Project GMP, and as same may be adjusted pursuant to Change Orders, shall accrue to the parties in accordance with the terms that the parties shall have agreed to in the Sub-Project GMP for each Sub-Project.

3.3.14. Added to each Change Order shall be an amount equal to 13% (or such other percentage as may be mutually agreed upon by the parties in any Sub-Project GMP) of the Change Order to cover the General Contractor's general conditions costs plus, if applicable for such Change Order, any additional Change Order Fee pursuant to Article IX, herein.

3.3.15. In the event of any reduction to the Work subsequent to acceptance of any Sub-Project GMP, the value of the reduction shall not include the Construction Services Fee nor the General Conditions for the eliminated Work, except for and to the extent of a decrease in General Conditions Costs due to such elimination; reduction in bond premiums will, however, be credited where applicable.

3.3.16. All requests for Change Orders shall be acted upon expeditiously by the Lessee and the Architect and in no event later than ten (10) days from the date of the written request for a Change Order or such shorter period specified in the particular Change Order request if ten days could adversely affect the schedule of Work. The General Contractor shall not proceed with any Change Order work until the work covered by the Change Order has been approved in writing by the Lessee.

3.4. During the construction phase of the Project, including each Sub-Project (the "Construction Phase"), the General Contractor shall:

(a) Supervise the performance of the Work by the Subcontractors and coordinate and schedule the Work of all Subcontractors on the Project and/or each Sub-Project, as applicable, with the activities of the Lessee, the Architect, their engineers and consultants, the General Contractor and other subcontractors, and take all reasonably required steps to cause such Subcontractors to complete their respective portions of the Work in accordance with their respective Subcontracts.

(b) Perform, or cause to be performed, the General Conditions work.

(c) Without assuming the Architect's responsibility for inspection of the Work, or the responsibility of other engineers and consultants performing controlled

inspections of the Work, review the Work done by Subcontractors to determine whether the Work is being performed in accordance with the requirements of the Contract Documents and generally to guard the Lessee against defects and deficiencies in the Work and advise the Lessee and the Architect of any discovered deficiencies. The General Contractor shall be required to take all required actions to assure to the Lessee that the Work performed by the General Contractor and Subcontractors complies with all terms and conditions of the Contract Documents or their respective Subcontracts. If, during the progress of the Work, the General Contractor's supervisory personnel discover work being performed contrary to the Contract Document requirements and/or good construction practices, or have reasonable cause to believe that any Work is not in accordance with the Contract Documents and/or good construction practices, the General Contractor shall promptly notify the Architect and the Lessee. The General Contractor shall be fully responsible for arranging for all necessary inspections and testing of the Work and, to the extent General Contractor determines such Work has not been performed in accordance with the Contract Documents and/or good construction practices, the General Contractor shall be fully responsible for the cost of inspection and testing and for correcting such Work without adjustment of the Cost of Work and/or an applicable Sub-Project GMP, as applicable. To the extent that the Work is in accordance with the Contract Documents and/or good construction practices, each Sub-Project GMP shall be increased to reflect the cost of such inspection and testing. The General Contractor shall require any Subcontractor to stop Work or any portion thereof and require special inspection or testing of any Work and, if required by the Lessee after examination and determination of noncompliance, removal, uncovering, repair and restoration to the standard of the Contract Document requirements without adjustment of the Cost of Work and/or an applicable Sub-Project GMP, as applicable, and without application of the

Contingency to the cost thereof, whether or not such Work be then fabricated, installed or completed, in accordance with the requirements of the respective Subcontract.

(d) Arrange for expediting of long-lead equipment required in connection with the Work and advise the Lessee with respect to potential delays in their purchase and delivery.

(e) Prepare (i) a construction schedule in a form suitable to the Lessee, showing each major trade, critical path and milestone dates and update and deliver same to the Lessee monthly, or as more frequently as reasonably requested by the Lessee and (ii) an anticipated cost report of construction costs for the Project and/or each Sub-Project, as applicable, also on a monthly basis, showing past, present and future expenditures required to complete the Project and/or each Sub-Project, as applicable, and which report shall reflect all claims and pending Change Orders issued during the period covered by such report.

(f) Schedule and conduct job meetings with the Lessee and the Architect when necessary; coordinate meetings with appropriate parties as necessary and prepare and furnish to all attendees minutes of such meetings; such minutes to be issued to all parties prior to the next scheduled meeting.

(g) In conjunction with the Architect and the Lessee identify, require, and arrange to be performed by an independent testing laboratory or other consultant, all subject to the Lessee's prior approval, such tests as shall be determined to be necessary and appropriate except for controlled inspections which shall be performed by others.

(h) Cause to be obtained all necessary construction operation licenses and permits, including, without limitation, with the Lessee's and the Architect's cooperation, a Port Authority TCO, except if and to the extent that the same, under applicable contract, law or

practice, must be or are normally obtained by the Lessee (such as the initial building permit) the Architect or Subcontractors and, in such event, cooperate with the Lessee, the Architect or Subcontractors, as the case may be, in obtaining such licenses and permits.

(i) Keep such accounts and costs records, in addition to those specified in Article XVI, as are required to be maintained by the General Contractor pursuant to the Lessee's or the Lessee's lender's or lenders' (collectively, the "Lenders") requirements (if applicable), such as trade by trade and General Conditions cost records, cost records required in connection with time and material and unit price change order work, man hours, certified payrolls, and monitoring of the workforce for compliance with affirmative action goals (provided such goals are provided by the Lessee prior to awarding the relevant Subcontracts).

(j) Prepare, file, and secure required Port Authority approval for a comprehensive Site Safety Plan with the Port Authority and thereafter review and coordinate the safety program with the Subcontractors. The General Contractor and the Subcontractors shall be responsible for the safety of persons or property at the Project Site and in the immediate vicinity for which the General Contractor would be liable under the New York City Building Code. The General Contractor shall comply with and be responsible for causing all Subcontractors to comply with all federal, state and local safety, health and environmental statutes, rules, regulations and orders and all other requirements of law, including, without limitation, the Construction Safety Act of 1969, the Williams-Steiger Occupational Safety and Health Act and the Administrative Code of the City of New York and the environmental site safety plan entitled "Health and Safety Guidelines for Foundation Construction", dated April 26, 2002 and prepared by Langan Engineering and Environmental Services, Inc. (the "Langan Report"), a copy of which has been delivered to the General Contractor.

(k) Assist and cooperate with the Lessee in any legal actions or proceedings that may arise out of or relate to the Work, including appearances, as reasonably necessary.

(l) Cooperate with the Lessee's insurers (or insurance brokers) and/or safety consultants.

(m) Supervise the performance by Subcontractors of the correction of defective Work, including, without limitation, performance of all guarantees given by Subcontractors, but in no event longer than the expiration of the relevant guarantee/warranty period prior to Lessee's acceptance of the Work, at which point Lessee's maintenance staff will undertake such supervision.

(n) Coordinate the submission by Subcontractors for approval by the Architect and other consultants of all required shop drawings, samples and catalogue cuts; maintain a log of all such submissions; promptly advise the Lessee of any potential problems pertaining to the timeliness of such submissions and approvals; advise the Lessee periodically as to the status of such submissions; advise the Lessee and the Architect of any errors in such submissions that are discovered by the General Contractor (without assuming the Architect's responsibility for reviewing and approving such submissions); and coordinate the various disciplines after the Architect's approval of the respective shop drawings and before installation.

(o) Cause all Subcontractors who are required to maintain and provide, on an on-going and continuous basis, comprehensive "as-built" and coordination drawings of their Work on mylar for the mechanical, electrical and plumbing as-built drawings, together with one copy of the AutoCAD compatible computer files used to prepare the same, to the extent

drawings were prepared on AutoCAD under the terms of their respective Subcontracts, and to deliver same to the Lessee upon final payment to each such Subcontractor.

(p) At all times as part of the General Conditions, cause the Site to be kept free from accumulation of waste material or rubbish caused by the Work. Subcontracts shall include a provision requiring daily carrying of rubbish and debris to designated stockpiling areas and/or receptacles, to the maximum extent possible. Upon substantial completion of the Project, the General Contractor shall cause all waste material and rubbish generated by General Contractor and its Subcontractors to be removed from and about the Site, and, to the extent practicable, all tools, construction equipment, machinery and surplus materials of General Contractor and its Subcontractors.

(q) Review requests for changes by the Architect, submit recommendations to the Lessee regarding same, make independent recommendations regarding changes to the Work to enable expeditious and economical completion of the Work, negotiate change orders, prepare and process written change orders for approval by the Lessee, and thereafter transmit same to the appropriate Subcontractors.

(r) Review Subcontractors' monthly requisitions for progress payments and make recommendations to the Lessee regarding approval of same. The General Contractor's and all Subcontractors' monthly requisitions shall be in a form acceptable to and in full conformance with the Lenders' requirements (if applicable).

(s) If requested, cooperate with the Lessee in the selection and retention of professional and other consultants in connection with the Work.

(t) Consult with the Lessee and the Architect when any Subcontractor requests interpretations of the Contract Documents, promptly give notice to the Lessee and the

Architect of any dispute or claim which may arise during construction of the Project, assist in the timely resolution of any such dispute or claim in accordance with the Lessee's directions and recommendations regarding settlement of such disputes and claims. To the extent that the Lessee issues such directions and/or recommendations and the subject and resolution of such dispute or claim is determined to be both outside the scope of Work to be performed by the General Contractor under this Agreement and outside the scope of Work to be performed by the Subcontractor under its Subcontract and the Contract Documents, then any additional costs incurred by the General Contractor in complying with the Lessee's directions and/or recommendations regarding the resolution of such dispute or claim shall be subject to a Change Order to be issued pursuant to Article IX of this Agreement.

(u) Make recommendations to the Lessee regarding the advisability of pre-purchasing materials to be incorporated into the Work and stored off-site (if approved in advance by the Lessee and the Lenders (if applicable), cooperate with the Lessee in making arrangements for inspection of same, including such arrangements as the Lessee shall deem necessary or desirable for (i) access to such materials for the purpose of segregation, on-going inspection, project identification and removal of the same, (ii) protecting the Lessee's title to such materials, free and clear of all liens, encumbrances and rights of others, and (iii) insuring and protecting the same and not make any payments for materials stored off-site, unless all such arrangements have been approved in writing by the Lessee.

(v) The General Contractor shall assist in conducting final inspections of the Work (without assuming the Architect's responsibility for inspection of the Work) and shall request of the Lessee and the Architect a determination of Substantial Completion of the Work or designated portions thereof and assist in the preparation of a list of incomplete or

unsatisfactory items (the "Punchlist") with the Architect and the Lessee, and thereafter prepare a schedule for completion of such items. The date of "Substantial Completion" of the Work, or designated portions thereof, is the date construction is sufficiently complete in the opinion of the Architect, in accordance with the Contract Documents, so that the Lessee can occupy or utilize the Project and/or each Sub-Project, as applicable, or designated portions thereof for the use for which it was intended. Warranties called for by this Agreement and/or by the Contract Documents shall commence on the date set forth in the applicable Contract Documents.

(w) The General Contractor shall request of the Lessee and the Architect a determination of Final Completion (as hereinafter defined) and provide written notice to the Lessee and the Architect that the Work is completed and ready for final inspection. This will be preceded by the Punchlist inspection by the General Contractor and approval of the corrective work by the Architect and the Lessee.

(x) Cooperate with the Lessee's maintenance or operational personnel during initial start-up and testing of utilities, equipment and systems.

(y) Cooperate and consult with the Lessee and the Architect and their respective consultants and engineers, in closing-out Subcontractors, including processing of appropriate backcharges; review requests for final payment to Subcontractors and make recommendations to the Lessee regarding approval of same; and receive and transmit to the Lessee required cost certifications and/or other documentation required by the Lenders (if applicable), as well as guarantees, affidavits, releases, certificates of compliance (if required), maintenance manuals, liens and other waivers in such form as the Lenders, if applicable, may reasonably require, bonds and other documents required by the Contract Documents and the Subcontracts prior to final payments being made to Subcontractors.

(z) Review and make recommendations with respect to Subcontractors' forms of guarantee, release and requisition for final payment(s).

(aa) Maintain a complete set of drawings, specifications, purchase orders, contracts, shop drawings and related documents at the Site or at the General Contractor's main office, and turn over all as-built drawings prepared by appropriate Subcontractors to the Lessee upon completion of the Work or earlier as directed by the Lessee.

(bb) Assist the Lessee in enforcement of guarantees and warranties of Subcontractors.

(cc) Review Subcontractors' insurance certificate as to the coverage required to be carried by such Subcontractor hereunder in order to determine whether they comply with the Lessee's requirements before submission to the Lessee.

(dd) Cooperate with the Lessee with respect to final acceptance and close-out by the Lenders (if applicable).

(ee) Make recommendations and render assistance regarding labor disputes and jurisdictional disputes.

(ff) Take such action as may be reasonably necessary in an emergency to protect life and property and notify the Lessee of such actions as soon as practicable.

(gg) The General Contractor shall use all reasonable efforts to maintain good relations with labor unions as well as minority and other related interest groups in an effort to maintain peaceful labor relations and a trouble-free job site for the duration of the Project and/or each Sub-Project, as applicable, and advise the Lessee of any anticipated problems in connection therewith.

(hh) Cooperate with the Lessee and construct a management office, to the extent shown on or called for in the Contract Documents and included in the Cost of Work and/or each Sub-Project GMP, as applicable, or in the alternative, include this work in accordance with a Change Order approved by the Lessee.

(ii) The General Contractor shall, as directed by the Lessee, institute and supervise a program for minority participation in the labor force and in the ownership of Subcontractors in accordance with requirements of any tax incentive or other program or programs applicable to the Project and/or each Sub-Project, as applicable, or the requirements of the Port Authority from time to time provided that such program is delivered to General Contractor by the Lessee prior to the awarding of the applicable subcontracts.

(jj) Provide a Cash Flow Schedule for the Work once the major Project and/or Sub-Project requirements, as applicable, have been identified, and adapt same to the Lessee's and the Lenders' Requirements (if applicable), as necessary.

(kk) Provide a detailed trade-by-trade construction time schedule for the Project and/or each Sub-Project, as applicable, in a form suitable to the Lessee, once the major Project and/or Sub-Project requirements, as applicable, have been identified, which schedule shall be updated on a monthly basis or as more frequently as reasonably requested by the Lessee.

3.5. Pre-construction services shall be performed by the General Contractor and paid for by the Lessee pursuant to a separate arrangement between the Lessee and the General Contractor.

ARTICLE IV

(Lessee's Responsibilities)

4.1. The Lessee shall provide all construction relevant information regarding its requirements for the Project, including the Lessee's objectives, constraints and criteria including inter alia, the Lenders' retention requirements, terms and other conditions (if applicable), with reasonable promptness.

4.2. The Lessee shall retain the Architect and, either directly or through the Architect, all other professional, engineering and technical consultants required for the design of, preparation of drawings and specifications for and testing and inspection of the Project including, without limitation, controlled inspections. To the extent the context so requires, all references herein to the "Architect" shall be deemed to include such other professional, engineering and technical consultants. The Lessee shall furnish a copy of the Architect's agreement (excluding fees) to the General Contractor along with all modifications thereto. The Lessee shall also furnish for the Site all necessary surveys describing the physical characteristics, subsurface conditions, soil reports, legal limitations and utility locations and a legal description of the metes and bounds of the Site. The General Contractor shall be entitled to rely upon the accuracy and completeness of the plans, specifications, surveys and reports prepared by the Lessee's architects, engineers and consultants; however, the General Contractor shall review all of the foregoing, and promptly notify the Lessee of any errors or conflicts which it discovers.

4.3. The Lessee shall furnish such legal, financial auditing and insurance consulting services as may be necessary for the Project, except, however, for those services that are required for the conduct of the General Contractor's business and/or corporate operations which shall be at the sole cost and obligation of the General Contractor.

4.4. The Lessee shall promptly notify the General Contractor of any fault or defect in the Work or non-compliance with the Contract Documents that it becomes aware of and the General Contractor shall promptly correct or cause the correction of such fault or defect. This does not, however, relieve the General Contractor of its obligation with respect to inspection of the Work, as provided for elsewhere in this Agreement.

4.5. [Intentionally deleted.]

4.6. The Lessee shall designate a representative who shall be fully acquainted with the scope of the Work and the Lessee's requirements and objectives and who has full authority to render decisions promptly, furnish information as expeditiously as possible and to act on behalf of the Lessee and bind the Lessee in connection with all aspects of this Agreement and the Project. Until written notice is given to the contrary, Larry A. Silverstein, Michael Levy, and John J. Klein are hereby designated as the Lessee's representatives, each with full power and authority to act on the Lessee's behalf as aforesaid. Notwithstanding anything to the contrary contained herein, prior to the commencement of construction of any Sub-Project, the Lessee shall appoint a third-party representative who shall be fully acquainted with the scope of the Work and the Lessee's requirements and objectives and who, subject to the Lessee's approval, shall have full authority to render decisions promptly, furnish information as expeditiously as possible and to act on behalf of the Lessee.

4.7. The Lessee shall be responsible for and shall obtain, secure and pay for all necessary rights of access to the Site and for all necessary community board, City Planning Commission, Landmarks Commission, Bureau of Standards and Appeals, and Port Authority approvals required for the construction, use or occupancy of the permanent structures and for demolition or changes in existing facilities or structures and any and all easements or licenses

required in connection with the Project. Notwithstanding the foregoing, the General Contractor shall fully cooperate with and assist the Lessee in obtaining all permits, approvals, sign-offs, and/or other required project documentation.

4.8. General operating procedure on the Project will be such that all communications with the Subcontractors shall be through the General Contractor; provided that the Lessee shall have the right to communicate directly with Subcontractors so long as such communications do not modify the terms of any Subcontract nor interfere with the progress of the Work and the Lessee shall communicate the substance of such communications to the General Contractor.

4.9. The Lessee shall (or the Lessee shall cause the Lessee's separate contractors to) defend, indemnify and hold the General Contractor harmless from and against any and all claims, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of or in connection with (a) the acts, errors and omissions of the Architect and its engineers and consultants and the Lessee's other architects, engineers and consultants; (b) the performance of PCB, hazardous waste or asbestos abatement, removal, hauling, transportation or disposal, except with respect to contaminated soil as required under the Contract Documents; and (c) any claim by a Subcontractor of any tier against the General Contractor which is primarily due to the General Contractor complying with a specific direction of the Lessee in contradiction to the Contract Documents; provided that the General Contractor has notified the Lessee prior to complying with such direction that compliance therewith may result in a claim by such Subcontractor. The foregoing indemnity shall survive the termination of this Agreement and the completion of the Work to be performed hereunder.

4.10. The Lessees represent that they are the lessees of various portions of the Site and agree that they shall promptly notify the General Contractor in writing of any relevant change in ownership of their leasehold interest in the Site.

4.11. The Lessee shall require the General Contractor to supply a payment and performance bond in the total amount of each Sub-Project GMP, the cost thereof to be subject to the Lessee's approval. Such bonds shall be in form and substance and issued by insurers reasonably satisfactory to the Lessee and the Lenders (if applicable). The Lessee may participate in the purchase of such bonds. In addition, the Lessee shall require that all of the Subcontractors (except where the parties deem it unnecessary) will also supply payment and performance bonds in the total amount of their Subcontract price, such bonds to name both the General Contractor and the Lessee as dual obligees thereunder, and to be in form and substance and issued by insurers reasonably satisfactory to the Lessee and the Lenders (if applicable). The cost of both the General Contractor's bonds and the Subcontractors' shall be borne by the Lessee, outside of each Sub-Project GMP.

ARTICLE V

(Schedule of the Work)

5.1. Within five (5) business days after receipt by the General Contractor from the Lessee of a directive to proceed with the Work on the Project and/or any Sub-Project, as applicable, the General Contractor shall cause such Work to be commenced and carried diligently to completion as expeditiously as possible; provided, however, the General Contractor agrees to achieve Substantial Completion of each Sub-Project for which there is an agreed-upon Sub-Project GMP on or before the date agreed upon in such Sub-Project GMP (the "Sub-Project Completion Date"), subject only to extensions of time on account of Force Majeure (as

hereinafter defined), and Change Orders which affect schedule. Upon completion of the Project or a Sub-Project, to the extent applicable, the General Contractor shall prepare a written description of the conditions required in order to obtain a Temporary Permit to Use or Occupy from the Port Authority for the base buildings and General Contractor and Lessee shall cooperate with each other to obtain the approval of such description of conditions from the Port Authority; provided, however, that in no event shall such conditions require General Contractor to do more work than must be completed to satisfy the criteria of the New York City Buildings Department for a zero occupancy temporary certificate of occupancy (upon approval of such conditions by the Port Authority, the same shall hereinafter be referred to as the "Approved TCO Conditions" and the permit to be issued by the Port Authority pursuant to the Approved TCO Conditions being hereinafter referred to as a "Port Authority TCO"). Furthermore, the General Contractor agrees to secure a Port Authority TCO for the Project and/or each Sub-Project GMP, as applicable, subject only to extensions of time on account of Force Majeure and Change Orders or as otherwise expressly provided herein which affect schedule, on or before the date which is agreed upon in each Sub-Project GMP (each a "Milestone Completion Date"), with time being of the essence with respect to both the Sub-Project Completion Date and the Milestone Completion Date; provided, however, that if the General Contractor is unable to secure such Port Authority TCO due to any work being performed at the Project or any Sub-Project, as applicable, by Lessee or any tenants or their contractors, then, provided that General Contractor shall have complied with the Approved TCO Conditions, the General Contractor shall be deemed to have complied with the above schedule. If the Port Authority TCO is not issued (or the Approved TCO Conditions are not satisfied) by the date (the "TCO Damages Date") which is thirty (30) days after the Milestone Completion Date (other than solely as a result of any work being

performed at the Project or any Sub-Project, as applicable), the Lessee shall be entitled to liquidated damages ("Milestone Damages") in an amount and on a basis to be agreed upon in the applicable Sub-Project GMP. If, as of or subsequent to the TCO Damages Date, the General Contractor secures a Port Authority TCO including less than the entire area of Project, then the daily Milestone Damages accruing against the General Contractor hereunder shall be adjusted by multiplying the applicable daily Milestone Damages by a fraction, the numerator of which is an amount equal to the area included in such Port Authority TCO, and the denominator of which is the entire area for the Project. By way of illustration:

$$\text{Daily Milestone Damages} \times \frac{\text{Area Included in a TCO}}{\text{Total Area}} = \text{Adjusted Daily Milestone Damages}$$

The Lessee and the General Contractor acknowledge and agree that it would be extremely difficult and impracticable under the presently known and anticipated facts and circumstances to ascertain and fix the actual damages the Lessee would incur should the General Contractor fail to obtain the Port Authority TCO (or satisfy the Approved TCO Conditions) on or before the Milestone Completion Date and, accordingly, the General Contractor and the Lessee have agreed that the Lessee's sole and exclusive remedies for such failure to so obtain the Port Authority TCO (or satisfy the Approved TCO Conditions) by the Milestone Completion Date only shall be to recover from the General Contractor the Milestone Damages as set forth above, but (except as otherwise provided in Section 17.4 hereof) in no event shall the foregoing in any way limit the Lessee's rights and remedies or claim for damages with respect to any other breach or default by the General Contractor hereunder. Any Milestone Damages accruing against the General Contractor hereunder shall be payable on demand or, at the Lessee's sole and exclusive option, be subject to offset by the Lessee against any sums then due and payable to the General Contractor hereunder. Each Sub-Project GMP shall provide an amount that shall be the General

Contractor's maximum liability hereunder with respect to Milestone Damages, and, if agreed upon by the parties, shall also set forth any agreed upon milestone incentives.

ARTICLE VI

(Cost of the Work)

6.1. The term "Cost of the Work" shall mean all costs necessarily and directly incurred by the General Contractor in the proper performance of the Work. The General Contractor shall endeavor to minimize costs consistent with this Agreement, sound business practice and the Lessee's instructions.

6.2. The Cost of the Work shall include the following:

6.2.1. Salaries and costs of the benefits of the General Contractor's Project staff (whether stationed at the field office or home office and, in the latter case, on an hourly basis and only for such time as services are performed directly in connection with the Project) including, without limitation, the Project Executive, Project Manager, Assistant Project Manager(s), General Superintendent, Project Superintendent, Assistant Superintendent(s), Safety Director, Scheduling Manager, Site Safety Manager, Mechanical Engineer, Electrical Engineer, Timekeeper, Project Accountant, Affirmative Action Officer, EEO Specialist, Permit Expediter, secretarial and clerical personnel, and employees on the road in expediting the application, processing and approval of permits, licenses or certificates or the production, coordination or transportation of materials or equipment for the Project and other classes of personnel approved by the Lessee (collectively "Field Staff"). For purposes of this Agreement, if any such personnel devote at least forty (40) hours to the Project during the payroll week, the Cost of the Work will include an amount equal to the weekly salary paid to such personnel (except if the payroll week includes Benefit Days as defined below, in which case only a pro rata portion of such weekly

salary based on days actually worked shall be included therein). If any such personnel devotes less than forty (40) hours to the Project during the payroll week, the Cost of the Work will include an amount equal to one-fortieth (1/40) of the weekly salary paid to such personnel multiplied by the number of hours worked on the Project. Fringe and employment benefits and statutory charges (collectively, "Benefits") shall be charged at actual cost provided that the General Contractor supplies to the Lessee evidence reasonably satisfactory to the Lessee that the General Contractor's actual costs with respect to the Benefits have increased. Benefits shall include vacation days, holidays, sick and personal days, authorized time off (collectively referred to as "Benefit Days"), employee insurance (including health care, life and disability insurance) and employee incentives (including bonuses, retirement plan, tuition reimbursement and training courses). The General Contractor's personnel above the level of Assistant Superintendent or Assistant Project Manager and their salaries shall be subject to the Lessee's prior approval and may be from time to time modified with the prior approval of the Lessee, which approval of such modifications shall not be unreasonably withheld. The General Contractor shall not remove any Field Staff without the consent of the Lessee, which shall not be unreasonably withheld, unless such individual(s) cease to be in the employ of the General Contractor, or become unable to perform based on illness or other circumstance, in which case the General Contractor will nominate a suitable replacement(s) for the Lessee's consideration and approval.

6.2.2. Wages paid for laborers, operators, foremen, teamsters, shop stewards, mechanics, and other similar union members employed by the General Contractor in performance of the Work in accordance with applicable collective bargaining agreements, including all required fringes, benefits and contributions as may be payable with respect thereto.

6.2.3. Payroll taxes (FICA, FUDA and SUDA), which taxes will be charged at actual cost, for employees of the General Contractor who are included in the Cost of the Work under Section 6.2.1.

6.2.4. All travel expenses incurred directly in connection with the Project authorized in advance by the Lessee and incurred in the discharge of duties connected to the Work excluding travel to and from the Project. Reasonable transportation, subsistence and hotel expenses for representatives of the General Contractor incurred in discharge of duties away from the Project authorized in advance by the Lessee and incurred directly in connection with the Work.

6.2.5. Cost incurred by the General Contractor for materials, supplies and equipment incorporated in the Work, including costs of transportation thereof.

6.2.6. Cost of sales and use taxes (subject to any applicable exemptions) incurred in connection with the Work, and/or any required payments in lieu of taxes.

6.2.7. Cost, including, reasonable and necessary transportation, operation and maintenance, of all materials; supplies; consumables; temporary utilities (such as heat, light, power and water); temporary protection of persons and property; winter protection; temporary elevator service and hoisting; and other temporary facilities which are utilized or consumed in the performance of or in connection with the Work, except that the General Contractor will endeavor to include the foregoing items, to the maximum extent possible, with the appropriate trade subcontractors. All purchased tools and equipment used but not fully consumed shall be turned over to the Lessee upon completion of the Project.

6.2.8. Cost of purchase or rentals for all tools, furnishings, machinery, equipment, facilities, structures and automobiles including installation, maintenance, fuel,

insurance, parking/storage lubricants, repairs, replacements, dismantling, removal, unloading, transportation, delivery and return costs thereof. Cost of automobile allowance actually paid to the Project Executive, Project Manager and Project Superintendent in accordance with General Contractor's standard policy as disclosed to and approved in advance by the Lessee.

6.2.9. Cost of premiums for insurance which the General Contractor is required by the Lessee to purchase and maintain including, without limitation, advance deposit premiums therefor when billed, such insurance to be in form and issued by insurers reasonably satisfactory to the Lessee and the Lenders (if applicable).

6.2.10. Permit fees, royalties (at rates subject to the Lessee's prior approval) and license fees required in the performance of the Work.

6.2.11. Losses and expenses incurred due to casualty, including, but not limited to, reasonable attorneys' fees and disbursements not compensated by insurance and sustained by the General Contractor in connection with the Work, but not including losses, expenses, or attorneys' fees resulting from the risks intended to be covered by the General Contractor's insurance required under Article XI. Reimbursable losses and expenses hereunder shall include settlements made with the consent of the Lessee.

6.2.12. All actual out-of-pocket Project Field Office costs and expenses directly related to the Work and in connection with telephone service; toll and long distance calls; permits; telegrams; postage; overnight courier; telecopier charges; messenger service; stationery; photographs; blueprinting; reproduction costs; surveys; watchmen services; establishment operation and maintenance of the Project field office such as supplies, consumables (e.g., paper products, drinking water), office equipment, job site remote or

standalone computer terminal(s), furnishings; and other incidental expenses in carrying out the Work.

6.2.13. Costs reasonably and necessarily incurred to third parties with the prior approval of the Lessee in connection with the removal of all waste and debris.

6.2.14. Costs reasonably and necessarily incurred due to an emergency, not compensated by insurance, affecting the safety of persons and property and not arising out of the General Contractor's negligence or default under this Agreement and which shall increase each Sub-Project GMP.

6.2.15. Labor relations costs incurred solely with respect to the Work, if and to the extent approved in advance by the Lessee, provided such costs are not the result of the General Contractor's breach of any collective bargaining agreement.

6.2.16. Costs approved by the Lessee in advance and incurred by the General Contractor in connection with the storage and warehousing of materials purchased and received for the Work in advance of their need.

6.2.17. Costs incurred in connection with surveys (on a per floor basis, if required), testing, inspection, research and related reports required in connection with the Work.

6.2.18. Costs incurred by the General Contractor for protection and repair of adjoining property and not otherwise recoverable from insurance or back-charges to the appropriate subcontractors and/or vendors.

6.2.19. Costs incurred by the General Contractor in compliance with any and all governmental laws, rules, codes or regulations applicable to the Work such as safety, health, occupational, environmental laws, rules, codes and regulations and requirements of insurance carriers.

6.2.20. Costs incurred by the General Contractor in connection with, (a) the enforcement of the guarantees and warranties given by Subcontractors, and (b) the administrative and legal enforcement of the applicable terms of the Subcontracts, subject to the Lessee's prior approval, not to be unreasonably withheld. The costs to be reimbursed hereunder shall include all reasonable and necessary legal costs and expenses.

6.2.21. [Intentionally deleted.]

6.2.22. Other costs incurred with the Lessee's prior written approval.

6.3. The Cost of the Work shall be credited with all rebates, trade discounts, credits on taxes or credits realized on cash deposits or insurance premiums. Any tools, supplies or equipment left at the Project at the completion of the Work shall be transferred to the Lessee. The General Contractor shall take such steps as are reasonably necessary and appropriate to obtain such discounts, rebates and credits; provided, however, the General Contractor shall not be required to utilize its own funds to secure such discounts, rebates and credits.

ARTICLE VII

(Costs Not to be Reimbursed)

7.1. The Cost of the Work as defined in Article VI shall not include the following costs, which are covered by the General Contractor's Construction Services Fee (hereinafter defined), and are not reimbursable or includable in the Cost of the Work:

7.1.1. General operating expenses of the General Contractor's home office and branch offices, other than the job site Project office, including, but not limited to, overhead and general expenses such as corporate franchise and income taxes except to the extent provided under Section 6.2 or otherwise agreed to by the Lessee in writing.

7.1.2. Expenses relating to the General Contractor's home office executive, accounting (including data processing), estimating, legal, contract administration, scheduling, purchasing (except for the expenses of one staff person up to August 1, 2003) and design development staff, except to the extent provided under Section 6.2 or otherwise agreed to by the Lessee in writing.

7.1.3. Losses and expenses covered by the General Contractor's insurance provided under Article XI.

7.1.4. Costs of the Work in excess of each Sub-Project GMP, as applicable, as set forth elsewhere in this Agreement.

7.1.5. Salaries and other compensation of the General Contractor's employees and agents at the General Contractor's home office whose time is devoted to the general conduct of the General Contractor's business.

7.1.6. Costs arising out of violations of law by the General Contractor or any Subcontractor in connection with field operations at the Project, which may be charged to the Contingency.

ARTICLE VIII

(General Contractor's Fees)

8.1. Subject to adjustment in accordance with Section 9.2, the "Construction Services Fee" shall equal the product of (x) the Cost of Work and (y) 2.5%.

8.2. (a) The Construction Services Fee shall be paid to the General Contractor monthly, commencing with the actual start of the Construction Phase (as defined in

paragraph 3.4, herein), on a gross percentage of completion basis, as certified to the Lessee by the Architect, without offset or holdback for retention, except as expressly provided below.

(b) Any portion of the actual savings payable to the General Contractor pursuant to Subsection 3.3.14 shall become due and payable in a lump sum at the final close-out of the applicable Sub-Project.

(c) Notwithstanding the foregoing, the final 5% of the Construction Services Fee to be paid to the General Contractor shall not be payable until Final Completion of the Project and/or each Sub-Project, as applicable (as certified by the Architect). "Final Completion" shall mean full completion of the Work (including all punch-list items) in full compliance with the Contract Documents and the issuance of the Port Authority TCO for all portions of the Project and/or each Sub-Project, as applicable, covered by this Agreement.]

ARTICLE IX

(Changes in the Work)

9.1. The Lessee or, with the Lessee's approval, the Architect may, from time to time, by written instructions or drawings, order changes in the Work (a "Change Order"). In no event shall a Change Order extend any Sub-Project Completion Date unless such extension is expressly set forth in the Change Order and the same is executed by the Lessee.

9.2. In the event of a change or changes in the plans or the specifications for the Work by the Lessee or the Architect resulting in an increase in any Sub-Project GMP, the General Contractor shall be entitled to the following additional fee (the "Change Order Fee"):

(a) If the scope of work required by the Change Order materially adds to that which is provided for in a Sub-Project GMP or changes the planned use of a space within the Project and/or Sub-Project, as applicable, (a "Scope Change") and such change requires the

General Contractor to expend substantial additional efforts, then the General Contractor shall be entitled to a Change Order Fee equal to two and one-half percent (2.5%) of the cost of the Change Order, excluding the cost of any General Conditions attributable to the Change Order (i.e., the Change Order Fee will be calculated solely on the trade(s) cost of the Change Order).

(b) If the Change Order involves work required to remediate or mitigate a changed field condition, error or omission on account of the design or other circumstance which does not constitute a Scope Change (as set forth in 9.2(a), above), then the General Contractor shall be entitled to a Change Order Fee equal to 2.5% of the cost of the Change Order, excluding the cost of any General Conditions attributable to the Change Order (i.e., the Change Order Fee will be calculated solely on the trade(s) cost of the Change Order).

(c) If the Change Order involves work required due to incomplete initial buy-out not due to the General Contractor's fault, the General Contractor will be entitled to a Change Order Fee equal to 2.5% of the cost of the Change Order, excluding the cost of any General Conditions attributable to the Change Order (i.e., the Change Order Fee will be calculated solely on the trade(s) cost of the Change Order).

(d) [Intentionally deleted.]

(e) In addition to the Change Order Fee payable with respect to any Change Order, the General Contractor shall be entitled to an additional payment in an amount equal to 13% of the amount of the Change Order on account of General Conditions.

9.3. [Intentionally deleted.]

9.4. Processing and approval of Change Orders on account of the retail space shall be in accordance with the terms of this Agreement.

ARTICLE X

(Payments)

10.1. The General Contractor shall submit requisitions for payment in conformance to the Architect's and the Lender's requirements (if applicable), however, generally in accordance with the following:

10.1.1. On or before the thirtieth (30th) day of each month, the General Contractor shall submit to the Architect and the Lessee a requisition for payment ("Requisition"), in a form approved by the Lessee, the Architect and the Lenders (if applicable), for Work performed during the period commencing on the first (1st) day of that month and ending on the thirtieth (30th) day of the same month, covering and including:

(a) the Cost of the Work incurred by the General Contractor during the month other than payments due to Subcontractors;

(b) Payments due to the Subcontractors based upon the percentage of Work completed in accordance with the Contract Documents during the month; and

(c) the monthly installment of the Construction Services Fee in accordance with Article VIII hereof.

10.1.2. Each Requisition shall contain a schedule setting forth all Subcontractors requesting payment, and shall be accompanied by a waiver (and, as to the Requisition requesting final payment, a general release of the Lessee) by the General Contractor, in a form satisfactory to the Lessee and the Lenders (if applicable) of any lien or right to file a lien against the Work and the real estate comprising the Site for any services or Work performed or materials furnished by the General Contractor up to and including the date for which

payments have been made, together with similar waivers (and general releases, if applicable) from the Subcontractors listed in said schedule.

10.1.3. As soon as practicable after the award of any Subcontract, the General Contractor shall require the Subcontractor to prepare a trade payment breakdown of the Work to be performed under such Subcontract, in a form suitable to the requirements of the Lessee, the Architect and the Lenders (if applicable), which may include separate costs for the residential and non-residential portions of the Project, and submit same to the Lessee for the Lessee's approval, which approval shall not be reasonably withheld.

10.1.4. The General Contractor shall require each Subcontractor's Requisition to show:

(a) The amount paid to the Subcontractor prior to the date of the Subcontractor's Requisition.

(b) The amount being requested pursuant to the Subcontractor's Requisition.

(c) The balance payable under the Subcontract after payment is made pursuant to the Subcontractor's then-current Requisition for payment.

(d) Any additions to and subtractions from the original contract price under the Subcontract.

(e) A sworn statement as to all portions of the Work being performed by the Subcontractor directly, and for each such portion, the percentage of the Work claimed to be completed to the date of the Requisition.

(f) A waiver of lien (and, if final payment is requested, a general release) in a form approved by the Lessee.

(g) Such other documentation as may reasonably be required by the Lessee, the Architect or the Lenders (if applicable).

10.1.5. The General Contractor shall review and make recommendations to the Architect and the Lessee regarding payment on each Subcontractor's Requisition for Payment.

10.1.6. All amounts due Subcontractors shall be subject to retainage in accordance with the applicable provisions of each Subcontract, which retainage at a minimum will be ten percent (10%) until the work under such Subcontract is fifty percent (50%) complete as certified by the Architect; and five percent (5%) thereafter, unless otherwise agreed to by the Lessee.

10.2. The Lessee will make monthly progress payments based upon Requisitions submitted in accordance with Section 10.1, as follows:

10.2.1. Provided that the Requisition has been submitted to the Architect and the Lessee on or before the 30th day of the month, then so long as the General Contractor is not then in default under the terms of this Agreement and there are then no outstanding liens filed against the Project Site, on or about the date which is 45 days after receipt of the requisition, the Lessee will pay to the General Contractor a sum equal to the amount set forth in such Requisition or such lesser amount as shall be certified for payment by the Architect. Notwithstanding the foregoing, payments due to the General Contractor will not be withheld on account of outstanding liens filed against the Project Site, so long as the General Contractor has commenced and is diligently pursuing the necessary steps to discharge such lien and the Lenders fund the Requisition (if applicable).

10.3. Prior to start of the construction, the Lessee shall advance an agreed-upon sum of money appropriate for the General Contractor's working capital requirements. The General Contractor shall deposit said amount in an account (the "Account") to be established and maintained by the General Contractor with a bank in New York designated by the General Contractor and approved by the Lessee, which shall be segregated from all other monies which the General Contractor may have on deposit. The purpose of the Account is to provide working capital for the General Contractor to be used prior to the receipt of payments from the Lessee hereunder as it is not intended that the General Contractor utilize its own funds for working capital. The Account shall be drawn upon by the General Contractor only for the payment of expenses of the General Contractor expressly reimbursable pursuant to the terms of this Agreement. The Account shall be reconciled monthly, and an accounting made of all disbursements therefrom to the Lessee's reasonable satisfaction, whereupon the Lessee shall monthly advance such additional monies to the General Contractor for deposit in the Account as may be necessary to cover the General Contractor's reasonably anticipated reimbursable expenses for the next succeeding period; provided, however, the General Contractor may requisition additional funds to be deposited in the Account in connection with previously unanticipated expenses, when necessary. A designated representative of the Lessee shall have the irrevocable right to draw against the funds in the Account. In no event shall the General Contractor exercise any right of set-off, or, upon receipt of notice by the Lessee of any objection, draw against the monies in the Account for the payment of any items owed or claimed to be owed from the Lessee to the General Contractor or to any Subcontractor or third party. Upon termination of this Agreement, in accordance with Article XIII, the balance in the Account shall be immediately returned to the Lessee.

10.4. If the Lessee should fail to pay the General Contractor any undisputed payment within thirty (30) calendar days after the same shall have become due (including payments of additional funds to be deposited in the Account), then the General Contractor may, thereafter, upon ten (10) days' written notice to the Lessee, stop the Project until payment of the undisputed amount owing has been received.

ARTICLE XI

(Insurance)

11.1. The Lessee shall, at the Lessee's expense, procure and maintain at all times during the performance of the Project, for the benefit of the Lessee and the General Contractor, insurance for the Project in accordance with insurance specifications that shall be mutually agreed upon by the parties prior to the commencement of any Work and upon the terms and conditions set forth herein. In addition, Lessee shall elect to secure and maintain a comprehensive liability/workers compensation "Wrap-Up" which shall conform to the Insurance Specifications and include the interests of the Lessee, the Lenders (if applicable), the General Contractor and any Subcontractors or Subsubcontractors for the full amount of insurance indicated. In no event shall the limits provided for the Lessee and the General Contractor be less than that contained in the Insurance Specifications, unless both parties are unable to secure such limits and both parties agree to accept lower limits.

11.2. In connection with the Lessee's "Wrap-Up", all Subcontractors and Sub-subcontractors will be notified and the General Contractor will aid in the solicitation of all quotations including and excluding the insurance contained in the Insurance Specifications. The General Contractor will cooperate with the Lessee and the Lessee's insurer and broker as required in all reporting, safety and inspection requirements and assist in the defense of any suit

or action including the production of documents or employees for testimony or as witnesses at any trial. Such cooperation shall not be limited by the term of this Agreement or completion of the Project. If a full time safety person is required for this Project, the Lessee shall reimburse the General Contractor for the additional cost of said individual in accordance with the terms of Article VI, which cost shall be outside of each Sub-Project GMP, as applicable, and subject to the issuance of a Change Order.

11.3. For any Subcontractor specifically excluded and except as approved by the Lessee, the Subcontractors and their respective Sub-subcontractors shall obtain insurance that is satisfactory to the Lessee in its sole and absolute discretion.

11.4. [Intentionally deleted.]

11.5. The Lessee shall provide and maintain, at its cost and expense, all necessary property insurance for the Project as follows: Property insurance upon the entire Work at the Site to the full insurable value thereof. Such insurance shall insure against the perils of fire and the other perils covered by the standard form of extended coverage endorsement and shall include "all risk" insurance for physical loss or damage, including without duplication of coverage, theft, vandalism and malicious mischief, transit, collapse, earthquake, flood, terrorism, and shall include the interest of the General Contractor as its interest may appear. The Lessee shall provide the General Contractor with a copy of the policy and any subsequent endorsements for such insurance when so requested. The General Contractor shall be given thirty (30) days' notice of cancellation, non-renewal or any endorsements restricting or reducing coverage. The insurance may contain a per occurrence deductible as elected by the Lessee. The General Contractor shall be notified of the deductible prior to the start of Project. The Lessee shall be responsible for the deductible.

11.6. The policy for the insurance mentioned in Section 11.5 hereof and all other property insurance policies obtained by the Lessee or the General Contractor shall contain a waiver of the insurer's right of subrogation against the Lessee and the General Contractor and the agents, officers, partners and employees of any of the above.

11.7. In the event of a property loss, the General Contractor, if requested by the Lessee, will on behalf of the Lessee, assist in the negotiation of and any settlement of any claim subject to the Lessee's approval.

11.8. If automobiles are provided to any employees of the General Contractor in connection with the Project, then insurance on those automobiles shall be the responsibility of the General Contractor or the employee. The Lessee and the Lenders (if applicable) shall be named as an additional insured for all liability coverage if the automobile is to be used exclusively for business related to the Project. The following specifications ("Insurance Specifications") shall apply to the Project:

11.8.1. Commercial General Liability pursuant to one or more liability and/or excess liability policies, as the Lessee shall determine, to provide a Combined Single Limit in a customary amount that is commercially available and mutually agreed upon by the parties covering the liability of the Lessee and the General Contractor for Bodily Injury and Property Damage arising as a result of the construction of the Project and the services performed thereunder. Commercial General Liability policies shall include Broad Form Commercial General Liability, Water Damage Legal Liability, Fire Damage Legal Liability, Explosion underground and collapse coverage, Non-Owned Automobiles and hire Car Coverage, Independent Contractor and the Lessee's and Contractor's Protective Liability. Products and

Completed Operations with a two (2) year extension following completion. Employees of the General Contractor as Additional Insurers, Asbestos and Pollution Coverage not included.

11.8.2. Workers Compensation to statutory limits, Employer's Liability, and Bodily Injury by Disease, each Bodily Injury by Disease each employee, by accident each accident, with policy limits not to exceed an amount to be mutually agreed upon by the parties (except as otherwise mandated by law).

11.8.3. The insurance policies obtained pursuant to this Article XI shall comply with any applicable requirements set forth in the Lessees' leases with the Port Authority or in the related Reciprocal Easement and Operating Agreement, and to the extent required by such leases or related agreement, the Port Authority shall be named an additional insured thereunder.

ARTICLE XII

(Liens and Other Encumbrances)

12.1. If any lien or encumbrance is filed against the Project, the General Contractor shall, upon receiving notice of such filing, immediately give notice thereof to the Lessee, and, provided the Lessee is making all undisputed payments due and owing to the General Contractor in accordance with the terms hereof, the General Contractor shall (i) discharge the lien of record by bonding or otherwise in accordance with the terms of the applicable Subcontract, (ii) direct the responsible Subcontractor to take such further action as the Lessee may reasonably request, and (iii) withhold from payments thereafter to be made to the Subcontractor who has suffered or permitted such lien or encumbrance to be filed, such amounts as are permitted to be withheld under the provisions of the applicable Subcontract until said lien or encumbrance has been discharged of record, all of such items (i), (ii) and (iii) shall be

performed within thirty (30) days of the General Contractor's receipt of notice of the filing of such lien.

ARTICLE XIII

(Termination)

13.1. If (i) the Project and/or any Sub-Project in whole or substantial part, is stopped for a period of 180 days through no act or fault of the General Contractor, or (ii) the Lessee transfers title to the Site or the Project and/or any Sub-Project and the transferee does not assume in writing all obligations of the Lessee under this Agreement, then the General Contractor may terminate this Agreement upon ten (10) days' prior written notice to the Lessee. In the event of a termination of this Agreement by the General Contractor pursuant to this Subsection 13.1 or pursuant to Subsection 13.2 below, the General Contractor shall be entitled to receive the then-earned portions of the Cost of the Work and the Construction Services Fee as shall have become due and payable up to and including such date, less such funds then being withheld on account of defective Work, until such time as the defective Work shall have been corrected, and upon the payment of any such amount due to the General Contractor, the Lessee shall be fully released from any further obligations of liabilities under this Agreement, other than as expressly provided for in this Agreement.

13.2. If the Lessee fails to make payments hereunder for General Contractor's Work, except for failure of the Lessee to make payments on account of disputed Work and/or claims, and/or the General Contractor's failure to perform pursuant to the Contractor Documents, and such failure continues for thirty (30) days or more, then the General Contractor shall be permitted to stop the General Contractor's Work and work on the Project or a Sub-Project, as applicable. Thereafter, the General Contractor may give the Lessee ten (10) days' written notice

of such default, and, in the event such default is not cured within said ten (10) day time period, then this Agreement shall be deemed terminated at the end of such notice period.

13.2.1. If the General Contractor fails to perform any of its material obligations under this Agreement, including, without limitation, the discharge of liens within the time period provided in this Agreement, or any other material agreement with the Lessee relating to work contemplated under Agreement, the Lessee may, without prejudice to any other remedy available to the Lessee and after ten (10) days' written notice to the General Contractor (except in the case of an emergency), make good such deficiencies.

13.2.2. If the General Contractor is adjudged a bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, or if, in the Lessee's reasonable judgment, the General Contractor fails to supply enough properly skilled workers or proper materials to complete the Work in accordance with the terms of the Contract Documents, including, without limitation, the terms requiring Substantial Completion on or before any Sub-Project Completion Date, except in cases for which extension of time is provided, or if the General Contractor fails to make proper payment to Subcontractors or for materials or labor, or willfully disregards any law, ordinance, rule, code, regulation or order of any public authority having jurisdiction over the Project, or otherwise breaches any material provision of this Agreement, the Contract Documents, or any other material agreement with the Lessee relating to the Work contemplated under this Agreement (individually and collectively, an "Event of Default"), and such Event of Default is not corrected after ten (10) days' notice from the Lessee, then the Lessee may, without prejudice to any right or remedy, terminate the employment of the General Contractor upon ten (10) days' notice and take possession of the Site and of all materials, equipment, tools, construction equipment and

machinery thereon owned by the General Contractor and may finish the Project by whatever method the Lessee may deem expedient without cost or charge to the Lessee for the use made of such materials, equipment, tools, construction equipment and machinery thereon. In such case, the General Contractor shall be fully liable to the Lessee for all damages suffered by the Lessee on account of the Event of Default, including, without limitation, the additional Cost of the Work to complete the Project, any loss of income (net of any actual expense savings) and any additional debt service payments (other than principal) payable by the Lessee which would not have been payable but for the Event of Default and the General Contractor shall not be entitled to receive any further payment, other than payments for the then-earned portions of the Cost of the Work and the Construction Services Fee which shall have become due and payable up to and including the date of termination only, and all of which shall be payable subject to offset by the Lessee for claims or potential claims against the General Contractor, damages suffered or reasonably anticipated to be suffered by the Lessee and withholding on account of defective Work. Upon payment of any amount due to the General Contractor pursuant to this Section 13.2.2, the Lessee shall be fully released from any further obligations or liabilities under this Agreement, other than as expressly provided for in this Agreement. Notwithstanding the foregoing, if the Event of Default is of a nature that it is not susceptible to cure within the ten (10) day period following the Lessee's notice of default, then the General Contractor shall not be in default hereunder so long as the General Contractor commences all required actions to cure the Event of Default within such ten (10) day period and thereafter continues to diligently prosecute to completion all steps reasonably necessary to remedy the same.

13.2.3. If the Lessee is adjudged a bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its

insolvency, then, subject to the rights of the Lenders and the Port Authority, the General Contractor may, without prejudice to any right or remedy, terminate this Agreement upon ten (10) days' notice.

In the event of the termination of this Agreement by the Lessee pursuant to this Section 13.2.3, and at the Lessee's election, the General Contractor shall execute and deliver all such papers and take all such steps, including the legal assignment of its contractual rights arising out of or in connection with the Project as the Lessee may require for the purpose of fully vesting in the Lessee or any party designated by the Lessee the rights and benefits of the General Contractor under such obligations or commitments. In the event the General Contractor fails to execute and deliver any document or instrument reasonably requested by the Lessee to effectuate the foregoing within five (5) business days of the Lessee's request, the Lessee is hereby appointed attorney-in-fact of the General Contractor to execute any such document and/or instrument on behalf of the General Contractor.

13.2.4. The right of termination reserved to the Lessee as provided herein shall not be an exclusive remedy, and the General Contractor shall be liable to the Lessee for any and all damages, losses, costs, and expenses, which, by reason of any default of the General Contractor with respect to the due performance of its obligations hereunder or any negligence or unlawful conduct of the General Contractor or anyone directly or indirectly employed by it in the performance of the Work, shall be sustained by the Lessee at any time whether before or after the final completion and acceptance of the Work.

13.2.5. The Lessee shall have the right to terminate this Agreement in its sole discretion, as to the entire Project or as to any Sub-Project, at any time and from time to time, without cause, upon at least twenty (20) days' prior written notice to the General

Contractor. Without limiting any amounts payable to the General Contractor pursuant to Subsection 13.2.6, in the event that the Lessee exercises its termination right pursuant to this Subsection 13.2.5, then the Lessee shall nevertheless remain obligated to pay to the General Contractor the General Contractor's share of the savings, if any, under an agreed upon Sub-Project GMP prorated up to the date of termination, which amount will become payable upon the final close-out of the Project. In the event that the Lessee exercises its termination right pursuant to this Subsection 13.2.5, the Lessee may, without prejudice to any right or remedy, immediately take possession of the Site and may finish the Project by whatever method the Lessee wishes in its sole discretion, without any further obligation or liability to the General Contractor other than to make payments to the General Contractor as otherwise provided for herein or as expressly provided in Section 17.5.

13.2.6. If the Lessee terminates this Agreement as to the entire Project other than pursuant to Subsection 13.2.2, it shall reimburse the General Contractor for the then-earned portions of the Cost of the Work and the Construction Services Fee which shall have become due and payable up to and including the date of termination only. The Lessee shall also pay to the General Contractor fair compensation for any equipment retained and reasonable demobilization costs. In case of such termination of this Agreement, the Lessee shall further assume and become liable for obligations, commitments and unsettled claims (except for claims for any portion of the Work for which the General Contractor has already been paid by the Lessee) that the General Contractor has previously undertaken or incurred in good faith in connection with the Work. The General Contractor shall, as a condition of receiving the payments referred to in this Subsection 13.2.6, execute and deliver all such papers and take all such steps, including the legal assignment of its contractual rights arising out of or in connection

with the Project and/or each Sub-Project, as applicable, as the Lessee may require for the purpose of fully vesting in the Lessee or any entity designated by the Lessee the rights and benefits of the General Contractor under such obligations or commitments. In the event the General Contractor, for any reason whatsoever, fails or refuses to comply with the provisions of this Subsection 13.2.6, the Lessee may take over and administer any Subcontract entered into by the General Contractor for the Project and/or each Sub-Project, as applicable, as if the Lessee had received a full and complete assignment of such Subcontract; further, the General Contractor shall cease administering or directing the Work to be performed under such Subcontract and shall not interfere or disrupt the performance of the Work by such Subcontractor, and the Lessee shall be responsible only for payment of Work furnished by any such Subcontractor from the date of termination of this Agreement. Upon the payment of any amount due to the General Contractor pursuant to this Section 13.2.6, the Lessee shall be fully released from any further obligations and liabilities under this Agreement, other than as expressly provided for in this Agreement. If the Lessee shall terminate this Agreement pursuant to Section 13.2.4 with regard to one or more Sub-Projects but not the entire Project, then the foregoing provisions of this Section 13.2.6 shall apply only as to the terminated Sub-Projects and this Agreement shall continue to apply in full force and effect to the remainder of the Project. The General Contractor shall exercise its best efforts and cooperate with the Lessee to mitigate damages hereunder and to reduce the amounts owning to the General Contractor under this Section 13.2.6 to the maximum extent possible.

13.2.7. The Lessee may from time to time during the Project and/or each Sub-Project, as applicable, suspend work on the Project and/or each Sub-Project, as applicable, for any reason, upon at least three (3) days' written notice to the General Contractor. In such

event, the Lessee shall reimburse the General Contractor for the then-earned portions of the Cost of the Work and the Construction Services Fee as shall have become due and payable up to and including the date of suspension. In the event that the Lessee directs the General Contractor to recommence the Work following a material delay caused by the Lessee's suspension of the Project and/or each Sub-Project, as applicable, the parties shall negotiate in good faith a Change Order extending each Sub-Project Completion Date and the Milestone Completion Date and increasing each Sub-Project GMP, as applicable, by an appropriate amount equal to the necessary increased cost, if any, directly arising from the suspension.

ARTICLE XIV

(Assignments)

14.1. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that this Agreement may not be assigned by the General Contractor without the prior written consent of the Lessee and the Lenders (if applicable). Transfers in excess of 25% in the aggregate of the outstanding stock of the General Contractor shall be deemed an assignment for purposes of this Agreement. The Lessee may assign this Agreement without the General Contractor's consent, provided that the assignee expressly assumes all of the Lessee's obligations hereunder in writing and is the fee owner of the Site or a net lessee of the Site, unless the assignee is the Lender for the Project or an entity controlled by such Lender (if applicable). In all other cases, the General's Contractor's consent shall not be unreasonably withheld. Upon any such assignment, the Lessee shall be released from any further obligations or liabilities hereunder. The General Contractor hereby consents to the collateral assignment of this Agreement to the Lender(s) for the Project (if

applicable) if such collateral assignment is required under the terms of the Lessee's construction loan. Any assignment made in violation of this Section 14.1 shall be null and void and shall not vest any rights in the assignee.

ARTICLE XV

(Entire Agreement)

15.1. This Agreement, including all attachments hereto, and the Contract Documents, constitutes the entire agreement and understanding of the parties and supersedes all prior written or oral agreements or understandings in respect to the subject matter hereof. Each party represents to the other that, except as set forth in this Agreement and the Contract Documents, neither the other party nor any representative of the other party has made any representation or promise not embodied in this Agreement upon which such party has relied.

15.2. This Agreement shall not be changed or modified, nor any of its provisions waived unless such change, modification or waiver is in a writing signed by both parties hereto.

ARTICLE XVI

(Books and Records)

16.1. The General Contractor's Project staff shall maintain a daily log of all onsite operations and correspondence, minutes of meetings, schedules and Requisitions, copies of which, together with progress photos until the building structure is fully enclosed, shall be delivered to the Lessee on a monthly basis and the originals of which shall be maintained at the Project Site office or the General Contractor's home office and shall be available for inspection by the Lessee, the Architect and the Lenders (if applicable) during normal business hours upon reasonable advance notice.

16.2. The General Contractor's Project staff shall perform all accounting and bookkeeping services requested by the Lessee and/or required by the Lenders (if applicable) in connection with the Work, including processing of all Requisitions by Subcontractors, payroll records and invoice processing for all labor and materials utilized by the General Contractor in the performance of the Work, and payment of all Requisitions by Subcontractors and other invoices in connection with the Work, payment of which is the ultimate responsibility of the Lessee.

16.3. The Lessee and the Lenders (if applicable) and their respective authorized representatives shall be afforded access to all of the aforementioned books and records and shall have the right to audit and photocopy such books and records during normal business hours upon reasonable advance notice. Such books and records shall be maintained by the General Contractor for at least six (6) years after final payment, or, at General Contractor's option, may be returned to Lessee at an earlier date.

ARTICLE XVII

(Indemnification)

17.1. To the fullest extent permitted by law, the General Contractor shall defend, indemnify and hold harmless the Lessee, the Lessee's representative, the Architect, the Lessee's consultants and the Lenders (if applicable), as well as their respective agents, partners, principals and employees from and against all claims, damages, losses, costs, suits, liabilities and expenses, including, but not limited to, reasonable attorneys' fees, directly or indirectly arising out of or resulting from or alleged to arise out of or result from the negligent acts or omissions of the General Contractor, actions taken by the General Contractor outside the scope of the Work or the General Contractor's scope of authority, or not in accordance with specific instructions from

the Lessee, whether the same arises on account of a claim, dispute, action or proceeding between the General Contractor and an indemnified party hereunder or a third party. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or indemnify which would otherwise exist as to any indemnitee described in this Section. In any and all claims against the Lessee by any employee of the General Contractor, the indemnification obligation under this Section 17.1 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the General Contractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. The obligations of the General Contractor under this Section 17.1 shall not extend to the liability of the Architect or the Lessee or their agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Lessee or the Architect or their respective agents or employees; provided such giving or failure to give is the primary cause of the injury or damage.

17.2. To the fullest extent permitted by law, the General Contractor shall defend, indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees and to its or their property against the following distinct and several risks arising or alleged to arise out of our performance of the Work described herein, and for all expenses, including without limitation thereto legal expenses (including the costs to the Port Authority of its in-house legal counsel), incurred by it and by them in the defense, settlement or satisfaction of all claims and demands, just or unjust, arising or alleged to arise out of the performance of the Work described herein, whether they arise from the acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, or third persons, or from acts of God or of the

public enemy, or otherwise, excepting only claims and demands which result solely from affirmative willful acts done by the Port Authority with respect to the construction and installation Work:

(a) Risk of loss or damage to the Work described herein or any part thereof prior to completion thereof;

(b) The risk of death, injury or damage, direct or consequential, to the Port Authority, its Commissioners, officers, agents and employees and to its or their property arising out of or in connection with performance of the work described herein; and

(c) The risk of claims and demands, just or unjust by third persons against the Port Authority, its Commissioners, officers, agents and employees arising or alleged to arise out of the performance of the Work described herein.

17.3. The General Contractor undertakes to pay all claims lawfully made against him by subcontractors, materialmen and workmen and all claims lawfully made against him by other third party persons arising out of or in connection with or because of the performance of this Contract and to cause all subcontractors to pay all such claims lawfully made against them.

17.3.1. If the General Contractor fails to pay any such claim lawfully made against him, or any subcontractor or the aforesaid contingencies is likely to arise, then the Lessee 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 Lessee may deem ample to assure the payment of such claims and to apply such sums in such manner as the Lessee may deem proper to satisfy such claims. All sums so applied shall be deducted from the Lessee's compensation, omission by the Lessee to withhold out of any payment, final or otherwise, a sum of 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 Lessee does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Lessee to withhold and apply monies, nor any exercise, or attempted exercise of, or omission to exercise, such rights by the Lessee shall create any obligation of any kind to such materialmen, subcontractors, workmen or other third persons.

17.3.2. Until actual payment to the General Contractor, its right to any amount to be paid under this Agreement (even though such amount has already been certified as due) shall be subordinate to the rights of the Lessee under this provision.

17.4. Lessee agrees that, notwithstanding any provision contained herein to the contrary, General Contractor's total maximum liability under this Agreement, including, without limitation, for any Milestone Damages, shall not exceed up to 150% (with the exact percentage to be agreed upon in each Sub-Project GMP) of the Construction Services Fee for the applicable Sub-Project GMP or such other amount as may be mutually agreed upon by the parties in writing.

17.5. The Lessee agrees to defend, indemnify the General Contractor for all loss, cost, liability or expense incurred by the General Contractor pursuant to the provisions of Section 17.2 except to the extent such loss, cost, liability or expense was incurred by the General Contractor as a result of the negligence, willful misconduct or breach of the provisions of this Agreement by the General Contractor or its principals, officers, agents or employees (but not its subcontractors).

ARTICLE XVIII

(Responsibility for Subcontracts)

18.1. The General Contractor shall supervise and be responsible for the furnishing of all labor and materials required by Subcontracts. The General Contractor shall deliver copies of all Subcontracts to the Lessee as such agreements are made. It is expressly understood and agreed that no portion of the Work shall be performed and no materials, supplies or equipment on account of the Work shall be furnished by any Subcontractor (other than General Conditions) unless and until the General Contractor shall have first entered into a Subcontract with such Subcontractor in accordance with the terms of this Agreement. Any Subcontract in excess of $10,000 shall be subject to the Lessee's prior written approval, both as to the Subcontractor and the form of Subcontract.

18.1.1. Any cost or expenses due to the negligent or intentional misconduct of any Subcontractor (including any persons or entities directly or indirectly employed or engaged by any such Subcontractor) in connection with the Work, or due to the failure of such Subcontractor to perform any of its covenants, agreements or obligations in accordance with its Subcontract, shall be borne by the Subcontractor who was responsible for same, and in no event shall the same increase any Sub-Project GMP. If any such Subcontractor fails to bear such costs or expenses or fails to perform any of its Subcontract covenants, agreements or obligations in connection with the Project or any Sub-Project, then the General Contractor shall take prompt action to enforce such Subcontractor's Subcontract covenants, agreements and obligations. In such event, the costs and expenses of such enforcement incurred by the General Contractor, including, without limitation, reasonable attorneys' fees and the wages and expenses of the General Contractor's personnel, shall be deemed a Cost of the Work,

but shall in no event increase any Sub-Project GMP. Further, if it appears that any such enforcement actions will materially delay the progress of the Work, the General Contractor shall promptly so notify the Lessee and, after receiving the Lessee's approval, shall cause any such Subcontractor's Subcontract covenants, agreements, and obligations to be performed by others, in which event, any costs and expenses incurred by the General Contractor in connection with such performance shall be deemed a Cost of the Work, but shall in no event increase any Sub-Project GMP. The foregoing provisions of this Section 18.1 shall only apply to the relationship between the General Contractor and the Lessee and shall not limit any rights or remedies which the General Contractor or the Lessee may have against any Subcontractors.

18.1.2. The Lessee shall have the right to require the General Contractor to use any Subcontractor or to purchase directly any of the materials for the Work. The cost of such materials and Subcontracts, as well as any additional costs incurred by the General Contractor as a result of its use of such required Subcontractor, shall be part of the Cost of the Work and shall result in an appropriate Change Order increasing the applicable Sub-Project GMP. Notwithstanding the provisions of Section 18.1.1 above, in the event that Lessee requires the use of any particular Subcontractor to which the General Contractor reasonably objects for cause, then the Lessee shall be responsible for the liabilities and obligations of the General Contractor described in Section 18.1.1 as relate to that required Subcontractor.

18.1.3. All Subcontracts shall contain the following provision:

> "The Lessee may elect at any time or from time to time, including in connection with the termination of the Agreement between the Lessee and the General Contractor, to have this Subcontract Agreement assigned from the General Contractor to the Lessee or any entity designated by the Lessee or by the Lender (if applicable) of the Lessee, and the parties agree that such assignment shall be effective upon the delivery of a notice of such election by the Lessee to the Subcontractor."

18.1.4. The Lessee shall not be liable hereunder with respect to any general conditions provided for in any Subcontract, it being expressly acknowledged and agreed by the General Contractor that the General Contractor shall be responsible for any such amounts without increase to any Sub-Project GMP.

ARTICLE XIX

(Force Majeure)

19.1. If the General Contractor is delayed at any time in the progress of the Project or any Sub-Project by Force Majeure (as hereinafter defined) or by the failure, through no fault of the General Contractor, of governmental entities to process or issue permits, approvals, licenses or ordinances within customary time periods, and such delay results in the extension of any Sub-Project Completion Date, such date shall be extended for such reasonable length of time as shall mutually be agreed upon between the Lessee and the General Contractor. The General Contractor shall be entitled to reimbursement for actual out-of-pocket additional General Conditions resulting directly from such delay. In no event, however, shall the General Contractor or any Subcontractor be entitled to an additional fee, cost reimbursement (other than additional General Conditions to the General Contractor as set forth above), compensation or damages (consequential or otherwise) for such delays.

19.1.1. Force Majeure shall mean: Strikes, lock-outs, fire or other casualties, citywide labor disputes, unforeseen material or labor shortages, adverse weather conditions not reasonably anticipated, concealed or subsurface conditions not reasonably anticipated or otherwise disclosed in the Langan Report, test results or otherwise prior to the commencement of work, war or governmental regulations or controls not in existence as of the commencement of the Construction Phase (including any work stoppages at the Site ordered by

an authorized court or governmental or quasi-governmental body directly related to the events of September 11, 2001), acts of God, acts of terrorism or civil disobedience or other similar causes beyond the General Contractor's control and provided that such event is not caused by the willful misconduct or negligent act or omission of the General Contractor or any Subcontractor. Notwithstanding the foregoing, in no event shall Force Majeure be construed or deemed to include any delay caused by (i) the bankruptcy or insolvency of any Subcontractor; (ii) the failure of any Subcontractor to perform any portion of the Work in accordance with the terms of its Subcontract; (iii) the negligence or willful misconduct of the General Contractor or any Subcontractor; or (iv) any event or circumstance which constitutes a breach or default by the General Contractor under this Agreement. Nothing contained herein shall be deemed to relieve the General Contractor from its obligation to mitigate the effects of any Force Majeure upon the timely performance of the Work to the extent possible provided that the costs of such mitigation shall increase a Sub-Project GMP. The General Contractor agrees to provide the Lessee with prompt notice of the occurrence of any event of Force Majeure.

ARTICLE XX

(General Conditions)

20.1. For purposes of this Agreement, "General Conditions" shall be defined as set forth on **Exhibit "C"**.

ARTICLE XXI

(Miscellaneous Provisions)

21.1. The General Contractor acknowledges and agrees that the Contract Documents are adequate and sufficient to provide for the completion of the Work, and include all

work, whether or not shown or described, which reasonably may be inferred to be required for the completion of the Work.

21.1.1. Upon agreeing to a Sub-Project GMP, the General Contractor shall be deemed to have acknowledged and to have declared that the Contract Documents are sufficient to have enabled it to determine the applicable Sub-Project GMP and that the same are sufficient to enable the General Contractor to construct the Work outlined therein in accordance with all applicable laws, statutes, building codes and regulations, and otherwise to fulfill all of its obligations under the Contract Documents.

21.1.2. The General Contractor represents and covenants that key employees satisfactory to the Lessee and to be set forth in an addendum hereto to be agreed upon commencement of each Sub-Project shall at all times personally oversee all material aspects of the General Contractor's services hereunder (provided that they remain in the employ of the General Contractor and do not become unable to work by reason of death or disability), even should an assignment of the General Contractor's interest in this Agreement take place by operation of law or otherwise during the term of this Agreement. The General Contractor acknowledges that such representation and covenant is a material inducement to the Lessee to enter into this Agreement.

21.2. If the General Contractor performs any portion or portions of the Work which shall fail to comply with the requirements of the Port Authority, or other applicable law, rule or regulation governing the Work, the General Contractor shall reimburse the Lessee for any and all additional architectural, engineering and/or legal fees or other additional costs or expenses incurred on account of such noncompliance, unless the Work or such portion thereof is performed in accordance with the Contract Documents and a reasonably prudent contractor of

similar reputation and experience as the General Contractor would not have discovered the discrepancy between the Contract Documents and the requirements of the Port Authority.

21.3. The Lessee shall have the right to interview and approve in advance the key personnel of the General Contractor performing supervisory and/or administrative functions with respect to the Project. Any of such personnel approved by the Lessee shall not be removed from the Project without the prior written approval of the Lessee, in the Lessee's sole discretion. In addition, the Lessee shall have the right, upon notice to the General Contractor, to demand that the superintendent, other key personnel of the General Contractor or any laborer performing any portion of the Work, whether employed by the General Contractor or any subcontractor, be replaced by the General Contractor or such subcontractor, as the case may be. In the event of such demand, the General Contractor shall, within seven (7) days after notification thereof, replace said individual(s) with an individual satisfactory to the Lessee, in the Lessee's sole discretion. If said replacement is disapproved, this Agreement, may, at the Lessee's option, be terminated for cause.

21.4. In addition to the books and records required to be maintained by the General Contractor pursuant to Article XVI hereof, the General Contractor shall prepare such additional reports as the Lessee or any Lender (if applicable) may reasonably request. In addition, the General Contractor shall maintain a daily log of events occurring at the Project Site or otherwise connected with the progress of the Work. A copy of such log shall be reproduced and delivered to the Lessee on a weekly basis and the original kept in the General Contractor's main office. Such log shall be made available for inspection and reproduction by the Lessee, the Lenders (if applicable), and/or the Architect.

21.5. If any the Lender shall designate an inspecting architect or other representative, the Lessee may require the concurrence of such architect or representative in each instance in which the approval of the Architect is required by any provision of this Agreement. The General Contractor shall cooperate with such inspecting architects or representatives to the fullest extent possible.

21.6. Notwithstanding anything to the contrary contained in the Contract Documents, the Lessee may withhold any payment to the General Contractor hereunder if and for so long as the General Contractor fails to perform any of its obligations hereunder or otherwise is in default under any of the Contract Documents; provided, however, that any such holdback shall be limited to an amount sufficient in the reasonable opinion of the Lessee to cure any such default or failure of performance by the General Contractor.

21.7. Notwithstanding any provision of the Contract Documents to the contrary, no applicable statute of limitations shall be deemed to have commenced with respect to any portion of the Work which is not in accordance with the requirements of the Contract Documents, which would not be visible or apparent upon conducting a reasonable investigation, and which is not discovered by the Lessee until after the date which, but for this Section 21.7, would be the date of commencement of the applicable statute of limitations; the applicable statute of limitations instead shall be deemed to have commenced on the date of such discovery by the Lessee, but in no event shall the date of the commencement of the applicable statute of limitations be later than the date which is six (6) years following the date of Substantial Completion.

21.8. The General Contractor shall, at any time and from time to time, upon not less than ten (10) days' prior notice from the Lessee, execute and deliver to the Lessee a

statement that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and stating whether or not, to the best knowledge of the General Contractor, the Lessee is in default of its obligations under this Agreement and, if so, specifying each such default.

21.9. To the extent applicable, the General Contractor shall cooperate with all of the Lenders and their respective successors and assigns, at all times during the performance of the Work. The General Contractor shall agree to any changes or modifications to this Agreement that may be reasonably requested by any Lender and which shall not impose any unreasonable obligations, or any costs or liability on the General Contractor. The General Contractor shall execute any document presented to it amending this Agreement to reflect such changes or modifications. The General Contractor shall use its best efforts to have its subcontractors make any changes or modifications in the Work that may be requested by any Lender. The General Contractor also shall, upon request by the Lessee or any Lender, execute any document required by such Lender in connection with such financing and/or equity investment. Notwithstanding the foregoing, nothing herein shall obligate the General Contractor to agree to any changes or modifications which materially increase the General Contractor's obligations herein such that the General Contractor's cost and/or risks materially increase.

21.10. Notwithstanding any other provision of this Agreement, in no event and under no circumstances shall the Lessee, the Lessee's agents and representatives, any Lender (if applicable) or any of the foregoing's partners, or any partner of any of their partners, or any officer, shareholder or employee of any of the foregoing, have any personal obligation or liability for any of the terms, covenants, agreements, undertakings, representations or warranties contained in this Agreement, and, in the case of a default hereunder, the General Contractor and

all persons claiming by, through, or under the General Contractor, shall look solely to the Lessee's beneficial interest in the Project. The General Contractor shall not enter into any agreement unless said agreement provides that the Lessee and the parties described above shall have no personal obligation or liability for performance of any term or condition to be performed under this Agreement or under said agreement.

21.11. The General Contractor acknowledges that it has visited and examined the Project Site, including, but not limited to, any buildings located thereon, all observable conditions affecting the Work and is fully familiar with all of the conditions thereon and thereunder affecting the same, including, but not limited to, the services and utilities presently available at the Project Site. In connection therewith, the General Contractor specifically represents and warrants to the Lessee that it has, by careful examination of documents provided to General Contractor by Lessee ("Lessee Documents") (on which General Contractor is entitled to rely) and visual inspection of the surface of the Site, satisfied itself as to: (1) the nature, location, and character of the Project and the Site, including, without limitation, the surface conditions of the Site and all structures and obstructions thereon but not thereunder except as identified in the Lessee Documents, both natural and man-made, and all surface water conditions of the Site and the surrounding area; (2) the nature, location, and character of the general area in which the Project is located, including, without limitation, its climatic conditions, available labor supply and labor costs, and available equipment supply and equipment costs; and (3) the quality and quantity of all utilities, services, materials, supplies, tools, equipment, labor, and professional services necessary to complete the Work in the manner and within the cost and time frame required by the Contract Documents.

21.12. The General Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, ancestry or national origin. The General Contractor will take affirmative action to insure that employees are treated, during employment, without regard to their race, color, religion, sex, age, ancestry, or national origin. Such action shall include, but not be limited to, the following: employment, job classification, upgrading, demotion, promotion, layoff, termination or transfer, rates of pay or other forms of compensation and selection for training, including apprenticeship.

21.13. The General Contractor shall not divulge information concerning the Project to anyone (including, without limitation, information and applications for permits, variances, etc.) without the Lessee's prior written consent. The Lessee reserves the right to release all information concerning the Project as well as to time such release and its form and content. No signs advertising the Work or identifying any person, firm or entity concerned with the Work shall be allowed at the job site unless approved in advance in writing by the Lessee, which approval shall lie within the Lessee's sole and exclusive discretion, except as to signs required by building department or transportation department regulations.

21.14. All documents prepared and furnished by the General Contractor or any Subcontractor in connection with the Work to be performed pursuant to this Agreement, such as the Drawings and Specifications and all other drawings, sketches, shop drawings, as-built plans and other specifications, shall at all times be and remain the property of the Lessee.

21.15. The General Contractor hereby agrees to comply with all applicable laws, regulations and codes of any governmental authority having jurisdiction over the Project and agrees to take any and all necessary steps and actions requested by the Lessee to comply with any such legal requirements.

21.16. The General Contractor agrees, at any time and from time to time, as the Lessee shall reasonably request, upon not less than 10 days' prior notice, to execute and deliver to the Lessee a statement that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and stating whether or not, to the best knowledge of the General Contractor, either party is in default in the performance of any of its obligations under this Agreement, and if so, specifying each such default.

21.17. Upon Substantial Completion of the Work and as a condition to Final Payment, the General Contractor shall deliver to the Lessee, all keys, manuals, guarantees, specification sheets on mechanical equipment and/or systems, warranties, drawings and all other documents and items required to be delivered to the Lessee not previously delivered to the Lessee and/or the Architect.

21.18. In any dispute including, without limitation, a default or alleged default, between the parties arising under this Agreement, the prevailing party's reasonable attorneys' fees will be paid or reimbursed by the unsuccessful party. For purposes of this Subsection, "prevailing party" shall be defined as: a) the party which ultimately is awarded an amount in excess of the last settlement offer made by the other party, or b) the party that made the last settlement offer, if the amount ultimately awarded is less than the last settlement offer made, or c) the party ultimately awarded an amount, regardless of the sum, if no settlement offer was ever made by the other party. In the event of the settlement of any dispute, each party shall pay for its own attorneys' fees.

ARTICLE XXII

(Additional Provisions)

22.1. The General Contractor, covenants to fully cooperate with, and cause all Subcontractors to fully cooperate with the Lessee, the Architect, the Lenders (if applicable), any outside consultant retained by the Lessee, and their respective representatives, and representatives of the City of New York or any other federal, state or local authority having jurisdiction over or an interest in the Project Site, all of which shall, at all times, have access to the Site and the General Contractor's books and records related hereto.

22.2. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

22.3. All notices required to be made in writing hereunder shall be deemed given, made or served two (2) business days after mailing the same by Registered or Certified Mail, Return Receipt Requested, or on the date delivered if delivered by hand or by reputable overnight courier, as follows:

(a) to the General Contractor:

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attn: Daniel R. Tishman & Michael J. Mennella

(b) to Lessee:

1 World Trade Center LLC
2 World Trade Center LLC
4 World Trade Center LLC
5 World Trade Center LLC

c/o Silverstein Properties, Inc.
530 Fifth Avenue
New York, New York 10036
Attn: Larry A. Silverstein

with a copy of any notice of default, dispute or claim only to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attn: Stephen G. Gellman & Robin Panovka

or at such other address(es) as the Lessee or the General Contractor shall, from time to time, designate by notice given to the other as hereinabove provide. Notices given by counsel for the Lessee or the General Contractor shall be deemed valid notice if addressed and sent in accordance with the terms of this Section.

22.4. The language in this Agreement shall be construed according to its customary meaning within the metropolitan New York building industry. Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

22.5. Captions and titles of the different articles and sections are solely for the purpose of aiding and assisting in the location of different material in this Agreement and are not to be considered under any circumstances as parts, provisions or interpretations of this Agreement.

22.6. Whenever in this Agreement any words of obligation or duty regarding any party are used, they shall have the same force and effect as those in the form of an express covenant.

22.7. This Agreement shall be executed in multiple original copies by the Lessee and the General Contractor.

22.8. If any provisions of the Contract Documents is invalid or unenforceable as against any person or party, the remainder of the Contract Documents and the applicability of such provision to other persons or parties shall not be affected thereby. Each provision of the

Contract Documents shall, except as otherwise herein provided, be valid and enforceable to the fullest extent permitted by law.

22.9. No personal liability arising out of this Agreement shall accrue against any individual, officer, director, shareholder, representative or fiduciary of the Lessee, the General Contractor or the Lender (if applicable).

22.10. The Lessee shall have the right, in its sole discretion, to occupancy of the Project for itself and the Lessee's prospective occupants of the Project prior to substantial completion thereof, provided (i) such occupancy will not materially interfere with the General Contractor's performance of its obligations hereunder and (ii) such portions so occupied shall be deemed to have been accepted by the Lessee, subject to contemporaneous punchlist and completion items identified by the Lessee prior to its occupancy, and warranties on such areas and systems therein shall be deemed to have commenced on such early occupancy.

22.11. No delay in enforcing any right, remedy, privilege or recourse accorded to either party or to which either party may be or become entitled to have or exercise under this Agreement shall diminish, suspend or exhaust any such right, remedy, privilege or recourse.

22.12. The sole beneficiaries of this Agreement are the parties hereto and the permitted assignees hereof. This Agreement is not intended to confer any benefit or rights upon persons other than the parties hereto and the permitted assignees hereof.

22.13. Nothing contained in this Agreement shall be construed to mean that the General Contractor and the Lessee are joint venturers or partners.

22.14. The Lessee shall endeavor to refer and give credit to the General Contractor in all advertisements, press releases, publicity, brochures, articles and other

announcements generated by the Lessee regarding the Project, as may be appropriate, however is the sole judgment of the Lessee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Lessee:

1 WORLD TRADE CENTER LLC, a
Delaware limited liability company

By: _____
Name: Larry A. Silverstein
Title: President

2 WORLD TRADE CENTER LLC, a
Delaware limited liability company

By: _____
Name: Larry A. Silverstein
Title: President

4 WORLD TRADE CENTER LLC, a
Delaware limited liability company

By: _____
Name: Larry A. Silverstein
Title: President

5 WORLD TRADE CENTER LLC, a
Delaware limited liability company

By: _____
Name: Larry A. Silverstein
Title: President

General Contractor:

TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation

By: _____
Name: Daniel R. Tishman
Title: Chairman and Chief Executive Officer

EXHIBIT "A"

Master Plan for the redevelopment of the World Trade Center, as approved by the Lessees, to be generally consistent with the master plan developed by Studio Daniel Libeskind, currently being discussed by the Port Authority and the Lessees, and that provides for, among other things, (a) not less than 10,000,000 square feet of useable, commercially viable Class A, above-grade office space (or the amount of space necessary to provide Lessees collectively with the same amount of Class A, above-grade carpetable office space as existed at the World Trade Center as of September 10, 2001), and (b) sub-grade parking, loading and other ancillary uses.

EXHIBIT "B"

STANDARD FORM OF TRADE CONTRACT

PROJECT: **WORLD TRADE CENTER**
NEW YORK, NEW YORK

Date

TRADE:

OWNER: **1 WORLD TRADE COMPANY LLC**
2 WORLD TRADE COMPANY LLC
4 WORLD TRADE COMPANY LLC
5 WORLD TRADE COMPANY LLC
530 Fifth Avenue
New York, New York
(herein called the "Owner")

CONSTRUCTION MANAGER: **Tishman Construction Corporation**

(herein called the "Construction Manager")

CONTRACTOR:

(herein called the "Contractor")

As used herein:

(i) "Architect" shall mean:

(ii) "Building" shall mean:

(iii) "Indemnitees" shall mean:
Silverstein Properties, 1 World Trade Center, LLC, 2 World Trade Center, LLC, 4 World Trade Center, LLC , 5 World Trade Center, LLC, Port Authority of New York & New Jersey, Tishman Construction Corporation of New York and 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.

(iv) "Site" shall mean:
World Trade Center
New York, New York

WITNESSETH:

WHEREAS, Construction Manager has entered into or will enter into, a Contract (hereinafter referred to as "Prime Contract") with the Owner for the furnishing of labor, materials, equipment and services in connection with the construction of the Project in accordance with the drawings and specifications prepared by the Architect. (A copy of the Prime Contract and all other Contract Documents enumerated therein have been, or will be, made available to the Contractor); and

WHEREAS, Construction Manager desires to let and Contractor desires to perform

a portion of the construction work;

NOW, THEREFORE, Construction Manager and Contractor agree as follows:

CONTRACTOR TO COMPLY WITH PLANS AND SPECIFICATIONS

1. The Contractor shall provide for the Site all the labor, supervision and materials hereinafter set forth in exact accordance with specifications hereto annexed or described herein and as shown on plans, drawings and details prepared by the Architect, which plans, drawings and details are to be returned to the Construction Manager upon the completion of the work. Such additional drawings as may be necessary to explain and detail the work will be furnished by the Construction Manager, and are to be conformed to, 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 are to be furnished by the Contractor without extra charge. The enumeration of particular items in this contract or in the specifications shall not be construed to exclude other items. The intention of the 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. Contractor must refer any question respecting the specifications, plans, drawings and details, about which it is in doubt, or which seems to admit of a dual interpretation, to the Construction Manager for its resolution in accordance with the Prime Contract.

DUTIES OF CONTRACTOR

2. The Contractor recognizes the relations of trust and confidence established between it and the Construction Manager by this contract. The Contractor covenants and agrees with the Construction Manager to furnish its best skill and judgment and to cooperate with the Owner and Construction Manager in forwarding the best interests of the Owner and Construction Manager. The Owner and Construction Manager shall have the right to exercise complete supervision and control over the work to be done by the Contractor, but such supervision and control shall not in any way limit the obligations of the Contractor to perform in strict accordance with the Contract Documents.

The name of any/all subcontractors or suppliers shall be submitted in writing to Construction Manager, and no subcontractor or supplier shall be employed unless acceptable to Construction Manager. Each subcontractor and supplier shall be bound by all Contract Documents to the same extent and with the same effect as if the subcontractor or supplier were the Contractor. Contractor shall cause subcontractors and suppliers to comply with all the Contract Documents. Contractor shall be responsible for all the acts, work, material and equipment of its subcontractors and suppliers and all persons either directly or indirectly employed by any of them.

SHOP DRAWINGS

3. The Contractor shall, at its own cost and expense, furnish the Construction Manager within ten (10) days from the date hereof, a submission schedule of all shop drawings, schedules, reports, diagrams, layouts, setting plans, cuts, explanations, catalogue references, samples and other data regarded by the Construction Manager as necessary, in the number required by the Construction Manager for submission to the Owner for its approval, correction, rejection or disapproval. The Owner's and/or the Architect's and Consultants' approval of such shop drawings, schedules, reports, diagrams, layouts, setting plans, cuts, explanations, catalogue references, samples and other data shall not relieve the Contractor from responsibility for deviations from the contract, specifications and/or drawings, unless it has, in writing, called the Construction Manager's attention to such deviations, at the time of delivery of such shop drawings, schedules, reports, diagrams, layouts, setting plans, cuts, explanations, catalogue references, samples and other data to the Construction Manager, nor shall it relieve Contractor from responsibility for errors. The Contractor shall make any corrections required by the Architect and/or Construction Manager, file with the Construction Manager corrected copies and furnish such other copies as may be needed. The Contractor shall make all

submissions of shop drawings directly to the Construction Manager for its approval. No submission shall be made directly to the Architect, unless approved by Construction Manager, and if any submission is so made, the approval or modifications authorized by the Architect shall not be binding upon the Owner and Construction Manager unless and until the Owner has granted its approval thereto. The Contractor shall obtain shop drawings from other contractors and coordinate its work to avoid interference with other contractors work. The Contractor shall furnish its shop drawings to other contractors, if necessary for the Project.

SPECIFICATIONS VARIED BY LAWS

4. The Contractor shall furnish, without extra charge, all work and materials not mentioned or shown, but generally included under this class of contract, necessary for the proper execution and completion of the work, and also any work or materials of the kind herein contracted for required to conform the Building to all laws and the Rules and Regulations of all Municipal Departments, the Board of Fire Underwriters and all other authorities having jurisdiction.

MEASUREMENTS VARIED BY JOB CONDITIONS

5. Dimensions on plans are to be followed in preference to scale measurements, and all measurements must be checked at the premises before the work is executed. No extra charge shall be made for changes necessitated by minor variations in the actual condition of the Site from what is shown on plans. Contractor shall examine the Site, note and ascertain the construction, materials, work, existing conditions at the Site and the nature and location of the work. All work affected or governed thereby or required for the thorough and satisfactory completion of its work, whether indicated and specified or not, and regardless of quantity estimated, shall constitute part of this contract and shall be performed by the Contractor without extra charge to the Construction Manager.

ARCHITECT TO INTERPRET SPECIFICATIONS

6. The Owner's Architect shall decide all questions which may arise as to the performance, quantity, quality, acceptability, fitness and rate of progress of the work or materials furnished under this contract. It shall decide all questions which may arise as to the interpretation of the specifications and of drawings and as to their fulfillment on the part of the Contractor, and as to defects in the Contractor's work. The Architect, whose interpretation of and decision as to the meaning of the plans, drawings, details and specifications or any part thereof shall be final and binding.

INDEMNITY VIOLATION OF LAW

7. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Owner, Construction Manager, Indemnitees, and their respective parent companies, corporations, limited liability companies and/or partnerships and their owned, controlled, associated, affiliated and subsidiary companies, corporations, limited liability companies, and/or partnerships, and the respective agents, consultants, principals, members, partners, servants, officers, stockholders, directors and employees thereof, from and against all claims or causes of action, damages, losses and expenses, including but not limited to attorneys' fees and legal costs and expenses, arising out of or resulting from the performance of Subcontractor's Work, or the Subcontractor's operations, or the condition of the Site or by the condition of any other place where work incidental to the Project is being performed or operations are being conducted including, without limiting the generality of the foregoing, all claims or causes of action, damages, losses, expenses, attorneys fees and legal costs and expenses relating to the payment of any sales or use taxes, contributions under any Unemployment Insurance Law, Old Age Retirement Benefits Law, Social Security Law, or Payroll or Income Tax now or hereinafter enacted by any State or Federal Authorities or subdivision of either, bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, whether arising on or near the Site, or while performing Project- related work, including those claims and mechanic's liens, of third parties or by reason of any claim or dispute of any person or entity for damages from any cause directly or indirectly related to any breach of statutory duty or to any willful or negligent act or failure to act by the Contractor, its representatives, employees, servants,

agents, subcontractors, delegates, or suppliers and whether or not it is alleged that the Owner, Construction Manager, other Indemnitees or Architects in any way contributed to the alleged wrongdoing. The Contractor acknowledges that specific consideration has been received by it for this indemnification and that same shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for the Contractor or any subcontractor and/or delegates under Workers Compensation acts or other employee benefits acts.

INSURANCE

8. Unless otherwise provided for by the attached Insurance Rider, prior to commencement of any work under this contract, and until completion and final acceptance of the Work, the Contractor and each and every subcontractor shall, at its own expense, maintain the following insurance on its own behalf and for the protection of the Owner, Construction Manager and all other Indemnitees named in this Contract:

a. Comprehensive General Liability
b. Worker's Compensation
c. Comprehensive Automobile Liability
d. All other insurance protection required by the Owner and Construction Manager

All of the above coverages shall comply with the specific requirements contained in the Insurance Rider hereby attached and made a part of this contract.

SIGNS

9. Contractor shall not place any signs, billboards or posters on any portion of the Site, Building, the property or fences (temporary or permanent) surrounding the same, except upon prior written permission received from the Construction Manager, and then only of a size, material, color and type and at a location approved by the Construction Manager.

TOOL SHEDS

10. If so required by Construction Manager, the Contractor shall, at its own cost, provide, erect and maintain, at locations designated by the Construction Manager, fireproof tool sheds for storing the by Contractor's tools, materials and equipment. The Contractor shall relocate its tool sheds as requested by the Construction Manager at the Contractor's own cost. The Owner or Construction Manager will not be responsible for any clothing, tools, materials or equipment lost, damaged, stolen or destroyed.

CONDITION OF PREMISES AND ADJACENT PROPERTY

11. The Contractor shall examine all premises and buildings adjoining or in close proximity to the Site (including, for the purposes hereof, street and sidewalks) and ascertain before beginning work, the depth of cellars, materials and construction of the buildings thereon, and shall be governed thereby for the necessary thorough, safe and satisfactory execution of all work called for herein, whether indicated on drawings and/or specified, or not, and all work and protective measures necessary to keep and leave such premises and buildings in the same condition as they were before commencing work shall be done without any addition to the contract sum. Wherever any parts of the present adjoining buildings interfere with or are interfered with by the work to be performed hereunder, the Contractor shall make whatever changes are made necessary thereby, whether shown on the drawings, called for in the specifications or not shown or not called for. The Contractor, before commencing work on the premises shall, if it sees fit, make a written report of the conditions as found at that time, noting particularly any defects in evidence, taking photographs of the exteriors, and, if necessary, photographs of interiors, and shall deliver to the Construction Manager a copy of the written report of the examination and copies of photographs with date of taking thereon. The Contractor shall invite the Owner and Construction Manager and the owners of the respective properties and buildings to join with it in the examination of such premises and buildings. The Owner and Construction Manager may at its option be present during the examination. If the Contractor fails to make the examination and report as herein specified, it will be deemed that said buildings and premises are in good condition, and all claims for damages, repairs and replacements must be treated by the Contractor on the basis that said buildings and premises were in good condition before it began work.

ARCHITECT TO DECIDE IN EVENT OF CONFLICT

12. Whenever the specifications shall be at variance, or in conflict with any of the provisions of this contract, the Contractor shall advise the Construction Manager, who will advise the Architect, and the interpretation and decision of the Architect shall be final and binding on the Contractor.

INSPECTION

13. The Contractor shall provide sufficient, proper and safe facilities at all times for the inspection of the work by Architect, the Owner, Construction Manager, Mortgages, the Municipal and/or State inspectors, and their authorized representatives. If any work is covered up without the approval of the Construction Manager, it must, if required by the Construction Manager, be uncovered for inspection at the Contractor's expense. The Contractor shall afford and provide at all times to the Architect, the Owner, the Construction Manager and their representatives satisfactory evidence of the quality of materials used and complete information in writing as to where materials to be used in the performance of this contract are being manufactured or assembled, and full and free access to all shops and manufactories for the purpose of informing themselves as to the general condition and progress of the materials herein contracted to be used or installed. The Contractor shall instruct such suppliers and manufacturers to give full and accurate information in writing directly to the Construction Manager on any questions concerning quality, performance, delivery status, and such other data as may be requested by the Construction Manager.

MATERIALS AND EQUIPMENT

14. All materials and equipment are to be new and of the best quality of the kind specified unless material or equipment of inferior type is distinctly specified, and the Contractor shall, if required by the Construction Manager, furnish satisfactory evidence of the kind and quality of materials and equipment. The Contractor shall, if required by the Construction Manager, obtain the manufacturer's written recommendation that the material and equipment is designed and appropriate for the use intended. Such materials and equipment shall not be subject to any conditional bill of sale, security agreement, financing statement, chattel mortgage, or any other claim, lien or encumbrance. Materials and equipment shall be promptly delivered and distributed where Construction Manager may require or direct, as needed for the uninterrupted and speedy progress and completion of the work, and so as not to encumber the Site unreasonably. The Contractor shall, if required by the Construction Manager, cause the materials (1) to be manufactured in advance, (2) to be warehoused either at the factory or elsewhere, as directed by the Construction Manager, (3) to be delivered to the Site promptly when so instructed by the Construction Manager and (4) to be relocated or removed from the Site at the cost of the Contractor. Care must be exercised by the Contractor against overloading any parts of floors, roofs, scaffolding and other installations. All materials delivered at the Site which are to form a part of the work herein specified shall not be removed without the consent of the Construction Manager, but the Contractor will have the right to and shall remove all its surplus material after completion.

LABOR

15. All work is to be done in the best manner and by persons skilled in the type of work to be performed. All labor employed under this contract shall, at the option of the Construction Manager, to the extent permitted by law, be union and/or that recognized by and in harmony with the local Building Trades Employers' Association and Contractor shall not employ any labor which may cause dissension with other workers on the Site, by whomsoever employed. The Contractor shall give the work constant attention and supervision through a responsible representative or superintendent, and any necessary assistants. Such representative shall be authorized to act for the Contractor in all matters relating to the work, and all directions given him shall be as binding as if given to the Contractor. The Contractor shall also keep e competent foreman at the Site while work is in progress, and enforce strict discipline among its employees, including the Construction Manager's regulations with regard to fires, smoking and other hazards. The Construction Manager is given the right to require the Contractor to remove immediately any employee or agent employed at the Site whom the Construction Manager deems incompetent or a hindrance to the proper progress of the work, and such person shall not again be employed in the work without the prior consent of the Construction Manager.

PROTECTION OF WORK AND EQUIPMENT

16. The Contractor during the construction of its work and while it is working on the Site in any capacity whatever, and until the completion of the project, shall protect all unfinished work and all materials on the Site, all adjacent property and all tools, plants, equipment and other appliances for the Contractor's use or incidental thereto for the execution of this contract, whether furnished by the Contractor or Construction Manager, from rain, water, frost and the elements and from all other kinds of damage which may be caused in any manner whatsoever, and the Contractor shall be entirely responsible for any loss or damage done to said work, materials, tools, plant, equipment and other appliances in any manner aforementioned, excepting damage by fire to materials incorporated into the work or delivered to the Site for incorporation into the work, even though the particular work damaged may be finished at the time and the Contractor may be working in some other portion of the Site, and the Contractor hereby agrees that it will not hold the Indemnitees responsible for any such loss or damage, by whomsoever caused.

UNSOUND WORK OR MATERIALS

17. The Contractor, upon receiving notice from the Construction Manager that the Contractor has furnished inferior, improper or unsound work or materials (including equipment) (whether worked or unworked), or work or materials at variance with that which is specified, will, within twenty-four (24) hours, proceed to remove such work or materials and make good all other work or materials damaged thereby, and, at the option of the Construction Manager, the Contractor shall immediately replace such work or materials with work or materials as specified. The removal, replacement and repair shall be performed on "off hours" or overtime with manpower sufficient, in the judgment of the Construction Manager, so as not to interrupt or delay the Construction Manager's construction schedule and so as to avoid disturbance to occupants of the completed Site and/or Building. If the Contractor does not remove such unsound work within a reasonable time, the Construction Manager may remove it and may store the material at the expense of the Contractor. If the Contractor does not pay the expenses of such removal within ten (10) days' time thereafter, the Construction Manager may, upon (10) days' written notice, sell such materials at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor and all expenses of the sale. The Construction Manager shall have the authority at all times, until final completion and acceptance of the work, to inspect and reject work and materials which in its judgment are not in conformity with the drawings and specifications, and its decision in regard to character and value of work shall be final and conclusive on both contracting parties. If the Construction Manager permits said work or materials to remain, the Construction Manager shall be allowed the difference in value or shall at its election have the right to have said work or materials repaired or replaced, as well as the damage caused thereby, at the expense of the Contractor, at any time within one year after the completion of the entire project, or within such longer period as may be covered by any guaranty; and neither payments made to the Contractor, nor any other acts of the Construction Manager, shall be construed as evidence of acceptance, waiver or estoppel. Any expense incurred by the Construction Manager in connection with the foregoing, shall be borne by the Contractor, and the Construction Manager may withhold money due to the Contractor or recover money already paid to the Contractor, to the extent of such expense.

FITTING OF THIS WORK WITH OTHER WORK

18. The Contractor will furnish all labor, implements, tools, scaffolding, rigging, hoisting and other items required to carry on its work, in the most approved and up-to-date manner; and shall do the necessary incidental cutting of woodwork, brick, stone, masonry, plaster, cement, iron, metal or other material for the installation of its work, and will do all patching in connection therewith; but cutting is to be avoided where possible. The Contractor will, if required by Construction Manager, do all necessary cutting, fitting and patching of its own work that may be required to make the several parts come together properly, and fit the work to receive or be received by work of other contractors shown upon, or reasonably implied by, the drawings and specifications. The Contractor shall not endanger any work by cutting, digging or otherwise. In laying out its work, Contractor shall also examine the work installed by others and the shop drawings of

the work to be installed by others prior to the beginning of the installation of its own work. If the Contractor begins its work, the starting of such work shall be conclusively deemed to mean that it accepts all preceding work as suitable and proper to receive its work, unless it has notified the Construction Manager in writing to the contrary before starting. In the event of failure of the Contractor and another contractor to agree as to the extent of cooperation to be exhibited or of work to be done by either, to insure the carrying out of their respective agreements, such disagreement shall be resolved by the Construction Manager whose decision shall be final and binding upon all parties.

RUBBISH REMOVAL

19. The Contractor shall at all times keep the Site free from accumulation of waste materials or rubbish caused by its employees or work and, at the completion of the work, it shall remove all its tools, scaffolding and surplus materials. The Contractor shall daily, or less frequently as the Construction Manager may require, collect its rubbish at places where directed by the Construction Manager.

COMPLIANCE WITH LAW

20. The Contractor shall procure and pay for all permits, licenses, approvals, certificates and authorizations necessary to the prosecution and completion its work and deliver evidence of the same to the Construction Manager. All work shall be done in strict accordance with all laws, ordinances, rules, regulations and requirements of the Board of Underwriters and all Municipal, State, Federal and other authorities having jurisdiction. Where drawings and specifications conflict with the law, the law is to be followed. The Contractor shall promptly notify the Construction Manager, the respective departments or official bodies when its work is ready for inspection and shall, at once, do all work required to remove any violations or to comply with such inspections, without additional charge to the Construction Manager. The Contractor shall perform all work necessary to obtain approvals of the authorities mentioned above without additional cost to the Construction Manager.

LIENS

21. If at any time, there shall be evidence of any lien or claim for which, if established, the Owner or Construction Manager might become liable, or which should, in any event, be charged to the Contractor, the Construction Manager shall have the right to retain, out of any payment due or thereafter to become due, an amount sufficient to indemnify the Owner and Construction Manager against such lien or claim, including bond premiums and attorneys' fees, and to apply the same in such manner as Construction Manager deems proper to secure protection and/or satisfy such claim and liens. Should there prove to be any such lien or claim after all payments are made to the Contractor, it shall repay the Construction Manager all sums which may be compelled to pay in discharging such lien or claim, including any and all legal fees or other charges.

PATENTS

22. The Contractor will not unlawfully use or install any patented article, and agrees to indemnify and save the Indemnitees harmless from any claim and against all damage which the Indemnitees may sustain by reason of the use or installation of such patented article, and at its own cost and expense to defend any action, whenever instituted, brought against the Indemnitees or their respective successors or assigns, founded upon the claim that any such article, or any part thereof, infringes any such patent. In the event of any such claim or damage, the Construction Manager may withhold from any payment due or thereafter to become due to the Contractor, an amount sufficient in its judgment to protect and indemnify the Indemnitees for any such claim or damage, or the Construction Manager may require the Contractor to furnish a surety bond satisfactory to the Construction Manager providing for such protection and indemnity, which bond shall be furnished by the Contractor at its own cost and expense, within five (5) days after written demand has been made therefore. The Contractor shall pay all royalties, fees and other claims in connection with patented articles which it uses under this contract. In the event of any injunction or legal action serving to stop the work, the Construction Manager shall have the privilege of requiring the Contractor to substitute such other articles of like kind as will make it possible to proceed with and complete the work, and all cost and expenses occasioned thereby shall be borne by the Contractor.

ASSIGNMENT

23. (a) The interests, rights, powers, duties and liabilities of the parties hereto shall be binding upon, and shall ensure to the benefit of, the respective successors and assignees of the parties; but the Contractor shall not assign or transfer its interest in this contract or assign or transfer any right it may have under the same or the proceeds payable hereunder or any part hereof, or subcontract or delegate to others the work or any part thereof, unless the written consent thereto of the Construction Manager is first procured, and any assignment or subcontract made in violation of this provision shall be null and void. Any such subcontract shall provide that it is subject to the provisions of this contract and shall provide that the Contractor has all the rights and remedies against the subcontractor that the Construction Manager has against the Contractor under this contract and shall expressly incorporate all such provisions as far as the same are applicable and no such subcontract shall be valid without the consent of the Construction Manager endorsed thereon. The Contractor agrees that it is as fully responsible to the Construction Manager for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it. Nothing contained in this contract shall create any contractual relationship between any subcontractor and the Construction Manager, or create any obligation on the part of the Construction Manager to pay or to see to the payment of any sum to any subcontractor. The Construction Manager may, without limitation, assign this contract, or any portions thereof, or any rights arising hereunder, including any guaranties or warranties of workmanship or material.

(b) The Owner may elect at any time or from time to time, including in connection with the termination of the Agreement between the Owner and the Construction Manager, to have this Contract Agreement assigned from the Construction Manager to the Owner or any entity designated by the Owner or by the Lender of the Owner, and the parties agree that such assignment shall be effective upon the delivery of a notice of such election by the Owner to the Contractor.

CHANGE OF STATUS

(c) In the event that the project should be abandoned by the Owner, the Construction Manager shall have the right, at any time, to send a written notice to the Contractor, terminating this contract, in which event, the Construction Manager shall pay the Contractor for all work actually provided up to the date of the sending of such notice and shall reimburse the Contractor for all costs and expenses actually expended and incurred (amounts "incurred" to be limited as though Contractor's suppliers and subcontractors had received a similar notice and were bound by a similar provision in their agreements) up to said date which are not cancelable or recoverable by the Contractor, and the Contractor shall not receive any markup for overhead and profit except to the extent of a reasonable markup on said amount so paid and reimbursed and the parties hereto shall, except as otherwise provided hereinabove, be released of all future liability or obligations under this contract.

TIME OF ESSENCE

24. The Contractor shall commence and complete work and deliveries of material at the times hereinafter mentioned or as soon thereafter as required by the Construction Manager. Where the dates for the commencement or completion of work on the making of deliveries are not specified after the time fixed for such commencement, such work or deliveries or the part of the same concerning which no dates are given shall be commenced on three (3) days' notice from the Construction Manager and shall be prosecuted and completed with all possible diligence and speed or as otherwise directed by the Construction Manager. The time stated in this contract for the commencement, prosecution and completion of this work and the deliveries and installation of material shall be deemed of the essence of this contract.

COOPERATION WITH OTHER CONTRACTORS

25. The Contractor must keep itself informed of the conditions at the Site, so as not to delay the delivery of

materials or the installation of the work called for in this contract. It is expressly agreed that the Contractor must cooperate with and extend every possible facility to other contractors employed at the Site, and must 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 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 Construction Manager with respect thereto shall be complied with fully and promptly.

DELAYS IN GENERAL

26. (a) Should the Contractor be delayed by fault of the Owner, Construction Manager, Architect or any other contractor, or by abnormal weather conditions, then the time fixed for the completion of the work shall be extended for a period equivalent to the time so lost. The Owner, Construction Manager or Architect shall not be held responsible for any loss or damage sustained by the Contractor through delay caused by the Owner, Construction Manager, Architect or any other contractor, or by abnormal weather conditions, or by any other cause.

STRIKES

(b) Should the Contractor be delayed by general strikes or lockouts throughout the trade, then time for the completion of the work shall be extended for a period equivalent to the time lost, or the Construction Manager shall, at its option, have the right to terminate this contract and to employ other contractors to finish the work and provide the materials therefore, and to pay the Contractor pro rata for materials and work already supplied, or this contract price, reduced by the cost to the Construction Manager of completing the work for which provision is made herein, whichever is less.

NOTICE TO OWNER

(c) None of the foregoing causes of delay shall be deemed a valid excuse for failure to start, perform or complete the work or deliveries at the times specified, unless the cause of such delay is beyond the Contractor's control and arose without its fault or negligence, and the Contractor has notified the Construction Manager in writing of the alleged cause of delay within forty-eight (48) hours after the commencement thereof.

ADDITIONAL LABOR

(d) Should the Contractor fail, refuse or neglect to supply a sufficiency of workmen or to deliver the materials with such promptness as to prevent the delay in the progress of the work, or fail in any respect diligently to commence and prosecute the work and proceed to the point to which the Contractor should have proceeded hereunder, or if the different parts thereof are not commenced, prosecuted, finished, delivered or installed on time as herein specified or if the Contractor shall fail in the performance of any of the covenants of this contract, the Construction Manager shall have the right to direct the Contractor, upon three (3) days' written notice, at the Contractor's cost and expense, to furnish such additional labor and to expedite deliveries of materials (or the Construction Manager may furnish such labor and expedite such deliveries at the cost of the Contractor), which labor or expediting shall, in the Construction Manager's opinion, be sufficient to speed up and complete the work as herein provided.

OVERTIME

(e) If such additional labor shall not be available, the Construction Manager shall have the right to direct the Contractor, at the latter's own cost and expense, to work overtime to such an extent as will be sufficient, in the Construction Manager's opinion, to speed up and complete the work as herein provided.

REMEDIES OF OWNER

(f) The Contractor agrees that if it delays the speedy progress of the work so as to cause loss or damage to the Construction Manager or to other contractors, then it shall reimburse the Construction Manager and such other contractors for such loss. In addition to the foregoing, the Construction Manager shall have the right, after three (3) days' written notice to the Contractor, to provide any such labor, additional labor, overtime labor and materials and to deduct the cost thereof from any moneys then due or thereafter to become due to the Contractor. Permission by the Construction Manager for delayed finishing shall not be construed as a waiver of the Construction Manager's right to be compensated by the Contractor for damage resulting from such delay.

TERMINATION BY CONSTRUCTION MANAGER

(g) If the Contractor shall fail to comply with any of the provisions of this contract on its part to be performed, the Construction Manager shall have right after three (3) days' written notice to the Contractor, to terminate this contract and the employment of the Contractor, to take possession of the Contractor's materials, tools, plant, equipment and appliances used or to be used for the construction, whether on or off the Site, (and for that purpose to enter the premises of the Contractor) and to cause the entire remaining work to be finished and the materials therefore to be furnished by another contractor or contractors or by day's work, as the Construction Manager deems fit; and the Contractor shall not be entitled to any further payment until all the work specified in this contract shall be finished, at which time, if the unpaid balance of the amount to be paid under this contract shall exceed the expense incurred by the Construction Manager in finishing the work, including overhead, attorneys' fees and damage incurred through the default of the Contractor, such excess shall be paid to the Contractor, but if such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Construction Manager. After the work has been completed, the Contractor may remove such materials, tools, plant, equipment and appliances as remain, but neither the Owner nor the Construction Manager shall be liable for anything that has been lost, stolen, destroyed, worn or used. In addition, without terminating this contract, the Construction Manager may, under the circumstances set forth above, terminate the Contractor's right to proceed with any part of the work or with the furnishing of any part of the labor and/or materials.

(h) Construction Manager may terminate this Agreement for its convenience at any time without cause upon three (3) days written notice to Contractor. In the event that the Agreement is terminated for convenience by Construction Manager, Construction Manager will pay the actual value of work (based on approved schedule of values) earned up to the date of termination plus reasonable, actual, documented demobilization costs. Upon such a termination, Construction Manager will have no further obligation to Contractor nor shall Construction Manager be obligated to pay for (and Contractor hereby waives) any lost profits, lost bond capacity or other type of expenses or damages.

PERFORMANCE BOND AND PAYMENT BOND

27. The Contractor, within five (5) days after notice by the Construction Manager given at any time prior to the completion of the work, (unless Performance and Payment Bonds are included in the contract price, in which case bonds shall be submitted within five (5) days of contract execution without notice) shall at its own cost and expense, furnish to the Construction Manager performance and payment bonds issued by a surety company satisfactory to the Construction Manager, and in form satisfactory to the Construction Manager, guaranteeing the due and prompt performance of all of the terms of this contract on the part of the Contractor to be performed, and the prompt payment of all amounts to be paid by the Contractor for labor and materials. Cost of Performance and Payment Bonds not included in contract price will be added to Contract Price by change order. In the event that the Contractor fails to furnish the bonds as aforesaid, the Construction Manager shall have the option of declaring the Contractor to be in default and of exercising any or all of the rights set forth in this contract. Bonds shall be written at standard rates of surety companies authorized to do business in the State in which the Site is located and may, at the Construction Manager's option, be placed directly by the Construction Manager at the Contractor's cost and expense.

BANKRUPTCY

28. If, prior to the commencement of this contract, the Contractor shall be adjudged a bankrupt or becomes insolvent, or if any petition under the Bankruptcy Act of the United States is filed by or against the Contractor, or if it should make an assignment for the benefit of creditors, or if a receiver of the Contractor's property should be appointed, or if any judgment is taken against the Contractor and execution is issued thereon, or if the property of the Contractor passes into the hands of any legal representative, then and in any of those events, the Construction Manager may, at its option, terminate this contract and the employment of the Contractor, with the same rights and privileges set forth in Article 26.

ACCELERATION OF PERFORMANCE

29. If the Construction Manager shall desire the Work of the Contractor hereunder to be performed with greater speed than is herein contracted for, the Contractor shall, without effecting or abridging the rights of the Construction Manager set forth in any Article hereof, upon receipt of a written order from the Construction Manager, employ overtime Work as so ordered. Direct cost of the premium time for all labor utilized by the Contractor in such overtime work as shown on the time slips checked and approved each day by the Construction Manager shall be paid by Construction Manager to the Contractor, but no overhead, supervision costs, commission or other costs shall be charged thereon.

NO WAIVER

30. The failure of the Construction Manager to insist in any one or more instances upon a strict compliance with any provision of this contract, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment of the right of the Construction Manager thereafter to require a compliance with such provision of this contract, or a waiver of the right of the Construction Manager thereafter to exercise such option, but such provision or option will remain in full force and effect.

GUARANTY

31. The Contractor hereby agrees to repair and make good any damage, defects or fault in the premises that may appear within one year after completion, or within such longer period as may be provided in the specifications, guaranty or other writing, as the result of imperfect or defective work or materials furnished by the Contractor (even if such defects or imperfections be latent) or work or materials at variance with what is specified. All materials furnished or installed (except where otherwise expressly specified) shall be subject to a guaranty of one year from the date of (a) completion of the entire project, (b) the making of final payment by the Construction Manager to the Contractor, (c) the issuance of a final Certificate of Occupancy, or (d) the discontinuance of the use of permanently installed work for temporary construction purposes, whichever is latest. Contractor hereby agrees to make any and all repairs which may become necessary, during the guaranty period, on account of faulty materials furnished or faulty workmanship performed, and the guaranty period, within three (3) days from receipt of written notice, without cost to and to the satisfaction of the Construction Manager. All rights acquired by the Construction Manager through guaranties by the Contractor shall ensure to the benefit of the Construction Manager, its successors and assigns. In addition to the foregoing, any equipment warranties secured by the Contractor, including those in excess of one (1) year, and any bond or guaranty which may be required under the plans or specifications, shall also ensure to the benefit of the Construction Manager, its successors and assigns. The Contractor further agrees that the Port Authority of New York and New York (the "Port Authority") and the Owner shall be third party beneficiaries of any and all warranties contained in this agreement and/or by the Contract Documents.

PAYROLL AND SALES TAXES

32. The Contractor hereby accepts exclusive liability and shall hold the Owner and Construction Manager harmless for the payment of contributions pursuant to any Unemployment Insurance Law, Old Age Retirement Benefits Law and any other or similar Social Security Law or Payroll or Income Tax now or hereafter enacted by any City, State or Federal Government or any subdivision of either, levied or based upon the payroll of the Contractor for employees partly or wholly engaged in the work covered by this contract.

The Contractor agrees to furnish all necessary information to enable the Construction Manager to comply fully with all the requirements of such laws. All sales and use taxes are included in the contract price and are to be paid by the Contractor. In the event that any law is or has been passed, or any rule or regulation pursuant thereof is enacted, which requires the Construction Manager to pay, either directly or indirectly, the amount of any such tax, or should any such law, rule or regulation direct the Construction Manager to collect the same, or make the Construction Manager liable for the collection thereof, or make the Construction Manager responsible therefore, it is covenanted and agreed that the Contractor shall fully and completely make all payments therefore, and shall fully and completely indemnify and save the Owner and Construction Manager harmless from any and all such taxes. It is further agreed that the Construction Manager shall have the right to deduct the amount of any and all such taxes from the contract price at any time the Construction Manager may, in its sole discretion, deem it advisable, to the end that the Construction Manager may not be under liability therefore whatsoever, it being agreed that the Construction Manager shall have the right to deduct any and all such moneys from the next payments due under this contract and from the retained percentages. If any Sales Tax provides any exemption from tax for capital improvements, Construction Manager agrees to provide Contractor with the necessary certification and Contractor agrees not to charge tax with respect to the furnishing of labor and/or materials as long as said exemption provision is in effect.

PRICE NOT ADJUSTED FOR RISING COSTS

33. The Construction Manager agrees to pay the sum herein set forth in current funds for such work and materials, and in the manner and at the times herein set forth. Said sum is intended to include all increases in cost, foreseen or unforeseen, including, without limiting the generality of the foregoing, taxes, labor and materials, all of which is to be borne solely by the Contractor. All loss or damage arising from any of the work performed under this contract through unforseen or unusual obstructions, difficulties or delays which may be encountered in the prosecution of same or through the action of the elements shall be borne by the Contractor. It is mutually agreed between the parties hereto that no payment made under this contract, shall be conclusive evidence of the performance of this contract, either wholly or in part, nor shall it be construed to be an acceptance of defective work or improper material, or an approval of any of the items in any requisition made or bill rendered. All bills or requests for payments must be presented in writing.

SCHEDULE OF VALUES

34. (a) Prior to the commencement of work hereunder, Contractor shall prepare and submit to Construction Manager, for Owner's approval, 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 Contract Price.

PROGRESS PAYMENTS

(b) On or before the 20th day of each calendar month the Contractor shall forward to the Construction Manager, for its approval, a written statement showing the amount due or to become due and including the last day of that calendar month. The Contractor shall attach to each such application for payment, an acknowledgment of payment 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. All requisitions shall be made on and in compliance with Construction Manager's standard form of Contractor's requisition and shall be subject to the terms thereof, including the submission of sworn statements from Contractor's subcontractors and vendors. The Construction Manager, on or about 45 days from the end of the calendar month, shall remit to the Contractor 90% of the amount so requisitioned by the Contractor, and as approved by the Construction Manager. In addition to the said retainage of 10%, 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 contract price unpaid. In no event will the Construction Manager be required to pay in excess of 90% of the contract price prior to the completion of all the work the Contractor is obligated to perform under this contract.

WITHHOLDING BY CONSTRUCTION MANAGER

(c) The Construction Manager may withhold payment to the Contractor 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 to avoid the reasonable probability of the filing of liens or claims against the Construction Manager, the project or the Contractor, and (3) damage to another contractor by reason of acts or failure to act of the Contractor.

FINAL PAYMENT

(d) The balance owing to the Contractor under the terms of this contract shall be due and payable within sixty (60) days after

(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

(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 on the Construction Manager's standard form in favor of the Owner, Construction Manager and Owner's sureties, if any; and (E) satisfactory proof that all claims, including taxes, growing out of the work to be performed hereunder and any liens growing out of the same which shall have been filed or recorded, have been released.

(4) Payment of the Contract Price 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 only from funds which Construction Manager has actually received in hand from the Owner and designated by Owner for disbursement to Contractor. CONTRACTOR AGREES TO LOOK SOLELY TO SUCH FUNDS AND/OR TO PROCEEDS OF FORECLOSURE OF MECHANIC'S LIEN (AS SET FORTH IN PARAGRAPH 5 HERE OF) FOR PAYMENT. Contractor understands and agrees that Construction Manager shall have no responsibility to pay Contractor any amounts due to Contractor upon the Contract Price 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 Manger to Contractor.

(5) Nothing set forth herein, in sub-paragraph 4 above, or in any other Contract Document shall be construed to limit, impair or diminish any and all rights of the Contractor under the Lien Law of the State of New York to file and enforce a mechanic's lien against the Owner's right, title, or interest, if any, or any right, title or interest, if any, of any other "owner" (as defined in the Lien Law) in and to the real property on which the project is being constructed, and improvements thereof. Solely for the purposes of filing and foreclosing a mechanic's lien on real property under the Lien Law of the State of New York, there shall be deemed to be a valid and existing debt of the Construction Manager to Contractor for any payments to which the Contractor would be entitled to under the Contract Documents or otherwise but for the Owner's failure to make payment to the Construction Manger. THEREFORE, THE CONTRACTOR SPECIFICALLY AGREES TO LOOK FOR PAYMENT OR OTHER SATISFACTION OF THE DEBT SOLELY FROM (i) PROCEEDS OF FORECLOSURE OF ANY SUCH MEHCANIC'S LIEN AND/OR (ii) AS SET FORTH IN PARAGRPAH 4 HEREOF, FUNDS ACUTALLY RECEIVED BY

CONSTRUCTION MANAGER FROM THE OWNER SPECIFICALLY DESIGNATED FOR DISBURSEMENT TO THE CONTRACTOR.

TRUST FUNDS

36. Any and all funds payable to the Contractor hereunder are hereby declared to constitute trust funds in the hands of the Contractor, to be applied first to the payment of claims of subcontractors, architects, engineers, surveyors, laborers and materialmen arising out of the described work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety bonds and other bonds filed and premiums on insurance accruing during the construction of the described work, before application to any other purpose. Whenever required by the Construction Manager, it shall be the duty of the Contractor to file with the Construction Manager a verified statement, in form satisfactory to the Construction Manager, certifying the amounts then due and owing from the Contractor for labor and materials furnished under the terms of this contract, setting forth herein the names of the persons whose charges or claims for labor, materials or supplies are unpaid, and the amount due each respectively.

CHANGES AND EXTRAS

37. The Construction Manager, without invalidating this contract, may order extra work or make changes by altering, adding to or deducting from the work, the Contract Price to be adjusted accordingly. The Contractor shall not make any alterations or omit anything, or perform additional or extra work, except upon written order signed by the Construction Manager. The Construction Manager shall at any time have the right to order extra work to be performed on (a) Lump Sum Proposal, (b) Unit Prices, or (c) Time and Material Basis. No request for payment for extra work will be honored unless accompanied by such written order. All such work shall be executed under the provisions of this Contract. The Construction Manager's choice of the manner in which the extra work is to proceed is described as follows:

(A) Lump Sum Proposal

The Contractor will within ten (10) days after receipt of the Construction Manager's communication submit its Lump Sum Proposal. This Proposal will be itemized and segregated by labor and material for the various components of the work. No aggregate labor total will be acceptable. The Contractor will furnish with its Proposal supporting data consisting of Subcontractor's and vendor's signed proposals. The Contractor will be allowed 15% for overhead and profit on labor performed by his own forces and material purchases. Subcontractors, likewise, will be permitted an allowance of 15% for overhead and profit on their own work. The Contractor will be further allowed a 6% commission on all of his subcontractor's work. 6% overhead and profit will be allowed on equipment rented by the Contractor or subcontractor. The Contractor may include in his labor proposal only those workmen and foremen directly involved in the work. All other supervision is included in the 15% overhead and profit allowed. Contractor will be entitled to payment for labor, union fringe benefits, insurance, unemployment insurance, social security and taxes paid on labor. No overhead or profit will be allowed on social security, unemployment insurance or other insurances or premium time. Contractor's material costs will include invoiced costs, transportation, applicable sales or use taxes, actual rental costs or discounted local published rental rates. Use of small tools is included in the Contractor's overhead and profit. Overhead and profit as outlined above includes all other costs whatsoever beyond those enumerated. If any of the extra work included in the Lump Sum Proposal is covered by Contract Unit Prices, the Construction Manager may elect to use these unit prices within the Lump Sum Proposal. No overhead and profit may be applied to these unit prices. The entire value of the change will be the net difference of the work to which will be applied overhead and profit percentages.

(B) Unit Prices:

The Contractor will submit within ten (10) days after receipt of the Construction Manager's communication submit its written proposal itemizing the quantities of each item of work for which there is an applicable Unit Price contained in the Contract. The quantities must be itemized in relation to each specific contract drawing. Unit prices will be applied to net differences of quantities of the same item.

(C) Time and Material:
Should the Construction Manager elect to have any extra work performed on a time-and-material basis in lieu of Lump Sum Proposal or Unit Prices, and so notifies the Contractor in writing, the Contractor shall perform such work at actual cost (without any charge for administration, clerical expense, supervision or superintendence of any nature whatever, including non-working foremen, or the cost, use or rental of tools or plant) plus 15 percent for overhead and profit. To this figure the Contractor may add Unemployment Insurance and Old Age Retirement Benefits taxes paid on labor required for the extra work. Moreover, if the Contractor procures the performance of extra work by others than its own employees, the Contractor shall not be entitled to greater payment than that to which it would have been entitled if it had itself furnished the labor and materials required in connection with the work to be performed under this provision. The Contractor will submit to the Construction Manager daily time and material tickets. These tickets will include the identification number assigned to this work, the location and description of the work, the classification of labor employed including workers' names and social security numbers, the material used, the equipment rented (not tools) and any other information ordered by the Construction Manager.

Where any such additional work is ordered as provided in this Contract, the Contractor shall, for such purposes, permit the Construction Manager to audit its books. The Contractor shall produce any and all data which the Construction Manager may request for the purpose of determining the correctness of the changes. The Contractor shall keep such full and detailed accounts as may be necessary to reflect its operations with respect to such changes and extras, and the system adopted shall be such as is satisfactory to the Construction Manager. The Owner, Construction Manager, their agents and employees, shall be afforded access at all reasonable times to the Contractor's, Subcontractor's and Vendor's books, correspondence, instructions, receipts, vouchers, memoranda and records of all kinds, relating to all work under this Contract as well as to such changes and extras, and the Contractor shall preserve the same for a period of six years after final payment hereunder. In regard to the foregoing and generally, the Contractor hereby authorizes the Owner and Construction Manager to check directly with its suppliers of labor and materials the charges for such labor, materials and other items appearing in the Contractor's bills rendered to the Construction Manager, to confirm balances due and obtain sworn statements and waivers of lien.

In the case of disagreement as to the amount to be paid or credited the Contractor shall promptly comply with the order and payment to Contractor or credit to the Construction Manager shall be made in accordance with the contract payment provisions up to the reasonable estimated value of the change as determined by Construction Manager.

Unless and until the Construction Manager shall elect either the lump sum, the unit price method or time and material, the Contractor shall maintain and submit daily records of labor, material and equipment used in the work which have been acknowledged thereon daily by the Construction Manager. In any event, Construction Manager shall have the right to order such changes in the work to proceed promptly prior to the submission of any proposal and/or Construction Manager's election.

Any work included in this contract shall be performed by the Contractor at no extra cost to the Construction Manager despite any order from the Construction Manager to the Contractor which might contemplate such work as an extra.

NO DELAY BY CONTRACTOR

38. 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 any work or part of its work on its part required to be performed or stop or delay the delivery of any materials on its part required to be furnished hereunder, pending the determination of such dispute or controversy.

SCHEDULING

39. The scheduling of construction operations for the project will be monitored by a method to be chosen by the Construction Manager. The Contractor, and its subcontractors, if required, shall furnish all scheduling information requested by the Construction Manager at such time and in such form and detail as requested for its particular trade.

Such information shall be furnished within 2 weeks of the request and shall further be revised from time to time when requested either prior to and/or at any time during performance of its work.

Information submitted by the Contractor or others, acceptance or approval by the Construction Manager and the scheduling that may be developed and implemented by the Construction Manager shall not constitute the basis of any claim by Contractor or its subcontractors for damage or delay nor excuse the Contractor's performance as required herein.

BILLS AND NOTICES

40. A bill, statement, notice or communication which one of the parties hereto desires to serve upon the other shall be deemed sufficiently given and rendered if sent by registered or certified mail, return receipt requested, reputable overnight courier, addressed to the other party at the address set forth herein. The time of the rendition of such bill, statement, notice or communication shall be deemed to be the time when the same was mailed and each day's notice shall be construed to mean a period of twenty-four (24) hours from the time of mailing.

RIGHTS AND REMEDIES

41. All Rights and Remedies of Construction Manager under this Contract shall be cumulative and shall be in addition to all other Rights and Remedies of Construction Manager provided by law.

NO ORAL MODIFICATIONS

42. This contract constitutes the entire agreement between the parties. The Contractor affirms and agrees and represents and warrants that only the statements, representations and promises expressly contained in this Contract have been relied upon by him and have induced him to enter into this Contract. No provision of this contract shall be changed or modified, nor shall this Contract be discharged, in whole or in part, except by an agreement in writing signed by the party against whom the change, modification or discharge is claimed or sought to be enforced, nor shall any waiver of any of the conditions or provisions of this contract or of any of the rights of either of the parties hereunder be effective or binding unless such waiver shall be in writing and signed by the party claimed to have given, consented to or suffered the waiver. In the event any written change or modification is made as aforesaid, the Construction Manager's rights and remedies under this contract and under any bond given to the Construction Manager, in accordance with the requirements of this Contract, shall in no way be prejudiced or impaired, and the bond shall apply and be in full force and effect with respect to this contract as so changed and modified.

SAVING CLAUSE

43. If any of the provisions hereof shall contravene or be invalid under the laws of the jurisdiction where it is to be performed, such contravention or invalidity shall not invalidate the whole contract or any other provision thereof, but this contract shall be construed as if not containing the provisions held to be invalid, and the rights and obligations of the parties shall be enforced accordingly.

EQUAL OPPORTUNITY CLAUSE

44. In connection with the execution of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Contractor

shall use best efforts to hire both minority and female employees whenever qualified individuals apply for employment. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In conjunction with this provision, the Contractor shall conduct its business in accordance with all federal, state and local laws and/or ordinances pertaining to programs concerning affirmative action and equal opportunity.

EXCULPATION OF PARTNERS

45. No general or limited partner or shareholder of the Owner or other holder of any equity interest in the Owner shall be personally liable to this agreement or other holder of any equity interest in any such party shall be personally liable for the performance of any such party's obligations under this agreement. The liability of Owner for Owner's obligations under this agreement shall be limited to Owner's interest in the Property, and the Contractor shall not look to any of Owner's other assets seeking either to enforce Owner's obligations under this agreement or to satisfy a judgment for Owner's failure to perform such obligations. The Contractor will not enter into any agreements with third parties without the inclusion of any exculpatory clause similar to that set forth herein, limiting Owner's obligations to Owner's interest in the property.

HEADINGS

46. Headings used in this contract are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope or intent of this contract, nor do they in any way affect this contract.

OWNER BENEFICIAL OCCUPANCY

47. If, before final acceptance the Owner desires to occupy the project or any part thereof which is completed or partly completed, or to place or install therein certain equipment and furnishings; the Owner shall have the right to do so and the Contractor shall in no way interfere with or object to such occupancy by the Owner.

AFFIRMATIVE ACTION

48. The Construction Manager has a long standing practice of encouraging the participation of Minority and Women owned firms in its business opportunities. Accordingly, the contractor shall make every good faith effort to subcontract with minority and women owned firms in the performance under this contract. Additionally, the Construction Manager is an Equal Employment Opportunity Employer and will expect all the contractors to secure Minorities and Women in the workforce to the maximum extent possible. This policy shall be supplemented by such specific goals and obligations imposed by governmental authorities and/or as otherwise specified in the Contract documents.

LABOR AND MATERIALS TO BE FURNISHED BY CONTRACTOR

All labor, materials, equipment, tools, appliances, services, delivery, hoisting, scaffolding, permits, testing, engineering, layout, supervision, applicable taxes and insurance, coordination and all other operations required for the complete performance of all specified and related work stated herein, in accordance with the Contract Drawings, Specifications, Riders and other Contract Documents listed or referenced herein, all of which become part of this Contract.

CONTRACT PRICE

This Contractor shall perform all work set forth herein for the contract price of Dollars ($) including all applicable taxes, overhead and profit.

CONTRACT DOCUMENTS

Rider "A", General Addendum and Scope of Work, dated
Rider "B", List of Drawings and Specifications, dated
Rider "C", Alternates and Unit Prices, dated
Insurance Rider, dated

TIME OF PERFORMANCE

This Contractor represents that he has sufficient manpower, equipment and materials available to expedite all phases of his work schedule. Work in any area shall commence upon 48 hours notice from the Construction Manager. Work shall proceed in sequence and direction as required by the Construction Manager and as provided for in the Time and Performance Section of Rider "A".

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

ACCEPTED:

_____
(Contractor)

BY: _____
(Signature)

_____
(Print Name & Title)

DATE: _____

CONSTRUCTION MANAGER:

TISHMAN CONSTRUCTION CORPORATION

BY: _____

DATE: _____

EXHIBIT "C"

GENERAL CONDITIONS

DESCRIPTION OF GENERAL CONDITIONS

1. Project Management Staff (Supervisory Payroll & Fringe Benefits) (including Project Director, managers, superintendents, accountants, secretaries, plan clerks, etc.).

2. Field Labor, Union Personnel (Field Payroll & Fringe Benefits) (including Teamsters, Elevator Operators, Operating Engineers, Maintenance Engineers, Mason Tenders (Laborers).

3. Temporary Services, including surveys, permits & fees, temporary construction, electrical, water, rubbish removal, watchman service, messenger service, progress photos, final clean-up.

4. Field Office Expenses, including rent, fitout, equipment, furniture, computers, blueprinting, telephone, postage, travel, pest control, office supplies.

5. Site Safety & Maintenance, including site safety program, small tools & supplies.

AMENDMENT TO GENERAL CONTRACTOR AGREEMENT

AMENDMENT TO GENERAL CONTRACTOR AGREEMENT (this "Amendment"), dated as of July 1, 2004, by and between TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation having an office at 666 Fifth Avenue, New York, N.Y. 10103 ("Tishman") and WTC REDEVELOPMENT LLC, a Delaware limited liability company, having an office c/o Silverstein Properties, Inc., 530 Fifth Avenue, New York, N.Y. 10036 ("WTC Redevelopment"). 1 World Trade Center LLC, 2 World Trade Center LLC, 4 World Trade Center LLC, and 5 World Trade Center LLC (collectively, the "Lessees" and, together with Tishman and WTC Redevelopment, each a "Party" and collectively, the "Parties") have executed this Agreement for the purposes set forth below.

WITNESSETH:

WHEREAS, the Lessees lease, among other things, various components of the World Trade Center complex in Block 58, Lot 1, New York, New York (the "Site") from The Port Authority of New York and New Jersey (the "Port Authority") and in connection with the redevelopment of the Site, the Lessees and Tishman entered into a General Contractor Agreement, dated as of September 10, 2003 (the "General Contractor Agreement"); and

WHEREAS, pursuant to a Partial Assignment and Assumption Agreement dated as of the date hereof between the Lessees, as assignor, and WTC Redevelopment, as assignee (the "Assignment"), the Lessees assigned to WTC Redevelopment certain rights and obligations under the General Contractor Agreement with respect to the Demolition Sub-Project (as hereinafter defined), and WTC Redevelopment assumed such rights and obligations; and

WHEREAS, in connection with the commencement and performance, in accordance with the General Contractor Agreement, of the demolition work and certain soil boring work at the Site, the Parties desire to amend and modify certain provisions of the General Contractor Agreement;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto mutually agree as follows:

1. Defined Terms.

(a) Capitalized terms used herein but not defined herein shall have the respective meanings assigned to them in the General Contractor Agreement and the Cost Allocation Agreement for Demolition Work, dated as of the date hereof, between WTC Redevelopment and the Port Authority, pursuant to which the costs for the Demolition Work are allocated between WTC Redevelopment and the Port Authority (collectively, the "CAA Parties") (such agreement, the "Cost Allocation Agreement"), as applicable.

(b) The term "Architect", as used in the General Contractor Agreement (and for purposes of the Demolition Sub-Project only) shall mean The Port Authority of New York and New Jersey.

(c) The term "Contract Documents", as used herein and in the General Contractor Agreement (and for purposes of the Demolition Sub-Project only), shall mean, collectively, (i) the plans and specifications and demolition sub-contracts for the Demolition Sub-Project set forth on Exhibit A.

(d) The term "Demolition Sub-Project", as used herein, shall mean the Sub-Project consisting of the demolition work at the Site, as described on the plans and specifications attached as Exhibit A hereto.

(e) The term "Demolition Work", as used herein, shall mean all labor, materials, equipment, tools and services required for the complete construction and performance of the Demolition Sub-Project.

(f) The term "Initial Work" as used herein shall mean (x) the Demolition Work, and (y) coordination of access to the Site for Jersey Boring and Drilling Company, Inc., a soil boring contractor performing work on the Site for WTC Redevelopment and/or its affiliates.

2. References in General Contractor Agreement.

(a) All references to "Lessee" or "Lessees" in the General Contractor Agreement shall mean, for purposes of the Initial Work only, WTC Redevelopment.

(b) All references to "Work" in the General Contractor Agreement shall mean, for purposes of the Initial Work only, the Initial Work.

3. Notice to Proceed. WTC Redevelopment hereby notifies Tishman, pursuant to Section 5.1 of the General Contractor Agreement, to proceed with the Initial Work in accordance with the Contract Documents and with the General Contractor Agreement (as amended by this Amendment).

4. Sub-Project Budget and Additional Costs.

(a) Notwithstanding anything contained in the General Contractor Agreement to the contrary, the Parties hereby acknowledge and agree that there shall be no Sub-Project GMP (as such phrase is defined in Section 3.3.2 of the General Contractor Agreement) for the Demolition Sub-Project. The estimated line item budget for the Demolition Sub-Project is attached as Exhibit B hereto. For purposes of the Demolition Sub-Project only, (i) the term "Cost of the Work" (as such term is defined in Section 6.2.1 of the General Contractor Agreement) shall be deemed included in the line item budget on Exhibit B hereto, and (ii) the Tishman Fee (as such term is described on Exhibit B hereto) shall be deemed to include "Costs Not to be Reimbursed" (as such phrase is described in Article VII of the General Contractor Agreement).

(b) If and to the extent that Tishman shall incur any additional costs or expenses (in excess of those set forth on Exhibit B hereto) hereunder for any reports or other items of information requested by a CAA Party pursuant to Section 6(c)(ii) through (iv) herein, Tishman shall allocate such additional costs or expenses solely to the respective CAA Party re-

questing such reports or other items of information, as applicable. Notwithstanding anything contained herein to the contrary, the Tishman Fee (as defined below) shall not exceed $100,000 in the aggregate.

5. Construction Schedule. The construction schedule for the Demolition Sub-Project shall be mutually agreed upon by the Parties as soon as practicable after the date hereof. The Parties acknowledge and agree that the Demolition Sub-Project is expected to begin promptly after the date hereof and is scheduled to be completed before December 1, 2004 and Tishman shall use its best efforts to complete the Demolition Sub-Project on or before such date.

6. Tishman's Duties and Responsibilities, Payment.

(a) Subject to Section 4(b) of this Agreement, each requisition for payment submitted by Tishman to WTC Redevelopment in connection with the Demolition Work (each, a "Requisition") shall also be provided simultaneously to the Port Authority and shall allocate as between WTC Redevelopment and the Port Authority (i) the amount being requisitioned in the manner specified in Sections 5, 6, 8, 10 and 11 of the Cost Allocation Agreement, and (ii) any recycling credits originating from the performance of the Demolition Work in the manner specified in Section 7 of the Cost Allocation Agreement. The Cost Allocation Agreement is attached hereto as Exhibit C. Each Requisition shall include only those Exhibit B costs that have been actually incurred by Tishman from the date of the previous Requisition that has been submitted to WTC Redevelopment and the Port Authority (or, in the case of the first Requisition, from the date hereof) to the date of such subsequent Requisition. WTC Redevelopment shall be responsible for paying Tishman only the amount set forth in each Requisition that is allocated to WTC Redevelopment pursuant to this Section 6(a) and shall not have any responsibility or liability for any amounts set forth in any Requisition that are allocated to the Port Authority pursuant to this Section 6(a).

(b) Tishman shall (i) be the general contractor for all purposes of the Demolition Sub Project hereunder including, without limitation, the duties described in more detail in Article II of the General Contractor Agreement, (ii) set up, keep and maintain records, payroll records and books of account (including records of original entry and daily forms) recording all transactions of Tishman with any of the CAA Parties in any way connected with or related to the Demolition Work, including, but not limited to, all matters relating to the charges/costs payable to or by the CAA Parties and Tishman hereunder and such additional information relating to performance of the Demolition Work as any of the CAA Parties may from time to time and at any time reasonably require, and also including, if appropriate, recording the actual number of hours of service provided under the Demolition Work contract(s), and keeping separate records thereof which records and books of account shall be kept at all times in New York, (iii) permit, during ordinary business hours, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account, (iv) furnish to the CAA Parties from time to time such written reports in connection with its operation with respect to the Demolition Work under the General Contractor Agreement as the CAA Parties may (acting reasonably and in good faith) deem necessary or desirable, (v) require that any Demolition Work construction contract provide that either the respective demolition Subcontractor and/or Tishman shall (A) provide for adequate documentation of recycling activities includ-

ing, without limitation, the providing and execution of suitable manifests, recycling center locations, inserting of quantities, and the like, and (B) stipulate that demolition/construction debris shall in no way be identified with the Site, (vi) prepare Requisitions in accordance with Section 6(a) above, and (vii) implement, to the extent applicable to the work being carried out hereunder, the Sustainable Guidelines for the World Trade Center Redevelopment Projects that are described on Exhibit D hereto and which shall be incorporated into the specifications of the construction contract(s) in connection with the Demolition Sub-Project. The format of all forms, schedules and reports furnished by Tishman or its contractors to the CAA Parties shall be subject to the continuing reasonable approval of the CAA Parties.

(c) Notwithstanding anything contained in the Cost Allocation Agreement to the contrary, including without limitation the third sentence of Section 3 thereof, the parties hereby acknowledge and agree that, for purposes of the Demolition Sub-Project only, (i) WTC Redevelopment or its affiliates has retained Testwell Laboratories, Inc. or one of its affiliates to perform noise and vibration monitoring and that Tishman shall not be required to perform any noise or vibration monitoring in connection with the Demolition Sub-Project, and (ii) the phrase "air quality" as used in the ROD (as such term is defined in the Cost Allocation Agreement) shall be deemed to refer to "dust control" and that Tishman shall be responsible for such dust control monitoring in connection with the Demolition Sub-Project.

(d) Nothing contained herein or in the Cost Allocation Agreement shall (i) require Tishman to provide photography services for historic preservation purposes and (ii) require Tishman to provide inspection reports to the Port Authority on a monthly basis.

7. Not Incorporated. With respect to the Initial Work only, the following provisions of the General Contractor Agreement are specifically not incorporated in this Agreement: Section 4.9(a), Article VII (General Contractor's Fees), Sections 10.1, 10.2 and 10.3 (Payments), Article XI (Insurance), and Section 13.2.

8. Indemnity.

(a) Tishman hereby indemnifies, defends and holds harmless WTC Redevelopment and its affiliates from and against any loss, cost, expense, claim, injury or damage (including, without limitation, reasonable attorneys' fees and expenses) (collectively, "Losses"), whether incurred due to third party claims or otherwise, arising or resulting from or caused by the Port Authority's failure to make its payment obligations hereunder and under the Cost Allocation Agreement (excluding any Losses for which WTC Redevelopment indemnifies Tishman pursuant to Section 8(b) below)). WTC Redevelopment hereby agrees to use its reasonable best efforts to enforce the Port Authority's payment obligations to Tishman pursuant to the Cost Allocation Agreement.

(b) WTC Redevelopment agrees to indemnify, defend and hold harmless Tishman from and against any Losses incurred by Tishman in connection with the Demolition Sub-Project, but only to the extent that (a) the Port Authority indemnifies, defends, and holds harmless WTC Redevelopment for such Losses pursuant to indemnifications contained in the Cost Allocation Agreement and (b) WTC Redevelopment recovers such Losses from the Port Authority.

9. Insurance. Tishman shall (a) cause the Subcontractors performing the Work to maintain the insurance set forth on Exhibit E-1 hereto, (b) include WTC Redevelopment and the Additional Insured Entities (as hereinafter defined) as additional named insureds under Tishman's corporate liability insurance policy in connection with the Demolition Sub-Project, and Tishman shall promptly provide WTC Redevelopment with a certificate evidencing that WTC Redevelopment and the Additional Insured Entities shall have been added to such coverage, and (c) in respect of the foregoing, WTC Redevelopment shall not be required to carry or maintain any of the insurance required to be maintained by the Lessees pursuant to Article XI of the General Contractor Agreement. The term "Additional Insured Entities" shall mean those entities identified on Exhibit E-2 hereto. WTC Redevelopment hereby agrees to pay its allocable share of the premiums for the insurance coverage described in clause (b) of the immediately preceding sentence, based upon the pricing schedule previously provided by Tishman in writing to WTC Redevelopment; provided, however, that nothing contained herein shall obligate WTC Redevelopment to pay the Port Authority's allocated share of such premiums. WTC Redevelopment hereby agrees to use commercially reasonable efforts to cause the Port Authority to pay its allocated share of such premiums.

10. Effect of Amendment. Except as amended by this Amendment, the terms and provisions of the General Contractor Agreement remain unmodified and in full force and effect. Any future reference to the General Contractor Agreement shall be deemed to be a reference to the General Contractor Agreement, as amended by this Amendment, and as same may, from time to time, hereafter be further amended.

11. Not a Waiver. Except as expressly provided in this Amendment, nothing contained in or contemplated by this Amendment shall constitute, or be construed as (a) the waiver by any party of such party's rights or another party's obligations under the General Contractor Agreement, or (b) the consent or approval by any party of any matter, decision or selection requiring the consent or approval of such party under the General Contractor Agreement.

12. No Liens. Nothing contained herein shall be or be deemed or construed as a submission by a Party or a CAA Party to the application to itself of any vendor's, mechanic's, laborer's or materialman's statutory or similar lien. There shall be no third party beneficiaries of this Agreement, and no third party may rely on any of the terms hereof.

13. Counterparts. This Amendment may be signed in counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of such counterparts shall together constitute but one and the same instrument.

14. Successors and Assigns. This Amendment has been duly authorized by each of by each of the parties hereto, and shall be binding on, and shall inure to the benefit of, the heirs, legal representatives, successors and permitted assigns of the parties hereto.

15. No Amendment. This Amendment may not be changed, amended, modified, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of such change, amendment, modification, waiver, discharge or termination is sought.

16. No Liability. No director, officer, agent or employee of WTC Redevelopment, the Lessees or their respective affiliates shall be charged personally with any liability or held liable personally under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach hereof.

17. Notices.

To: WTC Redevelopment and the Lessees
c/o Silverstein Properties, Inc.
530 Fifth Avenue, 18th Floor
New York, NY 10036
Attention: John L. Lieber
Michael L. Levy

With copies to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Attention: Stephen Gellman, Esq.

To: Tishman

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attention: John T. Livingston, President

With a copy to:

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attention: Michael J. Mennella, Executive Vice President

To: The Port Authority (for purposes of submitting Requisitions pursuant to Section 6(a) of this Agreement only)

225 Park Avenue South, 14th Floor
New York, NY 10003-1604
Attention: Darrell Buchbinder, Esq.
Herbert S. Somertwitz, Esq.

18. Entire Agreement. This Amendment (together with the General Contractor Agreement, as amended hereby) constitutes the entire agreement and understanding between

the parties hereto with respect to the subject matter hereof and there are no other agreements, understandings, undertakings, representations or warranties among the parties hereto with respect to the subject matter hereof except as set forth herein.

19. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original agreement, but all of which shall constitute one and the same agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have caused this Amendment to General Contractor Agreement to be duly executed as of the day and year first above written.

TISHMAN CONSTRUCTION CORPORATION

By: Michael Mermella Jr

Name: Michael J. Mermella

Title: Executive Vice President

WTC REDEVELOPMENT LLC, as assignee of the General Contractor Agreement for purposes of the Initial Work only

By: _____
Name:
Title:

Accepted and agreed to:

1 WORLD TRADE CENTER LLC

By: _____
Name:
Title:

2 WORLD TRADE CENTER LLC

By: _____
Name:
Title:

4 WORLD TRADE CENTER LLC

By: _____
Name:
Title:

5 WORLD TRADE CENTER LLC

By: _____
Name:
Title:

Exhibit A

Demolition Sub-Project Plans, Specifications and Contract Documents

THE AGREEMENT

PROJECT: **FREEDOM TOWER**
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 3, 2004

TRADE: **SELECTIVE DEMOLITION, STRUCTURAL BRACING, AND TEMPORARY ROCK ANCHORS**

CONSTRUCTION MANAGER **TISHMAN CONSTRUCTION CORPORATION**
666 Fifth Avenue
New York, New York 10103
(herein called "Tishman")

CONTRACTOR: Seasons Industrial Contracting Corp.
268 Green Valley Road
Staten Island, NY 10312(herein called the "Contractor")

As used herein:

(i) "Engineer" shall mean:
Port Authority of New York and New Jersey

(ii) "Building" shall mean:
Freedom Tower
1 World Trade Center
New York, New York

(iii) "Indemnitees" shall mean:

Owner; One World Trade Center LLC; Two World Trade Center LLC; Four World Trade Center LLC; Five World Trade Center LLC; Silverstein Properties, Inc.; Port Authority of New York & New Jersey, PATH, Tishman Construction Corporation; and 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, trustees and employees of each

(iv) "Owner" shall mean:
WTC Redevelopment LLC
C/O Silverstein Properties LLC
530 Fifth Avenue
New York, NY 10036

(v) "Site" shall mean:
Freedom Tower
1 World Trade Center
New York, New York

WITNESSETH: **WHEREAS,** Silverstein Properties and Tishman Construction Corporation have undertaken the construction of the Building on the Site in accordance with the drawings and specifications prepared by the Architect; and

WHEREAS, pursuant to arrangements between Owner and Tishman, Tishman has agreed to construct and/or cause the construction of the Building; and

WHEREAS, Tishman desires to let and Contractor desires to perform a portion of the construction work on the Building;

NOW, THEREFORE, Tishman and Contractor agree as follows:

CONTRACTOR TO COMPLY WITH PLANS AND SPECIFICATIONS

1. The Contractor shall provide for the Site all the labor, supervision and materials hereinafter set forth in exact accordance with specifications hereto annexed or described herein and as shown on plans, drawings and details prepared by the Architect, which plans, drawings and details are to be returned to the Owner or Tishman upon the completion of the work. Such additional drawings as may be necessary to explain and detail the work will be furnished by the Owner or Tishman, and are to be conformed to, 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 are to be furnished by the Contractor without extra charge. The enumeration of

particular items in this contract or in the specifications shall not be construed to exclude other items. The intention of the 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. Contractor must refer any question respecting the specifications, plans, drawings and details, about which it is in doubt, or which seems to admit of a dual interpretation, to Tishman for its decision, by which Contractor must abide.

DUTIES OF CONTRACTOR

2. The Contractor recognizes the relations of trust and confidence established between it and Tishman by this contract. The Contractor covenants and agrees with Tishman to furnish its best skill and judgment and to cooperate with the Owner and Tishman in forwarding the best interests of the Owner and Tishman. Tishman shall have the right to exercise complete supervision and control over the work to be done by the Contractor, but such supervision and control shall not in any way limit the obligations of the Contractor.

SHOP DRAWINGS

3. The Contractor shall, at its own cost and expense, furnish to Tishman all shop drawings, schedules, reports, diagrams, layouts, setting plans, cuts, explanations, catalogue references, samples and other data regarded by Tishman as necessary, in the number required by Tishman for submission to the Owner for its review. The Owner's, Tishman's and/or the Architect's and Consultants' approval of such shop drawings, schedules, reports, diagrams, layouts, setting plans, cuts, explanations, catalogue references, samples and other data shall not relieve the Contractor from responsibility for deviations from the contract, specifications and/or drawings, unless it has, in writing, called Tishman's and Owner's attention to such deviations, at the time of delivery of such shop drawings, schedules, reports, diagrams, layouts, setting plans, cuts, explanations, catalogue references, samples and other data to the Owner and Tishman, nor shall it relieve Contractor from responsibility for errors. The Contractor shall make any corrections required by Tishman, file with Tishman corrected copies and furnish such other copies as may be needed. The Contractor shall make all submissions of shop drawings to Tishman for transmittal to the Owner. No submission shall be made directly to the Architect, unless approved by Tishman, and if any submission is so made, the approval or modifications authorized by the Architect shall not be binding upon Tishman or Owner unless and until Tishman and Owner have reviewed the shop drawings and Tishman has granted its approval thereof. The Contractor shall obtain shop drawings from other contractors and coordinate its work to avoid interference with other contractors work. The Contractor shall furnish its shop drawings to other contractors, if necessary for the Project.

SPECIFICATIONS VARIED BY LAWS

4. The Contractor shall furnish, without extra charge, all work and materials not mentioned or shown, but generally included under this class of contract, necessary for the proper execution and completion of the work, or necessary for any work or materials of the kind herein contracted for to conform the Building to all laws and the Rules and Regulations of all Municipal Departments, the Board of Fire Underwriters and all other authorities having jurisdiction.

MEASUREMENTS VARIED BY JOB CONDITIONS

5. Dimensions on plans are to be followed in preference to scale measurements, and all measurements must be checked at the premises before the work is executed. No extra charge shall be made for changes necessitated by minor variations in the actual condition of the Site from what is shown on plans. Contractor shall examine the Site, note and ascertain the construction, materials, work, existing conditions at the Site and the nature and location of the work. All work affected or governed thereby or required for the thorough and satisfactory completion of its work, whether indicated and specified or not, and regardless of quantity estimated, shall constitute part of this contract and shall be performed by the Contractor without extra charge to Tishman.

TISHMAN TO INTERPRET SPECIFICATIONS

6. Tishman shall decide all questions which may arise as to the performance, quantity, quality, acceptability, fitness and rate of progress of the work or materials furnished under this contract. It shall decide all questions which may arise as to the interpretation of the specifications and of drawings and as to their fulfilment on the part of the Contractor, and as to defects in the Contractor's work. Tishman's interpretation of and decision as to the meaning of the plans, drawings, details and specifications or any part thereof shall be final and binding on the Contractor.

INDEMNITY VIOLATION OF LAW

7. (a) The Contractor agrees to perform the work in a safe and proper manner and so as to comply with all laws, rules, regulations and ordinances as well as all requirements of the Board of Underwriters and of all Municipal, State, Federal and other authorities having jurisdiction, which are applicable to such work, and will indemnify and save the Indemnitees harmless (such indemnity, as used in this Article, to include the defense of all claims made against the Indemnitees) against all penalties for violation of same and any and all costs and damages incurred in connection therewith.

While Tishman shall provide the Contractor with assistance and direction in prosecuting the work, such action will not relieve the Contractor from any responsibility for the work, including, but not limited to responsibility for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work. In no event shall the Owner or Tishman be liable to the Contractor, either in tort or otherwise, for any costs or damages, whether

asserted directly against the Owner or Tishman or by the way of indemnification or contribution in whole or part, resulting from any act, direction, supervision, instruction or coordination furnished to the Contractor by the Owner or Tishman or the failure to furnish same, which directly or indirectly affects the performance of the Contractor, unless the Contractor, before complying therewith to its damage, or in the case of a failure to act, within five (5) days after such omission has occurred, objects in writing to Tishman and Owner to said act or omission and notifies it in writing that same will result in monetary costs or damages to the Contractor. Failure by the Contractor to furnish said notice of objection in writing as required herein shall constitute an irrevocable waiver and release of all claims for damages against Tishman and the Owner arising therefrom. Nothing in this paragraph shall be construed to provide the Contractor with any rights or remedies beyond those provided under other paragraphs of this contract or pursuant to applicable law.

PROPERTY DAMAGE

(b) The Contractor hereby assumes entire responsibility for any and all damage or injury of any kind or nature to property, including adjoining property, caused by or resulting from the execution of the work or occurring in connection therewith, and agrees to indemnify and save harmless the Indemnitees from and against all claims, liabilities, damages, loss and expense, including but not limited to attorneys fees, incurred by or imposed upon the Indemnitees for damage or injury to such property, however such damage or injury may be caused, whether such claims, liabilities, damages, loss or expense arise from or are caused directly or indirectly by (i) the negligence of the Contractor or any subcontractor, or the agents or employees of either of them, in the performance of work under this contract, or the use by the Contractor or any subcontractor, or the agents or employees of either of them, of any materials, tools, hoists, ladders, implements, appliances, scaffolding ways, works, machinery or other property, or (ii) the negligence of the Indemnitees, whether attributable to a breach of statutory duty or regulation or otherwise or (iii) injury or damage to property for which liability is imputed to the Indemnitees; or (iv) any other manner; provided, however, that the foregoing indemnity shall not extend to a particular Indemnitee where such damage or injury is caused solely by the negligence or willful misconduct of that Indemnitee. The Contractor shall be solely responsible for the safety of its work and of all equipment and materials to be used therein until final completion and acceptance of the same and shall promptly at its own expense repair any damage or injury to same, unless such damage or injury is caused solely by the negligence or willful misconduct of any of the Indemnitees.

PERSONAL INJURIES

(c) The Contractor hereby assumes entire responsibility for any and all damage or injury of any kind or nature to persons, caused by or resulting from the execution of the work or occurring in connection therewith, and agrees to indemnify and save harmless the Indemnitees from and against all claims, liabilities, damages, loss and expense, including but not limited to attorneys fees, incurred by or imposed upon the Indemnitees for damage or injury to such persons, however such damage or injury may be caused, whether such claims, liabilities, damages, loss or expense arise from or are caused directly or indirectly by (i) the negligence of the Contractor or any subcontractor, or the agents or employees of either of them, in the performance of work under this contract, or the use by the Contractor or any subcontractor, or the agents or employees of either of them, of any materials, tools, hoists, ladders, implements, appliances, scaffolding ways, works, machinery or other property, or (ii) the negligence of the Indemnitees, whether attributable to a breach of statutory duty or administration regulation or otherwise or (iii) injury or damage to persons for which liability is imputed to the Indemnitees; or (iv) any other manner; provided, however, that the foregoing indemnity shall not extend to a particular Indemnitee where such damage or injury is caused solely by the negligence or willful misconduct of that Indemnitee.

DAMAGE INDEPENDENT CONTRACTORS

(d) The Contractor agrees to indemnify and hold the Indemnitees harmless by reason from and against any liens, claims, demands, judgment or other liabilities, which may be asserted against the Indemnitees by any other independent contractor,subcontractor, or supplier on the job, and which arise out of any act or omission of the Contractor.

WITHHOLDING OF PAYMENTS TO EFFECT INDEMNITY

(e) In the event of any such liability, loss, expense, damage or injury, or if any claim or demand for damages is made against the Indemnitees, Tishman may withhold from any payment due or thereafter to become due to the Contractor under the terms of this contract, an amount sufficient in its judgment to protect and indemnify Indemnitees for any and all such claims, liability, expense, loss, damage, or injury, or Tishman, in its discretion may require the Contractor to furnish a surety bond satisfactory to Tishman, guaranteeing such protection, which bond shall be furnished by the Contractor within five (5) days after written demand has been made therefore.

(f) The indemnification obligations of the Contractor under this Article 7 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for the Contractor or any Subcontractor under Workmen's Compensation Acts, Disability Benefit Acts or other employee benefits acts, and is in addition to any rights to indemnification or contribution which may exist at law. Contractor expressly agrees that Tishman and/or Owner may pursue claims for contribution and indemnification against Contractor in connection with any claims against Tishman and/or Owner, as applicable, for injury and/or death to Contractor's employees notwithstanding the provisions of Section 11 of the Workers' Compensation Law limiting such claims for contribution and

indemnification against employers, and Contractor hereby waives the limitations on contribution and indemnity claims against employers provided in Section 11 of the Workers' Compensation Law insofar as such claims are asserted by Tishman and/or Owner

(g) In the event that 100 percent indemnity to a particular indemnitee under any of the paragraphs above in this Article 7 is prohibited by law because the negligence of such indemnitee in whole or in part caused the claim, liability, damage, loss or expense that is the subject of the indemnity, then such 100 percent indemnity to such indemnitee shall be reduced by a percentage equal to the extent to which the negligence of such indemnitee caused such claims, liabilities, damages, loss or expense..

It is further agreed that, if the Contractor subcontracts or delegates to others the work or any part thereof, said subcontractors and/or delegates and their agents, servants and/or employees, for the purpose of contractual indemnity only, shall all be deemed servants and/or employees of the Contractor so that any negligence on the part of the subcontractors or the delegates or their agents, servants and/or employees shall be deemed the negligence of the Contractor for purposes of indemnity under this Article 7.

It is further agreed that, if the Contractor subcontracts or delegates to others the work or any part thereof, the Contractor will have the subcontractors and/or delegates agree to indemnify the Indemnitees in the same manner as the Contractor has agreed to indemnify the Indemnitees under this Article 7 and shall deliver a true copy of said agreement to Tishman. In the absence of such agreement or the delivery of same prior to the subcontractors or delegates commencing their work, the Contractor will be held liable to indemnify the Indemnitees in the same manner and to the same extent that the subcontractors and/or delegates would have been required to indemnify the Indemnitees if such agreement had been made. Whether or not the Contractor secures or delivers an agreement by the subcontractors and/or delegates to indemnify the Indemnitees as provided herein, the Contractor's independent duty to indemnify the Indemnitees pursuant to the terms of the contract, shall remain in full force and effect.

The Contractor's requirements of indemnity under this Article 7 shall be read cumulatively, and no paragraph of indemnity shall be read so as to restrict in any way any other paragraph of indemnity. The purpose of these indemnity paragraphs is to give the Indemnitees the greatest right of indemnity against the Contractor allowed by law.

INSURANCE

8. Unless otherwise provided for by the attached Insurance Rider, prior to commencement of any work under this contract, and until completion and final acceptance of the Work, the Contractor and each and every subcontractor shall, at its own expense, maintain the following insurance on its own behalf and for the protection of the Owner, Tishman and all other Indemnitees named in this Contract:

a. Comprehensive General Liability
b. Worker's Compensation
c. Comprehensive Automobile Liability
d. Railroad Protective Insurance
e. All other insurance protection required by Tishman

All of the above coverages shall comply with the specific requirements contained in the Insurance Rider hereby attached and made a part of this contract.

SIGNS

9. Contractor shall not place any signs, billboards or posters on any portion of the Site, Building, the property or fences (temporary or permanent) surrounding the same, except upon prior written permission received from Tishman, and then only of a size, material, color and type and at a location approved by Tishman.

TOOL SHEDS

10. If so required by Tishman, the Contractor shall, at its own cost, provide, erect and maintain, at locations designated by Tishman, fireproof tool sheds for storing the Contractor's tools, materials and equipment. The Contractor shall relocate its tool sheds as requested by Tishman at the Contractor's own cost. Tishman will not be responsible for any clothing, tools, materials or equipment lost, damaged, stolen or destroyed.

CONDITION OF PREMISES AND ADJACENT PROPERTY

11. The Contractor shall examine all premises and buildings adjoining or in close proximity to the Site (including, for the purposes hereof, street and sidewalks) and shall be governed thereby for the necessary thorough, safe and satisfactory execution of all work called for herein, whether indicated on drawings and/or specified, or not, and all work and protective measures necessary to keep and leave such premises and buildings in the same condition as they were before commencing work shall be done without any addition to the contract sum. Wherever any parts of the present adjoining buildings interfere with or are interfered with by the work to be performed hereunder, the Contractor shall make whatever changes are made necessary thereby, whether shown on the drawings, called for in the specifications or not shown or not called for. The Contractor, before commencing work on the premises shall, if it sees fit, make a written report of the conditions as found at that time, noting particularly any defects in evidence, taking photographs of the exteriors, and, if necessary, photographs of interiors, and shall deliver to Tishman a copy of the written report of the examination and copies of photographs with date of taking thereon. The Contractor shall invite the

Owner and Tishman and the owners of the respective properties and buildings to join with it in the examination of such premises and buildings. Tishman and/or Owner may at its option be present during the examination.

TISHMAN TO DECIDE IN EVENT OF CONFLICT

12. Whenever the specifications shall be at variance, or in conflict with any of the provisions of this contract, the Contractor shall advise Tishman and the interpretation and decision of Tishman shall be final and binding on the Contractor.

INSPECTION

13. The Contractor shall provide sufficient, proper and safe facilities at all times for the inspection of the work by Engineer, the Owner, Tishman, Mortgagees, the Municipal and/or State Inspectors, and the Port Authority and their authorized representatives. If any work is covered up without the approval of Tishman, it must, if required by Tishman, be uncovered for inspection at the Contractor's expense. The Contractor shall afford and provide at all times to the Architect, the Owner, Tishman and their representatives satisfactory evidence of the quality of materials used and complete information in writing as to where materials to be used in the performance of this contract are being manufactured or assembled, and full and free access to all shops and manufactories for the purpose of informing themselves as to the general condition and progress of the materials herein contracted to be used or installed. The Contractor shall instruct such suppliers and manufacturers to give full and accurate information in writing directly to Tishman on any questions concerning quality, performance, delivery status, and such other data as may be requested by Tishman.

MATERIALS AND EQUIPMENT

14. All materials and equipment are to be new and of the best quality of the kind specified unless material or equipment of inferior type is distinctly specified, and the Contractor shall, if required by Tishman, furnish satisfactory evidence of the kind and quality of materials and equipment. The Contractor shall, if required by Tishman, obtain the manufacturer's written recommendation that the material and equipment is designed and appropriate for the use intended. Such materials and equipment shall not be subject to any conditional bill of sale, security agreement, financing statement, chattel mortgage, or any other claim, lien or encumbrance. Materials and equipment shall be promptly delivered and distributed where Tishman may require or direct, as needed for the uninterrupted and speedy progress and completion of the work, and so as not to encumber the Site unreasonably. The Contractor shall, if required by Tishman, cause the materials (1) to be manufactured in advance, (2) to be warehoused either at the factory or elsewhere, as directed by Tishman, (3) to be delivered to the Site promptly when so instructed by Tishman and (4) to be relocated or removed from the Site at the cost of the Contractor. Care must be exercised by the Contractor against overloading any parts of floors, roofs, scaffolding and other installations. All materials delivered at the Site which are to form a part of the work herein specified shall not be removed without the consent of Tishman, but the Contractor will have the right to and shall remove all its surplus material after completion.

LABOR

15. All work is to be done in the best manner and by persons skilled in the type of work to be performed. All labor employed under this contract shall, at the option of Tishman, to the extent permitted by law, be union and/or that recognized by and in harmony with the local Building Trades Employers' Association and Contractor shall not employ any labor which may cause dissension with other workers on the Site, by whomsoever employed. The Contractor shall give the work constant attention and supervision through a responsible representative or superintendent, and any necessary assistants. Such representative shall be authorized to act for the Contractor in all matters relating to the work, and all directions given him shall be as binding as if given to the Contractor. The Contractor shall also keep a competent foreman at the Site while work is in progress, and enforce strict discipline among its employees, including Tishman's and Owner's regulations with regard to fires, smoking and other hazards. Tishman is given the right to require the Contractor to remove immediately any employee or agent employed at the Site whom the Owner or Tishman deems incompetent or a hindrance to the proper progress of the work, and such person shall not again be employed in the work without the prior consent of Tishman.

PROTECTION OF WORK AND EQUIPMENT

16. The Contractor during the construction of its work and while it is working on the Site in any capacity whatever, and until the completion of the project, shall protect all unfinished work and all materials on the Site, all adjacent property and all tools, plants, equipment and other appliances for the Contractor's use or incidental thereto for the execution of this contract, whether furnished by the Contractor or Tishman or Owner, from rain, water, frost and the elements and from all other kinds of damage which may be caused in any manner whatsoever, and the Contractor shall be entirely responsible for any loss or damage done to said work, materials, tools, plant, equipment and other appliances in any manner aforementioned, even though the particular work damaged may be finished at the time and the Contractor may be working in some other portion of the Site, and the Contractor hereby agrees that it will not hold the Indemnitees responsible for any such loss or damage, by whomsoever caused.

UNSOUND WORK OR MATERIALS

17. The Contractor, upon receiving notice from Tishman that the Contractor has furnished inferior, improper or unsound work or materials (including equipment) (whether worked or unworked), or work or materials at variance with that which is specified, will, within twenty-four (24) hours, proceed to remove such work or materials and make good all other work or materials damaged thereby, and, at the option of Tishman, the Contractor shall immediately replace such work or materials with work or materials as specified. The removal, replacement and repair shall be performed on "off hours" or overtime with manpower sufficient, in the

judgment of Tishman, so as not to interrupt or delay the Owner's construction schedule and so as to avoid disturbance to occupants of the completed Site and/or Building. If the Contractor does not remove such unsound work within a reasonable time, Tishman may remove it and may store the material at the expense of the Contractor. If the Contractor does not pay the expenses of such removal within ten (10) days' time thereafter, Tishman may, upon (10) days' written notice, sell such materials at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor and all expenses of the sale. Tishman shall have the authority at all times, until final completion and acceptance of the work, to inspect and reject work and materials which in its judgment are not in conformity with the drawings and specifications, and its decision in regard to character and value of work shall be final and conclusive on both contracting parties. If Tishman permits said work or materials to remain, Tishman shall be allowed the difference in value or shall at its election have the right to have said work or materials repaired or replaced, as well as the damage caused thereby, at the expense of the Contractor, at any time within one year after the completion of the entire project, or within such longer period as may be covered by any guaranty; and neither payments made to the Contractor, nor any other acts of Tishman or Owner, shall be construed as evidence of acceptance, waiver or estoppel. Any expense incurred by the Owner or Tishman in connection with the foregoing, shall be borne by the Contractor, and Tishman may withhold money due to the Contractor or recover money already paid to the Contractor, to the extent of such expense.

FITTING OF THIS WORK WITH OTHER WORK

18. The Contractor will furnish all labor, implements, tools, scaffolding, rigging, hoisting and other items required to carry on its work, in the most approved and up-to-date manner; and shall do the necessary incidental cutting of woodwork, brick, stone, masonry, plaster, cement, iron, metal or other materials for the installation of its work, and will do all patching in connection therewith; but cutting is to be avoided where possible. The Contractor will, if required by Tishman, do all necessary cutting, fitting and patching of its own work that may be required to make the several parts come together properly, and fit the work to receive or be received by work of other contractors shown upon, or reasonably implied by, the drawings and specifications. The Contractor shall not endanger any work by cutting, digging or otherwise. In laying out its work, Contractor shall also examine the work installed by others and the shop drawings of the work to be installed by others prior to the beginning of the installation of its own work. If the Contractor begins its work, the starting of such work shall be conclusively deemed to mean that it accepts all preceding work as suitable and proper to receive its work, unless it has notified Tishman in writing to the contrary before starting. In the event of failure of the Contractor and another contractor to agree as to the extent of cooperation to be exhibited or of work to be done by either, to insure the carrying out of their respective agreements, such disagreement shall be resolved by Tishman whose decision shall be final and binding upon all parties.

RUBBISH REMOVAL

19. The Contractor shall at all times keep the Site free from accumulation of waste materials or rubbish caused by its employees or work and, at the completion of the work, it shall remove all its tools, scaffolding and surplus materials and shall leave its work broom clean or its equivalent. The Contractor shall daily, or less frequently as Tishman may require, collect its rubbish at places where directed by Tishman and shall remove the rubbish from the Site without unnecessary delay. The Contractor shall do all required cleaning within twenty-four(24) hours notice from Tishman, whether verbal or in writing, and if the Contractor fails to do such cleaning to the satisfaction of Tishman, Tishman may do the cleaning and charge the Contractor for all costs incurred.

COMPLIANCE WITH LAW

20. The Contractor shall properly guard its work and areas affected by its work and properly perform its work to prevent any person or persons from being injured by it or by the condition of the Site or by the condition of any other place where work incidental to the project is being performed, and shall in all respects comply with any and all provisions of the law and of local ordinances relating to construction work, including but not limited to maintenance of danger signals, barriers, lights and similar safeguards respecting falling materials and in and about all excavations, protruding nails, hoists, openings, scaffolding, stairways and other parts of the work and adjacent and other areas where the same are required. The Contractor shall procure and pay for all permits, licenses, approvals, certificates and authorizations necessary to the prosecution and completion its work and deliver evidence of the same to Tishman. All work shall be done in strict accordance with all laws, ordinances, rules, regulations and requirements of the Board of Underwriters, and Port Authority- "as though a private corporation", and all Municipal, State, Federal and other authorities having jurisdiction. Where drawings and specifications conflict with the law, the law is to be followed. The Contractor shall promptly notify Tishman, the respective departments or official bodies when its work is ready for inspection and shall, at once, do all work required to remove any violations or to comply with such inspections, without additional charge to Tishman. The Contractor shall perform all work necessary to obtain approvals of the authorities mentioned above without additional cost to Tishman.

LIENS

21. If at any time, there shall be evidence of any lien or claim for which, if established, the Owner or Tishman might become liable, or which should, in any event, be charged to the Contractor, Tishman shall have the right to retain, out of any payment due or thereafter to become due, an amount sufficient to indemnify the Owner and Tishman against such lien or claim, including bond premiums and attorneys' fees, and to apply the same in such manner as Tishman deems proper to secure protection and/or satisfy such claim and liens. Should there prove to be any such lien or claim after all payments are made to the Contractor, it shall repay the Owner and Tishman all sums which they may be compelled to pay in discharging such lien or claim, including any and

all legal fees or other charges.

PATENTS

22. The Contractor will not unlawfully use or install any patented article, and agrees to indemnify and save the Indemnitees harmless from any claim and against all damage which the Indemnitees may sustain by reason of the use or installation of such patented article, and at its own cost and expense to defend any action, whenever instituted, brought against the Indemnitees or their respective successors or assigns, founded upon the claim that any such article, or any part thereof, infringes any such patent. In the event of any such claim or damage, Tishman may withhold from any payment due or thereafter to become due to the Contractor, an amount sufficient in its judgment to protect and indemnify the Indemnitees for any such claim or damage, or Tishman may require the Contractor to furnish a surety bond satisfactory to Tishman providing for such protection and indemnity, which bond shall be furnished by the Contractor at its own cost and expense, within five (5) days after written demand has been made therefor. The Contractor shall pay all royalties, fees and other claims in connection with patented articles which it uses under this contract. In the event of any injunction or legal action serving to stop the work, Tishman shall have the privilege of requiring the Contractor to substitute such other articles of like kind as will make it possible to proceed with and complete the work, and all cost and expenses occasioned thereby shall be borne by the Contractor.

ASSIGNMENT

23. (a) The interests, rights, powers, duties and liabilities of the parties hereto shall be binding upon, and shall enure to the benefit of, the respective successors and assignees of the parties; but the Contractor shall not assign or transfer its interest in this contract or assign or transfer any right it may have under the same or the proceeds payable hereunder or any part hereof, or subcontract or delegate to others the work or any part thereof, unless the written consent thereto of Tishman is first procured, and any assignment or subcontract made in violation of this provision shall be null and void. Any such subcontract shall provide that it is subject to the provisions of this contract and shall provide that the Contractor has all the rights and remedies against the subcontractor that Tishman has against the Contractor under this contract and shall expressly incorporate all such provisions as far as the same are applicable and no such subcontract shall be valid without the consent of Tishman endorsed thereon. The Contractor agrees that it is as fully responsible to Tishman for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it. Nothing contained in this contract shall create any contractual relationship between any subcontractor and Tishman, or create any obligation on the part of Tishman to pay or to see to the payment of any sum to any subcontractor. Tishman may, without limitation, assign this contract, or any portions thereof, or any rights arising hereunder, including any guarantee or warranties of workmanship or material.

CHANGE OF STATUS

(b) In the event that the project should be abandoned by the Owner, Tishman shall have the right, at any time, to send a written notice to the Contractor, terminating this contract, in which event, Tishman (i) shall pay the Contractor for all work actually provided up to the date of the sending of such notice and (ii) shall reimburse the Contractor for all costs and expenses actually expended and incurred (amounts "incurred" to be limited as though Contractor's suppliers and subcontractors had received a similar notice and were bound by a similar provision in their agreements) up to said date which are not cancelable or recoverable by the Contractor, and the Contractor shall not receive any markup for overhead and profit (except to the extent of such reasonable amount as may be part of the amount Tishman pays the Contractor for work actually performed pursuant to clause (i) immediately above) and the parties hereto shall, except as otherwise provided hereinabove, be released of all future liability or obligations under this contract.

TIME OF ESSENCE

24. The Contractor shall commence and complete work and deliveries of material at the times hereinafter mentioned or as soon thereafter as required by Tishman. Where the dates for the commencement or completion of work on the making of deliveries are not specified after the time fixed for such commencement, such work or deliveries or the part of the same concerning which no dates are given shall be commenced on three (3) days' notice from Tishman and shall be prosecuted and completed with all possible diligence and speed or as otherwise directed by Tishman. The time stated in this contract for the commencement, prosecution and completion of this work and the deliveries and installation of material shall be deemed of the essence of this contract.

COOPERATION WITH OTHER CONTRACTORS

25. The Contractor must keep itself informed of the conditions at the Site, so as not to delay the delivery of materials or the installation of the work called for in this contract. It is expressly agreed that the Contractor must cooperate with and extend every possible facility to other contractors employed at the Site, and must 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 Tishman 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 Tishman with respect thereto shall be complied with fully and promptly.

DELAYS IN GENERAL

26. (a) Should the Contractor be delayed by fault of the Owner, Tishman, Architect or any other contractor, or by abnormal weather conditions, then the time fixed for the completion of the work shall be extended for a period equivalent to the time so lost. The Owner, Tishman or Architect shall not be held responsible for any loss or damage sustained by the Contractor through delay caused by the Owner, Tishman, Architect or any other contractor, or by abnormal weather conditions, or by any other cause, pending a review on a case-by-case basis, depending on the cause of the delay.

STRIKES

(b) Should the Contractor be delayed by general strikes or lockouts throughout the trade, then time for the completion of the work shall be extended for a period equivalent to the time lost, or Tishman shall, at its option, have the right to terminate this contract and to employ other contractors to finish the work and provide the materials therefore, and to pay the Contractor pro rata for materials and work already supplied, or this contract price, reduced by the cost to Tishman of completing the work for which provision is made herein, whichever is less.

NOTICE TO TISHMAN

(c) None of the foregoing causes of delay shall be deemed a valid excuse for failure to start, perform or complete the work or deliveries at the times specified, unless the cause of such delay is beyond the Contractor's control and arose without its fault or negligence, and the Contractor has notified Tishman in writing of the alleged cause of delay within forty-eight (48) hours after the commencement thereof.

ADDITIONAL LABOR

(d) Should the Contractor fail, refuse or neglect to supply a sufficiency of workmen or to deliver the materials with such promptness as to prevent the delay in the progress of the work, or fail in any respect diligently to commence and prosecute the work and proceed to the point to which the Contractor should have proceeded hereunder, or if the different parts thereof are not commenced, prosecuted, finished, delivered or installed on time as herein specified or if the Contractor shall fail in the performance of any of the covenants of this contract, Tishman shall have the right to direct the Contractor, upon three (3) days' written notice, at the Contractor's cost and expense, to furnish such additional labor and to expedite deliveries of materials (or Tishman may furnish such labor and expedite such deliveries at the cost of the Contractor), which labor or expediting shall, in Tishman's opinion, be sufficient to speed up and complete the work as herein provided.

OVERTIME

(e) If such additional labor shall not be available, Tishman shall have the right to direct the Contractor, at the latter's own cost and expense, to work overtime to such an extent as will be sufficient, in Tishman's opinion, to speed up and complete the work as herein provided.

REMEDIES OF TISHMAN

(f) The Contractor agrees that if it delays the speedy progress of the work so as to cause loss or damage to Tishman or to other contractors, then it shall reimburse Tishman and such other contractors for such loss. In addition to the foregoing, Tishman shall have the right, after three (3) days' written notice to the Contractor, to provide any such labor, additional labor, overtime labor and materials and to deduct the cost thereof from any moneys then due or thereafter to become due to the Contractor. Permission by Tishman for delayed finishing shall not be construed as a waiver of Tishman's right to be compensated by the Contractor for damage resulting from such delay.

TERMINATION BY TISHMAN

(g) If the Contractor shall fail to comply with any of the provisions of this contract on its part to be performed, Tishman shall have right after three (3) days' written notice to the Contractor, to terminate this contract and the employment of the Contractor, to take possession of the Contractor's materials, tools, plant, equipment and appliances used or to be used for the construction, whether on or off the Site, (and for that purpose to enter the premises of the Contractor) and to cause the entire remaining work to be finished and the materials therefore to be furnished by another contractor or contractors or by day's work, as Tishman deems fit; and the Contractor shall not be entitled to any further payment until all the work specified in this contract shall be finished, at which time, if the unpaid balance of the amount to be paid under this contract shall exceed the expense incurred by Tishman in finishing the work, including overhead, attorneys' fees and damage incurred through the default of the Contractor, such excess shall be paid to the Contractor, but if such expense shall exceed such unpaid balance, the Contractor shall pay the difference to Tishman. After the work has been completed, the Contractor may remove such materials, tools, plant, equipment and appliances as remain, but neither the Owner nor Tishman shall be liable for anything that has been lost, stolen, destroyed, worn or used. In addition, without terminating this contract, Tishman may, under the circumstances set forth above, terminate the Contractor's right to proceed with any part of the work or with the furnishing of any part of the labor and/or materials.

PERFORMANCE BOND AND PAYMENT BOND

27. The Contractor, within five (5) days after notice by Tishman given at any time prior to the completion of the work, shall furnish to Tishman performance and payment bonds issued by a surety company satisfactory to Tishman, and in form satisfactory to Tishman, guaranteeing the due and prompt performance of all of the terms of this contract on the part of the Contractor to be performed, and the prompt payment of all amounts to

be paid by the Contractor for labor and materials. In the event that the Contractor fails to furnish the bonds as aforesaid, Tishman shall have the option of declaring the Contractor to be in default and of exercising any or all of the rights set forth in this contract. Bonds shall be written at standard rates of surety companies authorized to do business in the State in which the Site is located and may, at Tishman's option, be placed directly by Tishman.

BANKRUPTCY

28. If, prior to the commencement of this contract, the Contractor shall be adjudged a bankrupt or becomes insolvent, or if any petition under the Bankruptcy Act of the United States is filed by or against the Contractor, or if it should make an assignment for the benefit of creditors, or if a receiver of the Contractor's property should be appointed, or if any judgment is taken against the Contractor and execution is issued thereon, or if the property of the Contractor passes into the hands of any legal representative, then and in any of those events, Tishman may, at its option, terminate this contract and the employment of the Contractor, with the same rights and privileges set forth in Article 26.

ACCELERATION OF PERFORMANCE

29. If Tishman shall desire the Work of the Contractor hereunder to be performed with greater speed than is herein contracted for, the Contractor shall, without affecting or abridging the rights of Tishman set forth in any Article hereof, upon receipt of a written order from Tishman, employ overtime Work as so ordered. Direct cost of the premium time for all labor utilized by the Contractor in such overtime work as shown on the time slips checked and approved each day by Tishman shall be paid by Tishman to the Contractor, but no overhead, supervision costs, commission or other costs shall be charged thereon.

NO WAIVER

30. The failure of Tishman to insist in any one or more instances upon a strict compliance with any provision of this contract, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment of the right of Tishman thereafter to require a compliance with such provision of this contract, or a waiver of the right of Tishman thereafter to exercise such option, but such provision or option will remain in full force and effect.

GUARANTY

31. The Contractor hereby agrees to repair and make good any damage, defects or fault in the work or the Building that may appear within the one year guaranty period specified in the immediately following sentence, or within such longer period as may be provided in the specifications, any separate guaranty, or any other writing, as the result of imperfect or defective work or materials (including equipment) furnished by the Contractor (whether such defects or imperfections be patent or latent) or work or materials (including equipment) at variance with what is specified. The guaranty period for all work and materials (including equipment) furnished or installed (except where a longer period is provided as aforesaid) shall be one year from the date of (a) completion of the entire project, (b) the making of final payment by Tishman to the Contractor, (c) the issuance of a final Certificate of Occupancy, or (d) the discontinuance of the use of permanently installed work for temporary construction purposes, whichever is latest. Contractor hereby agrees to re-perform, repair and replace any and all damage, defects or fault in the work or the Building appearing within the guaranty period as the result of imperfect or defective work or materials (including equipment) furnished by it within three (3) days from receipt of written notice and without cost to, and to the satisfaction of, Tishman. All such re-performance, repair and replacement shall be subject anew to the guaranty hereunder, provided that the guaranty period applicable to such re-performance, repair and replacement shall be a one year period commencing on the date that such re-performance, repair and replacement is completed. All rights and remedies acquired by Tishman through the guaranty provided under this Article and through any other guaranties relating to the Contractor's work under this contract shall inure to the benefit of the Owner, and its successors and assigns. In addition to the foregoing, any equipment warranties secured by the Contractor, including those in excess of one (1) year, and any bond or guaranty which may be required under the plans or specifications, shall also inure to the benefit of the Owner, and its successors and assigns.

PAYROLL AND SALES TAXES

32. The Contractor hereby accepts exclusive liability and shall hold the Owner and Tishman harmless for the payment of contributions pursuant to any Unemployment Insurance Law, Old Age Retirement Benefits Law and any other or similar Social Security Law or Payroll or Income Tax now or hereafter enacted by any City, State or Federal Government or any subdivision of either, levied or based upon the payroll of the Contractor for employees partly or wholly engaged in the work covered by this contract. The Contractor agrees to furnish all necessary information to enable Tishman to comply fully with all the requirements of such laws. All sales and use taxes are included in the contract price and are to be paid by the Contractor. In the event that any law is or has been passed, or any rule or regulation pursuant thereof is enacted, which requires the Owner or Tishman to pay, either directly or indirectly, the amount of any such tax, or should any such law, rule or regulation direct the Owner or Tishman to collect the same, or make the Owner or Tishman liable for the collection thereof, or make the Owner or Tishman responsible therefore, it is covenanted and agreed that the Contractor shall fully and completely make all payments therefore, and shall fully and completely indemnify and save the Owner and Tishman harmless from any and all such taxes. It is further agreed that Tishman shall have the right to deduct the amount of any and all such taxes from the contract price at any time Tishman may, in its sole discretion, deem it advisable, to the end that the Owner and Tishman may not be under liability therefore whatsoever, it being agreed that Tishman shall have the right to deduct any and all such moneys from the next payments due under this contract and from the retained percentages. If any Sales

Tax provides any exemption from tax for capital improvements, Tishman shall seek from Owner the necessary certification and provide same to Contractor and Contractor agrees not to charge tax with respect to the furnishing of labor and/or materials as long as said exemption provision is in effect.

PRICE NOT ADJUSTED FOR RISING COSTS

33. Tishman agrees to pay the sum herein set forth in current funds for such work and materials, and in the manner and at the times herein set forth. Said sum is intended to include all increases in cost, foreseen or unforeseen, including, without limiting the generality of the foregoing, taxes, labor and materials, all of which is to be borne solely by the Contractor. All loss or damage arising from any of the work performed under this contract through unforeseen or unusual obstructions, difficulties or delays which may be encountered in the prosecution of same or through the action of the elements shall be borne by the Contractor. It is mutually agreed between the parties hereto that no payment made under this contract, shall be conclusive evidence of the performance of this contract, either wholly or in part, nor shall it be construed to be an acceptance of defective work or improper material, or an approval of any of the items in any requisition made or bill rendered. All bills or requests for payments must be presented in writing.

SCHEDULE OF VALUES

34. (a) Prior to the commencement of work hereunder, Contractor shall prepare and submit to Tishman, for Tishman's approval, 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 Contract Price.

PROGRESS PAYMENTS

(b) On or before the 26th day of each calendar month the Contractor shall forward to Tishman, for its approval, a written statement showing the amount due or to become due and including the last day of that calendar month. The Contractor shall attach to each such application for payment, an acknowledgment of payment to the date of the last advance, as well as a statement of any back charges and credits to which Tishman 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. All requisitions shall be made on and in compliance with Tishman's standard form of Contractor's requisition and shall be subject to the terms thereof, including the submission of sworn statements from Contractor's subcontractors and vendors. Tishman shall, on or about the final day of each calendar month, remit to the Contractor 90% of the amount so requisitioned by the Contractor in the month prior to the month of payment and as approved by Tishman. In addition to the said retainage of 10%, Tishman 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 Tishman that the cost of the work remaining to be done under this contract does not exceed 90% of the balance of the contract price unpaid. In no event will Tishman be required to pay in excess of 90% of the contract price prior to the completion of all the work the Contractor is obligated to perform under this contract.

WITHHOLDING BY TISHMAN

(c) Tishman may withhold payments to the Contractor, 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 to avoid the reasonable probability of the filing of liens or claims against the Owner, the project or the Contractor, and (3) damage to another contractor by reason of acts or failure to act of the Contractor.

FINAL PAYMENT

(d) The balance owing to the Contractor under the terms of this contract shall be due and payable within sixty (60) days after

(1) the completion of all work in this contract, including patching and the furnishing of missing material,

(2) acceptance thereof by the Owner and Tishman, and

(3) receipt by the Owner and Tishman of (A) all Contractor's "as built" drawings, records and related data; (B) all guaranties and warranties to be provided hereunder; (C) all permits, licenses, approvals, certificates and authorizations required by any authority having jurisdiction; (D) a general release from the Contractor on Tishman's standard form in favor of the Owner, Tishman and Owner's sureties, if any; and (E) satisfactory proof that all claims, including taxes, growing out of the work to be performed hereunder and any liens growing out of the same which shall have been filed or recorded, have been released.

TRUST FUNDS

35. Any and all funds payable to the Contractor hereunder are hereby declared to constitute trust funds in the hands of the Contractor, to be applied first to the payment of claims of subcontractors, architects, engineers, surveyors, laborers and materialmen arising out of the described work, to claims for utilities

furnished and taxes imposed, and to the payment of premiums on surety bonds and other bonds filed and premiums on insurance accruing during the construction of the described work, before application to any other purpose. Whenever required by the Owner or Tishman, it shall be the duty of the Contractor to file with the Owner and Tishman, a verified statement, in form satisfactory to the Owner, certifying the amounts then due and owing from the Contractor for labor and materials furnished under the terms of this contract, setting forth herein the names of the persons whose charges or claims for labor, materials or supplies are unpaid, and the amount due each respectively.

CHANGES AND EXTRAS

36. Tishman, without invalidating this contract, may order extra work or make changes by altering, adding to or deducting from the work, the Contract Price to be adjusted accordingly. The Contractor shall not make any alterations or omit anything, or perform additional or extra work, except upon written order signed by Tishman. Tishman shall at any time have the right to order extra work to be performed on (a) Lump Sum Proposal, (b) Unit Prices, or (c) Time and Material Basis. No request for payment for extra work will be honored unless accompanied by such written order. All such work shall be executed under the provisions of this Contract. Tishman's choice of the manner in which the extra work is to proceed is described as follows:

(A) Lump Sum Proposal
The Contractor will within ten (10) days after receipt of Tishman's communication submit his Lump Sum Proposal. This Proposal will be itemized and segregated by labor and material for the various components of the work. No aggregate labor total will be acceptable. The Contractor will furnish with his Proposal supporting data consisting of Subcontractor's and vendor's signed proposals. The Contractor will be allowed 15% for overhead and profit on labor performed by his own forces and material purchases. Subcontractors, likewise, will be permitted an allowance of 15% for overhead and profit on their own work. The Contractor will be further allowed a 5% commission on all of his subcontractor's work, 5% overhead and profit will be allowed on equipment rented by the Contractor or subcontractor. The Contractor may include in his labor proposal only those workmen and foremen directly involved in the work. All other supervision is included in the 15% overhead and profit allowed. Contractor will be entitled to payment for labor, union fringe benefits, insurance, unemployment insurance, social security and taxes paid on labor. No overhead or profit will be allowed on social security, unemployment insurance or other insurances or premium time. Contractor's material costs will include invoiced costs, transportation, applicable sales or use taxes, actual rental costs or discounted local published rental rates. Use of small tools is included in the Contractor's overhead and profit. Overhead and profit as outlined above includes all other costs whatsoever beyond those enumerated. If any of the extra work included in the Lump Sum Proposal is covered by Contract Unit Prices, Tishman may elect to use these unit prices within the Lump Sum Proposal. No overhead and profit may be applied to these unit prices. The entire value of the change will be the net difference of the work to which will be applied overhead and profit percentages.

(B) Unit Prices:
The Contractor will submit within ten (10) days after receipt of Tishman's communication submit to written proposal itemizing the quantities of each item of work for which there is an applicable Unit Price contained in the Compact. The quantities must be itemized in relation to each specific contract drawing. Unit prices will be applied to net differences of quantities of the same item.

(C) Time and Material:
Should Tishman elect to have any extra work performed on a time-and-material basis in lieu of Lump Sum Proposal or Unit Prices, and so notifies the Contractor in writing, the Contractor shall perform such work at actual cost (without any charge for administration, clerical expense, supervision or superintendence of any nature whatever, including foreman, or the cost, use or rental of tools or plant) plus 15 percent for overhead and profit. To this figure the Contractor may add Unemployment Insurance and Old Age Retirement Benefits taxes paid on labor required for the extra work. Moreover, if the Contractor procures the performance of extra work by others than its own employees, the Contractor shall not be entitled to greater payment than that to which it would have been entitled if it had itself furnished the labor and materials required in connection with the work to be performed under this provision. The Contractor will submit to Tishman daily time and material tickets. These tickets will include the identification number assigned to the work, the location and description of the work, the classification of labor employed including workmens' names and social security numbers, the material used, the equipment rented (not tools) and any other information ordered by Tishman.

Where any such additional work is ordered as provided in this Contract, the Contractor shall, for such purposes, permit the Owner and Tishman to audit its books. The Contractor shall produce any and all data which the Owner and Tishman may request for the purpose of determining the correctness of the changes. The Contractor shall keep such full and detailed accounts as may be necessary to reflect its operations with respect to such changes and extras, and the system adopted shall be such as is satisfactory to the Owner and Tishman. The Owner, Tishman, their agents and employees, shall be allowed access at all reasonable times to the Contractor's, Subcontractor's and Vendor's books, correspondence, instructions, receipts, vouchers, memoranda and records of all kinds, relating to all work under this Contract as well as to such changes and extras, and the Contractor shall preserve the same for a period of six years after final payment hereunder. In regard to the foregoing and generally, the Contractor hereby authorizes the Owner and Tishman to check directly with its suppliers of labor and materials the charges for such labor, materials and other items appearing in the Contractor's bills rendered to Tishman, to confirm balances due and obtain sworn statements and waivers of lien.

In the case of disagreement as to the amount to be paid or credited the Contractor shall promptly comply with the order and payment to Contractor or credit to Tishman shall be made in accordance with the contract payment provisions up to the reasonable estimated value of the change as determined by Tishman.

Unless and until Tishman shall elect either the lump sum, the unit price method or time and material, the Contractor shall maintain and submit daily records of labor, material and equipment used in the work which have been acknowledged thereon daily by Tishman. In any event, Tishman shall have the right to order such changes in the work to proceed promptly prior to the submission of any proposal and/or Tishman's election.

Any work included in this contract shall be performed by the Contractor at no extra cost despite any order to the Contractor which might contemplate such work as an extra.

NO DELAY BY CONTRACTOR

37. 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 any work or part of its work on its part required to be performed or stop or delay the delivery of any materials on its part required to be furnished hereunder, pending the determination of such dispute or controversy.

SCHEDULING

38. The scheduling of construction operations for the project will be monitored by a method to be chosen by Tishman. The Contractor, and its subcontractors, if required, shall furnish all scheduling information requested by the Owner or Tishman at such time and in such form and detail as requested for its particular trade.

Such information shall be furnished within 2 weeks of the request and shall further be revised from time to time when requested either prior to and/or at any time during performance of its work.

Information submitted by the Contractor or others, acceptance or approval by the Owner or Tishman and the scheduling that may be developed and implemented by the Owner or Tishman shall not constitute the basis of any claim by Contractor or its subcontractors for damage or delay nor excuse the Contractor's performance as required herein.

BILLS AND NOTICES

39. A bill, statement, notice or communication which one of the parties hereto desires to serve upon the other shall be deemed sufficiently given and rendered if sent by registered or certified mail, return receipt requested, addressed to the other party at the address set forth herein. The time of the rendition of such bill, statement, notice or communication shall be deemed to be the time when the same was mailed and each day's notice shall be construed to mean a period of twenty-four (24) hours from the time of mailing.

RIGHTS AND REMEDIES

40. All rights and remedies of Tishman under this Contract shall be cumulative and shall be in addition to all other rights and remedies of Tishman provided by law.

NO ORAL MODIFICATIONS

41. This contract constitutes the entire agreement between the parties. The Contractor affirms and agrees and represents and warrants that only the statements, representations and promises expressly contained in this Contract have been relied upon by him and have induced him to enter into this Contract. No provision of this contract shall be changed or modified, nor shall this Contract be discharged, in whole or in part, except by an agreement in writing signed by the party against whom the change, modification or discharge is claimed or sought to be enforced, nor shall any waiver of any of the conditions or provisions of this contract or of any of the rights of either of the parties hereunder be effective or binding unless such waiver shall be in writing and signed by the party claimed to have given, consented to or suffered the waiver. In the event any written change or modification is made as aforesaid, Tishman's rights and remedies under this contract and under any bond given to the Owner or Tishman, in accordance with the requirements of this Contract, shall in no way be prejudiced or impaired, and the bond shall apply and be in full force and effect with respect to this contract as so changed and modified.

SAVING CLAUSE

42. If any of the provisions hereof shall contravene or be invalid under the laws of the jurisdiction where it is to be performed, such contravention or invalidity shall not invalidate the whole contract or any other provision thereof, but this contract shall be construed as if not containing the provisions held to be invalid, and the rights and obligations of the parties shall be enforced accordingly.

EQUAL OPPORTUNITY CLAUSE

43. In connection with the execution of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Contractor shall use best efforts to hire both minority and female employees whenever qualified individuals apply for employment. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or

transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In conjunction with this provision, the Contractor shall conduct its business in accordance with all federal, state and local laws and/or ordinances pertaining to programs concerning affirmative action and equal opportunity.

EXCULPATION OF PARTNERS

44. No general or limited partner or shareholder of Tishman or other holder of any equity interest in Tishman shall be personally liable to this agreement or other holder of any equity interest in any such party shall be personally liable for the performance of any such party's obligations under this agreement. The Contractor will not enter into any agreements with third parties without the inclusion of any exculpatory clause similar to that set forth herein, limiting Tishman's obligations to Tishman's interest in the property.

NO RESPONSIBILITY BY OWNER

45. While Owner is a third party beneficiary of this contract, nothing in this contract shall create or result in any obligation or responsibility from Owner to Contractor and Contractor shall have no rights or remedies under this contract against Owner. Without limitation of the generality of the foregoing, it is specifically understood and agreed that Owner has no obligation under this contract to pay or cause the payment of any sum to Contractor.

HEADINGS

46. Headings used in this contract are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope or intent of this contract, nor do they in any way affect this contract.

OWNER BENEFICIAL OCCUPANCY

47. If, before final acceptance the Owner desires to occupy the project or any part thereof which is completed or partly completed, or to place or install therein certain equipment and furnishings; the Owner shall have the right to do so and the Contractor shall in no way interfere with or object to such occupancy by the Owner.

AFFIRMATIVE ACTION

48. Tishman has a long standing practice of encouraging the participation of Minority and Women owned firms in its business opportunities. Accordingly, the contractor shall make every good faith effort to subcontract with minority and women owned firms in the performance under this contract. Additionally, Tishman is an Equal Employment Opportunity Employer and will expect all the contractors to secure Minorities and Women in the workforce to the maximum extent possible. This policy shall be supplemented by such specific goals and obligations imposed by governmental authorities and/or as otherwise specified in the Contract documents.

CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

49. (a) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extend consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. Dimensions shall be figured rather than determined by scale or rule.

(b) In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities: (1) The Agreement, (2) Addenda, with those of later date having precedence over those of earlier date, (3) Rider A of the Contract for Construction, (3) Drawings and Divisions 2 through 7 of the Specifications.

(c) Organization of the specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

(d) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

50. (a) The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the other consultants are instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the drawings, Specifications and other documents prepared by the Architect or the other consultants, and unless otherwise indicated the Architect and the other consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of instruments of Service, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the other consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not used by the Contractor or any Subcontractor, Sub-Subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the

specific written consent of the Owner, Architect and the other consultants. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the other consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect and the other consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or other consultants copyrights or other reserved rights.

(b) The Contractor agrees to release, indemnify, defend and hold harmless the Indemnitees, from any and all claims, demands, causes of actions, suits, liabilities, losses, damages, costs, and expenses, including but not limited to attorneys fees, expert witness fees and court costs, arising from or in any way connected with the use, modification, or interpretation of the Instruments of Service provided by the Indemnitees, whether or not caused in whole or in part by the comparative fault of any Indemnitee.

(c) The Contractor acknowledges that this service is not a sale of goods, that the Instruments of Service are provided "as is", and that the Architect makes no warranties, either express or implied, of merchantability, fitness for any particular purpose in connection with the service of providing the Instruments of Service, or that they will be usable or accurate, which warranties and representations are expressly disclaimed.

(d) The Contractor agrees that use of Instruments of Service in electronic form: a) is not a substitute for Contractor's professional judgment; b) does not relieve the Contractor from applying the appropriate standard of care and skill relevant to the use of the Instruments of Service; c) are only to be used as a tool to assist the Contractor in connection with the Project; and d) the Contractor shall be solely responsible for verifying the accuracy of all results created with the use of the electronic Instruments of Service.

CONFIDENTIALITY AND DOCUMENT SECURITY

51. (a) In connection with the Project and the work described herein, (i) Owner, Tishman, Skidmore, Owings & Merrill ("SOM") or other persons or entities may disclose to Contractor certain confidential and privileged documents, materials and other information (the "Project Information"), and (ii) Consultant may prepare certain confidential and privileged documents, materials and other information (collectively, the "Work Product"). The Project Information and the Work Product will include any plans, specifications, drawings, data, designs, budgets, products, manuals, reports, analyses, calculations, writings, correspondence, documents, maps, notebooks, tracings, photographs, negatives, computer programs/memories, worksheets, findings, recommendations, memoranda and any other documents, materials or information of any type relating to the Project or the work described herein, whether in draft or in final form, and whether transmitted orally, electronically, in writing, or by any other media, and (x) delivered, provided or made available by (or on behalf of) Owner, SOM or Tishman to Contractor, in the case of the Silverstein Information, and (y) prepared, created or submitted by Contractor in connection with the Project or the work, in the case of the Work Product (the Project Information, together with the Work Product, shall be hereinafter referred to as the "Confidential Information").

(b) Contractor shall (i) keep the Confidential Information strictly confidential, privileged, and secure, and (ii) in connection with the Project and the work described herein, comply with any policies or procedures adopted by Owner with respect to the security, retention, distribution, labeling and destruction of Confidential Information (the "Security Policies").

(c) Contractor shall not (i) use the Confidential Information other than directly in connection with the Project and the work described herein, or (ii) issue, make or authorize any disclosure, press statement, press release, correspondence or otherwise participate in any publicity by any other means in connection with the Project or the work without the prior written consent of Owner. In addition, Contractor shall not issue, disclose, disseminate, make available, publish, provide copies or otherwise reveal the Confidential Information to any other third party whatsoever except to (x) its officers, directors, and direct employees, with a specific "need to know", or (y) its subcontractors or other persons or entities (A) with the specific prior written authorization of Owner, and (B) who have executed a Confidentiality Agreement in the form required by Owner.

(d) Contractor shall (i) exercise its best efforts to inform its employees and its subcontractors' employees of the confidentiality and non-disclosure obligations provided herein, (ii) cause its employees and its subcontractors' employees to follow the Security Policies when handling Confidential Information, and (iii) cause its employees and its subcontractors' employees who shall receive or have access to Confidential Information to (A) receive a copy of this Confidentiality Agreement, including the Security Policies, and (B) sign an Employees' Confirmation in a form required by Owner, acknowledging such employees' understanding of, and agreement to comply with, the confidentiality and document security obligations relating to the Project and the work described herein.

LABOR AND MATERIALS TO BE FURNISHED BY CONTRACTOR

The Contractor shall furnish all labor, materials, equipment, tools, appliances, services, delivery, hoisting, scaffolding, permits, testing, engineering, layout, supervision, coordination and all other operations required for

the complete performance of all specified and related work stated herein, in accordance with the Contract Drawings, Specifications, Riders and other Contract Documents listed or referenced herein, all of which become part of this Contract.

CONTRACT PRICE
This Contractor shall perform all work set forth herein for the contract price of FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS ($5,500,000.00) including all applicable taxes, overhead and profit.

CONTRACT DOCUMENTS

Rider "A", General Addendum, dated June 03, 2004
Rider "B", List of Drawings & specifications, dated June 02, 2004
Rider "C", Alternates & Unit Prices, dated June 03, 2004
Rider "E" – MBE/WBE Participation Plan, dated June 03, 2004
Insurance Rider, dated June 03, 2004
Certificate of Capital Improvement (to be forwarded)
Sales Tax Exemption Letter and Certificate of Capital Improvement, (to be forwarded)

TIME OF PERFORMANCE
This Contractor represents that he has sufficient manpower, equipment and materials available to expedite all phases of his work schedule. Work in any area shall commence upon 48 hours notice from Tishman. Work shall proceed in sequence and direction as required by Tishman and, TIME BEING OF THE ESSENCE FOR CONTRACTOR'S PERFORMANCE HEREUNDER, as provided for in the Time and Performance Section of Rider "A".

FEDERAL ACQUISITION REGULATIONS (FAR):
Contractor shall comply with, and shall cause its subcontractors to comply with, FAR clause 52.203-6, "Restrictions On Subcontractor Sales To The Government (Jul 1995)", FAR clause 52.203-7, "Anti-Kickback Procedures (Oct 1988)", FAR clause 52.203-11, "Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions (Apr 1991)", FAR clause 52.203-12, "Limitation On Payment To Influence Certain Federal Transactions (Jan 1990)", FAR clause 52.219-8, "Utilization Of Small business Concerns and Small Disadvantaged Business Concerns (Feb 1990)"; FAR clause 52.219-9, "Small Business And Small Disadvantaged Business Subcontracting Plan (Jan 1991)", FAR clause 52.222-26, "Equal Opportunity (Apr 1984)", FAR clause 52.222-35, "Affirmative Action For Special Disabled And Vietnam Era Veterans (Apr 1984)", FAR clause 52.222-36, "Affirmative Action For Handicapped Workers (Apr 1984)", FAR clause 52.222-37, "Employment Reports On Special Disabled Veterans And Veterans Of the Vietnam Era (Jan 1988)", FAR clause 52.223-2, "Clean Air And Water (1984)". Contractor certifies: that neither it nor its principals is debarred, suspended or proposed for debarment by the Federal Government; that it does not and will not maintain or provide for its employees any segregated facilities (i.e., facilities that are segregated on the basis of race, color, religion, or national origin) at any of its establishments, and that it does not permit and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained; and that any facility to be used in the performance of this letter agreement is not listed on the Environmental Protection Agency List of Violating Facilities.

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

TISHMAN:
Tishman Construction Corporation

By: _____
William Stanton, Senior Vice President

Date: _____

CONTRACTOR:

By: _____

_____
(Print Name and Title)

Date: _____

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INSURANCE RIDER

PROJECT: FREEDOM TOWER
1 WORLD TRADE CENTER
New York, New York

TRADE: Selective Demolition, Structural Bracing, and Temporary Rock Anchors

INSURANCE

Prior to commencement of any work under this Contract and until all obligations under this contract are fulfilled, the Contractor and each and every Subcontractor of the contractor shall, at its sole expense, maintain the following insurance on its own behalf, and furnish to WTC Redevelopment LLC and Tishman, Certificates of Insurance evidencing same and reflecting the effective date of such coverage as follows:

The term "Contractor" and/or "Subcontractor" as used in this insurance rider, shall mean and include Contractors and Subcontractors of every tier.

A. Worker's Compensation and Occupational Disease Insurance in accordance with the applicable law or laws: Employer's Liability Insurance with Limit of Liability as required by New York State.

   The Contractor shall provide a copy of the "Employer's First Report of Injury" or its equivalent to Tishman Construction Corporation, 666 Fifth Avenue, New York, New York 10103, Attn: Insurance Department, within thirty (30) days of any injury or illness to any employee of the contractor arising out of, or alleged to have arisen out of or during the course of work performed on this project. Contractor shall cooperate by providing all reports mandated by the State of New York upon request.

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 Fifty Million ($50,000,000) Dollars per occurrence and in the aggregate. The general aggregate must be applicable on a per project basis. Coverage must include the following perils:

   1. Contractual Liability for liability assumed under this Contract and all other Contracts relative to the project.

   2. Completed Operations/Products Liability with a five (5) year extension beyond completion and acceptance of the project.

   3. Broad Form Property Damage.

   4. "XC&U" Perils, where applicable

   5. Personal Injury Liability (A, B & C)

   6. Independent Contractors.

   7. Endorsement (CG2010 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.

   8. Coverage is to be endorsed to reflect that the insurance provided is to be primary and non-contributory for the Contractor, WTC Redevelopment LLC, Tishman and all other indemnities named in the Contract.

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 WTC Redevelopment LLC and Tishman.

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 Tishman Construction Corporation.

11. The Certificate of Insurance and Liability policies must contain the following endorsement.

    "The insurance carrier(s) shall not, without obtaining the express advance written 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, and immunity of the Port Authority, its commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statues respecting suits against the Port Authority."

12. The liability policy(ies) and Certificate of Insurance shall contain cross-liability language providing severability of interests so that coverage will respond as if separate policies where in force for each insured.

C. Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles with a combined Bodily Injury and Property Damage Limit of at least One Million ($2,000,000) Dollars. Automobile Insurance must include all additional insureds and be scheduled as primary on the Umbrella policy.

D. Commercial Professional Liability Insurance (CPLI) covering the design all shoring and temporary structures of at least Five Million ($5,000,000) Dollars. CPLI must include all additional insureds.

E. Railroad Protective Liability Insurance (RPLI) work including all shoring and temporary structures of at least Four Million ($4,000,000) Dollars per occurrence, with an aggregate of at least Six Million ($6,000,000) Dollars. RPLI must include all additional insureds.

F. Where an Off Project Site property exposure exists, the Contractor at its sole expense shall furnish to WTC Redevelopment LLC and Tishman, 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 indemnitees named in the contract.

G. The above insurance shall each contain the following wording verbatim:

    "WTC Redevelopment LLC and Tishman Construction Corporation 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) day advance written notice to WTC Redevelopment LLC c/o Silverstein Properties, Inc., 530 Fifth Avenue, New York, New York 10036, Attn: David Worsley, Tishman Construction Corporation, 666 Fifth Avenue, New York, New York 10103, Attn: Insurance Department and The Port Authority of NY & NJ, 225 Park Avenue South, 12th Floor, NY, NY 10003 - Att: Winson Fung, by certified mail-returned receipt requested."

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 their Subcontractors.

I. The Contractors shall file certificates of insurance prior to the commencement of work and with WTC Redevelopment LLC and Tishman which shall be subject to WTC Redevelopment LLC and Tishman'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, WTC Redevelopment LLC and/or Tishman 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 WTC Redevelopment LLC and/or Tishman immediately upon presentation of a bill.

J. The Contractors and Subcontractors performing work or services in connection with the project shall maintain "All Risk" Property Insurance for all materials, equipment and supplies located at the project site and for Temporary Structures and Contractor's Tools and Equipment until completion of the project. Coverage is to be provided on a replacement cost basis.

K. 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.

L. The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility of liability under the Contract.

M. Any policies effected by the Contractor on their Owned and/or Rented Equipment and Materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation against WTC Redevelopment LLC, World Trade Center Properties, LLC., Silverstein Properties Inc., Port Authority of New York & New Jersey, and Tishman Construction Corporation and all other additional insureds and indemnitees named in the Contract.

N. 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 One Million Dollars per occurance and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the Contractor.

O. Within five (5) days after the award of this contract and prior to the start of work, the contractor must submit an original Certificate of Insurance, to the Port Authority of NY & NJ, Facility Contract Administrator, at the location where the work will take place. This Certificate of Insurance MUST show evidence of the above insurance policy (ies), stating the agreement/contract number prior to the start of work. Upon request by the Port Authority, the Contractor shall furnish to the General Manager, Risk Management, a certified copy of each policy, including the premiums.

Schedule 1 - Additional Insureds:

WTC Redevelopment LLC
World Trade Center Properties, LLC
One World Trade Center LLC
Two World Trade Center LLC
Four World Trade Center LLC
Five World Trade Center LLC
Net Lessees' Association of the World Trade Center
Silverstein WTC Facility Manager LLC
Silverstein Properties Inc.
Silverstein Development Co.
Larry A. Silverstein (as an individual)
The Port Authority of New York & New Jersey
Port Authority Trans Hudson (PATH)
WTC Retail LLC
Tishman Construction Corporation
Tishman Realty & Construction Co., Inc.
Tishman Construction Corporation of New York and the parents and affiliates of each of them.

RIDER "A"
GENERAL ADDENDUM
FREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 09, 2004

TRADE: SELECTIVE DEMOLITION, STRUCTURAL BRACING, AND TEMPORARY ROCK ANCHORS

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. 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. It is understood that all work of the Contractor shall be in strict accordance with the rules and regulations of the Port Authority of New York & New Jersey. Where the rules and regulations of the Port Authority of New York & New Jersey do not address a specific condition, the Building Code of the City of New York, 2000 year edition, 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. Where there is any conflict in any provisions, the most stringent shall apply.

3. The Contractor shall comply with all legal regulations, including OSHA safety regulations and regulations of municipal, city, local, The Port Authority of New York & New Jersey, 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.

4. 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 benchmarks will be established by Tishman at ground level. All subsequent layouts including bringing up the building axis lines and bench marks shall be performed by the Contractor who shall solely be responsible to maintain the line and grade required.

5. The Contractor shall provide and pay for, place, relocate and remove any and all of its required office trailer(s) or shanties when and where directed by Tishman. Structures shall be "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.

6. All work on this Project will be subject to New York City Equal Employment Opportunity regulations. The Contractor shall comply with the Affirmative Action Plan embodying the requirements of the city, state, and other governing agencies. The Contractor shall comply with the requirements of "Rider E" the Port Authority of New York/New Jersey MBE/WBE participation plan.

7. The Contractor shall provide all standby trades required to perform the work of this Contract including, but not limited to, Teamster, Master Mechanic, Maintenance Engineer, Operating Engineers, Elevator Operators, Electricians, Plumbers, and other trades that may have jurisdiction to support Demolition, Structural Bracing, and Temporary Rock Anchor Concrete operations, and Maintenance of Traffic, from the start of this Contractor's work until completion of this Contractor's work as required by the BCA Collective Bargaining Agreements are the responsibility of this Contractor.

   The following standby trade charges shall be incorporated into the Contract:
   a. Contractor shall include the cost of providing standby trades which may be incurred by

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contractors performing work on the site.
1. Overtime for standby trades.
2. Regular time for standby trades.

8. All light, power sources, wiring, water, utility usage charges, etc., for the Contractor's operations shall be provided and paid for by the Contractor. Should the Contractor need water, it will arrange and pay for a temporary water service meter, and all subsequent charges for water. The Contractor shall provide all temporary toilet facilities required for its work.

9. The Contractor has examined the Site and the Contract Documents and reviewed with Tishman 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 Tishman and Owner, 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, WTC Memorial, Trench Center, etc) or The Port Authority of New York & New Jersey 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 minor modifications to site logistics plans.

10. The Contractor is aware that some perimeter protection has been installed by others within or bounding the work area. The Contractor shall be responsible for checking the condition of this protection and restoring it to serviceable condition. The Contractor shall be responsible for maintaining the existing protection for the duration of this contract. 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 violations, penalties and legal costs.

11. All hoisting and hoisting requirements for the Contractor's personnel, materials and equipment are the Contractor's responsibility. Tishman shall not provide hoisting equipment for this phase of the project.

12. Any temporary openings or leaveouts required for subsequent installation of Contractor's work must be brought to the attention of Tishman 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 trades 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. All of the foregoing shall be done within the Contract Price.

13. The Contractor must take special care in stocking its material on roof areas and floors to allow other trades free access to their work and not to overload the slabs. The Contractor will refer to the contract drawings and specifications 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 Structural Engineer. Tishman 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.

14. The Contractor will provide protection necessary to safeguard its own work, as well as the work of other trades, from damage by its own operations.

15. 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 station, the 1&9 Subway, the haul road, and West and Vesey Streets. 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 & 9 Subway Line, N & R Subway Line, NYS Route 9A (West Street), WTC Path Station, MTA Tranelli Center, and other structures in the World Trade Center Site are under construction and has considered these restrictions with respect to delivering, loading materials and equipment, and hauling of demolition debris. The Contractor is aware of these conditions and will not attempt to seek additional time or monies for hardships that may arise due to its having to take special measures and precautions regarding same.

16. 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.

17. Contractor is to include in the in its contract price all insurance as required by the Insurance Rider attached to this Contract. The work of this Contract will not be part of the Project OCIP Insurance program.

18. The Contractor shall direct its field foreman to complete and return a Daily Report Form supplied by Tishman, on a daily basis. Such reports may be in electronic format if required by Tishman.

19. The Contractor is aware of the requirements of the Department of Transportation's Bureau of Traffic, The Port of Authority of New York And New Jersey, 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 Tishman'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.

20. Contractor is aware of the requirements of the Site Safety Plan on file with the Port Authority of New York & New Jersey and that there is a Site Safety Management Contractor employed by Tishman, for the project and shall fully cooperate with same, and comply with the Site Safety Manager's direction. Contractor shall comply with the requirements of the Safety Plan. The Contractor shall include all costs required to provide all necessary protection, flagman, etc., to control vehicular and pedestrian traffic during all its delivery and hoisting operations. The Contractor shall closely adhere to Tishman's Site Safety Requirements during all phases of its operations. The Contractor will conduct Project Safety Meetings with its own personnel on a regularly scheduled basis. The Contractor's foreman shall attend all Site Safety meetings. All of Contractor's personnel will be required to attend the Site Safety orientation meeting conducted by the Site Safety Manager. All personnel will be required to comply with Tishman's hard hat sticker program evidencing such
participation in the site safety orientation meeting and commitment to Tishman's safety program. Failure to wear a hardhat with the safety sticker shall be cause for removal of employee from the project site. All costs associated with the foregoing are included in the Contract Price. In addition to the above, this Contractor shall provide its own safety program.

21. For purposes of complying with the requirements of the Building Code of the City of New York and the Port Authority of New York & New Jersey, which calls for a Certificate of On-Site Inspection, the Contractor shall furnish to Tishman 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 not perform inspections. 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 slab 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. All costs incurred by the Engineer to review the Contractor's proposed modifications shall be reimbursed to 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 Contract Price.

22. All permits required for any part of the Contractor's work shall be procured and paid for by the Contractor. This shall also apply to those permits required to be obtained in the name of the Owner.

23. The Contractor shall place its hoisting equipment, additional bracing, shoring, and other appurtenances, in locations approved by Tishman. Any separate hoist engines, additional bracing, shoring, and other appurtenances, shall be relocated as required as the project progresses if required by Tishman 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 reviewed and approved by the Engineer. All costs incurred by the Engineer to review the Contractor's proposed modifications shall be reimbursed to Owner by the Contractor.

24. This Contractor shall cooperate, as directed by Tishman, with other contractors that shall be commencing operations on the site prior to this Contractor's completion and demobilization.

25. Protection as indicated in the Contract Documents will be by this Contractor. 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, Port Authority of New York and New Jersey, 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.

26. Contractor shall cooperate with all Public Transit and Utility Companies, and any other government authority having jurisdiction.

27. A Letter of Tax Exemption and a Certificate of Capital Improvement has been issued for this project. Contractor hereby acknowledges that the Contract Price stated herein has been based on the appropriate rules and regulations as they pertain to Sales Tax requirements, including fabrication, transportation, storage and erection. Contractor is fully responsible for all sales tax for deliveries not made directly to the jobsite or within New York State.

28. Contractor, its subcontractors, suppliers, etc. shall not use the Site, the Project name or their affiliation with Owner for publicity or advertisement of any kind whatsoever. Signs will not be permitted on the site without the prior written consent of the Owner.

29. Contractor shall remove all rubbish and debris from site as quickly as it accumulates, so as to prevent any fire hazards, impediments or undue hardships in pedestrian or vehicular access, ingress or egress to and from the site and in accordance with the OSHA housekeeping requirements. Contractor shall not place or store debris on walks or streets, or in areas outside of the specific work area. All walks and streets shall be left clean by Contractor. All removal costs are the responsibility of this Contractor.

30. A project picture ID system will be implemented for this project by the Owner. Contractor shall pay the cost for each picture ID issued at a rate not to exceed $25.00 per ID. Contractor shall submit a list of employees Contractor authorizes to work on this project to Tishman, which shall be updated weekly. This requirement extends to all material suppliers and subcontractors of every tier. Contractor's employees, including management personnel, material suppliers, and

subcontractors will not be allowed to enter the site unless the individual's name appears on the Contractor's authorized list and a picture ID is presented. All cost associated with the ID system are included in the Contract Price.

31. 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 insure workers are complying with this policy. Violators will be reprimanded and/or discharged from employment on the site at the discretion of Tishman. This Contractor shall provide a Plan for Parking and transportation of its personnel. The plan will include the following at a minimum:

    a. Require workers to utilize public mass transit or Contractor provided shuttle bus service.
    b. This Contractor shall deny its workers access to the construction site that violates the no parking requirements unless a special circumstance waiver is obtained in writing from Tishman.
    c. No Contractor vehicles will be allowed to park on-site. This requirement shall not extend to material delivery vehicles, which shall be permitted to park in designated loading and unloading areas only at specific pre-arranged times.

32. Unless stated specifically elsewhere, only the Project Director or Senior Project Manager is 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 Tishman's Project Director or Senior Project Manager. The Contractor agrees that any time and material work tickets signed by an employee of Tishman, 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.

33. Contractor shall issue to its key personnel radios that are on the same frequency as one of Tishman's channel to ensure proper communication in the event of a requirement to notify all site personnel. All costs for this communication requirement are included in the Contract Price.

34. Prior to working in or around the PATH track area, Contractor's workforce shall be required to attend a one hour safety course provided by the Port Authority. The cost of time expended attending the course shall be the responsibility of the Contractor.

35. At Owner's request, Contractor's employees and its subcontractors' employees shall sign individual acknowledgements of confidentiality and security procedures pertaining to the handling of bid and contract documents, which acknowledgements shall be in the form required by Owner.

36. Notification of Security Requirements:
The Port Authority of New York and New Jersey has facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. The Authority reserves 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 the Authority. These security requirements may include but are not limited to the following:

    a. 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; 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;

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

The Contractor may be required to have its staff, and any subcontractor's staff, authorize the Authority or its designee to perform background checks. Such authorization shall be in a form

acceptable to the Authority.

If the Contractor is directed by the Engineer to have identity checks and background screening performed by a firm designated by the Engineer, the Contractor will be compensated for having such identity checks and background screening performed by such firm designated by the Engineer, at the Net Cost of such work.

The Authority may impose, increase, and/or upgrade security requirements for the Contractors and its staff and subcontractors during the term of this agreement to address changing security conditions and/or new governmental regulations.

37. Definitions:

a. "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.

b. "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.

c. "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.

d. "Chief Engineer" shall mean the Chief Engineer of the Authority for the time being, or a successor in duties, acting personally.

e. "Engineer" shall mean the Chief Engineer, acting either personally or through duly authorized representatives acting within the scope of the particular authority vested in them.

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.

f. 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 work.

38. Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Suspension, Debarment, Disqualification, Prequalification Denial or Termination, etc.: Disclosure of Other Required Information:

a. By bidding on this Contract, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that the bidders and each parent and/or affiliate of the bidder as 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 contractor 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) or (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 bid, 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; (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.

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

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

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

e. The foregoing certification or signed statement shall be deemed to have been made by the bidder with full knowledge that it would become a part of the records of the Authority and that the Authority will rely on its truth and accuracy in awarding this Contract. In the event that the Authority determines at any time prior or subsequent to the award of the Contract that the bidder 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 Authority may determine that the bidder is not a responsible bidder with respect to its bid on this Contract or with respect to future bids 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, bidders 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.). Bidders are also advised that the inability to make such certification will not in and of itself disqualify a bidder, and that in each instance the Authority will evaluate the reasons therefore provided by the bidder.

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

1. *Affiliate* – An entity in which the parent of the bidder owns more than fifty percent of the voting stock, or an entity in which a group of principal owners which owns more than fifty percent of the bidder also owns more than fifty percent of the voting stock.

2. *Agency or Governmental Agency* – Any federal, state, city of 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.

3. *Employer Identification Number* – The tax identification number assigned to firms by

the Federal government for tax purposes.

4. *Investigation* – Any inquiries made by any federal, state or local criminal prosecuting agency 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.

5. *Officer* – Any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the bidder by whatever titles known.

6. *Parent* – An individual, partnership, joint venture or corporation which owns more than 50% of the voting stock of the bidder.

7. *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.

8. *Staff Sharing* – Staff shall be considered to be shared when any individual provides the services or an employee, whether paid or unpaid, to the bidder and also, on either a regular or irregular basis, provides the services of any 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 bidder or if such services are provided on an alternating or interchangeable basis between the bidder and the other business(es) or not-for-profit organization(s). "The services of any 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.

9. *Equipment Sharing* – Equipment shall be considered to be shared whenever the bidder 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 bidder has entered into a formal lease for the use of the equipment and exercises exclusive use of the equipment; or when the bidder owns equipment that it has formally leased to another business or not-for-profit organization, and for the duration of such lease the bidder has relinquished all right to the use of such leased equipment.

39. Materials Furnished By The Port Authority of New York and New Jersey:

The Authority will furnish to the Contractor for installation by him in the permanent construction the following materials:

1	15 Each	Top Plate/Stiffener Plate/Trumpet Pipe Sleeve Assembly

It is presently expected but no guaranteed that the foregoing materials will be furnished to the Contractor by the times required for their installation.

Materials furnished to the Contractor shall be examined by him at the time they are furnished to him, and if there is any shortage, damage or other defect, the Contractor shall at that time bring it specifically in writing to the attention of Tishman. Any shortage, damage or defect so brought to Tishman's attention and acknowledged by him will be corrected by the Authority. If no shortage, damage or other defect is so brought to the attention of and acknowledged by

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Tishman at the time said materials are furnished to the Contractor, the materials shall thereafter conclusively be deemed to have been satisfactory in all respects, provided that if the Contractor demonstrates to the satisfaction of Tishman that there was a shortage, damage or defect at the time the materials were furnished to the Contractor and that such fact could not reasonably have been ascertained at that time, then the shortage, damage or defect will be corrected by the Authority.

Contractor shall assume responsibility for all materials provided by the Port Authority of New York and New Jersey.

All materials or portions thereof in excess of those actually required in the permanent construction and which in the opinion of the Engineer may be suitable for use by the Authority shall be returned to the Authority at a location at the construction site designated by the Engineer upon the completion of the Work or when there is no longer any need for this material, whichever may first occur.

The Contractor at his own expense, shall furnish all materials required by the Contract Drawings and Specifications with the exception of those materials expressly provided to be furnished to the Contractor by the Authority in accordance with this numbered Section.

The foregoing materials will be delivered to the construction site tailboard of truck and the Contractor shall unload same and transport to the point of installation.

40. 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 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.

Obtain and submit to Tishman 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 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 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

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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 employees as are physically fit and are free from contagious or communicable diseases.

He 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 is prohibited. It shall be the responsibility of the Contractor to insure that all employees of the Contractor and of all subcontractors, material men 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 Tishman. 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.

Within 15 days of the acceptance of his Proposal, the Contractor shall submit to Tishman, for its 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.

41. 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. "Flashing Arrow Sign Unit" (FASU) shall mean an engine/generator-, solar-, or battery-powered flashing light sign with lights displayed in the shape of an arrow.

3. "Variable Message Sign Unit" (VMSU) shall mean an engine/generator-, solar-, or battery-powered variable text sign using a matrix composed of elements such as fluorescent flip-disc, fiber optic, light-emitting diode (LED), or incandescent bulb elements.

4. "Nighttime Hours" shall mean the local time period between ½ hour after sunset to ½ hour before sunrise.

5. "Slow-Moving Vehicles" shall mean vehicles or equipment that travel at or under a speed corresponding to 15 mph less than the posted speed limit.

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"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 to be furnished to the Contractor.

6. In the event of a technical conflict between a requirement in the publications referenced herein and the Contract documents, the requirements of the Contracts documents shall control, unless otherwise directed by the Engineer.

7. There may be more than one Work Area within the confines of a closed Roadway or Traffic lane. Each Work Area shall be individually protected as specified herein.

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 and/or shown on the Contract Drawings. 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.

3. Provide and maintain in serviceable condition the following as shown on the Contract Drawings.

   a. Traffic Cones: per Traffic Standard Details TD-72.2;

   b. Vehicle-strong barriers: Barriers may be of four types, as specified in the Contract Drawings:

      i. Precast Concrete Barrier:

         a. Type 1 (per Traffic Standard Details TD-741 and TD-74.4);

         b. Type 2 (per Traffic Standard Details TD-74.2 and TD-74.4);

c. Type 3 (per Traffic Standard Details TD-74.3 and TD-74.4);

d. Type 4 (Alternate B) (per Traffic Standard Details TD-75).

a. Temporary Signs: Conform to requirements of Specification Section 02850 "Plywood Sign Panels and Wood Sign Posts" and/or Specification Section02851 "Aluminum Sign Panels and Aluminum Sign Posts" hereof. Plywood signs shall be Type 1 unless otherwise shown on the Contract Drawings.

I. Temporary sign supports: Wood conforming to requirements of Specification Section 02850.

II. Portable sign supports: "Windmaster" as manufactured by Marketing Displays, Inc., Farmington Hills, MI.; or approved equal;

b. Temporary Reflectorized Pavement Marking:

I. On Roadway surfaces to be subsequently resurfaced or replaced under this Contract. An approved traffic paint with glass beads applied at the rate of 1.5 pounds per 100 linear feet per 4" wide line unless otherwise shown on the Contract Drawings. For removal see paragraph E.3.d.

4. Submit the following to the Engineer in accordance with Division 1 - GENERAL PROVISIONS entitled "Shop Drawings, Catalog Cuts and Samples".

a. Catalog Cuts and Data Sheets: Complete manufacturer's data for all equipment and materials.

d. Spare Materials and Equipment:

1. Initially furnish and subsequently maintain the quantities of spare materials and equipment, as scheduled on the Contract Drawings, at the construction site or at another nearby location approved by the Engineer.

2. In addition to the required number of spare flashing and steady-burn lights, maintain an adequate quantity of appropriate spare batteries and light bulbs at the construction site. Replace batteries and light bulbs in the in-use warning lights as follows:

a. For nighttime Type A Low Intensity Flashing Warning lights, after 30 consecutive days of operations, or sooner as needed.

b. For Type B High Intensity Flashing Warning lights, after 30 consecutive days of operation, or sooner as needed.

e. General Work Area Protection:

1. Contractor shall establish a Traffic Maintenance Crew, properly trained, supplied, staffed and equipped to deploy and remove the Maintenance of Traffic and Work Area Protection elements required for each of the Contractor's construction activities, as described on the Contract Drawings, and/or paragraph E.3 herein. The Contractor shall identify and maintain one individual, per work shift, as the central or key contact for the Traffic Maintenance Crew and their associated activities.

2. Contractor's Traffic Maintenance training shall be specifically developed from this section. The contents of Contractor's Training programs shall specifically include the Contract Drawings Traffic Standard Details and all other requirements included on the Contract Drawings.

3. Prior to commencement of each day's Work, furnish and install, and periodically inspect, maintain, relocate, replace, cover, remove, or reconstruct, the traffic control delineations, guiding devices, signals, signs, and pedestrian protection, Roadway plates, barricades, and barriers, if any, as required throughout the progress of

construction operations. Maintain safe control of traffic flow and demarcate areas of Work at all times.

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.

c. Promptly remove traffic control delineations, guiding devices, signals, signs, pedestrian protection, Roadway plates, barricades, and barriers and whenever operations under this Contract no longer require said Work area protection.

d. All existing permanent and temporary pavement markings and traffic guides that conflict with markings and traffic guides to be installed shall be concurrently removed prior to placement of new pavement markings and traffic guides as follows:

i. On wearing surfaces that will be subsequently replaced, resurfaced or abandoned during the Work of this contract, remove obsolete temporary marking tape and remove or obliterate obsolete thermoplastic or paint markings in a manner approved by the Engineer so as to completely obscure all obsolete markings for the duration of the Work.

ii. On finished wearing surfaces, completely remove temporary marking tape and completely remove obsolete permanent markings in a manner approved by the Engineer. Use of blackout paint or other coating material on any finished wearing surface is prohibited.

iii. Grind or chip off all adhesive residue resulting from removed or relocated traffic guides.

e. Prior to the end of each work shift and not less than twice a day on non-work days, the Contractor's Traffic Maintenance crew shall visually inspect and maintain all elements of the Maintenance of Traffic and Work Area Protection installations.

4. 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.

2. Placement and Removal of Temporary Signs and Traffic Control Devices:

c. Do not locate signs or other traffic delineations, guiding devices and signs in a manner that would: obstruct or interfere with motorists' view of approaching, merging or intersecting traffic; obstruct other permanent signs or route markers; or mislead or misdirect the motorist.

d. Do not place traffic control signs under an overpass or elevated building, or within overpass or building shadow areas, unless otherwise shown on the Contract Drawings, or as directed by the Engineer.

e. On Roadways passing below an overpass or elevated building, do not begin or end traffic cone or other delineation and guiding devices under or less than 100 feet from an overpass or building. Extend delineation and guiding devices

as required to comply with this requirement.

f. Unless otherwise shown on the Contract Drawings, or otherwise directed by the Engineer, the Work of installing and removing temporary signs, traffic control devices and pavement marking shall be protected, as a minimum, in accord with Contract Drawing Standard Traffic Details, as applicable.

5. Use temporary Vehicle-strong barriers at all times when the Work Area contains open excavations or 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. Flare exposed ends of the barriers away from the active Roadway by extending the barriers beyond the roadside recovery area and terminate the barriers with a tapered end section. Where proper flaring of the barriers cannot be obtained, protect the barrier end with Inertial Sand-Filled Barriers or Portable Impact Attenuators are used do not install tapered barrier end section.

6. Each Work Area not protected by Vehicle-strong Barriers shall be protected by a back-up truck when workers are present, unless otherwise shown on the Contract Drawings.

7. 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 Contract Drawings.

8. Slow-moving Vehicles traveling on a Roadway outside of demarcated protected Work Areas shall be followed (approximately 50 feet behind) by a vehicle displaying the same flashing hazard signal lights and sealed beam rotating yellow warning light as required for back-up trucks.

F. 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.

42. Path Operations and Conditions:

The Contractor shall comply with the provisions and requirements of this numbered clause for the construction of the protection wall at the PATH crash wall and the relocation of the existing Radio Frequency Antenna as shown on the Contract Drawing G3.

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 schedule 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 to resume operations in such areas.

2. Should the Contractor be specifically directed to suspend operations as provided in A.1, and if solely because of such direction and not due to fault of the Contractor, 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 "delays in general" (page 8 of 16, par 26 of The Agreement).

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

4. *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 excavations(s) in New York.*

5. 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.

6. The Contractor, employees of the Contractor, subcontractors, materialman 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 the Authority 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.

7. 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.

8. Do not store combustible products or flammable materials at areas of Work.

9. Restrict smoking to areas designated by the Authority for this purpose.

10. 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.

11. Do not burn or bury debris of any type on Authority property, or wash waste materials down sewers or into waterways.

12. 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, the Authority 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 Engineer.

13. In addition to the requirements of the Section of Division 1 GENERAL PROVISIONS entitled "Safety Provisions", provide and maintain at areas of Work, two "Pyrene 95-P20M" 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.

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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 any one time unless otherwise shown on the Contract Drawings or specifically approved by the Engineer.

c. Access To Areas of Work:

1. Work of this contract is at areas that are accessible by road. Transportation for personnel, material and equipment delivery, and debris removal shall be via road transportation provided by the Contractor.

d. Hours of Work:

1. Perform Work for the construction of the protection wall at the PATH crash wall and the relocation of the existing Radio Frequency Antenna as shown on Contract Drawing G3 only during the following time periods. Do not perform Work outside of such time periods, or on a legal holiday of the state(s) in which Work is being performed.

a. Between the hours of 1AM to 5AM, Monday through Friday, and between the hours of 1AM to 7AM, Saturday and Sunday.

i. Work at area of Work that requires crossing or obstruction of tracks, is within 3 feet of right-of-way, or in any way interferes with or interrupts PATH train operations.

e. PATH Rail Transportation:

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

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 3 feet to the right-of-way.

b. Work that requires crossing or obstruction of tracks.

c. Use of PATH rail transportation or Contractor's rail transportation.

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

e. Work which, in the sole discretion of the Engineer, requires flaggers for safety purpose.

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

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g. Station Closings:

1. During station closings as hereinbefore stipulated, the following conditions shall apply:

a. During the time when any station is closed, train movements will nevertheless continue through the station unless the Contractor has obtained specific approval for shut-off of traction power in accordance with "Traction Power and Existing Utilities" hereof.

b. Only one station may be closed at any time.

c. At Exchange Place station only one platform and its adjacent track may be closed at any one time.

d. A station closing will require Contractor operations to continue 24 hours per day, seven days a week, except holidays, so that the time for closing of a station is kept to a minimum.

e. Limit Work at closed stations that require crossing or obstruction of tracks, shut-off of traction power, or will interfere with or interrupt PATH trains service operations to the time periods stipulated in "Hours of Work" hereof.

2. Make arrangements for closing of station o in accordance with "Coordination" hereof.

h. 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 de-energized during performance of the Work of the Contract. The Contractor shall take all necessary precautions to protect his personnel and others affected by his 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. Shut-off and turn-on of traction power or existing utility, signal or communication service will be performed by others without cost to the Contractor.

4. If required for Work of the Contract, PATH will provide compressed air at 90 psi in the vicinity of the area of Work. Provide valved connections to existing facilities and extend with hoses as required.

5. Notify the Engineer of such shut-off or turn-on requirements in accordance with "Coordination" hereof.

i. Coordination:

1. The progress schedule shall contain, but not be limited to, the following items:

a. Description of operations, location of Work in tunnels, and station closings, if any.

b. Start and completion dates of each operation.

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c. Dates and times of Work that:

i. Require closing of PATH stations or tunnels

ii. Require crossing of obstruction of tracks

iii. Is within or closer than 3 feet to right-of-way

iv. Interferes with or interrupts PATH train service operations

v. Require use of Contractor's Hi-rail equipment, if any.

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 tunnels and right of way.

3. Written notification shall include, but not be limited to, the following items:

a. For PATH flagger services:

i. The dates, times and locations of area of work

ii. Description of operations to be performed at areas of Work

4. For closing of PATH stations as hereinbefore specified, submit written request no later than 21 days preceding the date on which closing is requested. Written request shall include the dates, times, durations of closing and locations of stations to be closed; and whether or not shut-off of traction power is required at the closed stations.

5. Where 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 or turn on is required.

c. Duration of shut-off times.

J. Coordination Rescheduling or Cancellation:

1. When the Contractor obtains approval under "Coordination" hereof for the use of PATH services, Work in PATH tunnels, or the closing of a 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. Failure by the Contractor to provide such notification of rescheduling or cancellation shall result in deduction by PATH of the following amounts from the Contractor's compensation:

a. For PATH flagger services: $25 per flag person for each prior approved hour or part thereof.

b. For PATH shut-off or turn-on of traction power or other utility or service: 100 for each shut-off or turn-on previously approved.

c. For PATH station closing: $1000 per day.

2. Notification not less than two weeks prior to erection or installation 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 replacement 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.

K. 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 person engaged in Work and shall take such precautions as will accomplish such end, without undue interference with the public or the operations of PATH.

L. 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. 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 Safety Supervisor at One PATH Plaza, Jersey City, NJ 07306, Sixth Floor, within 48 hours of such training. Only the persons specified in such letter will be permitted to enter the track area.

43. a. Construction Site Conditions:

1. During the time the Contractor is performing the Work, it may at times be necessary because of emergency or abnormal site conditions, to suspend the Contractor's operations or to postpone the time at which the construction site becomes available for performance of Work. Should the Contractor be specifically directed to suspend operations at the construction site 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 construction site, 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. Omitted

3. 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. Security fasten material or construction which must be left in place between working periods in a manner approved by the Engineer so as not to be a hazard,.

5. Omitted

6. Omitted

7. Omitted

8. Omitted.

b. Hours of Work:

1. Perform all Work outside of PATH Operations Area only between the hours of 8 AM to 4 PM, Monday through Friday.

2. Do not perform Work outside of these time periods, or on a legal holiday in the State of New York.

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.

44. Environmental Performance Commitments (EPCS):

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 (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 regulations applicable to exhaust emission controls and safety.

1. Ultra-Low Sulfur Diesel (ULSD)

All diesel-powered Non-Road equipment to be used in the performance of Work under this Contract 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 Engineer until such time that the fuel has become available, or an approved equal is determined by the Engineer to satisfy the intent of this Section. The 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 D5920-03 "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 and dispensing of fuel and all details 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 Suppliers:

http://www.epa.gov/otaq/retrofit/cont-fuels.htm

2. Diesel Emissions Control Technologies

All Non-Road diesel-powered equipment with a rated horsepower greater than 50 HP that is on site for a period of greater than 20 calendar days shall be retrofitted with Emissions Control Devices (devices) utilizing the best available technology. The retrofit devices may consist of Diesel Oxidation Catalysts (DOC), Diesel Particulate Filters (DPFs), combinations thereof, or any other available technology verified to be capable of maximally reducing the emission of pollutants from diesel powered engines. Such reductions are to be targeted primarily toward the reduction of particulate matter (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, or as accepted by the Engineer to provide the maximal level of pollutant reductions intended under this Section. For more information, refer to the following websites:

EPA's Verified Technology List:

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

California air Resources Board Verified Technology List:

http://www.arb.ca.gov/diesel/verdev/level1.htm

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

3. Diesel Construction Equipment Age Requirements

In order to facilitate the application of verified emission control devices, all diesel-powered Non-Road equipment with a rated horsepower greater than or equal to 50 HP and used on site for a minimum of 20 calendar days for the performance of Work under this Contract must be of a manufacture model year greater than or equal to 1994.

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

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 Non-Road and On-Road Vehicles. The DEM Plan shall identify all engines and vehicles to be utilized in the performance of Work 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 form the DEM Plan will be permitted unless approved by the Engineer. 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:

a. 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 form the fresh air intakes of sensitive receptors as determined by the Engineer.

b. 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:

- When an On-road Motor vehicle is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control.
- when it is necessary to operate heating, cooling or auxiliary equipment installed on the vehicle when such equipment is necessary to accomplish the intended use of the vehicle.
- To bring the vehicle to the manufacturer's recommended operating temperature. In this event, the temperature requirements must be indicated in the Diesel Emission Mitigation Plan as an exception.
- When the outdoor ambient temperature is below twenty (2) degrees Fahrenheit.
- When the vehicle is being actively worked on for repairs or maintenance.

b. Air Quality: Dust Mitigation

1. Control Requirements

The Contractor 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 form the construction site and during the performance of Work under this Contract, 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 site.

2. Contractor Dust Mitigation Plan

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 and Vibration Abatement

Contractor shall comply in all respects with all New York City Department of Buildings noise and vibration mitigation requirements and criteria. In the event that noise or vibration levels arising from Contractor's work exceed the maximum permitted levels, then Contractor shall take all required mitigation and remediation measures in order to comply, including (if applicable) noise mitigation equipment, mufflers, and/or sound barriers.

d. Cultural and Historical Resource Protection

In the event of any archeological findings or the performance of Work in any area of known or potential cultural or historic significance, the Contractor shall immediately stop all Work and notify the Engineer.

e. Submittals

1. Inventories: On-Road and Non-Road Diesel Equipment and Engines, and Verified Emission Control Devices.

No Work shall commence utilizing diesel powered Non-Road Engines and Vehicles or On-road Vehicles ("engines or vehicles") with a rated horsepower greater than 50HP until the Contractor submits a comprehensive and complete inventory list inclusive of all such engines 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, the engine or vehicle is anticipated to be used on the construction site for less than twenty (20) calendar days, 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 engine 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 engine or vehicle of equivalent performance.

The inventory list shall include:

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

The inventory list shall be provided in an electronic format (e.g., Microsoft Word, Access Excel).

2. On-Going Equipment Updates and ULSD Deliveries.

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

3. Contractor Prepared Adverse Impact Avoidance Plans

As identified in the preceding sections, the Contractor shall submit the following plans: (1) Diesel Emission Mitigation Plan, (2) Dust Control Plan, and (3) Noise Abatement Plan. All plans must be approved by the Engineer prior to the commencement of Work.

4. Ultra-Low Sulfur Diesel Fueling Plan

The Contractor shall submit his fueling plan, identifying the proposed ULSD supplier, independent test results of sulfur content of the proposed supplier's fuel as determined through the methodologies identified in A.1.) above, and a description of segregated truck delivery or on-site fuel distribution plans.

f. Noncompliance

The Contractor will be issued a written Notice of Non-Compliance by the Engineer in the event that dust suppression, emissions reductions, or noise abatement measures fail to comply with the requirements of this Section. All non-compliances shall be remedied within twenty-four (24) hours of notice by the Engineer. The failure of the Contractor to perform all corrective actions within this period may constitute a reason for the Engineer to withhold payments to the Contractor.

g. Payment, Liability, and Claims

The Contractor's compliance to this section and any applicable regulations shall not be grounds for claims. The Authority shall be fully indemnified of any liability or claims attributable to the retrofit or use of ULSD including, but not limited to, equipment malfunction or failures, work stoppages, fouling, or any other result whatsoever. All costs and fees incurred for compliance with the requirements of this section shall be paid by the Contractor at no additional cost to the Authority.

45. Environmental Review Process

Aspects of the Work are subject to ongoing environmental review by several agencies of the federal, and New York State governments. It is anticipated that this review will be completed on or about June 10, 2004. Award of this Contract is contingent upon approval of the Work in the form set forth in the Contract documents. Upon completion of the environmental review process, but no later than June 10, 2004, Owner will issue the Contractor a Notice of Environmental Determination, which shall provide notification of the outcome or status of the environmental review process. If the environmental review process led to a binding decision by a cognizant government agency that the Work must be altered or canceled, or if the environmental review process has led to unanticipated delays, the Owner and the Contractor will negotiate in good faith an arrangement that reflects these events. In no event may the Contractor begin demolition or construction work until it has received from Owner a Notice of Environmental Determination indicating that such demolition or construction work has been approved by the government.

RIDER "A"
GENERAL ADDENDUM
FREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 3, 2004

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B. SCOPE OF WORK

Without restricting the generality of work which shall be performed within the Contract Price, it is clearly understood and agreed that the Contractor shall provide all material, labor, trucking, hoisting, rigging, engineering, scaffolding, power hookups, protection, shop drawings, applicable taxes, permits, layout, equipment, supervision, applicable insurance, etc., necessary for the furnishing and installation of all specified and related work contained herein in accordance with the Contract Drawings, Specifications, Addenda and Riders, all of which become part of this Contract.

The Scope of Work shall include, but not be limited to, all the work in the following Specification Section(s), except such work as may be specifically excluded in Paragraph "C" "WORK NOT IN CONTRACT".

Specification Section — As indicated on Drawings listed in Rider "B"

I. DEMOLITION

This Contractor shall be responsible for examining all of the Documents listed on the Rider "B", "List of Drawings and Specifications" and all items related to this Contractor's work, and called for in these Documents, shall be included in this Contract.

In addition to the above Specifications, this Contractor's work will include, but not be limited to the following items, clarifications and/or modifications:

1. Selectively demolish slab remnants of portions of the former World Trade Center, after all specified protection, traffic control measures, rock anchors, and column bracing, and load transfer structures are installed by this Contractor:
   a. Portion of the concourse slabs and all supporting columns. Area north of column line 2 supporting Vesey Street shall remain and is to be protected by this Contractor.
   b. B-1 slab except for structure elements required to support Vesey Street concourse slab.
   c. B-2 slab except for structure elements required to support Vesey Street concourse slab.
   d. B-3 slab except for structure elements required to support Vesey Street concourse slab.
   e. A portion of the B-4 slab except for portions of the structure directly above the active PATH railroad tracks and structure elements that are required to support Vesey Street concourse slab.
   f. Portions of the B-5 slab that are specifically scheduled to be removed.

2. Contractor shall provide and pay for all required notices of demolition for the disconnection and/or capping of gas, electric, steam, sewer, drainage pipe and water services, and obtain and pay for all necessary permits and fees required for the work on the structure to be demolished, except as specifically provided elsewhere herein. Contractor shall issue written notices of wrecking operations to all corporations, companies, individuals or local authorities owning conduit, wires or pipes running to, through or near the property, in accordance with New York State Industrial Code Rule 53. Contractor shall comply with OSHA "Safety Requirements for Demolition" and ANSI A10.6.

3. Contractor shall remove all items of salvage, rubbish and wrecking debris from site as quickly as they accumulate, so as to prevent any fire hazards, impediments or undue hardships in pedestrian or vehicular access, ingress or egress to and from the site. Contractor shall not place or store debris on walks or streets, and all walks and streets shall be kept clean including sweeping daily, by Contractor.

4. The Contractor shall remove from the premises as directed, all materials of every description and combustible items including, but not limited to wood of all types and size, plumbing fixtures, pipes, HVAC duct, conduit, black iron duct, electrical duct, air conditioning equipment, electrical equipment, etc.

5. The use of explosives is not permitted.

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6. Contractor will sawcut edges where indicated. Full depth sawcutting is specified at certain locations.

7. A Professional Engineer licensed to practice in the State of New York, engaged by the Contractor shall design, provide stamped calculations and drawings for approval by the Port Authority of New York and New Jersey for all demolition operations, sequences, structural bracing, temporary structural support and shoring systems, equipment logistics, equipment support, on-site material transportations, slab loading and rock anchors.

8. This Contractor shall engage a New York State Licensed Professional Engineer for controlled inspection of all demolition operations, sequences, structural bracing, temporary structural support systems, equipment logistics, equipment support, on-site material transportations, and rock anchors. All reports required by the Port Authority of New York and New Jersey are included in the Contract Price.

9. The premises, including all rubble and debris, shall be frequently sprinkled down to prevent dust, and shall be enclosed in accordance with all The Port Authority of New York and New Jersey and New York City laws and requirements. In the event this Contractor uses fire hydrants to accomplish the foregoing, the Contractor shall obtain and pay for the necessary permits required, and shall pay for water consumed during this operation. Contractor shall provide a sump to collect water accumulation and shall pump this water to the nearest storm drain.

10. Prior to starting demolition work, the Contractor shall make an inspection to determine the physical condition of adjacent improvements to remain and to determine protection means required to be submitted to Tishman for review. Contractor shall provide all necessary posts, beams, bracing, fastening, ties, and other supports, however characterized, as required for safe performance of the herein specified work. Contractor shall provide and install shoring and bracing sufficient and as necessary to safeguard adjacent structures, or portions of structures, during demolition operations. Contractor shall submit calculations and drawings stamped by a Professional Engineer licensed in New York State for all support engineering and have them approved, prior to proceeding with any support work. The
Contractor includes all costs and responsibilities for aforementioned safe performance methods according to the the Port Authority of New York and New Jersey and all governing authorities.

11. This Contractor shall be responsible for the entire site, including buildings, sidewalks and any other part thereof, and shall use special care and take necessary precautions to prevent any damage to adjoining structures, PATH railroad operations, roofs, foundations, walls and/or premises. The Contractor shall specifically assume and does so assume all risk of injury or damage from any causes to persons or property employed or used in connection with the work and to any person and private or public property resulting from any action or operation under this Contract, or in connection with this work, and undertakes and promises to protect and defend, at the Contractor's sole cost and expense, the indemnitee against all suits and claims on account of any damage or injury. This Contractor shall repair and make good any damage caused by this Contractor, its agents, subcontractors and employees to adjoining private and public property or premises, and leave same in a thoroughly clean and satisfactory condition as it was prior to any damage. The Contractor shall promptly repair damages caused to adjacent facilities by demolition operations, as approved by the Owner and as directed by Tishman, at no additional cost.

12. Work will occur adjacent to and above active PATH railroad tracks. At no time shall the Contractor's work affect the operation of the PATH railroad. The Contractor shall comply with and includes all cost associated with special procedures and overtime work required by The Port Authority of New York and New Jersey.

13. The Contractor shall design by a Professional Engineer licensed in New York State, furnish, install, maintain, relocate, and if directed by Tishman remove all protection work indicated in the Contract Documents. The Contract Price includes, but shall not be limited to, the following protection work:
    a. Protection of PATH railroad tracks and station
    b. Dustproofing of PATH railroad tracks and station
    c. Maintenance of traffic indicated on Drawings MT1 to MT3

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d. Concourse level Jersey type concrete barriers including foundations.
e. Barriers, traffic signaling, signage, flagmen, striping, and traffic plan indicated in Drawings T1 to T5.
f. Temporary stairs to access all levels of work in each phase.
g. Wood Barrier from top of crash wall to underside of B-4 level slab, designed for specified wind load.
h. Remove and replace existing vertical perimeter safety netting prior to start of work.
i. Provide new vertical protection at edges of any slab within the work area.
j. Provide new vertical protection at areas to remain to protect persons working in areas outside of the limits of this contract.
k. Protect critical services and utilities identified to remain during the course of the work.
l. Protect existing slurry wall tie-backs.
m. Provide a braced painted plywood enclosure at track level, mounted on the crashwall running to the underside of the B-4 slab. The enclosure shall be installed wherever demolition work is to be performed overhead and shall prevent demolition debris from falling into or bouncing into the PATH track area.
n. Inspect all existing perimeter protection and replace damaged installations.
o. Upon completion of contract work, this Contractor shall restore all protection work components back to the good condition prior to turning it over to Owner. Work includes all necessary rework and/or replacements.

All of the personnel protection work listed above shall be performed prior to the start of work.

All other protection work, not specifically noted in this paragraph, but required for this Contractor's work, and to protect and separate adjacent areas are included in the Contract Price.

14. The Contractor shall be responsible for, and shall pay the costs of the following vendors and professional services selected by Tishman and assigned to this contract:

a. Site Safety Manager – Working full time whenever this Contractor is on site.
b. Teamster Steward
c. Master Mechanic
d. Watchman Service on a 24 x 7 basis whenever contractor is not on-site, including holidays.
e. Licensed Land Surveyor team for a period of one week
f. Exterminator Services as needed, but not less than monthly treatment.
g. Local 3 temporary light power, disconnects, traffic signaling, and standby to completion of this Contractor's work.

Contractor shall provide these services at its cost for a period of time starting with mobilization and ending at the completion of Owner's punchlist. The costs will not be shared with other trades whose work may run concurrently with this Contractor's Work.

15. Provide the following for the duration of the contract for Tishman's use:
a. Two (2) each 50 foot long field office trailers
b. Water and electric hook-ups
c. Flushable toilets and large fresh water and waste storage tanks in each, air conditioning and heat
d. Security screens and security bar on doors
e. Temporary wood stairs
f. Temporary wood roof and platform between trailers.
g. Security lighting
h. Telephones and switch
i. Bottled water service
j. Daily cleaning of bathrooms, floors and waste disposal
k. Weekly delivery of fresh water for sinks and toilets and pumping and disposal of waste
l. Provide storage shelves.

16. Tishman, during the progress of the demolition work, may request the Contractor to receive and install signs in locations, as may be directed by Tishman. Such signs shall be relocated and reinstalled as and when directed by Tishman. The signs shall be properly braced, secured and

maintained until such time as the Contractor is directed to remove same.

17. The Contractor agrees to accept site in whatever condition it exists at the time Tishman releases it to the Contractor, and waives any claim against Tishman.

18. The Contractor stipulates that Tishman has made no representations other than those contained herein as to what the nature of the materials being selectively demolished is. Contractor acknowledges it has thoroughly and fully inspected said premises and is not relying upon any statements on the part of Tishman or Architect in reference to the structure. Simultaneously, upon notice from Tishman to commence demolition, the Contractor shall assume responsibility for any loss under any circumstances.

19. Contractor shall properly patch with similar materials any holes left in slurry walls caused by its demolition operations.

20. This Contractor shall exterminate and deverminize the work area in accordance with The Port Authority of New York and New Jersey Requirements and all other agencies having jurisdiction thereof.

21. Contractor shall pump and dewater all areas as required to carry out the work of this Contract, regardless of the source of water. The Contractor shall refer to the environmental report prepared by the Port Authority, referred to in Rider "B".

22. Contractor understands that power, water and light will not be available within the building scheduled for demolition. Contractor shall provide for same at no additional cost to Owner. Contractor shall be responsible for all temporary electric service required to carry out the Work, including stand-by labor.

23. Contractor to maintain sidewalk and roadway access. All costs for fence relocation, phasing and staging, and overhead protection (sidewalk sheds) required to achieve this are included in the Contract Price.

24. Contractor shall be solely responsible for securing the site from the time Contractor's notice to proceed is issued until all buildings have been demolished.

25. The Contractor shall not use any equipment or methods of demolition contrary to the rules and regulations of The Port Authority of New York and New Jersey, and any other authorities having jurisdiction over this work.

26. The Contractor shall erect scaffolding for all areas necessary to safely execute its work, in accordance with the requirements of all governing agencies.

27. Work shall be executed in an orderly and careful manner with due consideration for the rights of adjoining property owners, tenants, employees, PATH commuters, and customers of the buildings which may be affected by the work. Contractor shall plan removal of various parts of buildings so that work will not be delayed and shall proceed with wrecking operations as rapidly as is consistent with insuring maximum safety and protection to workmen and to the public at all times. A sequence of removal plan shall be submitted by this Contractor to Tishman for review.

28. Demolish stone, masonry and concrete and remove in small pieces, not large sections. Remove structural framing members and lower to ground by means of hoists, derrick or other suitable method. No material is to be thrown or dropped from upper floors of building. Chutes shall be provided by this Contractor for trash in each area being worked on and shall be covered with tarpaulin or other suitable material in order to prevent dust from spreading to the adjoining areas.

29. Should dust, dirt and debris caused by demolition work settle on the adjoining areas, this Contractor shall clean the structures and improvements as directed by Tishman and return areas to the condition existing prior to the start of work. Demolition Contractor shall promptly repair or replace all parts of buildings not being demolished which are damaged during demolition.

30. Proceed with demolition in a systematic manner, from top of structures down to and including

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foundations. Complete demolition work above each floor or tier before disturbing any supporting members on lower levels.

31. All materials, salvage, debris, etc., shall be removed from jobsite by this Contractor and shall be disposed of in a landfill licensed to accept this type of debris. Should Contractor desire to sell, salvaged materials to others, or recycle materials, Contractor shall submit a plan for such reuse for approval by the Owner.

    Contractor is prohibited from selling or giving away materials either on site or off site as souvenirs, artifacts, etc. at any time. Contractor's agreements with its subcontractors shall prohibit subcontractor from using, reselling or giving away the materials as souvenirs or artifacts.

    Contractor shall submit to the Owner, a letter obtained from each of Contractor's waste recycling or waste land filling subcontractors, stating the final use and location of each type of material disposed.

    Contractor shall not use the "World Trade Center" name in any form except in direct connection with the Work.

32. Contractor shall not clean or cause to be cleaned on the premises, any brick or other material, nor sell or cause to be sold any of the materials, on the premises.

33. It is the Owner's intent, to the greatest extent possible, to first salvage for reuse and then recycle the remaining debris to minimize the amount of landfill waste. The recycling goal for this project shall not be less than 70% of the total volume of the material removed from the building(s) measured by weight. Materials should include but not limited to: scrap metal, reinforcing and structural steel, concrete, wood roof framing, copper piping, and other metals, etc. The Contractor shall develop, implement, and monitor a Waste Management Plan for its work. The Contractor shall provide a copy of the Waste Management Plan highlighting the salvaging and recycling requirements to the Owner, for the Owner's review and approval at least two (2) weeks prior to the start of work. The Contractor shall implement and monitor the waste management plan and shall provide calculations and documentation of project salvage and recycling for all materials with each application for payment as well as a final report and summary upon completion of Contractor's Work. All reports, summaries, meetings, etc. and other items required by Contract Documents are included in the Contract Price.

34. Remove remnant slab projections from face of slurry wall, which were left behind following prior slab demolition work.

II STRUCTURAL BRACING

1. Furnish and install all structural steel, support angles, plates, load transfer sequences, steel removals, bracing, connections, anchors drilled into slurry wall, non-shrink grouting, miscellaneous framing work, field measurements, and other appurtenances and accessories for a full and complete job as indicated on the Structural Drawings including, but not limited to, the following items:
    a. Furnish and install all structural steel for load transfers at transfer trusses JT-1, JT-2, JT-3, and JT-4.
    b. Horizontal steel bracing along column line 2 at level B-2.
    c. Bracing of steel beams supporting Vesey Street at the point where they rest on the slurry wall.
    d. Protect all structural steel scheduled to remain.
    e. All out of sequence selective demolition required to obtain field measurements are included in the Contract Price. Structural bracing work will be detailed, fabricated, and erected based on field measurements. It is this Contractor's responsibility to verify though field dimension all information indicated on Contract Documents.

2. Arrange for steel erection to be performed by a mutually agreed upon steel fabricator, erector, and detailer. Arrange for shop drawings and engineering to be performed by a mutually agreed upon detailer and professional engineering firm.

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3. Furnish and install any temporary connections, load transfer sequences, shoring and/or bracing, as required, to accommodate any erection stresses or loads and/or provide lateral bracing as necessary to resist displacements, during the erection process. The Contractor shall submit drawings and calculations, designed, prepared, signed and sealed by a New York State registered Professional Engineer paid for by the Contractor for The Port of New York and New Jersey approval.

4. The Contract cost includes all overtime costs, multiple shift costs, both direct and indirect, overtime shop cost, overtime engineering cost, material expediting cost which the Contractor must utilize in order to meet the schedule as further outlined in Paragraph "E" "TIME OF PERFORMANCE" of this Rider. All material shall be warehouse or manufactured from plate as required to allow for installation to occur in the shortest period of time from Notice to Proceed. Structural bracing work must be completed prior to commencement of demolition work per "Sequence of Construction Requirements" indicated on Drawing S1. Contract Price includes all costs, including standby trades to expedite structural bracing work in the shortest period of time. This includes all shift work, overtime, weekends, holidays, nights, and material expediting cost.

5. Should the Contractor propose any value engineering design changes that might save in fabrication or erection time or costs, it shall submit its proposal, drawings, calculations, etc., for approval by Tishman and The Port Authority of New York and New Jersey. Contractor assumes any costs for reimbursing the Engineer for all fees incurred as a result of said changes.

6. Contractor shall field measure for all steel stabilization members prior to the submission of shop drawings for approval. The removing of fireproofing and any other materials enclosing structural steel are included in the Contract Price. Field measurement work shall commence within one (1) week of notice to proceed.

7. Contractor shall prepare the structural steel shop drawings and develop connections and required calculations, based on field measurements, under the supervision of a New York State Registered Professional Engineer retained and paid for by the Contractor. These documents shall be submitted to The Port Authority of New York and New Jersey for approval. Contractor shall not proceed with preparation of fabication shop drawings until receipt of "Approved" or "Approved as Noted", by The Port Authority of New York and New Jersey, of shop standards and erection shop drawings and written notice to proceed is issued by Tishman. All cost incurred due to premature preparation of fabication shop drawings will be solely borne by the Contractor. All shop drawings shall be supplied by Contractor in a paper format. Electronic transmission of shop drawings may be accepted subject to The Port Authority of New York and New Jersey approval.

8. Contract price is based on connections and welding processes selected by Contractor to accommodate preferred fabication and erection methods. Selected connections shall be in accordance with AISC criteria and sound engineering practices and shall be subject to approval by The Port Authority of New York and New Jersey. Canadian equivalent standards are not acceptable.

9. This Contractor shall provide proper connection detailing and/or proportioning of connections, as specified. Stiffeners and web shear plates required to sustain forces and moments indicated in the drawings, even though not specifically shown, shall be furnished and installed as part of this Contract. The Contractor shall accept full responsibility for the design of all shop and field connections as required to resist the loads and reactions shown on the Contract Drawings and as specified, except for those completely designed and detailed on the Contract Documents. The Contractor shall certify that the detailing of all connections has been done under the supervision of a New York State Registered Professional Engineer whose name and registration shall appear in the affidavit. Signed and sealed calculations must be submitted to The Port Authority of New York and New Jersey for review and approval. Where connections are indicated in the Structural Drawings, no deviation from the approved type and method thereof shall be made without the approval of The Port Authority of New York and New Jersey.

10. The structural steel frame shall be erected true and plumb and within the tolerances called for in the AISC Code of Standard Practice as modified by Specification Section. The Contractor will install all necessary guy wires and/or bracing for plumbing the structural steel frame, maintaining such plumbness and stabilizing the structural steel frame due to loads imposed by

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the Contractors equipment. Monitoring of the Contractors work by resurveying or any other means chosen by Tishman and/or The Port Authority of New York and New Jersey shall not relieve the Contractor from his responsibility to meet all tolerance requirements.

11. The Contract includes the use of a material control system on shipping pieces. Contractor will supply necessary special equipment and/or software to monitor receipt of material and weight of steel to confirm status of completion. The Contract also includes the cost of a special equipment and software on site for E-mail communication, upload and download of shipping and receiving data, fax and printing services.

12. The Contractor shall provide the piece count for the project prior to the start of erection, production schedule by piece count updated biweekly during the course of work, and material shipping tickets. During erection, the Contractor shall furnish daily a report of the structural steel member installed.

13. Furnish and install high density spray on fireproofing for exterior exposure equal to W.R. Grace Product Z-146 to all structural steel work. This requirement extends to both new structural steel members and the restoration of fireproofing on existing structural steel members.

14. Access on Vesey Street for the purpose of placing a crane shall be at the discretion of the Port Authority and if granted such access shall only be permitted for short duration.

III. ROCK ANCHORS

1. Perform testing and retensioning of existing stressed rock anchors as indicated in the Contract Documents.

2. Contractor shall furnish, install, and test all new and replacement of damaged rock anchors required by Drawings GT1 to GT 6. Work includes all drill casings, rock sockets, cable tendons, grouting, anchor head details, and all other appurtenances for a complete job.
   a. Top of rock shall be assumed to be at elevation 235.0' for the determination of stressing length.
   b. All rock anchors shall be located so as to not interfere with existing 7 WTC caissons and piles, and to minimize severing of rebar in the slurry wall. The Engineer shall approve all rock anchor locations. The locating of anchors shall be performed by a licensed surveyor indicating position, elevation, and inclination of center of anchor at inside face of slurry wall.
   c. Performance test, proof tests, and lift off test of new and existing rock anchors as indicated on Drawing GT3 shall be performed by this Contractor in the presence of The Port Authority of New York and New Jersey engineers. All work shall be performed by technicians that have been approved in advance by The Port Authority of New York and New Jersey. All retests required by The Port Authority of New York and New Jersey shall be included at no additional cost to Tishman.
   d. Rock anchors shall be performance base and unclassified as it relates to total length, obstructions, bonding, possible artesian water flow, and all other items that affect permanent rock anchor installation.
   e. All chopping and concrete work required to install rock anchors are included in the Contract Price.
   f. A New York Licensed Professional Engineer retained and paid for by this Contractor shall perform all rock anchor design, equipment logistics, equipment support, drilling logs, and controlled inspection work that shall be subject to approval by The Port Authority of New York and New Jersey.

2. The Contract is based upon unclassified excavation including pre-auguring and driving or drilling through rock boulders, manmade obstructions, and coordination with 7 WTC foundations to elevations as required for rock anchor installation. Notwithstanding elevations as may be indicated in the Contract Documents the Contractor shall install rock anchors to the elevations required for proper load transfer capacity as approved by The Port Authority of New York and New Jersey engineers at no additional cost to Tishman. The Contractor has visited the site, is aware of the existing conditions, and agrees to accept the site as is. All costs in connection with removal of any and all obstructions, encountered at any depth, preventing rock anchors from achieving proper elevations is included within the Contract Price.

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3. All rock anchors shall be located by a State of New York licensed surveyor retained and paid for by this Contractor. The Contractor is responsible for all survey work related to rock anchors locations and elevations. As-built drawings prepared by the State of New York licensed surveyors shall be submitted for approval on a weekly basis indicating location, cut-off elevation, inclination and items required by the Contract Documents of all rock anchors.

4. The Contractor shall pay for all construction and design cost associated with adjusting the foundation system due to out of tolerance work that cannot be repaired by this Contractor. The acceptance of out of tolerance work is solely at the discretion of Tishman and The Port Authority of New York and New Jersey.

5. Rock anchors and structural bracing work must be completed prior to commencement of demolition per "Sequence of Construction Requirements" indicated on Drawing S1. Contract Price includes all costs including standby trades to expedite bracing and rock anchor work in the shortest period of time. This includes all shift work, overtime, weekends, holidays, nights, and material expediting cost.

IV. GENERAL ITEMS

1. Work shall be executed in an orderly and careful manner with due consideration for the rights of adjoining property owners, tenants, employees, PATH commuters, and customers of the building which may be affected by the work.

2. The Contractor shall provide all lifting and hoisting required to carry out work and to meet Fire Department requirements.

3. If required for the performance of work under this Contract. Contractor shall protect, remove, relocate and pay for; traffic signs, light poles, mail boxes, parking meters including lost revenue and any utility and/or public service item as required for its operations or as directed by Tishman in accordance with City Requirements.

4. The Contractor shall furnish, install and maintain all protection and enclosures required by The Port Authority of New York and New Jersey, New York City Building Code, Transit Authority, Department of Highways, OSHA and all governing authorities for persons, adjacent properties and its work, utilizing lanterns, flares, signs, barricades, steel plates, protection and/or plating over grates, or whatever means necessary. Such operations shall be maintained during day and night periods, including weekends, holidays and bad weather shutdowns.

5. This contract includes temporary patching of sidewalks, curbs and streets for public safety as required by governmental agencies having jurisdiction.

6. Contractor shall clean and sweep streets and sidewalks as often as needed but at least twice daily, in morning and afternoon, of dirt and rubbish for the safe and convenient passage of the public, trim loads of debris to avoid spillage, and maintain good housekeeping. No material shall be stored outside of the construction fence without Tishman's written approval. Special precautions shall be taken to provide adequate housekeeping of the site including but not limited to sweeping of sidewalks and removal of debris from the adjoining streets daily, or more often if needed.

7. Provide watchman services for the duration of this Contractor's work. Watchman services shall be provided during all hours this Contractor is not working, including nights, weekends and holidays. Contractor shall provide to the watchman adequate shelter and communication devices such as a telephone to contact authorities in the event of an emergency.

8. The Contractor shall place its cranes and hoisting equipment in locations approved by Tishman. Any separate hoist engines shall be relocated as required as the project progresses if required by Tishman so as to avoid interference with work of other Contractors.

9. All of the Contractor's work, shop and field, shall be tested and inspected by a testing agency in accordance with the Specifications. Tishman shall select such testing agency and all compensation for the testing agency shall be borne by others. The Contractor shall cooperate fully with the personnel of such testing agency and the Contractor shall provide

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at no additional cost to Tishman, manpower, drawings, facilities, scaffolds, properly calibrated torque wrenches, etc., to reasonably assist the testing agency personnel in their execution of their testing and inspection of welding, high strength bolts, etc., in shop or on site. It shall be the responsibility of this Contractor to notify Tishman a minimum of 24 hours prior to commencement of the Contractor's work. The Contractor shall not perform any work unless such testing agency personnel are present.

10. The Contractor shall provide all foundations and structures, engineered, signed, and sealed, by a State of New York Professional Engineer retained by the Contractor, as required for Contractor's crane(s), hoisting equipment and construction methods and means in locations approved by the Construction Manger.

11. Snow removal, if so required by Tishman, to allow this Contractor's operations to continue are included in the Contract Price.

12. Perform punchlist work as prepared and accepted by Tishman and The Port Authority of New York and New Jersey.

13. Contractor understands that because of exposure to fire and high temperatures, the existing reinforced concrete slab load carrying capacity has been de-rated by the Port Authority structural engineer. The Contractor and its NYS licensed P.E. shall strictly adhere to the load limitations provided in the contract documents.

14. Provide, maintain and remove at the end of the contract a one (1) truck tire wash station at a location designated by Tishman and the Port Authority.

15. Coordinate all work with the MTA in connection with work adjacent to the 1 / 9 subway line. Submit for approval a plan for demolition of slabs adjacent to the east slurry wall showing how the potential for damage to the structure will be mitigated.

16. The Contractor performing the Work of specification Division 2, Section 02050 represents it has at least five years of experience, within the last five years, in controlled selective demolition of building structures in the City of New York, of complexity similar to the Work.

17. Contractor shall sign Owner's confidentially agreement.

18. The cost of scheduled interruptions of the Work is included for the following occasions:
    a. Fourth of July Holiday memorial ceremonies.
    b. Memorial services commemorating events of 9/11/01, on Sept 10, 11, 12 2004.
    c. Holiday work embargo (Contractor to obtain a formal approval to work from NYCDOT).
    d. Republican National Convention.
    e. Scheduled PATH train maintenance, if Contractor is prohibited from working overhead.

19. The cost of unscheduled delays in the Work are included for the following occasions:
    a. Inclement weather
    b. Periodic PATH train maintenance, if contractor is prohibited from working overhead.

20. Retainage shall be ten percent to the completion of the Work. Reduction of retainage shall be at the discretion of the Owner.

21. Payment shall be made by the Owner within sixty days of submittal of a monthly invoice to the Owner.

22. Provide certified payrolls to in connection with NYC ICIP requirements.

23. Immediately upon mobilizing, protect artifacts identified as historic preservation elements by constructing plywood enclosures around them. Maintain protection to prevent disturbance of soot and blistered paint.

24. Contract price is based on performing Work in accordance with Port Authority Procedure.

V. GREEN BUILDING REQUIREMENTS

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The Owner is committed to utilizing recycled and environmentally friendly materials in all construction components. The following items shall be incorporated into the work of the Contract at no additional cost.

1. All steel shall have a minimum of 50% recycled content.

2. Only low sulfur diesel fuel shall be used on this project. Sulfur content shall not be greater than 15 ppm. Contractor shall arrange and purchase fuel from Sprague Energy, Steven Levy.

3. All on-site diesel powered non-road engines will comply with the Tier 2 federal emission standards.

4. All diesel powered non-road engines of 50 horse power or greater will be fitted with Diesel Particle Filters (DPF) or other verified control technology with equal or greater particulate matter reduction capability. Reduction technologies that are not verified by EPA or CARB can be used only if emissions testing are performed for the engine in question exhibiting minimum particle removal of 85 percent. Diesel Oxidation Catalysts (DOC) or other verified reduction technologies with similar particulate matter reductions can be applied only in cases where DPF or other high efficiency removal devices are not technically applicable.

5. It is the Owner's intent, to the greatest extent possible; to minimize waste generation and encourage the use of materials with recycled content. The Contractor shall develop, implement, and monitor a Waste Management Plan and a list of recycled materials incorporated into the project for its work. The Contractor shall provide a copy of the Waste Management Plan and a list of recycled materials incorporated into the project, for the Owner's review and approval at least two (2) weeks prior to the start of work. The Contractor shall implement and monitor the waste management and recycling plans and shall provide calculations and documentation of project salvage and recycling for all materials with each application for payment as well as a final report and summary upon completion of Contractor's Work. All reports, summaries, meetings, etc. and other items required by Contract Documents are included in the Contract Price.

6. The Contractor shall comply with all federal and local laws regarding noise control. Mufflers, whispered compressors, and other noise abatement and protection devices shall be used throughout the Contractor's work.

C. WORK NOT IN CONTRACT

1. Cost of 100% Performance and 100% Labor and Material Payment Bonds. (Reference Rider "C" - Alternate No. 1.)

2. Abatement of hazardous material and treatment of water to remove hazardous material prior to discharging in city sewer. Contractor shall filter and settle out dirt and concrete sediment from water before discharging into the existing drainage systems.

3. Removal of structure north of column line J-2 supporting Vesey Street including existing columns, girders, floor beams and bracing.

4. Omitted

5. Removal of temporary protection after completion of the Work.

6. Excavation and foundations for new 1 WTC.

7. Removal of specific temporary bracing and supports installed by this contractor for the transfer of load from trusses, which remain to support Vesey Street..

8. Removal of B-4 slab above track areas except for portions specifically indicated on the Contract Documents that are part of Contract work.

9. Permanent access stairs for use in construction of latter phases.

10. Environmental testing, surveying, and monitoring of ambient air.

11. Surveying of the slurry wall for movement.

12. Vibration monitoring services and costs. However Contractor shall mitigate impact of vibration as required in the environmental commitments.

13. Cost of PANYNJ or PATH supervisory personnel.

14. Cost of site security services outside of the Work Area. Watchman services are included in the Contract Price.

15. Disposal of demolition debris as hazardous or ACM waste. Disposal shall be in the construction debris waste stream. Materials may be recycled.

16. Relocation of utilities at track level and suspended from the underside of the B-4 slab.

17. Controlled inspection and testing of concrete, reinforcing steel, welding, bolting, field and shop assembly of steel (by Owner).

19. Vesey Street Demolition (see Rider "C" Alternates and Unit Prices).

20. Removal, relocation or disposal from the work area, site access areas or staging areas, of pre-existing items belonging to the Port Authority, or its contractors, such as shanties, tools, material and equipment, storage containers, and other items from the work area.

D. SHOP DRAWINGS AND SUBMITTALS

This 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 Tishman 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 Tishman 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. All required shop drawings and submittals shall be submitted in a uniform flow as drawings for each area of the building are completed, and not accumulated for a single submission.

4. This Contractor shall submit and maintain record documents (shop drawings, as-built, etc.) per "Submittals".

5. All submissions will be submitted with a stamp indicating that the submittal has been reviewed by the Contractor for conformance with the Contract Documents, coordinated with the work of other trades, and approved by the Contractor.

6. 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.

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7. Contractor shall utilize Tishman's electronic documents control system if so directed.

E. SCHEDULE-TIME OF PERFORMANCE AND BID SUBMISSION REQUIREMENTS

1. With the bid, this Contractor is to submit the following to Tishman:
   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 Tishman.
   d. Worker's Compensation Employee Modification Ratio.
   e. List of self-performed and subcontracted work items.
   f. MWBE plan and names of proposed suppliers, vendors and subcontractors.

2. Within two weeks of contract award, the Contractor is to submit the following to Tishman:
   a. Trade payment breakdown
   b. Labor rate sheets
   c. Certificate of insurance
   d. Material procurement logs.
   e. Cash flow schedule.

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 Tishman may request at a later date, to more accurately reflect actual project conditions.

   The Contractor shall be prepared to commence its fieldwork immediately upon receipt of instruction from Tishman 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 Tishman, as the job conditions require. The Contractor will provide multiple pieces of equipment, work in shifts, work on weekends, expedite material procurement, expedite material delivery, perform shop drawing overtime, and pay any other cost to accomplish the following milestone dates:

   PROJECT SCHEDULE:

   a. Contract Award (June 3, 2004)
   b. Mobilization Work (Pre-demolition inspections, notifications, and fence installation, utility disconnects, deverminization, permits, installation of temporary utilities, etc.) is to be performed as follows:
      1. Start June 15, 2004 – Completion June 30, 2004
   c. Temporary Rock Anchor Work is to be performed as follows:
      1. Area 2: Start June 21, 2004 – Completion July 2, 2004
      2. Area 3: Start June 21, 2004 – Completion Aug 6, 2004
   d. Structural Bracing Work is to be performed as follows:
      1. Area 1: Start June 21, 2004 – Completion July 30, 2004
      2. Area 2: Start July 6, 2004 – Completion July 23, 2004
      3. Area 3: Start June 28, 2004 – Completion Aug 6, 2004
   e. Demolition Work is to be performed as follows:
      1. Area 1: Start Aug 2, 2004 – Completion Aug 27, 2004
      2. Area 2: Start Aug 30, 2004 – Completion Sept 17, 2004
      3. Area 3: Start Sept 13, 2004 – Completion Oct 30, 2004

   Contractor shall complete all of its work in Area 1 well in advance of commencement of excavation for footings for the Freedom Tower, which is scheduled for the first week of September.

5. 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

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that in order to accomplish the aforementioned Schedule, including intermediate 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 Contract Price. 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 Tishman, however, all costs associated with obtaining the work permits shall be charged to the Contractor.

6. The Contractor understands that work of this trade may not be continuous and that it may be required to work out of sequence at the direction of Tishman. There shall be no charges for comeback time or out of sequence work, provided Contractor's field forces and equipment are still on site and work is accessible to and within the capacity of the on-site equipment.

7. It is agreed that for purposes of scheduling the various operations of the Contractor's work, provided Contractor's submittals are reasonably complete and accurate, the Architect shall be allowed 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 Tishman. The Contractor shall establish a steady flow of shop drawings for approval and avoid the accumulation of an excessive quantity of shop drawings in a single submission.

8. The Contractor shall furnish to Tishman copies of all material orders (without pricing), cutting lists, shop tickets and acknowledgments of such orders.

9. The Contractor shall furnish to Tishman transparencies and/or prints of shop drawings in such quantities as determined by the Architect, which shall be used for approval of the Contractor's work.

10. 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 Contract Price.

11. 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.
    b. Rock anchor installation logs.

12. Contractor shall include the cost of work stoppage caused by inclement weather.

13. Contractor shall include the cost of work stoppage for a period of five non consecutive working days for the purpose of ground breaking ceremonies, 9/11 memorial services, etc. Contractor will be given three (3) days advance notice of such events.

F. SAFETY

1. The Contractor must submit its own Site Specific Health and Safety Plan (HASP) prior to commencing work on the site or initial progress payment will be withheld. The Contractor shall revise the HASP as many times as project conditions require at not additional cost.

2. Manufacturers, suppliers, vendors, Contractors, or sub-Contractors are required to comply with the OSHA Hazard Communication Standard 29 CFR 1910.1200 and 29 CFR 1926.59 and supply Tishman with the appropriate Material Safety Data Sheet, including updates, at the time of initial shipment of the hazardous material to the project.

3. The Contractor shall designate a competent individual from its employ to act as a Safety Manager anytime the Contractor is performing work. The Safety Manager shall have satisfactorily completed, as a minimum an approved 10-hour OSHA safety course. No work shall occur unless the Contractor's Safety Manager is on site.

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4. The Contractor will conduct weekly Job Box Safety Meetings (JBSM) on a regularly scheduled basis and New Employee Safety Orientations as required for its own personnel. The Contractor shall provide a written JBSM schedule to Tishman, within two (2) weeks of contract award. Tishman, at its option, shall be allowed to attend the JBSM. The Contractor shall provide copies of meeting minutes and attendance sheets of all JBSM to Tishman as a condition to processing payment requisitions. Requisitions will not be processed without receipt of JBSM minutes for the requisition period.

5. It is the responsibility of the Contractor to institute a Drug and Alcohol Program for its on-site employees. Drug and Alcohol (including beer) use on the site will not be tolerated. Any on site employee who is found to be under the influence of or ingesting drugs or alcohol (including beer) must be immediately removed from the site.

6. The Contractor shall provide with this bid, its' Worker's Compensation Employee Modification Ratios (EMR) and 5 years of OSHA violation history. Any changes to either of these items during the course of the work shall be reported immediately to Tishman.

7. Contractor's safety program shall be subject to audit and review by Tishman's Site Safety Manager. Failure to comply with the safety requirements of the project may result, at the discretion of Tishman, in the following amounts being deducted from the Contract Price for an infraction of the Safety Program:

   a. First Offense: Warning – no monetary deduct.
   b. Second Offense: $500.00
   c. Third Offense: $1,000.00
   d. Further Offenses: $2,000.00 for each additional offense

   Deductions shall be non-cumulative for violation of multiple provisions of the site safety program.

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. Rules and regulations of the Port Authority of New York & New Jersey
   c. "Specification for the Design, Fabrication and Erection of Structural Steel for Buildings" by the American Institute of Steel Construction (AISC), latest edition.
   d. "Code of Standard Practice for Steel Buildings and Bridges", by the AISC, latest edition.
   e. "Specification for Structural Joints Using ASTM, A325 or A490 Bolts", by the AISC, latest edition.
   f. "Structural Welding Code, D1.1", by the American Welding Society (AWS), 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. 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.

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, and shall be submitted expeditiously as further elaborated on in Section "E" of this Rider.

4. Submit all mill test reports for Engineer's review.

RIDER "A"
GENERAL ADDENDUM
FREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 3, 2004

TRADE: SELECTIVE DEMOLITION, STRUCTURAL BRACING, AND TEMPORARY ROCK ANCHORS

Revised 6-02-04

Rider "B"
List of Drawings And Specifications
Freedom Tower
1 World Trade Center
New York, New York

Drawing Nr	Description	Drawing Date	Revision Nr	Revision Date
General	PANYNJ			
G1	Title Sheet PANYNJ WTC/WTC 6 Slab Removal & Diaphram Wall Stabilization	05/13/04		
G2	Location Plan & Index of Drawings	05/13/04		
G3	Staging & Protection Plan	05/13/04		
Structural	PANYNJ			
S1	Structural Notes Sequence of Construction	05/13/04		
S2	Slab Removal Procedure	05/13/04		
S3	Concourse Part Plan Zone J-1	05/13/04		
S4	Concourse Part Plan Zone J-2	05/13/04		
S5	Level B1 Part Plan Zone J-1	05/13/04		
S6	Level B1 Part Plan Zone J-2	05/13/04		
S7	Level B2 Part Plan Zone J-1	05/13/04		
S8	Level B2 Part Plan Zone J-2	05/13/04		
S9	Level B3 Part Plan Zone J-1	05/13/04		
S10	Level B3 part Plan Zone J-2	05/13/04		
S-11	Level B4 & B5 Part Plans Zone J-1	05/13/04		
S12	Level B4 Part Plan Zone J-2	05/13/04		
S13	North Diaphragm Wall Elevation	05/13/04		
S14	Elevation at Column Line J2	05/13/04		
S15	Bracing & Miscellaneous Details	05/13/04		
S16	Not Used			
S17	Not Used			
S18	Transfer Truss JT-1 Elevation	05/13/04		
S19	Transfer Truss JT-1 Details	05/13/04		
S20	Transfer Truss JT-2 Elevation	05/13/04		
S21	Transfer Truss JT-2 Details	05/13/04		
S22	Transfer Truss JT-3 Elevation Girder @ Grid W10230.00 Elevation	05/13/04		
S23	Revised Support for Col J2/20 & Transfer Girder Line 5	05/13/04		
S24	Transfer Truss JT-4 Elevation	05/13/04		
S25	Transfer Truss JT-4 Details	05/13/04		
S26	Column Schedule of Existing Columns	05/13/04		
	Leslie E. Robertson (LERA)			
LSK-68.5	6 WTC Sub Grade Demolition Sequence Level B4 As-Built DDC to PA Transition 7/11/02	07/11/02		
LSK-68.6	6 WTC Sub Grade Demolition Sequence Level B4 As-Built DDC to PA Transition 7/11/02	07/11/02		
LSK-68.7	6 WTC Sub Grade Demolition Sequence Level B4 As-Built DDC to PA Transition 7/11/02	07/11/02		
Geo Tech	PANYNJ			
GT1	Rock Anchor Location Plan	05/13/04		
GT2	Elevation of Vesey Street Diaphram Wall	05/13/04		
GT3	Geotechnical Notes	05/13/04		
GT4	Sections	05/13/04		
GT5	Sections	05/13/04		
GT6	Rock Anchor Details	05/13/04		
Traffic	PANYNJ			
MT1	General Notes Legend & Symbols	05/13/04		
MT2	Maintenance of Traffic	05/13/04		
MT3	Maintenance of Traffic	05/13/04		
T1	Barrier Signal & Striping Plan	05/13/04		
T2	Barrier, Signal, & Striping Plan	05/13/04		
T3	Traffic Details 1	05/13/04		
T4	Traffic Details 2	05/13/04		
T5	General Notes Legend & Symbols & Construction Access & Staging Area	05/13/04		
T6	Maintenance of Traffic for the Closure of Vesey St Haul Road-1	05/13/04		
T7	Maintenance of Traffic for the Closure of Vesey St Haul Road-2	05/13/04		

Rider_B

Rider "B"

Revised 6-02-04

List of Drawings And Specifications
Freedom Tower
1 World Trade Center
New York, New York

Drawing No	Description	Drawing Date	Revision No	Revision Date
Reference Drawings	**Minoru Yamasaki & Associates**			
SJ-53	Framing Plan EL 274' Zone J-2	05/15/67		
SJ-55	Framing Plan EL 274' Zone J-4	05/15/67		
SJ-62	Framing Plan EL 279'-6" Zone J-4	05/15/67		
SJ-68	Framing Plan EL 284' Zone J-2	05/15/67		
SJ-69	Framing Plan EL 284' Zone J-4	05/15/67		
SJ-75	Framing Plan El 290' Zone J-2	05/15/67		
SJ-76	Framing Plan EL 290' Zone J-4	05/15/67		
SJ-91	Framing Plan EL 310' Zone J-1	05/15/67		
SJ-92	Framing Plan EL 310' Zone J-2	05/15/67		
SJ 94	Framing Plan EL 310' Zone J-4	05/15/67		
AJ-32	Sub Grade Floor Plan Zone J Concourse Level Elev 310'-0"	03/22/68		
AJ-65	Stairs J - 1 - K & 14A Plans & Sections	03/22/68		
AJ-66	Stair J-2 Plans & Sections	03/22/68		
Historic Preservation Section 106	**PANYNJ**			
A1	Level B Part Plan Zone J-1, 2, 3, &4	05/27/04		
A2	Col J4 / 12 Removal	05/27/04		
A3	Partial Wall With Graphics Removal	05/27/04		
A4	Col J3 / 10 Removal	05/27/04		
Environmental Reports				
	PANYNJ Report - 53 pages	05/24/04		
	Advanced Environmental Corp - 12 pages	04/30/04		
Logistics Plan	**Tishman Construction Corporation**	05/24/03		
Specifications - PANYNJ				
Division 2				
02050	Demolition & Disposal	03/24/04		
02164	Prestressed Rock Anchors	04/14/04		
02580	Thermoplastic Reflectorized Pavement Markings			
02832	Metallic-Coated Steel Chain Link Fence & Gates	03/12/02		
02844	Precast Construction Concrete Barrier	04/22/04		
02850	Plywood Sign Panels & Wood Sign Posts	01/05/01		
02851	Aluminum Sign Panels	05/01/01		
Division 3				
03100	Concrete Formwork	09/29/95		
03200	Concrete Reinforcement	09/29/95		
03300	Placement of Portland Cement Concrete	09/17/00		
03301	Portland Cement Concrete	08/03/00		
03602	Grouting (Non-Metallic)	12/10/99		
Division 5				
05120	Structural Steel	07/24/00		
05500	Miscellaneous Steel	10/00/95		
Division 7				
07250	Sprayed-on Cementitious Fireproofing	07/11/03		

RIDER "C"
ALTERNATES AND UNIT PRICES
FREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 03, 2004

TRADE: DEMOLITION, STRUCTURAL BRACING, AND TEMPORARY ROCK ANCHORS

At Tishman's option in accordance with the article entitled "Changes and Extras" of the Contract, the following Alternates and Unit Prices shall be used for all additions and/or deletions to the Scope of Work and shall be inclusive of furnishing and installing of all material, labor, trucking, overhead, profit, equipment, hoisting, rigging, engineering, scaffolding, power hookups, protection, shop drawings, applicable taxes, applicable insurances, permits, appliances, storage, delivery and supervision and shall remain in effect until completion of the project. Items covered by these prices shall be furnished in accordance with the Specifications and in quantities and locations as directed by Tishman.

ALTERNATES

ALTERNATE NO. 1
In the event that the 100% Performance and 100% Labor and Material Payment Bond from a Surety list in the Department of the Treasury's Listing of Approved Sureties is provided by this Contractor

a. Base Contract Amount — ADD $ 123,850.00
b. Bond premium/credit for change order work — ADD/DELETE 2.2%

ALTERNATE NO. 2
In the event that this Contractor is insured under a wrap-up program, deduct the cost of Contractor provided insurance. DEDUCT $_____

UNIT PRICES

1. General Demolition (Removal and disposal)
   a. Reinforced Concrete Structure — $_____/ton
   b. Steel and Structure Steel — $_____/ton
   c. Mass Concrete Structure — $_____/ton

2. Protection
   a. Path track protection and dustproofing — $_____/ft
   b. Jersey type concrete barriers — $_____/ft
   c. Construction fence, 8'-0" high — $_____/ft
   d. Vertical Netting, 5'-0" high — $_____/ft
   e. Temporary stairs, 4'-0" wide — $_____/riser
   f. Demolition shed, 6'-0" wide x 10'-0" high — $_____/ft
   g. Chainlink fence — $_____/ sq ft

3. Watchman services
   a. Straight time rate — $_____/hr
   b. Overtime and holiday rate — $_____/hr

4. Spray-on Fireproofing, Z-146 (High Density)
   a. Columns, trusses and hangers
      1. 2 hr. rating — $_____/sf
      2. 3 hr. rating — $_____/sf
   b. Beams
      1. 2 hr. rating — $_____/sf
      2. 3 hr. rating — $_____/sf

5. Two (2) person patching crew with equipment and material.
   a. Spray-on Fireproofing, Z-146 (High Density) — $_____/sf

W/8063742

RIDER "C"
ALTERNATES AND UNIT PRICES
FREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 3, 2004

TRADE: DEMOLITION, STRUCTURAL BRACING, AND TEMPORARY ROCK ANCHORS

6. For addition or deletion of wide flange members. Unit prices based on warehouse ordered materials, and include all bolted connections parts, detailing material, waste, erection, and trucking. Detailing costs are not included in unit prices. Member lengths measured from centerline of connecting members or splice locations as applicable plus 5% for shear connections.
   a. Wide flange members above 1,600 lbs $_____/ton
   b. Built-up plate members above 1,600 lbs $_____/ton
   c. Between 1,600 lbs and 1,200 lbs member weight $_____/ton
   d. Between 1,200 lbs and 800 lbs member weight $_____/ton
   e. Between 800 lbs and 200 lbs member weight $_____/ton
   f. Below 200 lbs member weight $_____/ton
   g. Add to unit prices 6c to 6f for channels, angles, tee, and other rolled shapes $_____/ton
   h. Add to unit prices 6c to 6f for structural pipe and tubes $_____/ton
   i. Add to unit prices 6c to 6f for detailing and engineering cost $_____/ton

7. For additions, deletions and changes to connections from specified connections
   a. High strength bolts - Shop $_____/ea
   b. High strength bolts - Field $_____/ea
   c. Welds - Shop $_____/lbs
   d. Welds – Field $_____/lbs
   e. Plate, angle, or channel materials (Shop only) $_____/lbs
   f. Drilled in expansion anchors into concrete $_____/ea

8. Galvanized finish to structural steel $_____/ton

9. Prime paint $_____/ton

10. Material salvage value DEDUCT $_____/ton

11. For addition or deletion of stud shear connectors, vertical or horizontal
    a. Field $_____/ea
    b. Shop $_____/ea

12. Shop labor rates $_____/hour

13. For additional detailing costs (Rate shall be good for any additional detailing charges regardless of lead time given or quantities of drawings required) $_____/hour

14. For additional field measurement work $_____/hour

15. Shotcrete on slurry wall, where directed by the Engineer, including surface preparation, disposal of waste:
    a. Setup $_____/ea
    b. Application, crew and equipment for 1 dy minimum $_____/ea
    c. Additional Shotcrete after 1 dy min $_____/sq ft

16. For additional engineering costs. (Rate shall be good for any additional detailing charges regardless of lead time given or quantities of drawings required) $_____/hour

17. Rental of welding machine including Operating Engineer $_____/hour

18. Rock Anchors
    a. Furnish, installed, grouted, tensioning and acceptance testing of steel cable temporary rock anchors $_____/ft
    b. Testing and retensioning of existing rock anchors $_____/ea
    c. Performance Test for temporary rock anchors $_____/ea
    d. Creep Test for temporary rock anchors $_____/ea

RIDER "C"
ALTERNATES AND UNIT PRICES
FREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 3, 2004

TRADE: DEMOLITION, STRUCTURAL BRACING, AND TEMPORARY ROCK ANCHORS

e. Lift-off Test for temporary rock anchors $ _____/ea

Labor Rates

Provide labor rates for union labor of every classification to be employed during the course of the work:

Labor Classification:

	Straight Time	Premium Time @ 1.5 times	Overtime
(1) Base Rate			
(1a) Vacation Pay			
(2) Subtotal (1) & (1a)			
(Taxable & Insurable Rate)			
(3) Union Benefits			
(complete breakdown below)			
(4) Ins. Work/Comp. from line (2)			
(5) Subtotal			
(6) General Liability			
(7) Subtotal			
(8) Overhead & Profit from line (7)-15%			
(9) P/R Taxes – F.O.A.B., Unemployment from Line (2) %			
(10) TOTAL LABOR RATE			
Remarks: Nonworking Foreman not billable			
UNION BENEFIT BREAKDOWN (3 above)			
Welfare			
Pension			
Annuity			
Other (Ex) vacation			
Holidays			
TOTAL UNION BENEFITS			

LABOR CLASSIFICATION:

	Straight Time	Premium Time @ 1.5 times	Premium Time @ 2 times
(1) Base Rate			
(1a) Vacation Pay			
(2) Subtotal (1) & (1a)			
(Taxable & Insurable Rate)			
(3) Union Benefits			
(complete breakdown below)			
(4) Ins. Work/Comp. from line (2) %			
(5) Subtotal			
(6) General Liability from Line ( ) %			
(7) Subtotal			
(8) Overhead & Profit from line (7)-15%			
(9) P/R Taxes – F.O.A.B., Unemployment from Line (2) %			
(10) TOTAL LABOR RATE			
Remarks: Nonworking Foreman not billable			
UNION BENEFIT BREAKDOWN (3 above)			
Welfare			

RIDER "C"
ALTERNATES AND UNIT PRICES
FREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 3, 2004

TRADE: DEMOLITION, STRUCTURAL BRACING, AND TEMPORARY ROCK ANCHORS

Pension			
Annuity			
Other (fix)			
TOTAL UNION BENEFITS			

RIDER "D" Intentionally Omitted

RIDER "E"
THE PORT AUTHORITY OF NEW YORK/NEW JERSEY
MBE/WBE PARTICIPATION PLANFREEDOM TOWER
1 WORLD TRADE CENTER
NEW YORK, NEW YORK

June 03, 2004

Bidder's Proposal must be accompanied by a complete Minority Business Enterprise / Women Business Enterprise (MBE/WBE) Participation Plan. The information must be submitted on the attached Port Authority Tenant MBE/WBE Participation Plan and be approved by The Port Authority before award of a contract. Make sure that proposed MBE/WBE firms are Port Authority approved. Information will be verified during the bid review period.

The Plan should include the following information:

a) Name and telephone number of designated MBE/WBE contact person.

b) Names and addresses of proposed MBE/WBE contractors.

c) Description of work and approximate dollar value of work to be performed by each M/WBE contractor.

d) Percent of participation in relationship to the cost of the overall project for each M/WBE contractor.

MBE/WBE participation goals are 12% MBE and 5% WBE of the total A/E and construction project dollars. The submitted participation plan should meet or exceed these goals. If not, Contractor shall be responsible for demonstrating its "good faith" efforts to achieve the goals. In calculating the progress toward meeting the goal, Contractor shall receive credit for only 60% of the amounts paid to materialsmen/suppliers who are M/WBE firms, except in the case of firms who themselves manufacture materials. Contractor shall receive 100% credit for suppliers who manufacture products or make material changes to products before sale.

Contractor is expected to take the following "good faith" steps to achieve goals of the Minority and Women-owned Business Enterprise Program:

1. Where feasible, divide the work to be subcontracted.
2. Actively solicit bids from M/WBE primes.
3. Provide plans and specifications with sufficient time for review.
4. Use the Port Authority directory of M/WBE firms and other resources.
5. Encourage the formation of joint ventures and partnerships.
6. Make provision for timely progress payments to subcontractors.
7. Either do not require bonds and insurance or provide coverage for M/WBE firms when appropriate.
8. Follow up on suggestions from Port Authority staff.
9. Direct prime contractors to solicit M/WBE subcontractor participation.
10. Establishment of Impress Funds to facilitate M/WBE cash flow.

In order to assure that the planned goals are being met, a monthly <u>Statement of Payments Report</u>, reflecting the actual payments M/WBE contractors, must be submitted throughout the construction period.

<u>Affirmative Action and Monthly Employment Utilization Reports</u>

In addition to the M/WBE Program, it is important that the construction labor force reflect community demographics. All Contractors, therefore, are required to submit a Monthly Employment Utilization Report, which itemizes the minority and female participation in the construction craft work force for the previous month.

The Port Authority's current minority participation goals for the work force are 30% for skilled trades and 40% for laborers. The current female goals for skilled trades and laborers is 6.9%.

Definitions:

"Minority-Owned Business", or "MBE", is a business entity which is at least 51 percent owned by one or more members of one or more minority groups, or in the case of a publicly held corporation, at least 51 percent of the stock 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", is a business which is at least 51 percent owned and controlled by one or more women, or in the case of a publicly held corporation, 51 percent of the stock is owned 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" is any of the following racial or ethnic groups:

> Black person having origins in any of the black African racial groups not of Hispanic origin; Hispanic persons of Puerto Rican, Mexican, Dominican, Cuban, Central, or South American culture or origin, regardless of race;
>
> Asian and Pacific Islander persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Island;
>
> American Indian or Alaskan persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

"Commercially Useful Function", an MWBE firm performs a commercially useful function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved. The MWBE should have the skill and expertise to perform work for which is being utilized. The MWBE must be responsible for the purchase of, quality of, and payment for materials used to perform its work under the contract.

Exhibit B

Budget

Exhibit B

Current Budget and Allocation of Currently Budgeted Costs and Expenses

	Total Contract Value	WTC Redevelopment Allocation		PA Allocation	
1. Demolition Work	$ 3,248,057	1,721,470	53.00% (4)	1,526,587	47.00% (5)
2. Structural Bracing Work (excluding floodwall work)	$ 1,203,456	637,832	53.00%	565,624	47.00%
3. Concrete Floodwall Work	$ 81,186	43,029	53.00%	38,157	47.00%
4. Rock Anchor Work (excluding damaged tie-back & testing work)	$ 776,277	0	0.00%	776,277	100.00%
5. Damaged Tie-back & Testing Work (to be paid by 7 World Trade Company, L.P.)	$ 62,083	62,083	100.00%	0	0.00%
6. Section 106 Historic Preservation Work	$ 52,531	27,841	53.00%	24,690	47.00%
7. Traffic Maintenance Work	$ 76,410	40,497	53.00%	35,913	47.00%
Subtotal	$ 5,500,000	$ 2,532,752		$ 2,967,248	
Gen Cond.	$ 560,000	296,800	53.00%	263,200	47.00%
Insurance	$ 75,000	39,750	53.00%	35,250	47.00%
Vibration Monitoring	$ 50,000	26,500	53.00%	23,500	47.00%
Tishman Fee	$ 100,000	100,000	100.00%	0	0.00%
Total	6,375,000	2,990,502		3,284,498	
Contingency	$ 617,500	327,275	53.00%	290,225	47.00%

Notes

1. General Conditions are budgeted at 10% of trade costs. General Conditions will be paid at actual documented costs.
2. Tishman Insurance cost assumes $12,445,000 of Trade and General Conditions cost.
3. Contingency is budgeted at 10% of total cost without fee. Extra work will be performed in accordance with contract terms.
4. Shared Percentage for WTC Redevelopment is 53%.
5. Shared Percentage for the Port Authority is 47%.

Exhibit C

Cost Allocation Agreement

FINAL EXECUTION COUNTERPART

Cost Allocation Agreement for Demolition Work

AGREEMENT, made this 10th day of June, 2004 between WTC Redevelopment LLC, a Delaware limited liability company, with an office at c/o Silverstein Properties, Inc. 530 Fifth Avenue, 18th Floor, New York, NY 10036 ("WTC Redevelopment") and The Port Authority of New York and New Jersey, a public agency of the States of New York and New Jersey, with an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority" and, together with WTC Redevelopment, the "Parties").

WHEREAS, in order to proceed with the redevelopment of the World Trade Center ("WTC") site, it is now necessary to remove the remaining subgrade slabs and certain other structures in the northwest corner of the WTC site and to perform certain associated work; and

WHEREAS, as the demolition and related work more particularly described in Exhibit A hereto (the "Demolition Project") will overlap the Freedom Tower foundation work in both time and location, it is deemed advantageous by the Port Authority and WTC Redevelopment to undertake the required work utilizing Tishman Construction Corporation ("TCC") pursuant to a General Contractor Agreement, dated as of September 10, 2003 among 1 World Trade Center LLC, 2 World Trade Center LLC, 4 World Trade Center LLC, 5 World Trade Center LLC (collectively, the "Silverstein Net Lessees") and TCC, as amended by a Modification Agreement, dated of even date herewith, pursuant to which TCC has agreed with WTC Redevelopment (as representative for the Silverstein Net Lessees) that TCC shall perform or cause its subcontractors and/or agents to perform the work required to carry out and complete the Demolition Project (such General Contractor Agreement, as so modified, the "TCC Agreement"); and

WHEREAS, the Parties to this Agreement desire to define their respective roles and responsibilities in connection with the said Demolition Project and the TCC Agreement;

NOW, THEREFORE, the Parties, in consideration of the obligations of the Parties set forth herein below and for other good and valuable consideration, do agree as follows:

1. The Port Authority agrees to provide (at no cost to WTC Redevelopment or the Silverstein Net Lessees or their respective affiliates) drawings and specifications for the Demolition Project work, to perform all design work in connection therewith, and to act as the Engineer of Record in connection with the Demolition Project. The Demolition Project will include, but not be limited to, demolition and removal of approximately 190,000 square feet of subgrade slabs, support columns and associated structures, installation of certain new slurry wall tie-back anchors, replacement of existing damaged anchors, and modifications to the existing structural framing which supports Vesey Street all as more particularly set forth on Exhibit A. The TCC Agreement and the demolition

sub-contract(s) to be prepared by TCC have been reviewed and approved by the Port Authority, and WTC Redevelopment has reviewed the same. The Port Authority, Port Authority Trans-Hudson Corporation ("PATH"), WTC Redevelopment and the Silverstein Net Lessees acknowledge and agree that they are all named insureds on all Demolition Project insurance carried by TCC.

2. Pursuant to the TCC Agreement, TCC is required by the Parties to (a) manage the Demolition Project and (b) act as construction manager, including retaining the trade contractor(s) to perform the work for the Demolition Project, as more particularly set forth therein. The Port Authority hereby confirms to TCC and WTC Redevelopment that all authorizations within its jurisdiction and authority required for the Demolition Project shall be issued prior to commencement of the Demolition Project and that TCC is permitted to commence the Demolition Project upon issuance of the ROD (as defined below) provided that TCC shall be governed by the terms of such approvals.

3. The Port Authority agrees to coordinate site access and TCC work that would impact PATH. The Port Authority's Engineering Department shall (a) review and approve shop drawing submittals and (b) directly or indirectly through an independent testing and inspection agency, perform testing, controlled inspections and certain material inspections that are required by the Engineer of Record. TCC shall be responsible for all environmental monitoring associated with this Project, including, without limitation, vibration at adjacent structures, noise and air quality, the 1/9 subways, during demolition in order to comply with the Construction Environment Plan described in the final version of the Record of Decision and Lead Agency Findings Statement for the World Trade Center Memorial and Redevelopment Plan, dated as of June 2, 2004 (the "ROD"). The Port Authority's Engineering Department will also provide audit inspection services to inspect the work as it is performed based upon inspection reports submitted by TCC on a monthly basis. All of the above services to be performed by the Port Authority shall be performed at no cost to WTC Redevelopment or the Silverstein Net Lessees or their respective affiliates.

4. The Parties shall require TCC to implement, to the extent applicable to the work being carried out hereunder, the Sustainable Design Guidelines for the World Trade Center Redevelopment Projects that are described in Exhibit A-1 which shall be incorporated into the specifications of the construction contract(s), in connection with the Demolition Project. The parties agree and shall instruct TCC that a photographer to be designated by the Port Authority is authorized to photograph throughout the performance of the work to record it for historical purposes, all at no cost to WTC Redevelopment or the Silverstein Net Lessees or their affiliates.

5. (a) The Port Authority shall be responsible for forty-seven (47%) percent of the costs described as "Structural Bracing Work", "Demolition Work", "Concrete Floodwall Work", "Section 106 Historic Preservation Work" and "Traffic Maintenance Work" in the budget for the Demolition Project attached hereto as Exhibit B (as amended, the "Budget") and WTC Redevelopment shall be responsible for fifty-three percent (53%) of such costs.

(b) The Port Authority shall be responsible for one hundred percent (100%) of the cost of installation of the new tie-backs indicated in drawings GT-1 through GT-6 included in Exhibit A and the further specifications included in Exhibit A once tested and approved, and any slurry wall-related work, collectively described as "Rock Anchor Work" in the Budget; provided, however, that 7 World Trade Company L.P. shall be responsible for one hundred (100%) percent of the cost of the testing, repair or replacement of the existing tie-backs which resulted from the construction of new 7 World Trade Center and which are shown on Exhibit A-2 and described as "Damaged Tie-Back & Testing Work" in the Budget.

(c) The Port Authority shall be responsible for 47% and WTC Redevelopment shall be responsible for 53% of the costs described as "General Conditions", Vibration Monitoring" and "Insurance" in the Budget.

6. The cost of removing certain WTC artifacts, identified pursuant to the Programmatic Agreement dated April 22, 2004 and in Exhibit A-3 (the "Historic Artifacts") from the WTC Site to JFK Hangar 17 shall be shared forty-seven (47%) percent by Port Authority and fifty-three (53%) percent by WTC Redevelopment. Notwithstanding anything contained herein to the contrary, the Demolition Project shall not include, and WTC Redevelopment and the Silverstein Net Lessees and their affiliates shall not bear the cost of, the preservation, storage, handling, and transportation of the Historic Artifacts after such items are removed from their current location and delivered to JFK Hangar 17.

7. Recycling credits originating from the performance of the Demolition Project work shall be shared as follows: fifty-three (53%) percent to WTC Redevelopment; forty-seven (47%) percent to the Port Authority. The Parties shall require TCC to require in the Demolition Project construction contract(s) that the demolition contractor(s) and/or TCC shall (x) provide for adequate documentation of recycling activities including the providing and execution of suitable manifests, recycling center locations, inserting of quantities, and the like, and (y) stipulate that demolition/construction debris shall in no way be identified with the WTC site.

8. Exhibit B hereto sets forth the current budget for the Demolition Project and an allocation of the budgeted costs pursuant to Sections 5, 6, and 10 hereof. The Parties acknowledge that the actual costs of the Demolition Project might vary from the budgeted costs and agree that any increases or decreases in costs shall be allocated as set forth in this Section 8. The costs described as "Contingency" in the Budget have been allocated according to each party's Shared Percentage (as defined in Exhibit B) for budgeting purposes only and it is agreed that actual increases or decreases in Project costs shall be allocated on a case by case basis as set forth in this Section 8. Contractor claims relating to any changes in the scope of the Demolition Project, extra work or delays that, in any such case, shall have been mutually agreed upon in writing by the Parties shall be shared by the Parties in the same ratio as costs for the related underlying work pursuant to Sections 5, 6, and 10 hereof; provided, however, that, if either WTC Redevelopment or

the Port Authority shall unilaterally cause the scope of the Demolition Project to be changed from that which is set forth in Exhibit A, extra work to be done, delays to have occurred or the cost of the Demolition Project to otherwise exceed the budget set forth in Exhibit B, in any such case without the written agreement and concurrence of the other Party, then the Party which shall have unilaterally caused such change shall bear the related costs.

9. The Parties shall exercise their respective reasonable best efforts not to delay or cause a delay in the commencement date and the scheduled completion date of the Demolition Project.

10. WTC Redevelopment agrees to be responsible for one hundred (100%) percent of TCC's general contractor/construction manager fees under the TCC Agreement.

11. The Port Authority agrees to be responsible for one hundred (100%) percent of any PATH Force Account costs (as further described in Exhibit A), all design and engineering costs, preparation of contract documents, all of its inspection of construction and review of contractor submittals and contract documents costs.

12. The TCC Agreement requires that each requisition for payment submitted by TCC to WTC Redevelopment in connection with the Demolition Project (each, a "Requisition") shall allocate the amount being requisitioned in the manner specified in Sections 5, 6, 7, 8, 10 and 11 above, and that a copy of each such Requisition shall be submitted to the Port Authority and to WTC Redevelopment. The escrow agent for the Demolition Escrow Account (as defined below) will be authorized by the Parties in accordance with the Demolition Escrow Agreement (as defined below) to pay the requisitioned amount (unless the Port Authority and WTC Redevelopment jointly and in good faith reasonably believe that TCC is not entitled to payment of such Requisition) from the Demolition Escrow Account directly to TCC at such time as each Party's share of the requisitioned amount is available in the Demolition Escrow Account for such payment.

Simultaneously with the execution of this Agreement, the Parties shall take the necessary steps to transfer from the Insurance Escrow (as defined in the 12/01/03 Agreement) to the Interim Redevelopment Escrow Account (as defined below), and in turn from the Interim Redevelopment Escrow to the Demolition Escrow Account the amount of $3,317,777 for the account and benefit of WTC Redevelopment in order to pre-fund WTC Redevelopment's estimated funding obligations under this Agreement (determined based on the estimated budget attached hereto as Exhibit B) (the "Silverstein Pre-Funded Amount"). The Silverstein Pre-Funded Amount shall be used only to pay portions of Requisitions allocated to WTC Redevelopment and shall not under any circumstances be utilized to pay any amounts allocated to the Port Authority or any obligations of the Port Authority. In the event that the aggregate amount of all allocations to WTC Redevelopment in all Requisitions shall exceed the Silverstein Pre-Funded Amount, the Parties shall immediately take the necessary steps to transfer additional amounts from the Insurance Escrow to the Interim Redevelopment Escrow

Account, and in turn from the Interim Redevelopment Escrow to the Demolition Escrow Account to cover such shortfall.

Within 10 days after receipt of any Requisition, the Port Authority shall (unless the Port Authority and WTC Redevelopment jointly and in good faith reasonably believe that TCC is not entitled to payment of such Requisition) deposit into the Demolition Escrow Account the amount set forth in such Requisition that is allocated to the Port Authority (the "Port Authority Deposit"). Each Port Authority Deposit shall be used only to pay the portion allocated to the Port Authority of the Requisition related to such Deposit and shall not under any circumstances be utilized to pay any amounts allocated to WTC Redevelopment or any obligations of the WTC Redevelopment. Funds from the Interim Redevelopment Escrow Account may be utilized to pay any and all costs allocated to WTC Redevelopment pursuant to this Agreement, but shall not be utilized to pay any costs allocated to the Port Authority pursuant to this Agreement, and the TCC Agreement shall provide that TCC shall not have recourse to WTC Redevelopment or to the Port Authority for any costs allocated solely to the other party. The Demolition Escrow Account is being established solely for the benefit of the Port Authority and WTC Redevelopment and none of TCC or any of its subcontractors shall have any rights to make claims against the Demolition Escrow Account. If either the Port Authority or WTC Redevelopment shall dispute the allocation made by TCC to such party in any Requisition, such party shall nonetheless pay the disputed amount into the Demolition Escrow Account (unless such amount has been pre-funded) and the parties shall promptly discuss and, if applicable, renegotiate such allocation, reasonably and in good faith and, if appropriate, make any appropriate adjustment and/or reconciliation to the prior and/or future payments and allocations.

If upon completion of the Demolition Project (as determined in the sole discretion of the Port Authority) any portion of the Silverstein Pre-Funded Amount or other amounts deposited in the Demolition Escrow Account for the account and benefit of WTC Redevelopment shall remain in the Demolition Escrow Account, the Port Authority and WTC Redevelopment shall cause the escrow agent for the Demolition Escrow Account to return such remaining amount to the Interim Redevelopment Escrow Account and such returned amount shall be treated as if it had never been withdrawn therefrom. Any amounts paid from the Demolition Escrow Account to TCC and subsequently reimbursed by TCC shall be deposited into the Demolition Escrow Account and shall be allocated between the Port Authority and WTC Redevelopment based on the allocation that applied to the initial payment of such amounts to TCC. The Port Authority and WTC Redevelopment shall cause the escrow agent to pay any such amounts allocated to the Port Authority from the Demolition Escrow Account directly to the Port Authority and any such amounts allocated to WTC Redevelopment to be returned to the Interim Redevelopment Escrow Account and such returned amount shall be treated as if it had never been withdrawn therefrom

The term "Demolition Escrow Account", as used herein, shall mean an escrow account established by the Parties at HSBC Bank USA pursuant to that certain Demolition Escrow Agreement among the Parties and HSBC Bank USA, as escrow

agent, dated of even date herewith. The term "Demolition Escrow Agreement", as used herein, shall mean that certain Demolition Escrow Agreement among the Parties and HSBC Bank USA, as escrow agent, dated of even date herewith, pertaining to the Demolition Escrow Account. The term "Interim Redevelopment Escrow Account", as used herein, shall mean the escrow account established pursuant to the 12/01/03 Agreement. The term "12/01/03 Agreement", as used herein, shall mean that certain letter agreement dated December 1, 2003 among the Silverstein Net Lessees, the Port Authority, and WTC Retail LLC (f/k/a/ Westfield WTC LLC).

13. The Port Authority hereby acknowledges that the Demolition Project is to be performed by TCC pursuant to the TCC Agreement and that WTC Redevelopment is not performing any work or providing any services in connection therewith. WTC Redevelopment shall be not responsible or liable to the Port Authority for or in connection with the Demolition Project or the work or services performed by TCC or its subcontractors or agents (collectively, the "Contractors") pursuant to the TCC Agreement, and the Port Authority shall look solely to, and have recourse only to, TCC and the Contractors for such work and any and all related claims. The Port Authority shall be responsible for, and hereby agrees to indemnify, defend and hold harmless WTC Redevelopment from and against (i) any and all costs, expenses, losses, damages or liability (collectively, "Losses") incurred by WTC Redevelopment in connection with this the Demolition Project or the TCC Agreement that arise from or in connection with any action or omission of the Port Authority, and (ii) the Port Authority's Shared Percentage (as established by this Agreement) of any other Losses (excluding Losses recovered by WTC Redevelopment either (A) from insurance proceeds paid to WTC Redevelopment under insurance policies for which WTC Redevelopment, the Silverstein Net Lessees and their affiliates are insured or (B) from TCC or Contractors under indemnifications contained in the TCC Agreement or applicable subcontracts. The Parties acknowledge that the design and engineering work relating to the Demolition Project has been performed solely by, and has been and is the sole responsibility of, the Port Authority, and the Port Authority therefore agrees to indemnify, defend and hold harmless WTC Redevelopment and the Silverstein Net Lessees and their affiliates from and against any and all Losses arising from such design and engineering work, including, without limitation, from any deficiencies or defects in the plans and specifications for the Demolition Project.

14. This Agreement shall extend from its execution until the final reconciliation and discharge of all financial obligations and claims arising out of or in connection therewith.

15. The TCC Agreement requires TCC to set up, keep and maintain records, payroll records and books of account (including records of original entry and daily forms) recording all transactions of TCC with any of the Parties in any way connected with or related to the Demolition Project, including, but not limited to, all matters relating to the charges/costs payable to or by the Parties and TCC hereunder and such additional information relating to performance of the Demolition Project as any of the Parties may from time to time and at any time reasonably require, and also including, if appropriate, recording the actual number of hours of service provided under the Demolition Project

contract(s), and keeping separate records thereof which records and books of account shall be kept at all times in New York. TCC shall be required to permit during ordinary business hours during the term of this Agreement, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account. The TCC Agreement shall further require TCC to furnish to the Parties from time to time such written reports in connection with its operations under the TCC Agreement as the Parties may (acting reasonably and in good faith) deem necessary or desirable. The format of all forms, schedules and reports furnished by TCC or its contractors to the Parties shall be subject to the continuing reasonable approval of the Parties. No provision in this contract giving any Party a right of access to records and documents is intended to impair or affect any right of access to records and documents which it would have in the absence of such provision. Any costs or expenses (in excess of those set forth in Exhibit B) charged by TCC for any reports or other matters requested by any Party under this Section 15 shall be borne by such Party.

16. The Parties shall endeavor to resolve all disputes arising out of or in connection with this Agreement through consultation between John N. Lieber, representing WTC Redevelopment, and the Director of Priority Capital Programs acting for the Port Authority. In the event that such dispute resolution procedure is unsuccessful, nothing herein shall prevent either Party from access to a judicial determination.

17. No party shall assign or transfer its rights or obligations under this Agreement without the prior written consent of the other parties hereto, which consent may be granted or denied in the parties' respective sole discretion. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and permitted assigns (including, without limitation, any successor of any party hereto who shall be granted a real property interests in any portion of the Site). No assignment of this Agreement by any party shall relieve such party of its obligations hereunder and, subsequent to any such assignment, the liability of such party shall continue notwithstanding any subsequent modification or amendment hereof or the release of any subsequent party hereunder from any liability.

18. The entire agreement between the Parties with respect to the subject matter hereof is contained herein and no change in or modification, termination or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and signed by the Party to be charged therewith.

19. No provision in this contract shall be deemed to be a waiver by any Party of such Party's rights or another Party's obligations under the 12/01/03 Letter Agreement or the Leases or the REOA (as defined in and amended by the 12/01/03 Agreement), except that the Port Authority, in its capacity as landlord under the Leases, hereby confirms that it has lawfully authorized the project to proceed in the locations shown in Exhibit A and that it has all necessary authority to do so. The Parties' agreement to the allocation of the costs of the Demolition Project or to the payment of funds pursuant to this Agreement and/or the TCC Agreement, as applicable, is intended to be without prejudice to, and shall not serve as a precedent for, the allocation among the Parties or others of the costs

of rebuilding the WTC site, it being agreed that such allocation remains to be negotiated among the Parties pursuant to the 12/01/03 Agreement without regard to the allocations set forth herein and that, if appropriate, adjustments (if and to the extent applicable) shall be made to the allocation of the cost of the Demolition Project when such negotiation is completed. The Parties hereby acknowledge that this Agreement is entered into under special circumstances and may or may not serve as a precedent for future contracts to be entered into in connection with the redevelopment of the World Trade Center.

20. Notices hereunder shall be sent as follows:

To:	WTC Redevelopment c/o Silverstein Properties, Inc. 530 Fifth Avenue, 18th Floor New York, NY 10036 Attention: John N. Lieber	To:	The Port Authority 225 Park Avenue South 14th Floor New York, NY 10003-1604 Attn: Herbert S. Somerwitz, Esq.

21. Nothing contained herein or in the TCC Agreement shall be or be deemed or construed as a submission by any Party to the application to itself of any vendor's, mechanic's, laborer's or materialman's statutory or similar lien. There shall be no third party beneficiaries of this Agreement, and no third party may rely on any of the terms hereof.

22. No Commissioner, Director, officer, agent or employee of any Party or their respective affiliates shall be charged personally with any liability or held liable personally under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach hereof.

WHEREUPON, the Parties have affixed their duly authorized signatures to this Agreement as of the date first above written.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Title: Chief Operating Officer

WTC REDEVELOPMENT LLC

By: _____

Title: _____

Exhibit D

Sustainable Guidelines for the World Trade Center Redevelopment Projects

APPENDIX D

COMMERCIAL SUSTAINABLE DESIGN GUIDELINES

The Lower Manhattan Development Corporation and the Port Authority of New York and New Jersey acknowledge the following organizations for their input in developing the Commercial Sustainable Design Guidelines for the World Trade Center Redevelopment Projects:

Croxton Collaborative Architects
Studio Daniel Libeskind
New York State Energy Research and Development Authority
Natural Resources Defense Council
Environmental Defense
New York League of Conservation Voters
Albanese Organization
Silverstein Properties
Tishman Construction
Flack + Kurtz, Inc.
Steven Winter Associates
Jonathan Rose & Cos.
GreenOrder, Inc.
New Civic Works

Sustainable Design Guidelines Introduction
World Trade Center Redevelopment Projects

SUSTAINABILITY POTENTIALS: An Introduction to the Guidelines

Context

The nature and scope of the redevelopment reaches beyond the traditional boundaries of "building and site" and poses significant challenges and opportunities when framing sustainable potentials.

As a "first order" observation, the entire development is shaped by the "movement infrastructure" of mass transit, roadways, rail, footpaths, escalators and elevators transporting the tens of thousands of people arriving by ferry, rail, subway, bus, car and on foot to and through this unique community of spaces in the heart of the nation's most dense urban center.

This unique urban center in combination with this infrastructure supports very high levels of development density and supporting services. By breaking out of the traditional individual building model, the development creates a wide range of opportunities for shared resources, capitalizing on the opportunities inherent in urban density and adjacency. The redevelopment, in short, has the potential to establish a leadership model of urban sustainability.

The realization of key potentials, fundamental "whole system" strategies such as district heating/cooling, river water cooling and shared service facilities creates an infrastructure and "connective tissue" that points in the direction of a true leadership project. The purpose of the Guidelines is both to establish a new level of environmental/sustainable quality for an urban center model and to identify the "pathways" to higher performance over time.

Framework

Capturing the urban scale, mixed use and whole-system attributes of the redevelopment has led to an expansion of the traditional model for green guidelines. Notably, as an interrelated list of standards, the guidelines overall exceed the objectives of NY State Executive Order 111 (EO-111), which includes meeting the US Green Building Council's (USGBC) Leadership in Energy Efficiency (LEED™) Green Building Rating System's certified level and have been reviewed by the PANYNJ and LMDC.

The challenge then from an environmental sustainable perspective, is to describe a framework of guidelines/metrics, which capture the urban scale/mixed use development, can be applied to purely infrastructure and partial projects over time and can address traditional projects. This objective, which creates a level playing field for assessment and "sustainable" quality has the added advantage of meeting the need for annual reporting and/or audit under the requirements of EO-111. The scope of this effort has allowed the development of a basic framework consisting of a stated "Purpose" and "Action" for each guideline, which will be fully supported by Reference Documentation.

Four basic qualities are unique to these guidelines:

1) Urban Environmental Quality (UEQ)
   A unique set of large-scale sustainable qualities that the projects bring to the surrounding community and urban context. There are a number of "Green Guidelines" around the United States, including the New York State Green Building Tax Credit (NYSGBTC) and the USGBC's LEED™ Green Building Rating System, which are excellent references and have been selectively incorporated herein. However, these are inherently focused on a specific building type or project. At the project site, there are issues of regional and neighborhood scale – regional transportation systems, relationships to surrounding neighborhoods, as examples – that have informed the development of these strategies and guidelines that go beyond individual buildings.

2) "Whole system" compliance
This organizing principle of the guidelines assures that integrated and overlapping qualities of all project elements (and the spaces in between) are accounted for by having a project-wide "basket" of guidelines from which each individual project is custom tailored. Therefore each individual development, by type, will have only the relevant guidelines assigned, and even a small project or renovation will be assigned a short list of relevant guidelines. (Note: See the attached Matrix for examples).

3) Individual projects can draw from a basket of measures with flexible range of scale.

As an interrelated list of standards, in addition to 1 and 2 above, the guidelines overall exceed the objectives of EO-111, have been reviewed by the PANYNJ and LMDC and offer flexibility to design teams. Guidelines indicated as "Required" are mandatory and flow directly from the objectives of EO-111, LEED™ certified level requirements and the larger requirements of the PANYNJ and LMDC. Required items are to be implemented. The LEED™ "Roadmap for Silver" creates a pathway for even higher performance. Flexibility is provided through an "Equivalency Option" which allows designers to propose an "equivalent option" for a guideline which is part of the LEED™ Calculation, as long as the number of LEED™ points remains the same or better. Guidelines indicated as "Recommended" are provided to support efforts by teams seeking additional opportunities to improve environmental performance. Guidelines, which include the "Exemplar" as described in item 4 below will also be indicated as part of tenant recommendations. Some of the guidelines include extended considerations and larger scale impacts, important to the realization of the guideline. These "Universal" impacts, for instance the requirement for water management plans, which also benefit the municipal water infrastructure, are indicated. The Implementation Matrix indicates "Required", "Equivalency Option", "Recommended", "Exemplar" and "Universal" designations with a distinct set of symbols.

4) Integrated Building Design and Tenant Spaces

There is seldom an integration between the construction of cores and shells, which is the responsibility of the developer, and the fit-out of tenant spaces. This has traditionally been an impediment to achieving an integrated high performance design, particularly in commercial office projects.

In order to create an integrated project design and capture the maximum performance potentials of such preferred tenant fit-outs, each major office and retail segment will design and build an "exemplar" or model of a typical high performance tenant fit out. The performance attributes (energy savings, daylight, air quality, etc.) of the space will be fully quantified and described in the reference standard: the WTC High Performance Prototype and advocated as the landlord "preferred" standard. Tenants will be encouraged to apply to federal, state, municipal and utility incentive programs for assistance in offsetting initial investment costs.

Specific Plans

A specific way in which these guidelines are unique is in the requirement for development and implementation of Resource Management Plans and the development of "exemplars", models for integration of commercial and retail, "shell and core" with high performance tenant fit-outs. The 11 Resource Management Plans, required as part of this set of guidelines, go beyond the framework of existing Green Building Rating Systems (LEED™ for instance, only requires 3 of the 11 incorporated here) and clearly demonstrate the broader consideration of sustainability potentials inherent to the development. These plans will be assured through an approval process requiring the submission of compliance templates, calculations and field verification. The exemplars will also be required to meet performance criteria established in a WTC High Performance Prototype.

The following Plans and Studies are required as part of these guidelines. Each plan will require the submission of appropriate documentation such as letter templates, calculations and documentation in the sequence of "Implementation Reviews" running from Conceptual/Schematic to Construction Administration/Signoff (see Implementation Authority)

SEQ-1	Comprehensive Resource Management Plan
SEQ-5	Construction Environment Plan
SEQ-6	Construction Storm Water Pollution Prevention Plan
WEQ-1	Water Management Plan
EEQ-1	Energy Management Plan
EEQ-3	Building Energy Model
EEQ-5	Renewable Energy Transition Plan
MEQ-1	Materials Management Plan
MEQ-2	Construction Waste Management Plan
IEQ-1	Indoor Air Quality Management Plan
IEQ-5	Construction IAQ Management Plan
IEQ-9	Integrated Pest Management Plan

Structure of Guidelines

The Guidelines will be organized in three basic parts:

I. *Master Plan Objectives: A summary of sustainable design objectives organized by general* subject headings.

II. Master Plan Sustainable Design Guidelines: A specific listing of Purpose and Action for each guideline organized by subject to facilitate exceeding EO-111 and its related cross-reference to LEED™ Certified level. (Note: Currently being completed are the supporting reference documents, standards and case studies for all non-LEED requirements.

III. Guideline Implementation Matrix: A matrix is provided to describe how each purpose and action would be applied to selected project types.

Implementation

The Sustainable Guidelines have been developed as an integral part of the Commercial Design Guidelines for WTC Redevelopment Projects. These guidelines reference the current LEED™ 2.1 Building Rating System for new construction. As new versions of LEED™ are adopted by the USGBC in the future, these guidelines will be updated to maintain conformance with EO-111. The projects will exceed the New York State Energy Conservation Construction Code by at least 20%.

The guidelines that are cross-referenced to the USGBC's LEED™ Guidelines, must meet USGBC's requirements, which are supported by a context or background statement. The USGBC has also developed a detailed Reference Manual for these LEED™ Guidelines, which provides specific guidance and case studies to assure clarity and full implementation. As with all codes and reference standards, this supports and facilitates the efficiency/currency of the design team's work. The remaining guidelines herein, that currently consist of only Purpose and Action Statements, will be supported by their own detailed Reference Manuals. The Reference Documentation of USGBC's LEED™, will also be supplemented by some location-specific New York City and World Trade Center Site comments and/or elaboration.

Consistent with the Commercial Design Guidelines process, the implementation of these Guidelines will be accomplished by the review process administered as described in Chapter 10 of the Commercial Design Guidelines. This process will require each project to be reviewed for compatibility and conformance with these Sustainable Design Guidelines, as well as, the Commercial Design

Guidelines. The attached "Implementation Matrix" provides clarification of the process by way of a listing of some general building types and their relevant guidelines.

Sustainable Design Objectives

DAYLIGHT/SOLAR RESOURCE MANAGEMENT

Maximize Available Outdoor Daylight Resources to Public Spaces
Design buildings and site structures to optimize available daylight for public open spaces and green areas. Utilize shadow studies to track path of sun and assist in final design of outdoor public spaces. Organize site structures, materials and landscape to improve environmental comfort of outdoor spaces and mitigate the effects of heat islands. Consider site environmental wind conditions. Select and locate materials and landscape features so that thermal properties and shading effects will extend outdoor comfort levels further into the shoulder seasons.

Daylight Harvesting & Views for Tower Interiors
Maximize daylight harvesting. Design exterior building envelope to facilitate daylight penetration to regularly occupied tenant spaces. A demonstration model of a tenant fit out will be provided to demonstrate these daylighting strategies. This model will provide building occupants with direct line of sight views to the outdoors from the majority of regularly occupied spaces and control glare.

Daylight Harvesting & Views Below Grade
Maximize daylight penetration to concourse areas and below grade retail areas. Provide views to the outdoors from concourse areas to assist users in wayfinding and orientation.

Heat Island Effect Mitigation
Reduce site development contributions to "heat island" effects in Lower Manhattan. Provide landscape planting (green infrastructure) coupled with high albedo surfaces at other areas to mitigate thermal gains of site surfaces and building roofs.

WATER QUALITY AND CONSERVATION MANAGEMENT

Comprehensive Water Management Plan
Implement a Water Management Plan to optimize use of storm water, waste water and potable water and provide a coordinated management plan in conjunction with full site development. Study on-site reclamation of wastewater.

Storm Water Capture and Reuse
Capture and utilize storm water flows. Consider towers with ledges, roofs and setbacks, which will assist in capturing water sheeting off buildings at high elevations to reduce water pump energy requirements. Use reclaimed storm water and/or site water for toilet flushing, cooling tower makeup, vehicle maintenance and irrigation needs.

Water Use Efficiency
Seek highest water efficiency within buildings and reduce the burden on municipal water supply. Design landscape to minimize potable water requirements. Endeavor to utilize waterless urinals and high efficiency fixtures.

AIR QUALITY MANAGEMENT

Site Air Quality
Work to improve site outdoor and neighborhood air quality. Support and expand pedestrian accessibility and increase bicycle access. Reduce site generated vehicular emissions.

IAQ Performance and Monitoring
Optimize the indoor environment for the comfort, well-being and enhanced productivity of the buildings' occupants by establishing minimum indoor air quality (IAQ) performance and standards. Provide indoor air quality monitoring so that a standard of quality in the overall indoor environment and resulting well-being of the occupants is maintained.

100% Outside Air
Provide capability for 100% outside air where practicable and balanced with energy conservation to support the comfort and well-being of building occupants.

Low Emitting Materials
Minimize indoor air contaminants originating in materials, that are harmful to the comfort and well-being of building occupants and users. Specify materials with no or low volatile organic compounds (VOC's) and other toxic characteristics which affect IAQ.

Chemical & Particulate Control
Minimize sources of chemical and particulate air contamination. Design all major entrances with permanent walk-off grilles. Mitigate health concerns caused by unwanted pests, their excrement and the typical, toxic chemicals used to control them through the development of an integrated pest management plan. Provide high efficiency filtration of all air to occupied areas.

ENERGY CONSERVATION

Comprehensive Energy Management Plan
Conserve and optimize energy use and minimize air emissions, associated with energy use, through the implementation of a Site/Building Energy Management Plan.

Provide for ongoing verification of optimal operation and energy utilization of building energy systems by providing a computerized, fully-integrated Building Management System (BMS). Provide for full building commissioning with ongoing verification, maintenance and energy systems management.

Opportunities for Energy Conservation and Efficiency
Review large and small scale opportunities for energy conservation and enhanced reliability and capacity. Include exploration of the feasibility and potential benefits and reliability of co-generation, central heating/cooling, river water cooling and recovery of resources.

Renewable Energy
Utilize on-site or purchased renewables for at least 20% of site energy requirements (by 2010 per EO-111) and prepare a plan for further transition to renewable technologies as these become more cost-effective. To the extent practicable, provide pathways, access and space allocation for "near threshold" renewable and clean energy technologies such as solar and fuel cells.

Optimize Energy Performance
Optimize the performance of building energy systems through the utilization of a full DOE-2.1E or Energy Plus building energy model to compare energy conservation, in alternative strategies. Integrate with Site Energy Management Plan and implement strategies for moderating peak power loads. This is to include the full analysis of architectural and mechanical decisions in relationship to building energy expenditures to achieve a minimum 20% decrease in energy consumption from

ASHRAE 90.1-1999. This savings reflects both tower and office tenant build-out potentials. Tenant build-out potential (as demonstrated in a typical tenant build-out) will be modeled in the same integrated exercise and the economic results provided to potential tenants in support of the preferred buildout. Information will be provided to tenants.

Metering at Point of Use
Implement end-user metering of electricity to maximize tenant incentive for resource conservation.

Ozone Layer Protection
Reduce emission of ozone depleting chemicals. Specify building HVAC systems and materials with zero levels of CFC refrigerants.

Thermal Comfort & Personal Control
Provide building users with a high level of thermal, ventilation and lighting system control to promote comfort, well-being and enhanced productivity.

Light Pollution Reduction
Reduce light pollution to surrounding sites and night sky. Satisfy Illuminating Engineering Society of North America (IESNA) recommended practice per manual (RP-33-99) for exterior illumination. Tower tops to be exempt from these requirements.

MATERIAL CONSERVATION

Comprehensive Material Management Plan
The Material Management Plan provides a tool for an optimized utilization of all site material resources. This integrated resource management tool is designed to reduce waste generated by building occupants that would otherwise be hauled to and disposed of in landfills and/or incinerators. Consider potential of "design for disassembly" strategies on IAQ and site material resourcefulness. Encourage the re-use of existing site structures, utilities and foundations. Incorporate previously used building materials and products into new construction where practicable.

Construction Waste Management
Reduce the amount of construction and demolition (C&D) waste going to landfills and/or incinerators and conserve resources through reuse and recycling.

Recovery of Resources
Study small and large-scale opportunities for recovery of resources along with Energy Conservation measures. Provide space or means for recycling of resources on site during operations.

Materials with Recycled Content
Increase markets for building materials and products that incorporate recycled content.

Material Proximity
Encourage the use of building materials and products that are extracted and manufactured or assembled within a 500-mile radius of the site.

Agricultural Materials
Encourage the specification of materials, which are renewable and are grown in such a way as to support biological diversity and the health of the ecosystem.

Specify lumber, wood and wood products, which have been harvested according to sustainable forest management principles, and have been certified under the Forest Stewardship Council (FSC) guidelines, in conjunction with the Materials Management Plan.

CONSTRUCTION ENVIRONMENT

Construction Environment Pollution Prevention
Reduce pollution and noise from construction activities and vehicles. Implement a Construction Environment Plan designed to reduce pollution and noise from construction activities and vehicles to adjoining neighborhoods. Develop a materials staging and construction access plan prior to start of construction. Control site erosion, collect and utilize storm water as appropriate, and reduce negative impacts on hydrological and atmospheric systems produced by construction activities, through use of ultra low sulfur fuels as appropriate.

Construction IAQ Management Plan
Implement a Construction Indoor Air Quality Management Plan consistent with EO-111.

Phased Development
Address both the "active" portions of the site under development, as well as, the "inactive" areas of the site, which have a supporting role. These inactive areas will have a smaller, focused list of guidelines to address storm water, heat island mitigation and other site issues applicable to temporary sites with PANYNJ oversight.

Sustainable Design Guidelines

URBAN ENVIRONMENTAL QUALITIES

UEQ-1: Support Urban Development

Purpose: Support development in existing urban areas and fully utilize and support existing infrastructure.

Action: Channel development to urban areas. Provide development that supports and maximizes the use of existing infrastructure and exceeds a minimum development density of 60,000SF/acre.

UEQ-2: Expanded Public Transit and Bicycle Access

Purpose: Encourage the development of public transportation, address opportunities to connect/cross-connect systems and support and increase bicycle access.

Action: Integrate and encourage utilization of public transportation. Follow the recommendations of the NYC Department of City Planning (DCP) 1999 Bicycle Parking Needs Study and the 1997 NYC Bicycle Master Plan. Reduce parking from pre 9/11 levels and implement Parking Management Plan to reduce future parking demands. Site parking for commercial uses is not to exceed 1300 cars..

Towers: Support bicycle use by providing bicycle racks or secure and convenient storage. Site: Support bicycle use by providing bicycle racks near transportation, retail and cultural centers.

UEQ-3: Regional Mass Transit

Purpose: To promote regional mass transit systems.

Action: Provide inter-modal connection facilities for regional transportation system, ferries, subways and buses with clear connections between the various transportation systems. Allow for future integration of other regional transportation systems.

UEQ-4: Pedestrian Movement

Purpose: Support neighborhood, community, visitor and commuter pedestrian pathways and facilitate pedestrian access to and through the site.

Action: Diagram anticipated pedestrian pathways that are coordinated with plans for WTC Redevelopment Projects. Enhance pedestrian pathways, both above and below ground, to facilitate and support pedestrian traffic. Describe enhancements including and illustrating connections to buildings, additional pathways and transportation nodes, path size, adjacent area uses, public art, vegetation, access to daylight and direct sun, furnishings, wayfinding, paving materials and patterns and view corridors.

UEQ-5: Green Infrastructure

Purpose: Support the development of green infrastructure by developing and linking vegetated site areas with existing neighborhood green spaces.

Action: Diagram "green" infrastructure within 1000' of site boundary. Create site vegetated areas to enhance site contributions to natural ecological processes, sustain air and water resources, promote biodiversity and reduce heat island effects. Facilitate creation of green infrastructure linkages in conjunction with adjacent neighborhood green spaces.

UEQ-6: Outdoor Environmental Comfort

Purpose: To facilitate site development that supports outdoor environmental comfort.

Action: Design site structures, materials and landscape to enhance comfort and functionality of outdoor spaces and mitigate the effects of heat islands. Extend outdoor comfort levels further into the Spring and Fall seasons with passive strategies that maximize natural assets. Design structures with consideration for site environmental wind conditions where pedestrians would be affected and seek to moderate any such effects.

UEQ-7: Wayfinding

Purpose: To facilitate both neighborhood and site-user orientation and site readability.

Action: Integrate wayfinding as an integral design quality when developing green corridors, visual corridors and memorable place markers in conjunction with surrounding neighborhoods.

UEQ-8: Vehicular Emissions

Purpose: Reduce back-up of traffic into neighboring streets in order to minimize vehicle emissions and improve neighborhood air quality from pre 9/11 base. Minimize potential idling time for all vehicles.

Action: Optimize traffic flow of all vehicles coming to site to reduce the amount of time that vehicles must idle. Seek to reduce traffic backups through scheduling and onsite accommodation. Design bus stops to minimize traffic backups and potential vehicle idling times.

To the extent that there is NY State Agency and/or other governmental presence on site, at least 50% of light duty fleet vehicles will be alternative fuel or hybrid vehicles by 2005 and 100% by 2010.

SITE / PARCEL ENVIRONMENTAL QUALITIES

SEQ-1: Comprehensive Resource Management Plan

Purpose: Draft and implement the requirements of the Comprehensive Resource Management Plan.

Action: The Comprehensive Resource Management Plan provides a tool for an integrated consideration of water, material and energy resources with the goal of identifying, evaluating and optimizing utilization of all resources on the site. The plan overlays information from the individual water, material and energy management plans and identifies integrated opportunities for resource conservation (i.e. high capture and utilization of stormwater at upper levels of tower reduces pump energy required for lifting equivalent amount of water).

SEQ-2: Storm Water Use

Purpose: To capture and utilize site storm water flows, thereby reducing storm water volume and surges through the system.

Action: Implement a plan for stormwater management as part of the Water Management Plan that reduces the post-development flow of stormwater from the site (9/11 base). Construct treatment systems to remove 80% of total suspended solids (TSS) and 40% of total phosphorous (TP) per EPA Document (840-B-93-001c) Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters (based on the average annual loadings from all storms less than or equal to the 2 year/24 hour storm).

Site/Parcel: Design site surfaces to allow collection of site storm water flows from other than street surfaces. Provide storage and filtration infrastructure. Fully use captured water as appropriate and in conjunction with Water Management Plan.
Towers: Consider towers with ledges, roofs and setbacks, which will assist in capturing water sheeting off buildings at high elevations to capture potential energy of water and reduce water pump energy requirements. Provide storage and filtration infrastructure near point of capture. Use water, as appropriate for toilet flushing and as part of building water systems.

SEQ-3: Heat Island Effect Mitigation

Purpose: Reduce site development contributions to "heat island" effects in Lower Manhattan. Seek to maximize areas of landscape planting (green infrastructure) coupled with high albedo surfaces at other areas to mitigate thermal loading of site surfaces and building roofs.

Action: Provide green infrastructure coupled with high albedo surfaces to mitigate thermal loading of site surfaces and building roofs.
Site/Parcel: Provide shade and/or use light-colored/high-albedo materials (reflectance of at least .3) or open reinforced grid pavement for at least 30% of the site's walkways, plazas and open spaces.
Tower: Use ENERGY STAR® compliant AND high emissivity roofing (emissivity of at least 0.9 when tested in accordance with ASTM 408) for a minimum of 75% of the roof surface; OR install a "green" (vegetated) roof for at least 50% of the roof area. Combinations of high albedo and vegetated roof can be used providing they collectively cover 75% of the roof area.

SEQ-4: Light Pollution Reduction

Purpose: To reduce light pollution and glare to surrounding sites and night sky.

Action: Satisfy Illuminating Engineering Society of North America (IESNA) recommended practice per manual (RP-33-99) for exterior illumination. Design exterior lighting such that all exterior luminaires with more than 1000 initial lamp lumens are shielded and all luminaires with more than 3500 initial lamp lumens meet the Full Cutoff IESNA Classification. The maximum candela value of all interior lighting shall fall within the building (not out through windows) and the maximum candela value of all exterior lighting shall fall within the property. Tower tops will not be constrained by these requirements. Minimize glare from reflected sunlight by minimizing use of highly reflective materials on building facades. Incorporate lighting controls to minimize energy use during unnecessary periods.

SEQ-5: Construction Environment

Purpose: To reduce pollution, noise and vibration from construction activities and vehicles.

Action: Implement a Construction Environment Plan, which reduces pollution, noise and vibration from construction activities and vehicles to adjoining neighborhoods.

Develop a materials staging and construction access plan prior to start of construction. Truck staging zones are to be placed for minimum disruption and impact. Limit unnecessary idling times on diesel powered engines to 3 minutes. Consider bio-diesel fuel as an alternative to pure diesel.

Non-road construction equipment of 50hp or greater to include diesel emissions control technology according to EPA diesel retrofit recommendations, unless not technically feasible. All non-road diesel equipment to utilize ultra low sulfur diesel fuel (limit sulfur levels to 15ppm). Explore accelerated implementation of proposed EPA emission standards for non-road diesel equipment. Locate fixed diesel powered exhausts away from fresh air intakes.

Reduce noise and vibration impacts through scheduling and coordination with adjacent construction activities. Consider noise barriers where practicable.

Consider condition of surrounding buildings, structures, infrastructure and utilities where appropriate. Coordinate construction activities in adjacent and nearby locations to avoid or minimize impacts and communicate plans with the public.

Prepare contingency measures in the event established limits are exceeded.

SEQ-6: Construction Storm Water Runoff and Pollution Prevention

Purpose: Control site erosion and reduce negative impacts on hydrological and atmospheric systems produced by construction activities.

Action: Provide Construction Storm Water Pollution Prevention Plan conforming to US EPA document 832/R-92-005. Prevent air pollution from dust and particulate matter during the course of construction. Utilize sprayed suppressing agents (nonhazardous, biodegradable) for containment of fugitive dust and adjust strategies per meteorological conditions. Coordinate with SEQ-5 Construction Environment Plan.

SEQ-7: Use Existing Site Structures

Purpose: Encourage the re-use of existing site structures to conserve resources.

Action: Incorporate existing slurry wall, bathtub excavation, elements of Temporary PATH Station and utilities (such as the River Water Pump Station) for re-use in new site development to the extent possible.

SEQ-8: Plant/Vegetation Selection

Purpose: Use indigenous or acclimatized plants to reduce irrigation and maintenance requirements.

Action: Specify naturalized or indigenous plant materials, which will promote biodiversity and support site ecological systems, as well as, reduce maintenance requirements. Use plantings that can be sustained by natural rainfall levels to reduce irrigation requirements.

SEQ-9: Daylight/Exterior Public Spaces

Purpose: Design buildings and site structures to consider available daylight for public open spaces and green areas (within the context of the established massing guidelines).

Action: Determine critical open spaces and green areas. Utilize shadow studies to determine available sunlight. Consider available sunlight in planning outdoor public spaces and site plantings.

SEQ-10: Solar Access/Harvesting

Purpose: To optimize solar access for utilization of solar energy.

Action: Determine maximum available photovoltaic potentials for all building surfaces. Develop strategy for possible future transition to capture this potential. Quantify and document this strategy and any other "near threshold" renewable technologies in the Renewable Energy Transition Plan.

SEQ-11: Recovery of Resources

Purpose: To optimize utilization of site material resources and to facilitate the reduction of waste generated by building occupants that would otherwise be hauled to and disposed of in landfills and/or incinerators.

Action: Study large-scale and small-scale opportunities for on-site recovery of waste. Consider opportunities to recover food, paper, plastic, metal and construction waste. Consider composting, biomethanization and other viable "waste to reuse" strategies. Consider in conjunction with Renewable Energy Transition Plan and Co-generation study.

SEQ-12: Use of Undeveloped Parcels

Purpose: Utilize inactive and undeveloped site parcels to provide a positive contribution to site environmental qualities.

Action: Address both the "active" portions of the site under development, as well as, the "inactive" areas of the site, which have a supporting role. Apply guidelines Storm Water Use (SEQ-2) and Heat Island Effect Mitigation (SEQ-3) to "inactive" site areas.

WATER ENVIRONMENTAL QUALITIES

WEQ-1: Comprehensive Water Management Plan

Purpose: To optimize utilization of site water resources.

Action: Implement a Water Management Plan to evaluate use of storm water, waste water and potable water resources, study potentials for onsite reclamation of wastewater and provide a coordinated management plan for full site water resources.

Use EPA recommendations per EO 12123 (June 1999) and Federal Energy Management Program (FEMP) Best Management Practices to develop Plan. The Plan must include, at a minimum, information on operation & maintenance, utility information, facility information, emergency response information and planning considerations.

WEQ-2: Wastewater Reuse

Purpose: To minimize site wastewater outflows.

Action: Implement wastewater strategies as required by Water Management Plan. Use reclaimed storm water and/or site water for toilet flushing, cooling tower makeup, vehicle maintenance and irrigation needs. Study additional opportunities to reduce the amount of potable water used in the building for conveying sewage.

WEQ-3: Water Use Efficiency

Purpose: To maximize water efficiency within buildings and reduce the burden on municipal water systems.

Action: Reduce consumption of potable water as required by Water Management Plan. Use 30% less potable water than a baseline building (utilize 1992 Energy Policy Act fixture requirements to determine baseline) would by utilizing efficient water fixtures, automatic controls and/or waterless urinals.

WEQ-4: Landscape Hydrology

Purpose: To maximize utilization of site water for landscape requirements.

Action: Use storm water for landscape irrigation requirements in conjunction with Water Management Plan. Specify plantings requiring low amounts of watering. Use indigenous or acclimatized plants suitable for the current nature of the site. Employ high-efficiency irrigation systems with slow-drip, sub-soil irrigation and computer operation with linkages to meteorological data to optimize water resources.

ENERGY ENVIRONMENTAL QUALITIES

EEQ-1: Comprehensive Energy Management Plan

Purpose: To conserve and optimize building energy use and minimize air emissions, including greenhouse gases, associated with energy consumption at the site.

Action: Prepare an Energy Management Plan to conserve and optimize building energy use, minimize air emissions and coordinate and maximize the utilization of any site generated energy resources. The Plan shall include an energy use budget for the project for the first year of operation (building shall be a minimum of 50% occupied with unoccupied areas and building systems normalized for full occupancy) and broken down by major energy consumption category (i.e., heating, cooling, lighting, fan energy, pump energy, etc.). Consider base building systems apart from occupancy with allowances for interconnections. After each year of operation, the actual utilization of energy shall be recorded and compared to this baseline energy use budget with appropriate adjustments for deviations in occupancy, base building conditions and climate norms. Significant deviations shall be evaluated and a detailed explanation for the probable cause of the deviation recorded in the updated plan. Strategies for reducing energy consumption below the first year of operation, as defined above, shall be identified and described.

The Energy Management Plan shall include a similar itemization of any site generated energy resources, including a budget for each component, and annual updates of actual performance. The Plan shall identify measures and strategies for increasing utilization of clean on-site energy above the first year of operation, as defined above.

Review opportunities for coordinated site strategies to conserve energy. Provide matrix outlining additional costs and savings, available incentives, benefits and impacts from, for instance, a co-generation plant, river water cooling, building integrated PV, fuel cells and other strategies.

EEQ-2: Building Systems Commissioning

Purpose: To implement a Building Commissioning Plan.

Action: Engage an independent commissioning authority to prepare and execute a commissioning plan. Implement fundamental, best practice building commissioning procedures. Include design phase reviews, contractor submittal reviews, pre-functional and functional testing(including seasonal testing), training, Operations & Maintenance manuals and post occupancy review. Provide Building Commissioning Plan consistent with the requirements of NY State Green Building Tax Credit (NYSGBTC) 638.6.

EEQ-3: Optimize Energy Performance

Purpose: To optimize the performance of building energy systems.

Action: Optimize the performance of building energy systems through the utilization of a full DOE-2.1E or Energy Plus building energy model to compare alternative strategies for energy efficiency (kwh) peak load reduction (kW) and reduced use of fossil fuels. Integrate with Energy Management Plan. This is to include the full analysis of architectural and mechanical decisions in relationship to building energy expenditures. Achieve a minimum of 20% decrease in energy cost above ASHRAE 90.1-1999. This savings reflects both tower and office tenant build-out potentials. Tenant build-out potential (as demonstrated in a typical tenant build-out) will be modeled in the same integrated exercise and the economic results provided to potential tenants in support of the preferred buildout. Include full list of energy conserving opportunities available to tenants.

Provide daylight dimming and occupancy sensors on light fixtures where appropriate. All light fixtures to use high efficiency ballasts and low mercury/low lead, long life lamps. Specify recyclable lamps. Utilize energy efficient equipment such as variable speed systems for fans, pumps and motors; motors that meet or exceed NEMA premium efficiency ratings and equipment that meets or exceeds ENERGY STAR® ratings. Comply with FEMP levels for commercial products not rated by ENERGY STAR®. Provide a high performance building envelope, including minimized thermal bridging, superior insulation, air infiltration barrier and insulated wavelength selective glazing (to improve daylight transmission). Provide envelope construction details consistent with NYSGBTC 638.7(d)(2). Use air-side and water-side economizers, as appropriate.

EEQ-4: Ozone Layer Protection

Purpose: To reduce emission of ozone depleting chemicals.

Action: Specify building HVAC systems with zero levels of CFC refrigerants, and provide plan for future elimination of HCFC's and halon in HVAC and refrigeration equipment and fire suppression systems. Avoid insulation materials that utilize chlorine based gases

EEQ-5: Renewable Energy Plan

Purpose: To meet a portion of site energy requirements with on site and/or purchased renewable energy sources and institute a plan for transition as renewables become more cost-effective.

Action: Utilize site generated and/or purchased renewable energy for a percentage of total building energy use. Provide transition plan for future conversion to renewables. Purchase or generate on-site a minimum of 20% of overall annual electric energy requirements with renewables by 2010 consistent with NY State EO-111's evolving requirements and capabilities. Provide infrastructure to integrate technology into building systems, when possible.

EEQ-6: Energy Systems Control and Maintenance

Purpose: To provide for ongoing verification of initial operation and energy utilization of building energy systems.

Action: Provide a computerized, fully-integrated Building Management System (BMS) with energy and fluid flow measurement capabilities for all major energy consuming systems. Institute a maintenance plan for ongoing measurement, verification and maintenance of equipment efficiencies and resource utilization. Provide programmable controls. Install permanent monitoring systems to track energy performance. Provide for maintenance and operational continuity through manuals and education. Install continuous metering equipment for a representative sample of lighting systems, motors, drives, chiller efficiencies, and trending of economizer and heat recovery equipment cycles, air distribution pressures and volumes and boiler efficiencies. Integrate the above systems into the Building Commissioning Plan.

EEQ-7: End User Metering

Purpose: Maximize tenant incentives to conserve energy.

Action: Include electrical distribution infrastructure required to allow end-user metering of tenants, including electricity use (kWh) and demand (kW) metering. Provide examples of existing incentive programs to tenants.

MATERIAL ENVIRONMENTAL QUALITIES

MEQ-1: Comprehensive Material Management Plan

Purpose: To optimize utilization of site material resources and to facilitate the reduction of waste generated by building occupants that would otherwise be hauled to and disposed of in landfills and/or incinerators.

Action: Implement a Materials Management Plan, which coordinates and implements material guideline requirements within the Sustainable Design Guidelines. Describe materials utilized, recycled content, location of manufacture/harvest, agricultural content, sustainable harvest certification, expected lifetime, maintenance requirements and recyclable/reuse potential at end of useful life. Minimize travel distance for building products and systems and locate sinks for highest recycled use for 'waste' materials in conjunction with MEQ-2 and MEQ-5. Provide infrastructure necessary to implement the recycling requirements of the plan. A central location for appropriately-sized recycling facilities must be provided for all buildings. Facilities must include, at a minimum, space for the separation, collection and storage for recycling of paper, corrugated cardboard, glass, plastics and metals, and each of these areas should be clearly identified. Provide easy truck access for the pick-up and removal of recyclables.

MEQ-2: Construction Waste Management

Purpose: To reduce the amount of construction and demolition (C&D) waste going to landfills and/or incinerators and to conserve resources through reuse and recycling.

Action: Implement a Construction Waste Management Plan to divert construction, demolition and land clearing debris from landfill disposal to redirect recyclable and/or recovered resources back to the manufacturing process and to redirect salvageable materials to appropriate sites. Recycle and/or salvage a minimum of 50% of construction, demolition and land clearing waste, calculated by weight. Divert a minimum of 50% of construction waste by weight from landfill.

MEQ-3: Resource Reuse

Purpose: To incorporate previously used building materials and products into new construction.

Action: In coordination with the Materials Management Plan consider the use of salvaged, refurbished or reused materials and products in the building. Materials for reuse typically include reclaimed lumber and wood such as salvaged wood flooring and wood doors and cabinets, structural metal work such as beams, and miscellaneous metal such as doors, door hardware, etc. Decorative and specialized items such as salvaged wood and glass panels, banquettes, front and back bars and decorative or period lighting fixtures may be used in special public locations such as cafeterias or restaurants, and can contribute to this credit.

MEQ-4: Materials with Recycled Content

Purpose: To incorporate materials with recycled content and increase market demand for building materials and products that incorporate recycled content.

Action: Specify materials with recycled-content in conjunction with the Materials Management Plan. The value of the recycled content portion of materials is to be at least 10% of the total project materials value (mechanical and electrical components are not to be included in these calculations).

Determine recycled content value according to the following formula. For post-consumer recycled content determine percentage of recycled content in the material and multiply by value of material. For post-industrial recycled content determine percentage of recycled content in the material, multiply by ½ and multiply by value of the material.

MEQ-5: Material Proximity

Purpose: To reduce environmental degradation resulting from transportation impacts by increasing the demand for building materials and products that are extracted and/or manufactured in close proximity to the building site.

Action: Utilize local/regional materials in conjunction with the Materials Management Plan. Use a minimum of 20% of all building materials (based on cost) that are manufactured within a 500 mile radius of the site. Manufactured in this context means the location where 'final assembly' takes place.

MEQ-6: Wood Certification

Purpose: To specify wood which has been harvested according to sustainable forest management principles.

Action: Utilize wood materials certified under the Forest Stewardship Council's Principles and Criteria (FSC) in conjunction with the Materials Management Plan. These materials may include dimensional framing components, flooring, doors, paneling, millwork and furnishings, handrails and trim, etc., as well as, temporary lumber and wood construction materials. Request vendor's chain-of-custody certificate number to verify certification.

MEQ-7: Agricultural Materials

Purpose: To encourage the specification of materials which are renewable and that grow in such a way as to support biological diversity and the health of the ecosystem.

Action: In coordination with the Materials Management Plan use renewable and rapidly renewable building materials and products.. Materials with annual growing cycles or which regenerate naturally within a 10-year-cycle are considered to be rapidly renewable materials. These materials include bamboo, poplar, cork, wool, cotton, jute, sisal, and soy-based products. Agricultural 'waste' materials such as wheatgrass, sunflower seed husks, and straw also qualify under this category. Release agents for concrete forms, which are made from plant oils such as corn oil are included. Use agricultural compost for site applications, including, but not limited to, turf, plantings and erosion control.

INDOOR ENVIRONMENTAL QUALITIES

IEQ-1: IAQ Performance

Purpose: Establish high indoor air quality (IAQ) for the comfort and well-being of the building's occupants by minimizing the potential for poor air quality, and by establishing minimum IAQ performance and standards.

Action: Provide an Indoor Air Quality Management Plan which employs architectural and HVAC design strategies to establish minimum outdoor air quantities, chemical, biological and particulate source control and on-going air quality monitoring to achieve a positive impact on the overall indoor environment and well being of the occupants. Meet the requirements of ASHRAE Standard 62-2001: "Ventilation for Acceptable Indoor Air Quality", utilizing the Ventilation Rate Procedure.

Prepare plan in accordance with the requirements of NYSGBTC 638.7(d)(1,2 and 3). Draft the plan in accordance with the EPA "Building Air Quality: A Guide for Building Owners and Facility Managers", 1991 and EPA and National Institute for Occupational Safety and Health, Building Air Quality Action Plan, 1998.

IEQ-2: Daylight & Views

Purpose: Provide building occupants with connections to the outdoors through the introduction of daylight into habitually occupied areas of the building. Provide building occupants with views via direct line of sight to the outdoors from regularly occupied spaces when possible.

Action: Towers: Provide a 2% minimum daylighting factor to 75% of regularly occupied tenant spaces. Build a tenant office fit-out (5,000 SF) to demonstrate optimum daylight access, louvers and glare controls, and ceiling geometries intended to optimize daylighting strategies. Quantify performance of integrated curtain wall and tenant fit-out with proposed savings

Retail: Seek to maximize daylight penetration to concourse areas and below grade retail areas. Provide views to the outdoors from concourse areas to assist users in wayfinding and orientation.

IEQ-3: Air Quality Monitoring

Purpose: To retain high indoor air quality standards by establishing monitoring protocols to assist in maintaining appropriate ventilation rates for the comfort and well-being of building occupants.

Action: Indoor air quality must be tested annually and must meet minimum criteria for five years in accordance with minimum requirements of NY State EO-111reference to NYSGBTC 638.7(d)(1). Once radon measurements are found to be satisfactory, subsequent testing for this contaminant is not required. Where concentration levels of noted contaminants exceed the established parameters in any specific area during this 5 year period, seek to locate and remediate/eliminate contaminants, then flush out area with 100% outside air for a minimum of one week and retest until a satisfactory result is achieved.

Consideration should be given to a permanent indoor air quality monitoring system with centralized controls that provides feedback on ventilation performance and contaminant concentrations based on a combined carbon monoxide, carbon dioxide and volatile organic compound monitor.

IEQ-4: Ventilation Air Quality

Purpose: To provide outside air to all occupied spaces in the building to support the comfort and well-being of building occupants and as an energy conservation measure.

Action: Demonstrate that the requirements of Section 5, 'Best Practices for Maintaining IEQ' of the International Performance Measurement & Verification Protocol, Volume II 'Concepts and Practices for Improved Indoor Environmental Quality', March 2002 have been met. Provide capability for system default to 100% outside air at all times where practicable and in balance with energy conservation.

IEQ-5: Construction IAQ Management Plan

Purpose: To provide minimum standards for the air quality of building areas upon occupancy.

Action: Implement a Construction Indoor Air Quality Management Plan in conformance with NY State EO-111reference to NYSGBTC 638.7(d)(2) and the USGBC LEED 2.1 Rating System. During construction, meet or exceed the recommended Design Approach of the Sheet Metal and Air Conditioning National Contractors Association (SMACNA) IAQ Guideline for Occupied Buildings under Construction, Chapter 3. Use high efficiency filtration media at all HVAC return air grilles during construction and replace all base building mechanical system filtration media with Minimum Efficiency Reporting Value of 13 (MERV 13) filters in accordance with ASHRAE 52.2 – 1999 immediately prior to occupancy.

On completion of construction and prior to occupancy, conduct a two-week flush out with new filtration media using 100% outside air, in accordance with NYSGBTC 638.7(d)2. Replace all filtration media used with new MERV 13 filters. Alternatively, test indoor air quality at random sampling points for every 20,000 sf, or by each floor if smaller, in accordance with recognized national standards, to achieve an air quality profile at time of occupancy which satisfies the specific minimums for carbon dioxide, carbon monoxide, formaldehyde, volatile organic compounds, particulates and radon as per NY State EO-111reference to NYSGBTC 638.7(d)(2) and include one additional testing procedure for 4-PCh to satisfy all of the Alternate Procedure Requirements for LEED 2.1. Where concentration levels of contaminants exceed the established parameters in any specific area, flush out area with 100% outside air for a minimum of two weeks and retest until a satisfactory result is achieved.

IEQ-6: Reduce Contaminants from Materials

Purpose: To reduce the density of contaminants that are emitted by common building materials and which affect the comfort and well-being of building occupants.

Action: Develop and implement a Materials Management Plan to minimize utilization of materials with high levels of volatile organic compounds (VOC's) and other toxic characteristics which adversely affect Indoor Air Quality (IAQ). VOC's must meet or be lower than those in the following standards:

- Adhesives and sealants: South Coast Air Quality Management District Rule #1168
- Paints and coatings: Green Seal Standard GS-11
- Carpet and carpet adhesives: Carpet and Rug Institute Green Label Indoor Air Quality Test Program

Where possible use non-urea-formaldehyde-based bonding agents in composite wood and typical millwork applications such as veneer and plastic laminate applications, etc.

Minimize unprotected insulation in ducts, supply plenums and return plenums per NYSGBTC 638.7(j).

IEQ-7: Chemical & Particulate Control

Purpose: To minimize sources of chemical and particulate air contamination.

Action: Design all major entrances with permanent walk-off grilles to minimize particulate transfer. Provide MERV 13 air filters for removal of 90% of particulates at air supply systems and provide building owner with a maintenance schedule for filter replacement. Build slab-to-slab partitions and provide negative air pressure of at least 7PA with isolated exhaust systems of at least .5cfm/sf at work rooms with printing and copying equipment, janitorial closets and all chemical use areas. Locate exhausts to ensure that there is no potential for re-entrainment of exhaust air to other supply in-takes. Provide drains for appropriate disposal of liquid waste in spaces where water and chemical concentrate mixing occurs.

IEQ-8: Thermal Comfort

Purpose: To provide building users with a high level of thermal comfort to promote comfort, well-being and enhanced productivity.

Action: Design the building envelope in accordance with ASHRAE Standard 55-2004 to manage the flow of air, moisture and thermal energy in the building. Include capability for adjustments to thermal conditions to address seasonal changes and associated modifications in typical levels of clothing. Design an integrated system (thermal shell and HVAC) that allows building operators to monitor and control air temperature in each zone. To avoid condensation problems, mechanical systems must be designed to deal with part-load cooling conditions so that they are able to maintain appropriate dehumidification levels.

IEQ-9: Pest Control

Purpose: To mitigate health concerns caused by any unwanted pests, their excrement and the chemicals used to control them.

Action: Develop an Integrated Pest Management Plan based on USEPA Best Management Practices, which promotes physical controls and non-pesticide measures over pesticide application. Physical controls include building sealing strategies, improved sanitation, pest-resistant plantings and improved maintenance of wet areas. When necessary, use boric acid or other nontoxic alternatives in lieu of more toxic chemicals to control and eliminate rodent populations from building.

IEQ-10: Occupant Control

Purpose: To provide building occupants with a high level of thermal, ventilation and lighting system control to promote productivity, comfort and well-being.

Action: Provide building occupants with controls over airflow, temperature and lighting systems including individual controls where practicable or feasible. Provide operable windows where practicable and feasible.

IEQ-11: Acoustics

Purpose: Minimize vibration and noise levels in indoor spaces and at exterior environments to achieve appropriate physical comfort and sound isolation for tasks and speech intelligibility, while contributing to human well-being and productivity.

Action: Where practical program locations of mechanical equipment and other sources of noise away from areas of building and exterior spaces designed for use by building tenants and the public. Design separations to minimize transfer of noise. Consider strategies to reduce the transmission of exterior ambient noise. Comply with the recommendations of ASHRAE Applications Chapter 46 Design Guidelines to reduce potential noise and vibration from mechanical equipment, and the Architectural Graphic Standards 8th Edition: Sound Isolation Criteria Table, page 44 to address acoustic criteria for enclosed office space such as offices, meeting rooms and other occupied areas.

IEQ-12: Lighting Quality

Purpose: Employ advanced lighting design to maximize comfort and productivity of building occupants and enhance the quality and efficiency of electric lighting. Fully coordinate ambient electrical lighting design with daylighting strategies.

Action: Design an ambient electrical lighting system that is coordinated with daylighting strategies to provide flexible illumination. Endeavor to meet the recommendations of the Illuminating Engineering Society of North America's (IESNA) 9th Edition Handbook, Chapter 10 Quality of the Visual Environment, and the Lighting Design Guide. Provide high frequency electronic ballasts, recyclable lamps and low mercuryflow lead lamps as defined by the US Environmental Protection Agency's Toxicity Characteristic Leaching Procedure (TCLP) testing procedure. Supplement ambient lighting system with multi-level task lighting to maintain a minimum of 35 footcandles (in typical office area) at desk level throughout hours of occupancy.

SUSTAINABLE DESIGN GUIDELINES IMPLEMENTATION MATRIX
WORLD TRADE CENTER REDEVELOPMENT PROJECTS

KEY

- ● Action on Guideline Required
- ◉ LEED™ Equivalency Option allowed
- ○ Action on Guideline Recommended
- Universal Relationship
- Ⓔ Exemplar model Encouraged for Tenant Implementation
- Frq Frequency (under LEED™) required to meet EO-11 LEED™ Certification objectives

As an integrated list of standards, the guidelines overall support the objectives of EO-111, which include meeting the USGBC's LEED™ Green Building Rating System's certified level and have been reviewed by the PANYNJ and LMDC. Guidelines indicated as "Required" are mandatory and flow directly from the objectives of EO-111, LEED™ certified level requirements and the larger requirements of the PANYNJ and LMDC. Required items are to be implemented. The LEED™ "Silver Roadmap" creates a pathway for even higher performance. Flexibility is provided through an "Equivalency Option" which allows designers to propose an "equivalent option" for a guideline which is part of the LEED™ Calculation, as long as the number of LEED™ points remains the same or better. Guidelines indicated as "Recommended" are provided to support efforts by teams seeking additional opportunities to improve environmental performance. Guidelines, which include the "Exemplar" as described in item 4 below will also be indicated as part of overall recommendations. Some of the guidelines include extended considerations and larger scale impacts, important to the realization of the guidelines. These "Universal" impacts, for instance the requirement for water management plans, which also benefit the municipal water infrastructure, are indicated. This implemen

(Note: The Implementation Authority utilizing these Guidelines will make the final determination as to which of the guidelines are applicable to any given project. This "Implementation Matrix" is designed to provide a general guide by building type. Projects of larger scope or of a mixed use will require the final determination of the Implementation Authority as to which Guidelines apply.)

1.0 MAJOR ENVIRONMENTAL QUALITY									LEED™	
No.	Quality	WTC Guideline Purpose	WTC Guideline Action	Green	Silver Roadmap	Commercial Retail	Commercial Office	Tenant	Base Points	Max Points
1.0.1	Support Urban Development	Support development in existing urban cores and fully utilize and support existing infrastructure	Channel development to infill sites. Promote development that supports and encourages the use of existing infrastructure and is within a common development concept or [illegible]	◉	●	●	●		1	1
1.0.2	Support Public Transit and Depot Access	Encourage the development of public transportation, alternate transportation to automobile-centric systems and support and increase depot access	Adopt and promote adoption of public transportation. Follow the recommendations of the NYC Department of City Planning (DCP) 1997 Depot Parking Needs Study and the 1997 NYC Depot Operation Analysis performed per DPM Needs Underground Parking Management Plans should limit parking demands. Set parking for commuter use to maximum 1,200 cars. Improve dedicated depot use by providing bicycle racks or lockers and repair/rent garage. Conference. Support bicycle use by providing bicycle racks, near thoroughfares, near and outside patrons.	◉	●	●	●		1	1
1.0.3	Regional Mass Transit	To promote regional daily transit activities	Provide user-friendly information system by regional transportation options, forms, schedules and fares with clear connections between the various transportation systems. Allow future integration of other regional transportation systems.	◉	●	○	○			
1.0.4	Pedestrian Movement	Support neighborhood, community, visitor and commuter pedestrian activity and healthy pedestrian access to and through the site	Develop enhanced pedestrian connections that are developed into provide WTC Redevelopment Projects. Develop pedestrian connection, bike paths and other ways, as indicated and needed pathways walks. Develop enhancements including and facilitating commuting in buildings, additional pathways and transportation stops, with site, regional connections, public art, vegetation, access to daylight and directional, information, signposting, strong materials and surfaces and view corridors	◉	●	●	●			
1.0.5	Green Infrastructure	Support the development of green infrastructure by developing and linking regional site areas with existing neighborhood greenspaces	Set green "green" infrastructure within WTC of site boundary. Create the regional areas to enhance job connections in regional ecological preservation, improve air and water resources, improve biodiversity and reduce heat island effects. Facilitate creation of green infrastructure linkages in conjunction with adjacent neighborhood green spaces	◉	●	●	●			
1.0.6	Outdoor Environmental Control	To mitigate the detrimental impact between outdoor environmental conditions	Design site structures, materials and landscape to minimize adverse site microclimates of heat island effects. Extend outdoor comfort times. Integrate shade, trees and fall foliage with passive strategies that enhance natural forces. Design structures and orientation for the environmental conditions where pedestrians would be affected and such as increase sun and shade.	◉	●	●	●			
1.0.7	Daylighting	To maximize both environmental and cost benefits of use and daylighting	Integrate daylighting as an integral design quality when developing place conditions. Avoid glare and maximize views outdoors in conjunction with surrounding environments	◉	●	●	●			
1.0.8	Alternative Transportation	Reduce reliance of vehicle, site employing owners in order to reduce the amount of SOV trip vehicles and their fuel to reduce traffic congestion through scheduling and route management. Design the site to minimize traffic backups and maximize vehicle idling times. To the extent that overall NY State Agency fleets other government programs on site, at least 20% of typically fuel vehicles and to encourage fuel or hybrid vehicles by 2010 and 100% by 2015		◉	●	●	●	Ⓔ		

SITE ENVIRONMENTAL QUALITY										LEED™	
No.	Quality	SITE Guideline Purpose	SITE Guideline Action	Client	Staff Planner	Commercial Agent	Contractor Office	Tenant	Date Policy	Tenant Handbook
SE.5-1	Comprehensive Resource Management Plan	Develop and implement the requirements of the Comprehensive Resource Management Plan	The Comprehensive Resource Management Plan provides a tool for investigated communication of water, material and energy resources with the goal of identifying, evaluating and optimizing utilization of all resources on the site. The plan contains information regarding [illegible] [illegible] high impact and utilization of all resources. Provide [illegible] of water [illegible] of water heater [illegible] pump energy requirements for rising equipment without [illegible]	●	●	●	●	○		
SE.5-2	Storm Water Use	To capture and reuse on-site storm water flows, thereby reducing storm water volume and outflow through the system	Development a plan for [illegible] management of storm water development that indicates the post-development level of pollution from the site [illegible]. Construct basins to remove 80% of total suspended solids (TSS) and 40% of total phosphorus (TP) per EPA Guidance [illegible] (c) Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters (Second Edition) [illegible] average annual loadings from all sources from or used in the 3 year/24 hour storm. Landscape Design: Use surplus to offset irrigation of site open water from rainwater filled [illegible] Provide storage and filtration infrastructure. Fully use treated water in agreement and in compliance with Water Management Plan. Fixtures: Equipped toilets with urinals, sinks and showers, wash and hand in conserving water flushing all buildings of high efficiency to improve national energy of water and reduce water pump energy requirements. Provide storage and filtration infrastructure near point of capture. The water will supplement the total flushing and as part of building water systems.		●	●	●	○	2	2
SE.5-3	Heat Island Effect Mitigation	Reduce site downstream stormwater to "near pre-dev" effects and Labor Mitigation. Goal to maintain areas of landscape showing (green infrastructure) treated with high albedo surfaces of other areas to mitigate thermal loading of the surface overlooking roofs	Provide green infrastructure coupled with high albedo surfaces to mitigate thermal loading of site surfaces and building roofs. Roof Deck: Provide shade and light surroundings albedo materials particularly particularly of at least 30 or open-equipped grid pavement for at least 30% of the site's volumes, sides and open spaces. Cover: Use ENERGY STAR® compliant roofs that minimum roofing (emissivity of at least 0.9 when tested in accordance with ASTM C1371) or a minimum of 75% of the roof surface. Develop a "green" (vegetated) roof for at least 50% of the roof area. Comprehensive design albedo and vegetated roof will be used covering the maximum roof area. Pilot roof in roof deck		●	●	●	○	2	2
SE.5-4	Light Pollution Reduction	To reduce light pollution and glare to surrounding sites and night sky	Actively [illegible] Engineering Society of North America (IESNA) recommended practice per Average [illegible] Energy conservation lighting combined on exterior luminaires with cutoff type. [illegible] and luminaires with more than 2000 [illegible] lumens must be Full-Cutoff IESNA-Compliant. The minimum allowable value of an average lighting level for areas on building that are through [illegible] maximum allowable value of all exterior lighting shall not exceed the property. Exact lists will not be determined by these requirements. Develop plan that reduced sunlight by minimizing use of highly reflective materials on building facades. Incorporate lighting controls to minimize energy and during unoccupancy periods.		●	●	●	○	1	1
SE.5-5	Construction Environment	To reduce pollution, noise and vibration from construction activities and vehicles	Implement a Construction Environmental Plan, which minimizes pollution, noise and vibration from construction activities and vehicles to adjoining neighborhoods. On-site: a Pollution staging and stabilization area(s) prior to start of construction. Truck staging areas shall be located for minimum operations and shall not unnecessarily disturb local physical objects to 3 minutes. Contract truck fuel up to alternatively have [illegible] Off-road construction equipment is fitted or given to pollution control technology appropriate to the diesel engine [illegible] Use equipment in other ultra low sulfur diesel fuel (fuel sulfur levels to 15ppm). Impose standard enforcement of proposed EPA emission standards for off-road diesel equipment. Limit hard diesel pollution emissions from fresh air engine. Consider [illegible] to surrounding buildings, structures, infrastructure and outdoor utility applicable. Construction activities to adjacent properties contains to avoid or minimize impacts and disturbances along with the public. Provide adequate protection to the road surrounded areas are needed.		●	●	●	○		
SE.5-6	Good Storm Water Runoff and Pollution Prevention	Control site runoff and reduce negative impacts on hydrological and ecological systems, particularly [illegible]	Develop Construction Storm Water Pollution Prevention Plan conforming to US EPA document [illegible] Report on pollution from dust and sediments control during the stages of construction. Utilize various monitoring reports (performance, compliance) for maintenance of highest dust and sediment management measures. Conformance with SCD-6 Construction Development Plan.		●	●	●		Pre	Pre
SE.5-7	Site Grading and Structure	Minimize the amount of grading and structures in sensitive locations	Minimize [illegible] study area, [illegible] evaluation, avoiding of temporary [illegible] [illegible] on the Storm Water Pump Building for [illegible] in the [illegible]		●	●	●			
SE.5-8	Site Erosion	Site mitigation of sedimentation [illegible] to reduce erosion and maintenance requirements.	Identify [illegible] of sediment and [illegible] and provide [illegible] and control site [illegible] [illegible] and [illegible] maintenance requirements. Use plantings that [illegible] reduced by natural control levels to reduce irrigation requirements.		●	●	●	○		
SE.5-9	Daylight Exterior Public Spaces	Design buildings and site landscape to maximize exterior daylight for public open spaces and green areas further the context of the conditional planning guidelines	Maximize exterior open spaces and green areas. Under shaded areas to maximize available daylight. Consider maximum sunlight in parking areas, public spaces and site plantings.		●	●	●	○		
SE.5-10	Alternative Energy	To provide new sources for utilization of solar energy	Determine maximum available photovoltaic potential for all building surfaces. Determine feasibility for possible future installation to replace the external. Develop and implement the strategy and any other "best practices" recommended methodologies in the Renewable Energy Resources Plan.		●	●	●	○		
SE.5-11	Recycling of Materials	To conserve resources of the natural environment and to minimize the requirement of waste generated by building activities that would otherwise be hauled to and disposed of in landfills and/or repository	Study feasibility and implement requirements for onsite recycling of waste. Consider applicability to material such, paper, plastic, metal and construction waste. Consider composting, bulk distribution and other waste "reuse to reuse" strategies. Develop in conjunction with Renewable Energy Resources Plan and the construction study.		●	●	●	○		
SE.5-12	Use of Undeveloped Parcels	Utilize parcels and undeveloped adjacent to provide a positive contribution to site environmental synthesis	Address both the "being" portion of the site under development, as well as, the "desired" [illegible] of the site, which have a beneficial use. Apply guidelines Storm Water Use (SE.5-2) and Heat Island Effect Mitigation (SE.5-3) to "desired" site areas		●	●	●			

WATER ENVIRONMENTAL QUALITY

No.	Quality	WTC Guideline Purpose	WTC Guideline Action	Utilities	Other Facilities	Commercial Retail	Commercial Office	Tenants	LEED™ Existing Buildings	LEED™ New Buildings
WEQ-1	Water Management Plan	To optimize consumption of site water resources.	Implement a water management plan to minimize use of potable water, waste water and treated water resources, study potential for water conservation of construction and provide a consolidated management plan for all site water resources. Use Site management plan per ISO 14000 (June 1996) and Performance Management Program (PMP) Best Management Practices as Survey Plan. The Plan must include, the economic, environmental consequences, water efficiency, water reuse, monitoring, management response alternatives and reporting procedures.	(A)	●	●	●	○		
WEQ-2	Wastewater Reuse	To minimize site wastewater discharge.	Implement wastewater strategies as required by Water Management Plan. Use treated water, rain water, site water for toilet flushing, building heat rejection, vehicle management and irrigation needs. Study additional opportunities to reduce the amount of potable water that enters building for conveying sewage.		○	○	○	○		
WEQ-3	Water Use Efficiency	To minimize water efficiency within buildings, and reduce the location demand on water systems.	Require management of irrigation water as required by Water Management Plan. Use XFs that provide water from a location outside building footprint. HVAC Energy Policy and future requirements to determine treatment need by utilizing efficient water fixtures, automatic controls and/or metering.		(●)	(●)	(●)	(R)	2	2
WEQ-4	Landscape Hydrology	To maximize advantage of site water for landscape requirements.	Use site potable water for the landscape irrigation requirements in compliance with Site Water Management Plan. Study potential requirements for reduction of irrigation water requirements and plants suitable for the climate where or on site. Energy high efficiency irrigation systems with controls, sensors, timers and employer operation with frequently updated data to optimize water resources.		(●)	(●)	(●)	(R)	1	1

ENERGY ENVIRONMENTAL QUALITY

No.	Quality	WTC Guideline Purpose	WTC Guideline Action	Utilities	Other Facilities	Commercial Retail	Commercial Office	Tenants	LEED™ Existing Buildings	LEED™ New Buildings
EEQ-1	Energy Management Plan	To minimize and optimize building energy use and maximize conservation, reducing greenhouse gases, consistent with energy management efforts.	Prepare an Energy Management Plan to optimize the overall building energy use. Provision of measures and constraints and measures for reduction of any one generated energy consumed. The Plan shall include provisions and budget for the operation for the first year of operation. Starting shall be a minimum of 10% compared with conventional energy and building systems equipment and fixtures, cost for major energy consumption equipment (ex. heating, cooling, lighting, fan energy, pump energy, etc.). Consider base building systems based upon subsequent modifications by tenants/occupants. After each year of operation, the actual reduction of energy shall be maintained compared to the baseline energy use budget with significant adjustments for decreases in occupancy, base building alterations and climatic factors. Significant deviations shall be documented and a detailed explanation for the probable causes of the deviation reported in the updated plan. Strategies for achieving energy consumption before the first year of operation, as defined above, shall be identified and documented. The Energy Management Plan shall include a detailed description of any site generated energy installations, including a budget for each component, and detailed analysis of cost/performance. The Plan shall clearly indicate the strategies for measuring substantial cost effective energy savings the first year of operation, as defined above. Review experiences for substantial cost increases of expensive energy. Provide some performance measures, benefits and expense items, for instance, a cogeneration plant, heat water heating, building integrated PV, fuel cells and other strategies. Provide opportunities for stakeholder participation in consumer energy. Provide energy systems information costs and savings, incentive programs and available from, for instance, a cogeneration plant, heat water heating, building integrated PV, fuel cells and other strategies.	(A)	●	●	●	○		
EEQ-2	Building Systems Commissioning	To implement a Building Commissioning Plan.	Implement commissioning procedures to ensure and maintain a commissioning plan. Implement fundamental, and enhanced commissioning procedures. Include design phase review, contractor submittal review, pre-functional and functional testing (including control testing), training, Operations and Maintenance manuals and post commissioning review. Provide Building Commissioning Plan consistent with the requirements of NYSERDA EM 9.		●	●	●	(R)	1	1
EEQ-3	Optimize Energy Performance	To optimize energy performance of building envelope systems.	Optimize the performance of building energy systems through the measures of a NYSERDA TLC or ENERGY STAR. Build building energy models to optimize alternative strategies for energy efficiency (heat pump heat extraction, heat and recovery use of heat pump, integration with Energy Management Plan. This is to include the optimization of environmental conditions in relationship to building energy consumption. Achieve a minimum of 20% decrease in energy use above ASHRAE 90.1-1999. This energy efficiency target lower and other lower long-term potential. Target lower and potential has demonstrated on a 10-year based basis and will be modified in the home designed requests and the measured results provided to provide benefits in budget of the proposed facilities, include full list of energy consuming equipment available to tenants. Provide daylight controls and occupancy sensors in light fixtures where appropriate. Air light fixtures to use high efficiency ballast and low consumption lamp, long life lamps, directly replaceable lamps. Utilize energy efficient commercial uniform reliable lamps in lamps, pumps and motors, ensure that motor is meeting NEMA minimum efficiency design and specifications of Motors of Equipment ENERGY STARS design. Comply with ASHRAE 90.1 for commercial buildings and also by End User Guide. Energy efficient building structure, including increased thermal insulation, reduction of infiltration, lower and modified wavelength selection glazing for improve daylight transmission, provide energy consumption control systems with NYSERDA EM 9 (R). Use ceiling and commercial lamps, fan assemblies.		●	●	●	(R)	2	3
EEQ-4	Ozone Layer Protection	To reduce emissions of ozone depleting chemicals.	Phase out existing HVAC systems with use based of CFC refrigerants, and provide plan for future elimination of HCFC's and halons. HVAC and refrigeration equipment may be replacement system. Avoid methods between that allow adaptive based gases.		●	●	●	(R)	Req	Req

ENERGY ENVIRONMENTAL QUALITY

No.	Quality	WTC Guideline Purpose	WTC Guideline Action	Other	Shell Powered Base	Commercial Base	Commercial Office	Tenant	LEED™ Base Points	LEED™ Tower Bldg.
EEQ-1	Renewable Energy Plan	To meet a percent of the energy requirements with on-site and/or purchased renewable energy sources and develop a plan for increased on-site renewable sources where cost-effective	Meet site generated and/or purchased renewable energy for a percentage of total building energy use. Provide feasibility plan for future renewable alternatives. Purchase of power on site a minimum of 20% of overall annual electric energy requirements, with renewables by 2020 consistent with NY State SD-1171 energy requirements and legislation. Provide temperature monitoring systems in building systems, where practical	◬	●	●	●	○		
EEQ-2	Energy System Control and Maintenance	To provide for ongoing verification of initial operation and energy efficiency of building energy systems	Provide a comprehensive, fully integrated building management system (BMS) which will energy and fire alarm/life safety monitoring for all major energy consuming systems. Provide a maintenance plan for ongoing measurement, verification and maintenance of equipment efficiencies and resource utilization. Provide supplementary metering. Install permanent monitoring systems to track energy performance. Provide for commissioning and continuous monitoring methods, and validation. Install adequate metering equipment for a representative mix of lighting systems, motors, drives, chiller efficiencies, and heating of domestic and heat recovery equipment cycles, air distribution systems, and volumes and water consumption. Integrate the above quality into the Building Commissioning Plan		●	●	●	◐	1	1
EEQ-3	Energy Metering	To maintain tenant electricity consumption to minimize energy	Install tenant electricity consumption monitoring equipment to allow accurate metering of electric, heating, cooling and lighting (HVAC) energy. Provide analysis of tenant monitoring programs to tenants		●	●	●	○		

MATERIAL ENVIRONMENTAL QUALITY

No.	Quality	WTC Guideline Purpose	WTC Guideline Action	Other	Shell Powered Base	Commercial Base	Commercial Office	Tenant	LEED™ Base Points	LEED™ Tower Bldg.
MEQ-1	Waste Management Plan	To minimize the generation of site Refuse materials and to maximize the recovery of waste generated by building occupants, that would otherwise be landfill by land disposal or incinerated, and/or recycled	Implement a Waste Management Plan, which addresses the requirements of NYC Local Law 19 (Commercial Waste Recycling Solutions). Develop materials reduce, reuse, control, recycle of construction/demolition, operational waste, commercial waste, hazardous materials, construction materials, equipment and furniture, and equipment and furniture provided at end of useful life. Maximize recyclability for building products and systems and issue points for higher recycled and for "reuse" materials, in conformance with NYC-P and NYCDA. Provide adequate facilities to implement the recycling requirements of the plan. A secure location for appropriately sized recycling bins should be provided for all buildings. Facilities must include, at a minimum, space for two containers, adequate and storage for recycling of paper, corrugated cardboard, glass, plastics and metals, and work of most areas should be clearly identified. Provide easy that access to the bins and equipment recyclable	◬	●	●	●	◐	Req	Req
MEQ-2	Construction Waste Management	To minimize the amount of construction and demolition (C&D) waste going to landfill and/or incinerators and to maximize resources through reduced recycling	Implement a Construction Waste Management Plan to limit construction, demolition and land clearing debris from landfill disposal to reduce negative and/or unwanted resources lost in the manufacturing process and to reduce adequate materials in landfills sites. Targets should achieve a minimum of 50% of construction, demolition and land clearing waste, excluded by weight Divert a minimum of 50% of construction waste by weight from landfill		◐	◐	◐	◐	1	1
MEQ-3	Resource Reuse	To maximize previously used building materials and products into new construction.	In accordance with the Materials Management Plan consider reuse of materials, materials and to model elements and features of the building. Materials for reuse typically include structural lumber and wood such as dimensional wood beams and wood deck substrates, structural steel, floor systems, insulation, bark and bits bark and treatment or paint lighting fixtures may be used in current and/or future structures such as substrates or substrates, and are contributing the area		○	○	○	◐		
MEQ-4	Materials with Recycled Content	To incorporate materials with recycled content and increase market demand for building materials and products that incorporate recycled content	Having developed the recycled content in accordance with the Materials Management Plan. The value of the recycled content materials of at least 10% of the total project materials value (mechanical and electrical equipment are not to be included in these calculations). Statements required against which calculating by the following formula: For post-consumer recycled content percentage of recycled materials are valued and multiply by value of materials. For post-industrial recycled content percentage of recycled content in the material. Multiply by 1/2 and multiply by value of the material		◐	◐	◐	◐	2	2
MEQ-5	Material Recovery	To reduce construction debris/waste sending from demolition projects by increasing the demand for building materials and products that are salvaged and/or manufactured or close proximity to the building site	Utilize development materials in accordance with the Materials Management Plan. Use a minimum of 20% of building materials based on cost that are manufactured within 500 miles of the site. Implement in the above mentioned the transportation "and manufacturing" take place		◐	◐	◐	◐	1	1
MEQ-6	Wood Certification	To verify wood which has been harvested according to sustainable forest management principles.	Where wood materials specified under the Forest Stewardship Council (Principles and Criteria (P&C)) in accordance with the Materials Management Plan. These materials may include dimensional framing components, flooring, doors, paneling, millwork and furnishings, furniture systems, etc. as well as, temporary formwork and wood construction materials. Required number of wood-bearing materials is number to verify independent. "Good Academy": One point requires that a minimum of 50% of wood based products (by value) are certified according to LEED™ criteria.		○	○	○	◐		1
MEQ-7	Agricultural materials	To encourage the development of materials which are renewable and still grow in such a way as to support biological diversity and the health of the ecosystem	In accordance with the Materials Management Plan use materials and agricultural materials building materials and products. Materials with annual growing cycles or which regenerate naturally within a 10-year-cycle are considered to be rapidly renewable materials. These materials include bamboo, paper, cork, reed, straw, jute, sisal, and agricultural products. Agricultural "waste" materials such as straw/fibre, sunflower seed hulls, and more are readily under this category. Natural agents for sustainable farms, which are more bio-physically sound of use of the material. Use agro-fibre composite for use applications, including, but restricted to, tool handles, and cement siding "Good Academy": One point requires that 5% of overall materials and products (by value) are renewable materials in LEED™ criteria.		○	○	○	◐		1

INDOOR ENVIRONMENTAL QUALITY											LEED™	
No.	Quality	WTC Guideline Purpose	WTC Guideline Action	Other	Best Practice	Commonly Used	Commonly Offered	Tenant	Base Zero	Base Shell
IEQ-1	IAQ Performance	Establish high indoor air quality levels and the delivery and maintaining of these levels by minimizing the potential for odor or dustiness and by establishing relevant risk management and operations.	Provide an Indoor Air Quality Management Plan that employs environmental and HVAC design strategies to minimize contaminant sources of particulate, chemical, biological and gaseous stress control and ongoing air quality monitoring to achieve a positive impact on the overall indoor environment and well being of the occupants. Meet the requirements of ASHRAE Standard 62-2001 "Ventilation for Acceptable Indoor Air Quality", among the Ventilation Rate Procedure. Prepare plan in accordance with the requirements of NYCDOH Reg §24 Part 12 and 13. Draft the plan in conformance with the EPA "Building Air Quality: A Guide for Building Owners and Facility Managers", NIOSH and EPA and Related NIOSH for Occupational Safety and Health, Building Air Quality Action Plan, 1991.		(A)	●	●	(E)	Req	Req
IEQ-2	Daylight & Views	Provide building occupants with connection to the outdoors through the introduction of daylight into frequently occupied areas of the building. Provide building occupants with views to the great city of Manhattan the outdoors, both day and night, and the spaces where possible.	Provide Provide a 30% daylight opening factor to 90% of regularly occupied interior spaces. Define based daylighting factor (DF) in accordance with the light source, frames and other elements, and ceiling geometries intended to optimize daylighting strategies. Quantify performance at important locations of the and report these with proposed findings. Report Work to maximize daylight penetration to the interior areas and better provide outdoor views. Provide views to the outdoors from occupied areas in closed rooms or conference and meeting rooms.		(A)	(●)	(●)	(E)	1	1
IEQ-3	Air Quality Monitoring	To reduce high indoor air quality contaminants by continuously monitoring pollutants in order to expeditiously implement appropriate corrective steps for the design and conditioning of building components.	Install an air quality monitor on the building and that most relevant related to the work in accordance with manufacturer's specifications of 24 hours CO-1 measurements to NYCDOH CB 17(2)(1). Cross-check measurements are found to be satisfactory, subsequent testing for the component is not required. Where construction-based contaminants exceed the established parameters in any specific area during the 8 year period, work to locate and remediate the contaminants, then high-end area with 100% outdoor air for a minimum of one week and record and a satisfactory result is achieved. Construction project to place the permanent indoor air quality monitoring system with upload and remote that provides feedback on ventilation performance and detailed concentration histories of contained carbon dioxide, carbon monoxide and volatile organic compound monitors "where practicable", the 2001 Indoor Air Quality Monitor, are installed exceedings in LEED™ credit.			●	●	(E)		1
IEQ-4	Homeowner Air Quality	To provide a public air for all occupied spaces in the building to support the comfort and well-being of building occupants and on the energy conservation measures.	Implement a test for compliance of Section 6, "Best Practices for Developing IAQ in the Homeowner Performance Manual & Ventilation Protocol, Volume II Operation and Practices for Improved Indoor Environmental Quality", March 2000 hard-back out. Provide capability for implementation to 100% outside air and allows where practicable and balances with energy conservation. "Where Practicable", the 2001 Indoor Air Quality Monitor, are installed exceedings in LEED™ credit.			●	●	(E)		1
IEQ-5	Construction IAQ Management Plan	To provide minimum standards for air quality in building areas with occupants.	Implement a Construction Indoor Air Quality Management Plan in accordance with the SMACNA 1995 Guidelines for HVAC Systems and the SMACNA IAQ 2 1 Heating System During construction, must or expect the mechanical Design Approach for Sheet Metal and Air Conditioning National Contractors Association (SMACNA) IAQ Guidelines for Occupied Buildings under Construction, Chapter 3. Use high efficiency filtration media in all HVAC returned paths during construction and replace all base building mechanical system filtration media with filtration Efficiency Rounding Value of 13 (MERV 13) filter in accordance with ASHRAE 52.2 – 1999 immediately prior to occupancy. On completion of construction and prior to occupancy, conduct baseline Indoor Air Quality tests using 100% outside air, in accordance with NYCDOH CB 17(2)(1). Results of Baseline tests used with new MERV 13 filters. Alternatively, test better of quality of outdoor building air to qualify 30,000 cfm, or by high flow 4 samples, measurements and analyzed results, to achieve an air quality profile in lieu of occupancy which complies the specific standards for carbon dioxide, carbon monoxide, formaldehyde, volatile organic compounds, particulates and ozone as per NYCDOH CD-11 measurements NYCDOH CB 17(2)(1) and results are optimal having positive level of IAQ to satisfy all of the Annual Production Requirements for LEED 2 1. Where concentration levels of contaminants exceed the recommended standards in any specific area, test and deal with 100% outside air for a minimum of two weeks and record and a satisfactory result is achieved.			●	●	(E)	2	2
IEQ-6	Indoor Contaminants Source Materials	To reduce the density of contaminants that are offered by common building materials and design effect the control and monitoring of building occupancy.	Develop and implement a Indoor Management Plan to minimize pollution of materials with high levels of volatile organic compounds (VOCs) and other toxic chemicals which adversely affect Indoor Air Quality (IAQ). VOCs must meet of at least than those in the following standards: Adhesives and sealant South Coast Air Quality Management District Rule 1168 Paints and stains Green Seal Standard GS-11 Carpet and carpet cushions, Carpet and Rug Institute Green Label Indoor Air Quality Test Program Hardwood plywood, particle board, medium density fiberboard and wood products per ANSI/HPMA IAQ 99 "Where Practicable", the Green Seal Standard GS-11 and the Carpet and Rug Institute Green Label Indoor Air Quality Test Program are utilized in carpets and hardwood adhesives, sealant and paints, formaldehyde emissions, exceeding in LEED™ credit.			●	●	(E)	3	4
IEQ-7	Chemical & Pollution Control	To minimize exposure of chemical and pollution or contamination.	Develop of water schedule with all tenants and all groups to control contaminated water. Provide lockable contained sink of garbage at all floors and shafts, locking dumpsters, maintenance schedule for floor replacement. Build individual partitions and private lavatories for tenants of at least 10% with limited exhaust systems of at least. Refuse of solid waste with packing and recycling equipment, contained waste and all chemical use plan. Locate contaminated equipment that directly or potential for contamination of cabinets or other facility locations. Provide drains for appropriate disposal of liquid waste in areas where water and chemical compositions exists.			●	●	(E)	1	1

INDOOR ENVIRONMENTAL QUALITY										LEED®	
No.	Quality	WTC Guideline Purpose	WTC Guideline Action	LEED	Silver Point	Comments	Comments	Comments	Points	Points Achieved	Points Pending
IEQ-1	Tobacco Control	To provide building users with a high level of control against to promote comfort, well-being and enhanced productivity	Design the building efficient in accordance with ASHRAE Standard 62-2004 to manage low level of oil, Pollutant and thermal energy in the building. Include flexibility for adjustments to thermal conditions to address seasonal changes and scheduled modifications or special needs of staff. Design an integrated control (thermal shell and HVAC) that allows building occupants to monitor and control for temperature at work zone. To meet environmental parameters, mechanical systems must be designed to deal with seasonal and daily variations to that they are able to achieve acceptable thermal comfort levels. "Silver Standard", the good standard of ASHRAE Standard 55-2004 will be adopted for the LEED® in lieu of Standard 55-1992.			●	●	Ⓔ		1
IEQ-2	Pest Control	To mitigate health concerns caused by pest contained pests, their equipment and the chemicals used to control them.	Develop an integrated Pest Management Plan based on USEPA Pest Management principles, which prioritizes physical controls and non-pesticide management over pesticide application. Physical controls include building sealing strategies, improved sanitation, pest-resistant plantings and improved maintenance of wet areas. When necessary, bait boxes and other surface applications in lieu of more toxic chemicals in control and damage control applications from feeding.		●	●	●	Ⓔ			
IEQ-3	Adequate Control	To provide building occupants with a high level of control, ventilation and lighting system control to promote productivity, comfort and well-being.	Provide building occupants with control over indoor climate and lighting systems including individual lighting which complement and improve thermal comfort and lighting. Provide operable windows where practicable and feasible.			●	●	Ⓔ			
IEQ-4	Ventilation	Minimize contaminant and odour levels in outdoor spaces and in interior environments to achieve appropriate ventilation and thermal comfort for health and disease susceptibility, while contributing to human well-being and productivity.	Ventilate occupied and unoccupied spaces with outdoor air in accordance with ASHRAE Standard 62-2004 and other relevant of HVAC equipment and other sources of indoor air pollutants. Design ventilation to maintain adequate air flow. Consider strategies to minimize the transmission of outdoor contaminants. Comply with the requirements of ASHRAE Applications Chapter 45 Design Guidelines to include operable windows and vestibules from occupied spaces, and the Architectural Graphic Standards 9th Edition, Sound Transmission Class Table, properly to minimize unwanted sounds from outside, other spaces such as offices, meeting rooms and other occupied areas.			●	●	Ⓔ			
IEQ-5	Lighting Quality	To achieve optimized lighting design, to maximize quality and efficiency of artificial lighting and fully coordinate with daylighting.	Design an adequate artificial lighting system that is distributed and equipped provided to provide flexible illumination. Conform to and the recommendations of the Illuminating Engineering Society of North America (IESNA) 9th Edition Handbook, Chapter 18 Quality of the Visual Environment, and the Lighting Design Guide. Provide high frequency electronic ballasts, compatible lamps and low mercury pre-fixed lamps as defined by the US Environmental Protection Agency's Toxicity Characteristic Leaching Procedure (TCLP) testing procedure. Supplement artificial lighting system with multi-level task lighting to maintain a minimum of 20 footcandles in typical office areas of each work area throughout hours of occupancy.			●	●	Ⓔ			

Notes
1. Table of impacts and strategies to achieve an LEED® "Silver", the "base Points" represent the minimum results for certification corresponding to the requirements of EO-111 (2) & the strategies for "Certification" level. 20 is the minimum for "Silver" level and accessible alternatives must be made for points unobtainable elsewhere in an equal commitment.
2. All Standard items, EO-compliant planning and design approaches of (full implementation, partial implementation and tracking) of standard items and measures which extend beyond the boundaries of any development and could be considered under the Innovation Credit category as defined by the USGBC. Point equivalences and other potential innovation strategies might be pursued and they will contribute to achievement of a LEED® "Silver" level rating.

LEED Professional	1	1
Innovation (4 of 4 points)	4	4
Designated LEED Points	30	37

Exhibit E-1

Insurance

LABOR AND MATERIAL
June 3, 2004

INSURANCE RIDER

PROJECT: FREEDOM TOWER
1 WORLD TRADE CENTER
New York, New York

TRADE: Selective Demolition, Structural Bracing, and Temporary Rock Anchors

INSURANCE

Prior to commencement of any work under this Contract and until all obligations under this contract are fulfilled, the Contractor and each and every Subcontractor of the contractor shall, at its sole expense, maintain the following insurance on its own behalf, and furnish to WTC Redevelopment LLC and Tishman, Certificates of Insurance evidencing same and reflecting the effective date of such coverage as follows:

The term "Contractor" and/or "Subcontractor" as used in this insurance rider, shall mean and include Contractors and Subcontractors of every tier.

A. Worker's Compensation and Occupational Disease Insurance in accordance with the applicable law or laws: Employer's Liability Insurance with Limit of Liability as required by New York State.

   The Contractor shall provide a copy of the "Employer's First Report of Injury" or its equivalent to Tishman Construction Corporation, 666 Fifth Avenue, New York, New York 10103, Attn: Insurance Department, within thirty (30) days of any injury or illness to any employee of the contractor arising out of, or alleged to have arisen out of or during the course of work performed on this project. Contractor shall cooperate by providing all reports mandated by the State of New York upon request.

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 Fifty Million ($50,000,000) Dollars per occurrence and in the aggregate. The general aggregate must be applicable on a per project basis. Coverage must include the following perils:

   1. Contractual Liability for liability assumed under this Contract and all other Contracts relative to the project.

   2. Completed Operations/Products Liability with a five (5) year extension beyond completion and acceptance of the project.

   3. Broad Form Property Damage.

   4. "XC&U" Perils, where applicable

   5. Personal Injury Liability (A, B & C)

   6. Independent Contractors.

   7. Endorsement (CG2010 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.

   8. Coverage is to be endorsed to reflect that the insurance provided is to be primary and non-contributory for the Contractor, WTC Redevelopment LLC, Tishman and all other indemnities named in the Contract.

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 WTC Redevelopment LLC and Tishman.

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 Tishman Construction Corporation.

11. The Certificate of Insurance and Liability policies must contain the following endorsement.

    "The insurance carrier(s) shall not, without obtaining the express advance written 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, and immunity of the Port Authority, its commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statues respecting suits against the Port Authority."

12. The liability policy(ies) and Certificate of Insurance shall contain cross-liability language providing severability of interests so that coverage will respond as if separate policies where in force for each insured.

C. Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles with a combined Bodily Injury and Property Damage Limit of at least One Million ($2,000,000) Dollars. Automobile insurance must include all additional insureds and be scheduled as primary on the Umbrella policy.

D. Commercial Professional Liability Insurance (CPLI) covering the design all shoring and temporary structures of at least Five Million ($5,000,000) Dollars. CPLI must include all additional insureds.

E. Railroad Protective Liability Insurance (RPLI) work including all shoring and temporary structures of at least Four Million ($4,000,000) Dollars per occurrence, with an aggregate of at least Six Million ($6,000,000) Dollars. RPLI must include all additional insureds.

F. Where an Off Project Site property exposure exists, the Contractor at its sole expense shall furnish to WTC Redevelopment LLC and Tishman, 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 indemnitees named in the contract.

G. The above insurance shall each contain the following wording verbatim:

    "WTC Redevelopment LLC and Tishman Construction Corporation 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) day advance written notice to WTC Redevelopment LLC c/o Silverstein Properties, Inc., 530 Fifth Avenue, New York, New York 10036, Attn: David Worsley, Tishman Construction Corporation, 666 Fifth Avenue, New York, New York 10103, Attn: Insurance Department and The Port Authority of NY & NJ, 225 Park Avenue South, 12th Floor, NY, NY 10003 - Att: Winson Fung, by certified mail-returned receipt requested."

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 their Subcontractors.

I. The Contractors shall file certificates of insurance prior to the commencement of work and with WTC Redevelopment LLC and Tishman which shall be subject to WTC Redevelopment LLC and Tishman'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, WTC Redevelopment LLC and/or Tishman 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 WTC Redevelopment LLC and/or Tishman immediately upon presentation of a bill.

J. The Contractors and Subcontractors performing work or services in connection with the project shall maintain "All Risk" Property Insurance for all materials, equipment and supplies located at the project site and for Temporary Structures and Contractor's Tools and Equipment until completion of the project. Coverage is to be provided on a replacement cost basis.

K. 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.

L. The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility of liability under the Contract.

M. Any policies effected by the Contractor on their Owned and/or Rented Equipment and Materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation against WTC Redevelopment LLC, World Trade Center Properties, LLC., Silverstein Properties Inc., Port Authority of New York & New Jersey, and Tishman Construction Corporation and all other additional insureds and indemnitees named in the Contract.

N. 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 One Million Dollars per occurrence and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the Contractor.

O. Within five (5) days after the award of this contract and prior to the start of work, the contractor must submit an original Certificate of Insurance, to the Port Authority of NY & NJ, Facility Contract Administrator, at the location where the work will take place. This Certificate of Insurance MUST show evidence of the above insurance policy (ies), stating the agreement/contract number prior to the start of work. Upon request by the Port Authority, the Contractor shall furnish to the General Manager, Risk Management, a certified copy of each policy, including the premiums.

Schedule 1 - Additional Insureds:

WTC Redevelopment LLC
World Trade Center Properties, LLC
One World Trade Center LLC
Two World Trade Center LLC
Four World Trade Center LLC
Five World Trade Center LLC
Net Lessees' Association of the World Trade Center
Silverstein WTC Facility Manager LLC
Silverstein Properties Inc.
Silverstein Development Co.
Larry A. Silverstein (as an individual)
The Port Authority of New York & New Jersey
Port Authority Trans Hudson (PATH)
WTC Retail LLC
Tishman Construction Corporation
Tishman Realty & Construction Co., Inc.
Tishman Construction Corporation of New York and the parents and affiliates of each of them.

Exhibit E-2

Additional Insured Entities

WTC Redevelopment LLC

World Trade Center Properties, LLC

1 World Trade Center LLC

2 World Trade Center LLC

4 World Trade Center LLC

5 World Trade Center LLC

Net Lessees' Association of the World Trade Center

Silverstein WTC Facility Manager LLC

Silverstein Properties, Inc.

Silverstein Development Co.

Larry A. Silverstein (as an individual)

The Port Authority of New York and New Jersey

Port Authority Trans-Hudson Corporation

WTC Retail LLC

Tishman Construction Corporation

Tishman Realty & Construction Co., Inc.

Tishman Construction Corporation of New York

and the parents and affiliates of each of them

SECOND AMENDMENT TO GENERAL CONTRACTOR AGREEMENT

THIS SECOND AMENDMENT TO GENERAL CONTRACTOR AGREEMENT (this "Second Amendment"), dated as of November 16 2006, by and among (a) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, having an office at 666 Fifth Avenue, New York, N.Y. 10103 ("Tishman"); (b) 1 WORLD TRADE CENTER LLC, a Delaware limited liability company, having an office c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York 10003 ("1 WTC"); (c) 2 WORLD TRADE CENTER LLC ("2 WTC"); (d) 3 WORLD TRADE CENTER LLC, formerly known as 5 World Trade Center LLC ("3 WTC"); and (e) 4 WORLD TRADE CENTER LLC ("4 WTC") (2 WTC, 3 WTC and 4 WTC, collectively, the "SP Lessees", and each a Delaware limited liability company, having an office c/o Silverstein Properties, Inc., 7 World Trade Center, New York, New York 10007) (the SP Lessees, together with 1 WTC, the "Lessees").

W I T N E S S E T H:

WHEREAS, the Lessees leases various components of the new World Trade Center site in New York, New York from The Port Authority of New York and New Jersey (the "Port Authority"), and in connection with the redevelopment of the Site, the Lessees and Tishman entered into a General Contractor Agreement, dated as of September 10, 2003 (as amended by that certain Amendment to General Contractor Agreement, dated as of July 1, 2004, the "General Contractor Agreement");

WHEREAS, immediately prior to the execution hereof, the Port Authority has acquired all of the ownership interests in 1 WTC, which entity holds the net leasehold interest in, and other rights to, Site 1;

WHEREAS, 1 WTC may hereafter acquire the net leasehold interest in Site 5, which net leasehold interest may be transferred by 1 WTC to another entity;

WHEREAS, simultaneously with the execution hereof, the Lessees, the Port Authority and WTC Retail LLC (formerly known as Westfield WTC LLC), a Delaware limited liability company, are entering into that certain Master Development Agreement for Towers 2/3/4 of the World Trade Center (as amended, the "Master Development Agreement");

WHEREAS, the parties wish to amend the General Contractor Agreement to clarify the rights and obligations of the Lessees contained therein; and

WHEREAS, the General Contractor Agreement contemplates amendment of, and each of the Lessees and Tishman expect to further amend from time to time, the General Contractor Agreement for purposes of modifying, supplementing or clarifying contractual terms and conditions that apply to each Lessee separately.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

1. Defined Terms.

(a) Capitalized terms used herein but not defined herein shall have the respective meanings assigned to them in the General Contractor Agreement or on Exhibit A attached hereto, as applicable. For purposes of this Second Amendment, if a capitalized term used herein but not defined herein is defined in both the General Contractor Agreement and Exhibit A, such term shall have the meaning assigned to it in Exhibit A.

(b) Whenever used in the General Contractor Agreement, the term "Lessee" and "Lessees" shall mean: (i) with respect to Tower 1 (also known as Freedom Tower), Site 1 or the Tower 1 Project, "1 WTC" only; (ii) with respect to Tower 2, Site 2 or the Tower 2 Project, "2 WTC" only; (iii) with respect to Tower 3, Site 3 or the Tower 3 Project, "3 WTC" only; (iv) with respect to Tower 4, Site 4 or the Tower 4 Project, "4 WTC" only; and (v) with respect to Tower 5, Site 5 or the Tower 5 Project, "1 WTC" only.

(c) Whenever used in the General Contractor Agreement, the term "Project" shall mean: (i) with respect to Site 1, Tower 1, 1 WTC (in its capacity as the net lessee of Site 1) or the Amended and Restated Lease applicable thereto, the "Tower 1 Project" only; (ii) with respect to Site 2, Tower 2, 2 WTC or the Amended and Restated Lease applicable thereto, the "Tower 2 Project" only; (iii) with respect to Site 3, Tower 3, 3 WTC or the Amended and Restated Lease applicable thereto, the "Tower 3 Project" only; (iv) with respect to Site 4, Tower 4, 4 WTC or the Amended and Restated Lease applicable thereto, the "Tower 4 Project" only; (v) with respect to Site 5, Tower 5, 1 WTC (in its capacity as the net lessee of Site 5) or any other entity that is the net lessee of Site 5, the "Tower 5 Project" only.

2. Lessee Obligations and Rights.

(a) Notwithstanding anything contained in the General Contractor Agreement to the contrary, (i) each Lessee's obligations and liabilities under the General Contractor Agreement shall relate, and be limited solely to, (x) the Project applicable to such Lessee pursuant to Section 1(c) above and (y) any other Work if authorized by such Lessee to be performed directly or indirectly by Tishman pursuant to the General Contractor Agreement (whether or not related to its Project or otherwise), and (ii) no Lessee shall be responsible for, or shall be deemed to have assumed, any obligations or liabilities of any of the other Lessees under, or in connection with, the General Contractor Agreement (whether arising before, on or after the date hereof).

(b) Notwithstanding anything contained in the General Contractor Agreement to the contrary, (i) each Lessee, with respect to its Project, shall possess all rights and remedies of the "Lessee" or "Lessees" under the General Contractor Agreement and, acting individually, has full power and authority to exercise any such right or remedy with respect to its Project (subject to the terms and conditions of Section 17.4 of the General Contractor Agreement with respect to each separate Project), and (ii) no Lessee shall have any right or remedy under the General Contractor Agreement except with respect to its Project. The General Contractor Agreement may be amended further hereafter by each Lessee with respect to its Project, without any consent or other approval by any other Lessee, which further amendment shall not amend the General Contractor Agreement with respect to the rights or obligations of the other Lessees under the General Contractor Agreement.

(c) Notwithstanding anything contained in the General Contractor Agreement to the contrary, Tishman hereby consents to any assignment by 1 WTC of the General Contractor Agreement with respect to Tower 5 and the Tower 5 Project to any entity affiliated with the Port Authority. The right of transfer set forth above is described for purposes of clarification and shall not be construed or interpreted as limiting any other right of transfer of a Lessee under the General Contractor Agreement with respect to its Project.

(d) Tishman shall not be entitled to assert any Claim or request any relief under the General Contractor Agreement with respect to any Project, to the extent such Claim or request arises out of or results from any default or failure to perform by Tishman in connection with any other Project.

3. Amended Provision. Section 4.6 of the General Contractor Agreement is hereby amended and restated in its entirety as follows:

> Each of the Lessees shall designate a representative who shall be fully acquainted with the scope of the Work and such Lessee's requirements and objectives and who has full authority to render decisions promptly, furnish information as expeditiously as possible and to act on behalf of the Lessee and bind the Lessee in connection with all aspects of this Agreement and the Project. Until written notice is given to the contrary, (a) Larry A. Silverstein, Michael Levy and Janno Lieber are hereby designated as the representatives of each of 2 WTC, 3 WTC and 4 WTC, each with full power and authority to act on each of such Lessees' behalf as aforesaid, and (b) Milo Riverso is hereby designated as the representative of 1 WTC with full power and authority to act on behalf of 1 WTC as aforesaid. Notwithstanding anything to the contrary contained herein, prior to the commencement of construction of any Sub-Project, the applicable Lessee shall appoint a third-party representative who shall be fully acquainted with the scope of the Work and such Lessee's requirements and objectives and who, subject to such Lessee's approval, shall have full authority to render decisions promptly, furnish information as expeditiously as possible and to act on behalf of such Lessee.

4. Release and Transfer. Notwithstanding anything contained in the General Contractor Agreement to the contrary:

(a) *Release of Silverstein Parties*. The Silverstein Parties are hereby released by Tishman and its past, present and future Affiliates, and they and their Affiliates' respective shareholders, officers, commissioners, directors, members, managers, employees, beneficiaries, successors and permitted assigns, as applicable (collectively, the "Tishman Group") from all Claims that any member of the Tishman Group has or may have against any member of the Silverstein Parties with respect to or arising from, under or out of, otherwise relating to, or based upon the following:

(1) if Accrued after the date hereof, any obligations or liabilities (i) of 1 WTC or any other entity that is the net lessee of Site 5 or Site 1 (or any of their successors or permitted assigns) under this Second Amendment, or (ii) pertaining to Tower 1, Tower 5, Site 1, Site 5, the Tower 1 Project, or the Tower 5 Project; or

(2) if Accrued on or before the date hereof, only those obligations and liabilities of 1 WTC under the General Contractor Agreement pertaining to work or services performed under (x) that certain subcontract agreement for World Trade Center – Tower One, dated June 16, 2006 (and signed September 6, 2006), by and between Tishman Construction Corporation and Banker Steel Company and (y) Alternate No. 8 of Rider C to that certain subcontract agreement for World Trade Center – Tower One, dated March 8, 2006 by and between Tishman Construction Corporation and The Laquila Group, Inc. (the obligations and liabilities pertaining to Clauses (x) and (y) are the "Retained Obligations").

(b) *Release of 1 WTC Group*. 1 WTC and each of its respective past, present and future Affiliates, and they and their Affiliates' respective members, officers, directors, members, managers, employees, beneficiaries, successors and permitted assigns, as applicable (collectively, the "1 WTC Group"), is hereby released by the Tishman Group from all Claims that any member of the Tishman Group has or may have against any member of the 1 WTC Group with respect to or arising from, under or out of, otherwise relating to, or based upon the following:

(1) whether Accrued before, on or after the date hereof, any obligations or liabilities (i) of the SP Lessees (or any of their respective successors or permitted assigns) under this Second Amendment, or (ii) pertaining to Tower 2, Tower 3, Tower 4, Site 2, Site 3, Site 4, the Tower 2 Project, the Tower 3 Project or the Tower 4 Project; or

(2) if Accrued on or before the date hereof, any obligations or liabilities (i) of 1 WTC under the General Contractor Agreement, or (ii) pertaining to Tower 1, Tower 5, Site 1, Site 5, the Tower 1 Project, or the Tower 5 Project; provided, however, that the release set forth above in this Subparagraph 4(a)(2) shall not apply to the Retained Obligations.

(c) *Transfer*. The Tishman Group shall look solely to the Silverstein Parties for payment or recovery of all liabilities and obligations for which the Tishman Group releases the 1 WTC Group under Subparagraph 4(b)(2) (the "Transferred Obligations"). 1 WTC, on behalf of the 1 WTC Group, hereby transfers all of the Transferred Obligations to the Silverstein Parties, and the SP Lessees, on behalf of the Silverstein Parties, accept such transfer and agree to be responsible to the Tishman Group for all of the Transferred Obligations.

(d) *No Waiver/Release*. Nothing in Paragraph 4 of this Second Amendment shall or shall be deemed to be a waiver or release by Tishman of (i) any claim by Tishman related to

or arising from a third party claim made against Tishman in connection with the Demolition Sub-Project if and to the extent that WTC Redevelopment LLC owes Tishman indemnity obligations for any such claim or insurance coverage obligations for any such claim, in each case pursuant to Section 4.9 of the General Contractor Agreement or (ii) any claim arising from, or in connection with, environmental matters existing on the World Trade Center site on or before September 11, 2001, including, without limitation, bodily injury claims arising therefrom

5. Effect of Amendment. Except as amended by this Second Amendment, the terms and provisions of the General Contractor Agreement remain unmodified and in full force and effect. Any future reference to the General Contractor Agreement shall be deemed to be a reference to the General Contractor Agreement, as amended by this Second Amendment, and as same, from time to time, hereafter may be further amended; provided, however, that any such further amendment shall amend the General Contractor Agreement only with respect to the Lessee to which such amendment applies, and shall not amend the General Contractor Agreement with respect to any other Lessee.

6. Not a Waiver. Except as expressly provided in this Second Amendment, nothing contained in or contemplated by this Second Amendment shall constitute, or be construed as (a) the waiver by any party of such party's rights or another party's obligations under the General Contractor Agreement, or (b) the consent or approval by any party of any matter, decision or selection requiring the consent or approval of such party under the General Contractor Agreement.

7. Counterparts. This Second Amendment may be signed in counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of such counterparts shall together constitute but one and the same instrument.

8. Successors and Assigns. This Second Amendment has been duly authorized by each of by each of the parties hereto, and shall be binding on, and shall inure to the benefit of, the heirs, legal representatives, successors and permitted assigns of the parties hereto

9. Further Assurances. Subject to the terms and conditions of this Second Amendment, each party shall use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and orders to consummate or carry out the transactions contemplated by this Second Amendment.

10. Governing Law. This Second Amendment shall be governed by and construed in accordance with the laws of the State of New York.

11. No Amendment. This Second Amendment may not be changed, amended, modified, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of such change, amendment, modification, waiver, discharge or termination is sought.

12. No Liability. No commissioner, officer, director, agent or employee of any party or its respective Affiliates (or any other person authorized to act on behalf of any of the parties) shall be charged personally with any liability or held personally liable under any provision of this Second Amendment or because of any breach hereof.

13. Notices.

To the SP Lessees:

The SP Lessees
c/o Silverstein Properties, Inc.
7 World Trade Center
New York, NY 10007
Attention: Larry Silverstein

With copies to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Attention: Robin Panovka, Esq.

To 1 WTC:

c/o The Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003
Attention: Mr. Milo Riverso

With copies to:

The Port Authority of New York and NJ
225 Park Avenue South
New York, NY 10003
Attention: General Counsel

To Tishman:

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attention: John T. Livingston, President

With a copy to:

Tishman Construction Corporation
666 Fifth Avenue

New York, New York 10103
Attention: Michael J. Mennella, Executive Vice President

14. Entire Agreement. This Second Amendment (together with the General Contractor Agreement) constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and there are no other agreements, understandings, undertakings, representations or warranties among the parties hereto with respect to the subject matter hereof except as set forth herein.

15. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original agreement, but all of which shall constitute one and the same agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have caused this Second Amendment to General Contractor Agreement to be duly executed as of the day and year first above written.

TISHMAN CONSTRUCTION CORPORATION

By: _____

Name: Jay Badame
Title: Chief Operating Officer

1 World Trade Center LLC

By: The Port Authority of New York and New Jersey,
its sole member

By: _____
Name: Michael B. Francois
Title: Chief of Real Estate and Development
The Port Authority of New York and New Jersey

2 WORLD TRADE CENTER LLC

By: _____
Name: Michael Levy
Title: Senior Vice President

3 WORLD TRADE CENTER LLC

By: _____
Name: Michael Levy
Title: Senior Vice President

4 WORLD TRADE CENTER LLC

By: _____
Name: Michael Levy
Title: Senior Vice President

ACKNOWLEDGED AND AGREED:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: Michel B. Francois
Title: Chief of Real Estate and Development
The Port Authority of New York and New Jersey

EXHIBIT A

"1 WTC Lease" shall mean the Amended and Restated Agreement of Lease between 1 WTC LLC, as lessee, and the Port Authority, as lessor, as hereinafter amended.

"2 WTC Lease" shall mean the Amended and Restated Agreement of Lease between 2 WTC LLC, as lessee, and the Port Authority, as lessor, as hereinafter amended.

"3 WTC Lease" shall mean the Amended and Restated Agreement of Lease between 3 WTC LLC, as lessee, and the Port Authority, as lessor, as hereinafter amended.

"4 WTC Lease" shall mean the Amended and Restated Agreement of Lease between 4 WTC LLC, as lessee, and the Port Authority, as lessor, as hereinafter amended.

"Accrued" shall mean, with respect to any obligation or liability, the occurrence of the event, act, error, omission or Claim, from which or out of which the obligation or liability results or arises, regardless of when any invoice, bill, notice, demand or claim for such obligation or liability is made, delivered or received.

"Affiliate" and "Affiliates" shall mean, as applied to any Person, any other Person or other business entity which is and continues to be Controlled By, or which Controls, or which is Under Common Control With or which is Controlled By an entity which Controls, or into or with which the entity is merged or consolidated if an assignment is required in connection with such merger or consolidation with, that Person.

"Claim" shall mean any action, claim, suit, arbitration, inquiry, litigation, proceeding, governmental or regulatory investigation, cause of action, judgment, execution or demand, in each case at law, in equity or otherwise.

"Control" shall mean the power to direct or cause the direction of the business decisions of a Person, whether through the ownership of voting securities or by contract or otherwise (it being understood that the right of an owner of equity in a Person to make or veto major decisions shall not constitute such power to direct or cause the direction of the business decisions of such Person as would prevent another equity owner to have Control of such Person as contemplated by this definition); and the terms "Controlled By", "Controls", and "Under Common Control With" shall have the meanings correlative to the foregoing.

"Dimensioned Site Plan" shall mean the color graphic site plan of the World Trade Center attached hereto as Exhibit B.

"East Bathtub" shall mean that portion of the WTC Property depicted on the Dimensioned Site Plan in accordance with the legend set forth therein, and as described (including horizontal and vertical limits) in the East Bathtub space allocation concept design under development for this portion of the WTC Property.

"East Bathtub Improvements" shall mean the improvements required to be constructed on and in the East Bathtub, including, without limitation, the portion of each Tower located within the Podium, the below grade and above grade improvements associated with each Tower and The Port-Authority Trans-Hudson Corporation terminal.

"Person" shall mean and include an individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department, authority or agency thereof.

"Podium" shall mean the multi-story base structure of each Tower, above which will be located the high-rise multi-story office structure of each Tower and below which will be located structural support for the Towers and subgrade development.

"Silverstein Parties" shall mean the SP Lessees, their respective Affiliates or they and their respective Affiliates' officers, members, directors, employees, agents, representatives, contractors, customers, guests, invitees or other third parties authorized to act on behalf of any of the SP Lessees or any of their heirs, executors, successors or assigns, as applicable.

"Site" shall mean the applicable portion of WTC Property, as described and depicted on the Dimensioned Site Plan, upon and within which each Tower and associated East Bathtub Improvements are to be located.

"Site 1" shall mean the Site, upon and within which, Tower 1 will be located, as depicted and described on the Dimensioned Site Plan and as demised to an SP Lessee under the 1 WTC Lease.

"Site 2" shall mean the Site, upon and within which, Tower 2 will be located, as depicted and described on the Dimensioned Site Plan and as demised to an SP Lessee under the 2 WTC Lease.

"Site 3" shall mean the Site, upon and within which, Tower 3 will be located, as depicted and described on the Dimensioned Site Plan and as demised to an SP Lessee under the 3 WTC Lease.

"Site 4" shall mean the Site, upon and within which, Tower 4 will be located, as depicted and described on the Dimensioned Site Plan and as demised to an SP Lessee under the 4 WTC Lease and as demised under the 1 WTC Lease.

"Site 5" shall mean the Site, upon and within which, Tower 5 will be located, as depicted and described on the Dimensioned Site Plan and as demised to 1 WTC under the 5 WTC Lease.

"Tower" shall mean the building to be located upon and within an applicable Site pursuant to the provisions of this Agreement including, without limitation, the East Bathtub space allocation concept design under development.

"Tower 1" shall mean the Tower to be located upon and within Site 1, which Tower is also known as Freedom Tower.

"Tower 1 Project" shall mean the development, design and construction of Tower 1.

"Tower 2" shall mean the Tower to be located upon and within Site 2.

"Tower 2 Project" shall mean the development, design and construction of Tower 2.

"Tower 3" shall mean the Tower to be located upon and within Site 3.

"Tower 3 Project" shall mean the development, design and construction of Tower 3.

"Tower 4" shall mean the Tower to be located upon and within Site 4.

"Tower 4 Project" shall mean the development, design and construction of Tower 4.

"Tower 5" shall mean the Tower to be located upon and within Site 5.

"Tower 5 Project" shall mean the development, design and construction of Tower 5.

"WTC Property" the property occupying the World Trade Center.

EXHIBIT B

Dimensioned Site Plan

[To be Attached]

THIRD FREEDOM TOWER AMENDMENT

TO

GENERAL CONTRACTOR AGREEMENT

THIS THIRD FREEDOM TOWER AMENDMENT TO GENERAL CONTRACTOR AGREEMENT (the "Third Freedom Tower Amendment"), dated as of July 13, 2007, is entered into, for purposes of amending the General Contractor Agreement with respect to the Tower 1 Project, by and among (a) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, having an office at 666 Fifth Avenue, New York, N.Y. 10103 ("Tishman" or "Construction Manager"); and (b) 1 WORLD TRADE CENTER LLC, a Delaware Limited Liability Company, having an office c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York 10003 ("1 WTC").

WITNESSETH:

WHEREAS, 1 WTC, 2 WTC, 3 WTC and 4 WTC (collectively the "Lessees") each lease various portions of the new World Trade Center site in New York, New York (the "World Trade Center") from The Port Authority of New York and New Jersey (the "Authority");

WHEREAS, the Lessees and Tishman entered into a General Contractor Agreement, dated September 10, 2003 (and as amended prior to this Third Freedom Tower Amendment, the "General Contractor Agreement"), in connection with the redevelopment of the World Trade Center;

WHEREAS, the General Contractor Agreement was amended by a "First Amendment to General Contractor Agreement," dated July 1, 2004 (the "First Amendment"), which First Amendment provides for various demolition activities;

WHEREAS, the General Contractor Agreement was amended by a "Second Amendment to General Contractor Agreement", dated November 16, 2006 (the "Second Amendment"), which Second Amendment, among other things, provides that the General Contractor Agreement shall apply separately to each Lessee with respect to the Project of that Lessee contemplated as part of the redevelopment of the World Trade Center under the General Contractor Agreement;

WHEREAS, on November 16, 2006 (the "Closing Date"), the Authority acquired all of the ownership interests in 1 WTC, which holds the net leasehold interest in, and other rights to, Site 1;

WHEREAS, pursuant to the Second Amendment, 1 WTC has the full right and authority, without any notice to or consent or authorization from, any other Lessee, to further amend the General Contractor Agreement with respect to Site 1 and the Tower 1 Project (commonly referred to as the "Freedom Tower");

WHEREAS, 1 WTC and Tishman have agreed that under certain circumstances Tishman will continue to act as a general contractor with respect to the Project, and under other circumstances Tishman will act as an agent construction manager with respect to the Project; and

WHEREAS, 1 WTC and Tishman wish to amend further the General Contractor Agreement in order to modify and clarify the terms and conditions of the General Contractor Agreement that apply to 1 WTC and Tishman with respect to the Tower 1 Project under various circumstances.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

1. Defined Terms. Capitalized terms used but not defined in this Third Freedom Tower Amendment shall have the respective meanings assigned to them in the Schedule of Defined Terms, attached hereto and made part hereof as Exhibit 1.

2. Terms and Conditions of General Contractor Agreement. Tishman has acted as a general contractor under the General Contractor Agreement with respect to all work and services in connection with Site 1 and the Tower 1 Project performed on or before the Closing Date. Prior to the Closing Date, Tishman entered into certain subcontract agreements in connection with Site 1 and the Tower 1 Project (each a "Subcontract"), which Subcontracts are set forth in the Schedule of Subcontracts, attached hereto and made part hereof as Exhibit 2. With respect to work and services in connection with some or all of the Subcontracts performed after the Closing Date, Tishman shall continue to act as a general contractor. With respect to other work and services in connection with Site 1 and the Tower 1 Project performed after the Closing Date, Tishman will act as an agent construction manager. Therefore, because of the different capacities in which Tishman will act and other agreements between 1 WTC and Tishman, the terms and conditions of the General Contractor Agreement with respect to Site 1 and the Tower 1 Project shall be modified by this Third Freedom Tower Amendment, under the circumstances and as described below in this Article 2.

2.1 *Pre-Closing, Non-Retained Obligations.* With respect to all work and services performed by, under or through Tishman in connection with Site 1 or the Tower 1 Project on or before the Closing Date, excepting only the Retained Obligations, the rights and obligations of 1 WTC and Tishman shall remain as set forth in the General Contractor Agreement, and shall not be modified by this Third Freedom Tower Amendment; provided, however, that Tishman confirms that (i) all work and services contemplated under the First Amendment have been performed in full, and (ii) except for the Retained Obligations only, Tishman has released 1 WTC and other persons and entities from, among other things, all obligations and liabilities accruing on or before the

2.4.1 If Tishman, despite its best efforts, is unable to achieve the requirements of both clause (i) and clause (ii) immediately above with respect to a Subcontract to which Paragraph 2.4 applies, then: (a) such Subcontract shall not be terminated; (b) with respect to any work and services performed by, under or through Tishman that pertains directly to such Subcontract, the General Contractor Agreement shall be deemed further modified by the Schedule of GC Terms and Conditions, attached hereto and made part hereof as Exhibit B; and, (c) Tishman shall use best efforts to modify further such Subcontract as requested by 1 WTC.

2.4.2 Anything in this Third Freedom Tower Amendment to the contrary notwithstanding, to the extent that a subcontractor identified in the Schedule of Subcontracts (each a "Subcontractor") refuses to comply with any of the provisions of a trade contract approved by 1 WTC or of the Part B Agreement, as the case may be, to the extent such provisions differ from the current contractual obligations of that Subcontractor under the applicable Subcontract, such refusal shall not be deemed to be a breach by Tishman of this Third Freedom Tower Amendment, provided that Tishman uses its best efforts to cause such compliance.

2.4.3 If requested by 1 WTC in writing, Tishman shall terminate any Subcontract.

3. Effect of Third Freedom Tower Amendment.

3.1 This Third Freedom Tower Amendment applies to the General Contractor Agreement with respect to Site 1 and the Tower 1 Project, only.

3.2 For purposes of Paragraphs 2.2 and 2.3 above, the "Terms and Conditions of the General Contractor Agreement" shall be deemed to mean all recitals, provisions, exhibits and text that is contained, or incorporated by reference, in the General Contractor Agreement prior to any amendment. For the avoidance of doubt, any deletion of the Terms and Conditions of the General Contractor Agreement pursuant to Paragraphs 2.2 and 2.3 above does not delete or modify any provision or agreement set forth in the First Amendment or Second Amendment except for only that portion of such provision or agreement in either the First Amendment or Second Amendment that is rendered inapplicable because it is intended to modify a specified provision of the General Contractor Agreement that no longer exists by operation of Paragraph 2.2 or 2.3 above (e.g., the "Release and Transfer" provisions set forth in Paragraph 4 of the Second Amendment remain in full force and effect and are not modified by this Third Amendment).

3.3 Paragraphs 2.2 and 2.3 are deemed to amend and modify the General Contractor Agreement, and do not terminate the General Contractor Agreement. Those terms and conditions applicable to 1 WTC and Tishman in connection with Site 1 or the Tower 1 Project under the General Contractor Agreement as amended and modified by the CM Terms and Conditions pursuant to Paragraphs 2.2 or 2.3, may be referred to as

Closing Date in connection with Site 1 or the Tower 1 Project, as more specifically set forth in the Second Amendment.

2.2 *Retained Obligations.* With respect to all work and services that comprise any of the Retained Obligations, regardless of when such work or services is performed, the Terms and Conditions of the General Contractor Agreement shall be deemed amended and modified as set forth below in this Paragraph 2.2:

2.2.1 For that portion of the Retained Obligations that pertain directly to the LaQuila Subcontract, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of GC Terms and Conditions, attached hereto and made part hereof as Exhibit B.

2.2.2 For that portion of the Retained Obligations that pertain directly to the Banker Steel Subcontract, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of CM Terms and Conditions, attached hereto and made part hereof as Exhibit A.

2.3 *Post-Closing, Non-Retained Obligations.* With respect to all work and services performed by, under or through Tishman in connection with Site 1 or the Tower 1 Project after the Closing Date (other than as set forth in Paragraph 2.2 for the Retained Obligations)(the "Post-Closing Work"), the Terms and Conditions of the General Contractor Agreement shall be deemed amended and modified as set forth below in this Paragraph 2.3:

2.3.1 With respect to any Post-Closing Work that pertains directly to the following Subcontracts, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of GC Terms and Conditions, attached hereto and made part hereof as Exhibit B: (i) that portion of the LaQuila Subcontract that does not comprise any part of the Retained Obligations, (ii) the Petrocelli Subcontract, and (iii) the Ferguson-Neudorf Subcontract.

2.3.2 With respect to all Post-Closing Work, except as set forth in Subparagraph 2.3.1, all Terms and Conditions of the General Contractor Agreement shall be deemed deleted in their entirety and replaced by the Schedule of CM Terms and Conditions, attached hereto and made part hereof as Exhibit A.

2.4 *Termination and Modification of Subcontracts.* To the extent requested by 1 WTC to give effect to the requirements of Paragraphs 2.2 or 2.3 above, Tishman shall use best efforts: (i) to terminate Subcontracts, such termination to be effective as of the Closing Date, and (ii) to cause the subcontractors under such Subcontracts to enter into a trade contract with 1 WTC directly, with Tishman acting as the disclosed agent of 1 WTC (e.g., the Banker Steel Subcontract, the Highland Tank Subcontract, and the Federated Equipment Subcontract). All such trade contracts shall be in form and substance satisfactory to 1 WTC.

11. Notices.

To 1 WTC:

c/o The Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003
Attention: _____

With copies to:

The Port Authority of New York and NJ
225 Park Avenue South
New York, NY 10003
Attention: General Counsel

To Tishman:

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attention: John T. Livingston, Executive Vice President

With a copy to:

Tishman Construction Corporation
666 Fifth Avenue
New York, New York 10103
Attention: Michael J. Mennella, Senior Vice President

12. Entire Agreement. This Third Freedom Tower Amendment (together with the General Contractor Agreement, as amended previously) and any Exhibit to this Third Freedom Tower Amendment set forth below, constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and there are no other agreements, understandings, undertakings, representations or warranties among the parties hereto with respect to the subject matter hereof except as set forth herein. The captions to the sections of this Third Freedom Tower Amendment are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary by implication or otherwise any of the provisions hereof.

Exhibit	Title
Exhibit 1	Schedule of Defined Terms
Exhibit 2	Schedule of Subcontracts
Exhibit A	Schedule of CM Terms and Conditions
Exhibit B	Schedule of GC Terms and Conditions

the "Part A Agreement." Those terms and conditions applicable to 1 WTC and Tishman in connection with Site 1 or the Tower 1 Project under the General Contractor Agreement as amended and modified by the GC Terms and Conditions, may be referred to as the "Part B Agreement."

3.4 Subsequent to the date of this Third Freedom Tower Amendment, any reference to the General Contractor Agreement for purposes of Site 1 or the Tower 1 Project shall be deemed to be a reference to the General Contractor Agreement, as amended by this Third Freedom Tower Amendment, and as same, from time to time, hereafter may be further amended.

4. Not a Waiver. Except as expressly provided in this Third Freedom Tower Amendment, nothing contained in or contemplated by this Third Freedom Tower Amendment shall constitute, or be construed as (i) the waiver by any party of such party's rights or another party's obligations under the General Contractor Agreement, or (ii) the consent or approval by any party of any matter, decision or selection requiring the consent or approval of such party under the General Contractor Agreement.

5. Counterparts. This Third Freedom Tower Amendment may be signed in counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of such counterparts shall together constitute but one and the same instrument.

6. Successors and Assigns. This Third Freedom Tower Amendment has been duly authorized by each of by each of the parties hereto, and shall be binding on, and shall inure to the benefit of, the heirs, legal representatives, successors, and permitted assigns of the parties hereto.

7. Further Assurances. Subject to the terms and conditions of this Third Freedom Tower Amendment, each party shall use its commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper, or advisable under applicable law to consummate or carry out the transactions contemplated by this Third Freedom Tower Amendment.

8. Governing Law. This Third Freedom Tower Amendment shall be governed by and construed in accordance with the laws of the State of New York, without reference to rules governing conflicts of law that might direct application of the law of another jurisdiction.

9. No Amendment. This Third Freedom Tower Amendment may not be changed, amended, modified, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of such change, amendment, modification, waiver, discharge or termination is sought.

10. No Liability. Neither the commissioners of the Authority nor any officer, director, agent or employee thereof, or of 1 WTC, (or any other person authorized to act on their behalf) shall be charged personally with any liability or held personally liable under any provision of this Third Freedom Tower Amendment or because of any breach hereof.

IN WITNESS WHEREOF, the parties have caused this Third Freedom Tower Amendment to General Contractor Agreement to be duly executed as of the day and year first above written.

TISHMAN CONSTRUCTION CORPORATION

By: _____
Name: Jay Badame
Title: Chief Operating Officer

1 WORLD TRADE CENTER LLC

By: _____
Name:
Title:

EXHIBIT 1

SCHEDULE OF DEFINED TERMS

1. 1 WTC. The term "1 WTC" shall have the meaning set forth in the preamble to the Third Freedom Tower Amendment.

2. 2 WTC. The term "2 WTC" shall mean 2 World Trade Center LLC.

3. 3 WTC. The term "3 WTC" shall mean 3 World Trade Center LLC, formerly known as 5 World Trade Center LLC.

4. 4 WTC. The term "4 WTC" shall mean 4 World Trade Center LLC.

5. Authority. The term "Authority" shall have the meaning set forth in the first paragraph of the Recitals to the Third Freedom Tower Amendment.

6. Banker Steel Subcontract. The term "Banker Steel Subcontract shall have the meaning set forth in Paragraph 6 of Exhibit 2.

7. Closing Date. The term "Closing Date" shall have the meaning set forth in the fifth paragraph of the Recitals to the Third Freedom Tower Amendment.

8. Construction Manager. The term "Construction Manager" shall have the meaning set forth in the preamble to the Third Freedom Tower Amendment.

9. Federated Equipment Subcontract. The term "Federated Equipment Subcontract" shall have the meaning set forth in Paragraph 3 of Exhibit 2.

10. Ferguson-Neudorf Subcontract. The term "Ferguson-Neudorf Subcontract" shall have the meaning set forth in Paragraph 2 of Exhibit 2.

11. First Amendment. The term "First Amendment" shall have the meaning set forth in the third paragraph of the Recitals to the Third Freedom Tower Amendment.

12. Freedom Tower. The term "Freedom Tower" shall have the meaning set forth in the sixth paragraph of the Recitals to the Third Freedom Tower Amendment.

13. General Contractor Agreement. The term "General Contractor Agreement" shall have the meaning set forth in the second paragraph of the Recitals to the Third Freedom Tower Amendment.

14. Highland Tank Subcontract. The term "Highland Tank Subcontract" shall have the meaning set forth in Paragraph 5 of Exhibit 2.

15. LaQuila Subcontract. The term "LaQuila Subcontract" shall have the meaning set forth in Paragraph 4 of Exhibit 2.

16. Part A Agreement. The term "Part A Agreement" shall have the meaning set forth in Paragraph 3.3 of the Third Freedom Tower Amendment.

17. Part B Agreement. The term "Part B Agreement" shall have the meaning set forth in Paragraph 3.3 of the Third Freedom Tower Amendment.

18. Lessees. The term "Lessees" shall have the meaning set forth in the first paragraph of the Recitals to the Third Freedom Tower Amendment.

19. Petrocelli Subcontract. The term "Petrocelli Subcontract" shall have the meaning set forth in Paragraph 1 of Exhibit 2.

20. Post-Closing Work. The term "Post-Closing Work" shall have the meaning set forth in Paragraph 2.3 of the Third Freedom Tower Amendment.

21. Project. The term "Project" shall have the same meaning as the term "Tower 1 Project."

22. Retained Obligations. The term "Retained Obligations" shall have the meaning set forth in Section 4(a) of the Second Amendment.

23. Schedule of Subcontracts. The term "Schedule of Subcontracts" shall have the meaning set forth in the first paragraph of Article 2 of the Third Freedom Tower Amendment.

24. Second Amendment. The term "Second Amendment" shall have the meaning set forth in the fourth paragraph of the Recitals to the Third Freedom Tower Amendment.

25. Site 1. The term "Site 1" shall have the meaning set forth in Exhibit A to the Second Amendment.

26. Subcontract. The term "Subcontract" shall have the meaning set forth in the first paragraph of Article 2 of the Third Freedom Tower Amendment.

27. Subcontractor. The term "Subcontractor" shall have the meaning set forth in Subparagraph 2.4.2 of the Third Freedom Tower Amendment.

28. Sub-Projects. The term "Sub-Projects" shall mean specifically identified and apportioned components of the entire Project.

29. Terms and Conditions of the General Contractor Agreement. The phrase "Terms and Conditions of the General Contractor Agreement" shall have the meaning set forth in Paragraph 3.2 of the Third Freedom Tower Amendment.

30. Third Freedom Tower Amendment. The term "Third Freedom Tower Amendment" shall have the meaning set forth in the preamble to the Third Freedom Tower

Amendment.

31. Tishman. The term "Tishman" shall have the meaning set forth in the preamble to the Third Freedom Tower Amendment.

32. Tower 1. The term "Tower 1" shall mean the building to be located upon and within Site 1.

33. Tower 1 Project. The term "Tower 1 Project" shall mean the development, design and construction of Tower 1.

34. World Trade Center. The term "World Trade Center" shall have the meaning set forth in the first paragraph of the Recitals of the Third Freedom Tower Amendment.

EXHIBIT 2

SCHEDULE OF SUBCONTRACTS

1. That certain subcontract agreement by and between Tishman Construction Corporation and Petrocelli Electric, dated January 19, 2006, pertaining to utility relocation (the "Petrocelli Subcontract").

2. That certain subcontract agreement by and between Tishman Construction Corporation and Ferguson-Neudorf, dated April 24, 2006, pertaining to curtain wall mock-up (the "Ferguson-Neudorf Subcontract").

3. That certain subcontract agreement by and between Tishman Construction Corporation and Federated Equipment, dated June 16, 2006, pertaining to Tower Cranes (the "Federated Equipment Subcontract").

4. That certain subcontract agreement by and between Tishman Construction Corporation and LaQuila Group, dated June 16, 2006, pertaining to excavation and foundation work (the "LaQuila Subcontract").

5. That certain subcontract agreement by and between Tishman Construction Corporation and Highland Tank, dated September 11, 2006, pertaining to base building fuel oil tanks (the "Highland Tank Subcontract").

6. That certain subcontract agreement by and between Tishman Construction Corporation and Banker Steel, dated September 11, 2006, pertaining to structural steel and metal deck (the "Banker Steel Subcontract").

EXHIBIT A

SCHEDULE OF CM TERMS AND CONDITIONS

EXHIBIT A
TO
THIRD FREEDOM TOWER AMENDMENT

THIS EXHIBIT A TO THE THIRD FREEDOM TOWER AMENDMENT TO GENERAL CONTRACTOR AGREEMENT (this "Agreement"), dated as of July 13, 2007, by and among (a) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, having an office at 666 Fifth Avenue, New York, NY 10103 ("Construction Manager"); and (b) 1 World Trade Center LLC, a Delaware Limited Liability Company, having an office c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, NY 10003 ("1 WTC").

WITNESSETH

WHEREAS, the World Trade Center Site – Freedom Tower Project involves the design, permitting, approval, construction, and construction administration of World Trade Center Tower One on the World Trade Center site in New York City ("Property"). The World Trade Center Site – Freedom Tower Project will incorporate approximately 3.5 million gross square feet of new construction both above and below grade in a Class A office building complex which, in addition to sixty-nine (69) office tenant floors, includes specialty components such as an observation deck, retail space, two-level restaurant, three-level broadcast facility, core and shell spaces for PATH and support spaces, and an iconic top rising at the peak to the broadcast antennae (specifically excluding the broadcast antennae themselves). Below grade, the World Trade Center Site – Freedom Tower Project will incorporate storage, service areas, a car parking area, building and tenant mechanical facilities, loading docks, and other key building functions which lie beneath portions of the Freedom Tower, the open space between the Freedom Tower and the Performing Arts Center (PAC), Fulton Street, West Street-Route 9A and Vesey Street. All of the descriptions of the World Trade Center Site – Freedom Tower Project in this paragraph shall be referred to in this Agreement as the "Project," the "Freedom Tower Project," or "Freedom Tower." This Agreement between 1 WTC and Construction Manager is made in connection with such professional services and in consideration of the mutual covenants contained herein.

WHEREAS, pursuant to that certain Third Freedom Tower Amendment to General Contractor Agreement dated July 13, 2007 (the "Third Freedom Tower Amendment") 1 WTC and Tishman have agreed that under certain circumstances Tishman will act as a general contractor with respect to the Freedom Tower Project and under other circumstances Tishman will act as an agent construction manager with respect to the Freedom Tower Project;

WHEREAS, this Agreement sets forth terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as an agent construction manager with respect to the Freedom Tower Project under the circumstances more specifically described in the Third Freedom Tower Amendment;

WHEREAS, 1 WTC and Tishman wish to set forth in this Part A Agreement the terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as general contractor with respect to the Freedom Tower Project, under the circumstances more specifically described in the Third Freedom Tower Amendment; and

NOW THEREFORE, in consideration of the payments hereinafter specified to be made by 1 WTC to Construction Manager, and in consideration of the agreements and mutual covenants of the parties herein contained, the parties hereto hereby agree as follows:

1. DEFINED TERMS.

1.1 All terms initial capitalized in this Agreement are defined below or, to the extent not listed below, are as defined in other Contract Documents for the Project.

1.2 **1 WTC Representative**. The term "1 WTC Representative" shall have the meaning set forth in Section 4.2.3 of the Agreement.

1.3 **1 WTC**. The term "1 WTC" shall have the meaning set forth in the preamble to the Agreement. Any reference to 1 WTC's approval, discretion, consent, action, review, or otherwise, shall be performed by 1 WTC Representative, regardless of whether 1 WTC is explicitly stated in such reference.

1.4 **Affiliate**. The term "affiliate" shall mean as follows: two or more firms are affiliates if a parent owns more than fifty percent (50%) of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent (50%) of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

1.5 **Agency or Governmental Agency**. The term "agency" or "governmental agency" shall mean any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

1.6 **Agreement**. The term "Agreement" shall have the meaning set forth in the first paragraph of this Exhibit A to the Third Freedom Tower Amendment.

1.7 **Anything of Value**. The term "anything of value" shall have the meaning set forth in Section 29.2 of the Agreement.

1.8 **Architect Agreement**. The term "Architect Agreement" shall mean the agreement between 1 WTC and Skidmore, Owings & Merrill LLP.

1.9 **Authority**. The term "Authority" shall have the meaning set forth on the first, page, second paragraph, of the Third Freedom Tower Amendment. The Authority is the ownership entity of 1 WTC.

1.10 **Authority's Small Business Program**. The term "Authority's Small Business Program" shall mean the Authority's program known as the Small Business Program.

1.11 **Burden Rate**. The term "Burden Rate" shall have the meaning set forth in Section 9.2.2.1 of the Agreement.

1.12 **Capitalization Payment**. The term "Capitalization Payment" shall have the meaning set forth in Section 10.1.2 of the Agreement.

1.13 **Certificate for Payment** The term "Certificate for Payment" shall have the meaning set forth in 2.3.13.4 of **Attachment 1 to Exhibit A** (Scope of Services).

1.14 **Change Orders**. The term "Change Order" shall mean a written modification to a Contract impacting the monetary value of or time requirements set forth in the Contract.

1.15 **CGL Policy**. The term "CGL Policy" shall have the meaning set forth in Section 19.4.1 of the Agreement.

1.16 **Chief Engineer**. The term "Chief Engineer" shall mean the Chief Engineer of the Authority for the time being, or his successor in duties, acting personally.

1.17 **Confidentiality Agreement**. The term "Confidentiality Agreement" shall have the meaning set forth in Section 22.1 of the Agreement.

1.18 **Construction Change Directives**. The term "Construction Change Directive" shall mean a writing from Construction Manager, as authorized by 1 WTC, directing a Contractor to modify its scope of work without an agreement on the cost or time impact of such change.

1.19 **Contract Drawings**. The term "Contract Drawings" shall mean those drawings and specifications, completed in sufficient detail by Design Team, used by Contractors to perform the Work.

1.20 **Construction Manager**. The term "Construction Manager" shall have the meaning set forth in the preamble to the Agreement.

1.21 **Construction Manager's Fee**. The term "Construction Manager's Fee" or "Fee" shall have the meaning set forth in Section 9.1.1 of the Agreement.

1.22 **Contract Documents**. The term "Contract Documents" shall include the Third Freedom Tower Amendment, including all of the exhibits and attachments thereto; the Contract Drawings; and the Contracts, including all of the exhibits and riders to the Contracts, all as may be amended in writing by the parties from time to time.

1.23 **Contractors**. The term "Contractors" shall mean those trade contractors contracting directly with 1 WTC by executing Contracts as defined in this Section 1 to perform a portion of the Work for the Project, and all subcontractors of such Contractors of whatever tier.

1.24 **Contracts**. The term "Contracts" shall mean those executed contracts between Contractors and 1 WTC, signed on 1 WTC's behalf by Construction Manager, defining the rights and responsibilities of the respective Contractor and 1 WTC for the execution of a portion of the Work for the Project by the Contractor.

1.25 **Cost of the Work**. The term "Cost of the Work" shall have the meaning set forth in Section 9.2 of the Agreement.

1.26 **Deductible Expenses**. The term "Deductible Expenses" shall have the meaning set forth in Section 19.4.4 of the Agreement.

1.27 **Design Team**. The term "Design Team" shall mean all of the design professionals hired by 1 WTC, either directly or indirectly, to provide professional services with respect to the Project, including, without limitation, Skidmore, Owings & Merrill LLP.

1.28 **Emergency Costs**. The term "Emergency Costs" shall have the meaning set forth in Section 9.2.2.4(iii) of the Agreement.

1.29 **Excess General Conditions Costs**. The term "Excess General Conditions Costs" shall have the meaning set forth in Section 10.1.3.2 of the Agreement.

1.30 **Excluded Emergency Costs**. The term "Excluded Emergency Costs" shall have the meaning set forth in Section 9.2.2.4(iii) of the Agreement.

1.31 **Final Completion**. The term "Final Completion" shall mean the date or number of calendar days after bid award as set forth in Rider T (Milestone Dates) to each Contract by which a Contractor shall have completed its Work in accordance with all applicable requirements in its Contract.

1.32 **Freedom Tower**. The term "Freedom Tower" shall have the meaning set forth in the first paragraph of the recitals to the Agreement.

1.33 **Freedom Tower Agreements**. The term "Freedom Tower Agreements" shall have the meaning set forth in Section 33.3 of the Agreement.

1.34 **Freedom Tower Project**. The term "Freedom Tower Project" shall have the meaning set forth in the first paragraph of the recitals to the Agreement.

1.35 **General Conditions Costs**. The term "General Conditions Costs" shall have the meaning set forth in Section 9.2.2 of the Agreement.

1.36 **General Contractor Agreement**. The term "General Contractor Agreement" shall have the meaning set forth in the second recital of the Third Freedom Tower Amendment.

1.37 **Hazardous Materials**. The term "Hazardous Materials" shall have the meaning set forth in Section 12.1 of the Agreement.

1.38 **Indemnitees**. The term "Indemnitees" shall have the meaning set forth in Section 18.1 of the Agreement.

1.39 **Insurance Escrow Account**. The term "Insurance Escrow Account" shall have the meaning set forth in Section 19.4 of the Agreement.

1.40 **Insurance Program**. The term "Insurance Program" shall have the meaning set forth in Section 19.1 of the Agreement.

1.38.5 **Insurance Requisition**. The term "Insurance Requisition" shall have the meaning set forth in Section 19.4.6 of the Agreement.

1.41 **Integrity Monitor**. The term "Integrity Monitor" shall have the meaning set forth in Section 32.9 of the Agreement.

1.42 **Intellectual Property Rights**. The term "Intellectual Property Rights" shall have the meaning set forth in Section 21.4 of the Agreement.

1.43 **Investigation**. The term "investigation" shall mean any inquiries made by any federal, state or local criminal prosecuting agency 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.

1.44 **IP Claims**. The term "IP Claims" shall have the meaning set forth in Section 21.3 of the Agreement.

1.45 **Legal Requirements**. The term "Legal Requirements" shall have the meaning set forth in Section 31.1 of the Agreement.

1.46 **Master Redevelopment Agreement**. The term "Master Redevelopment Agreement" shall mean the agreement entered into on November 16, 2006, between Authority; 1 WTC; PATH; WTC Retail, LLC; 2 World Trade Center LLC; 3 World Trade Center LLC; and 4 World Trade Center LLC, for the redevelopment of the Property.

1.47 **Maximum Capitalization**. The term "Maximum Capitalization" shall have the meaning set forth in Section 10.1.2 of the Agreement.

1.48 **Milestone Dates**. The term "Milestone Dates" shall have the meaning set forth in Section 6.3 of the Agreement.

1.49 **Minority-Owned Business**. The term "minority-owned business" or "MBE" shall have the meaning set forth in Section 14.1 of the Agreement.

1.50 **Mobilization Account**. The term "Mobilization Account" shall have the meaning set forth in Section 10.1.1 of the Agreement.

1.51 **Mobilization Account Expenses**. The term "Mobilization Account Expenses" shall have the meaning set forth in Section 10.1.1 of the Agreement.

1.52 **Mobilization Requisition**. The term "Mobilization Requisition" shall have the meaning set forth in Section 10.1.3.

1.53 **OCIP**. The term "OCIP" shall mean the Owner Controlled Insurance Program, if any, as provided for in the Insurance Program.

1.54 **Officer.** The term "officer" shall mean any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Construction Manager by whatever titles known.

1.55 **Parent**. The term "parent" shall mean an individual, partnership, joint venture or corporation that owns more than 50% of the voting stock of the Construction Manager.

1.56 **PATH**. The term "PATH" shall mean the Port Authority Trans-Hudson Corporation.

1.57 **Personnel.** The term "Personnel" shall have the meaning set forth in Section 7.1 of the Agreement.

1.58 **Project Schedule**. The term "Project Schedule" shall have the meaning set forth in Section 6.2 of the Agreement.

1.59 **Project**. The term "Project" shall have the meaning set forth in the first paragraph of the recitals to the Agreement and shall include all references to the World Trade Center site, Freedom Tower Project, World Trade Center Site-Freedom Tower Project, or Freedom Tower.

1.60 **Property**. The term "Property" shall have the meaning set forth in the first paragraph of the recitals of the Agreement.

1.61 **Reimbursable Expenses**. The term "Reimbursable Expenses" shall have the meaning set forth in Section 9.2.2.4 of the Agreement.

1.62 **Remediation Contractor**. The term "Remediation Contractor" shall have the meaning set forth in Section 12.1 of the Agreement.

1.63 **Repayment Date**. The term "Repayment Date" shall have the meaning set forth in Section 10.1.3.3 of the Agreement.

1.64 **Services**. The term "Services" shall have the meaning set forth in Section 3.1 of the Agreement.

1.65 **Shop Drawings**. The term "Shop Drawings" shall mean drawings, diagrams, schedules and other data specially prepared for the Work by a Contractor, subcontractor of any tier, manufacturer, supplier or distributor to illustrate some portion of the Work.

1.66 **Standard of Care**. The term "Standard of Care" shall have the meaning set forth in Section 2.1 of the Agreement.

1.67 **Subconsultant**. The term "Subconsultant" shall have the meaning set forth in Section 8.1 of the Agreement.

1.68 **Submittals**. The term "Submittals" shall mean Shop Drawings, samples, product data, supplementary product literature, mockups, calculations, statements of manufacturer's review, or other information for specific portions of the Work as required by the Contract Drawings.

1.69 **Third Freedom Tower Amendment**. The term "Third Freedom Tower Amendment" shall refer to the Third Freedom Tower Amendment to the General Contractor Agreement.

1.70 **Tishman**. The term "Tishman" shall have the meaning set forth in the preamble of the Third Freedom Tower Amendment.

1.71 **Trade Account**. The term "Trade Account" shall have the meaning set forth in Section 10.2.1 of the Agreement.

1.72 **Trade Costs**. The term "Trade Costs" shall have the meaning set forth in Section 9.2.1 of the Agreement.

1.73 **Women-Owned Business**. The term "women-owned business" or "WBE" shall have the meaning set forth in Section 14.1 of the Agreement.

1.74 **Work**. The term "Work" shall mean the construction and services required by the Contract Documents and the Contract Drawings, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by each of the Contractors to fulfill their respective obligations. The Work may constitute the whole or a part of the Project.

1.75 **Works for Hire**. The term "works for hire" shall have the meaning set forth in Section 20.1 of the Agreement.

1.76 **Works**. The term "Works" shall have the meaning set forth in Section 20.1 of the Agreement.

1.77 **World Trade Center Construction Department**. The term "World Trade Center Construction Department" shall mean the Authority's World Trade Center Construction Department, which is principally responsible to represent the Authority with respect to the design and construction of the World Trade Center Transportation Hub project (WTC/HUB).

2. STANDARD OF CARE AND EXPERTISE.

2.1 Construction Manager acknowledges that the Freedom Tower Project is a project of symbolic and commercial importance that has local, regional, national, and international significance and visibility. Construction Manager represents and warrants that it has expert experience in the construction management and project management of projects with similar prominence and prestige located in comparable urban locations. Construction Manager shall perform its duties under this Agreement in conformance with its expert experience and with the very highest standard of care practiced by construction managers with substantial and noteworthy experience successfully managing major multi-use, high-rise, high-profile projects in excess of $700 million in highly dense urban areas ("Standard of Care"). Nothing to the contrary herein shall erode the Standard of Care, including a requirement that Construction Manager use its best efforts to comply with the provisions in this Agreement.

2.2 Construction Manager represents that it has reviewed and is familiar with the Property and with terms and conditions of the relevant agreements that 1 WTC has entered into with respect to this Project.

2.3 Construction Manager accepts the relationship of trust and confidence established between Construction Manager and 1 WTC by the Agreement.

2.4 Construction Manager shall do the following:

2.4.1 Construction Manager shall perform its Services under this Agreement and, consistent therewith, shall furnish the very highest professional skill and judgment necessary to fulfill its duties under this Agreement and maintain the Standard of Care set forth in Section 2.1 above;

2.4.2 In performing its Services, Construction Manager shall furnish professional business administration and superintendence by the best, most efficient, and most economical method, all in a manner consistent with the Contract Documents, the Standard of Care set forth in Section 2.1 above, and the best interests of 1 WTC;

2.4.3 Construction Manager shall contract as 1 WTC's disclosed agent the Work in accordance with all requirements in, reasonably inferable from, and consistent with the Contract Drawings;

2.4.4 Construction Manager shall furnish at all times an ample supply of workers and materials necessary to meet the requirements of the Contract Documents. Construction Manager shall manage the workers, materials, and Project in such a manner that the Project can be safely and successfully completed within the Project Schedule and the Project budget; and

2.4.5 Construction Manager shall manage, direct, supervise, coordinate, and cooperate with all of 1 WTC's Contractors, agents, and other contractors in furthering the best interests of 1 WTC with respect to the Project; and shall cause the entire Work described in the Contract Documents to be executed in accordance with the very highest Standard of Care and

skill for trade contractors experienced and specialized in the construction of major, superior facilities operated in comparable settings.

2.5 Construction Manager represents to 1 WTC that Construction Manager understands the complexity involved and has the ability to meet the standards of performance required by this Section 2.

3. CONSTRUCTION MANAGER'S RESPONSIBILITIES.

3.1 Construction Manager shall perform professional construction management services ("Services") as set forth in and in accordance with the provisions of this Agreement, the Contract Documents, and as otherwise requested by 1 WTC.

3.2 Construction Manager shall comply with all of the obligations and provisions set forth in the riders listed on **Attachment 2 to Exhibit A** (Riders for Contract) to this Agreement, as such riders may be amended unilaterally by 1 WTC from time to time, in the sole discretion of 1 WTC. The riders listed on Attachment 2 are incorporated by reference as though set forth at length and are expressly made a part hereof.

3.3 Construction Manager shall provide sufficient organization, personnel, and management to carry out the requirements of this Agreement in an expeditious and economical manner consistent with the interests of 1 WTC and the Standard of Care set forth in the Agreement. 1 WTC acknowledges and agrees that any legal services or advice provided by the Legal Department of Construction Manager in connection with the Project are being provided to Construction Manager only and that no attorney-client relationship will be deemed to exist between any member of the Legal Department of Construction Manager and 1 WTC.

3.4 A description of the Services is set forth in **Attachment 1 to Exhibit A** (Scope of Services), attached hereto and made a part hereof; provided, however, 1 WTC, in its sole discretion, may direct Construction Manager to render other professional construction management services in furtherance of the Project, which professional construction management services shall be included in the Services, notwithstanding that such professional construction management services do not appear on the Scope of Services attached hereto at the time of execution of the Third Freedom Tower Amendment. Nothing contained in this Agreement shall be deemed to require or authorize Construction Manager to perform with its own forces any act which would constitute the rendering of professional architecture or engineering services or laboratory testing. The reviews, recommendations and advice to be furnished by the Construction Manager hereunder shall not be deemed to be warranties or guaranties with respect to professional architecture or engineer services or laboratory testing or constitute the performance of such services, it being understood that any such recommendation or advice pertaining to engineering or architectural matters shall only be considered as a recommendation by Construction Manager which is subject to the review and approval of 1 WTC and/or Design Team.

3.5 Construction Manager shall be responsible for coordinating the activities of all persons or entities hired by 1 WTC regarding the Project. Construction Manager shall

synchronize the performance of its Services with the performance of activities of such other persons or entities, each with the other, so that all are performed in a harmonious manner. Construction Manager, when requested, shall review the contract schedules of others or facilitate a joint review among relevant parties and shall provide that the activities of all shall be carried out in a proper and appropriate sequence for the best interests of the Project. Construction Manager shall cooperate fully with other persons or entities performing services for or working on behalf of the Project.

3.6 Construction Manager shall promptly give notice to 1 WTC upon becoming aware of the following:

3.6.1 Any act, omission, event, or occurrence that might reasonably be anticipated to result in the allegation of a claim, lien, or other demand against 1 WTC, Authority, Construction Manager, or any of the Contractors arising out of the execution of the Project;

3.6.2 Any claim, demand, or request asserted, filed, or made, or that Construction Manager anticipates may be asserted, filed, or made, for extensions to time or for additional money with respect to work or services rendered on the Project.

4. CONSTRUCTION MANAGER'S AUTHORITY.

4.1 Notwithstanding anything in this Agreement to the contrary, each Contract to be executed in connection with the Project (i) shall be between Contractor and 1 WTC, and (ii) shall be signed on behalf of 1 WTC by Construction Manager, as disclosed agent for 1 WTC.

4.2 Construction Manager shall assume and perform all duties of 1 WTC as set forth in the Contracts and shall act on behalf as 1 WTC as its disclosed agent with all Contractors; provided, however:

4.2.1 Construction Manager shall not have authority to enter into any Contracts, Change Orders, or Construction Change Directives for any Contract without prior written approval from 1 WTC;

4.2.2 Construction Manager shall not take any action that may result in additional time or money to any Contract, a modification to the quality of the Work or Project or a change in the safety or security requirements without obtaining prior written approval from 1 WTC as set forth below in this Section 4.2; and

4.2.3 For purposes of this Agreement, approval of 1 WTC means approval of 1 WTC Representative or its designee(s). The term "1 WTC Representative" shall mean (i) an officer of 1 WTC, or (ii) the Director of the World Trade Center Construction Department or his designee(s). 1 WTC Representative is the only authorized representative of 1 WTC to act, or receive, on behalf of 1 WTC with respect to any duty, obligation, notice, or other action set forth in this Agreement.

4.2.4 1 WTC Representative's authority with respect to the quality of Work includes, without limitation:

4.2.4.1 interpreting the Contract Documents;

4.2.4.2 determining the amount, quality, acceptability, and fitness of all parts of the Work;

4.2.4.3 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;

4.2.4.4 objecting to the employment of any equipment, materials, methods, men, or workers used in performance of the Work; and

4.2.4.5 withholding permission to remove materials, equipment, or other facilities from the Project site, which permission Construction Manager must seek prior to any such removal.

4.3 In no event shall this be considered an agreement of employment or partnership between 1 WTC and Construction Manager.

4.4 1 WTC shall have the right, but shall not be obligated, to control or supervise the particular manner or method by which Construction Manager accomplishes the performance of the Services. Such right shall in no event relieve Construction Manager of any duty, responsibility, or obligation whatsoever under this Agreement.

5. ADDITIONAL SERVICES.

1 WTC may authorize additional services for the Project to be performed by Construction Manager, which additional services may increase the scope of Services set forth in **Attachment 1 to Exhibit A** (Scope of Services). All such Construction Manager duties for the Project shall be part of the Services compensated in accordance with Section 9 (Compensation) of this Agreement.

6. TIME.

6.1 Time is of the essence with respect to Construction Manager's performance of Services under this Agreement.

6.2 Without limiting the foregoing, Construction Manager shall perform its Services under this Agreement so as to permit 1 WTC, Design Team, Contractors and other Project participants to perform their services and Work in accordance with the overall construction

schedule for the Project ("Project Schedule"), consistent with the Contract Documents, and achieve Final Completion of each Contractor's Work in accordance with the dates set forth in the Contracts and the Project Schedule.

6.3 The Project Schedule shall provide for certain planned dates of completion for key interim and final construction events as identified in **Attachment 9 to Exhibit A** (Milestone Dates), which dates are contractual and may be changed only by approval of 1 WTC Representative ("Milestone Dates").

6.4 Construction Manager shall perform its Services as expeditiously as possible and at the time or times required by 1 WTC Representative.

7. APPROVAL OF PERSONNEL.

7.1 Construction Manager shall hire and assign sufficient number of appropriately experienced (a) full-time personnel, and (b) part-time personnel based at the Construction Manager's home office, to carry out the duties under this Agreement and in accordance with the terms of such Agreement; provided, however, that (i) Construction Manager shall assign personnel to the Project only after such personnel are approved by 1 WTC in writing; and (ii) such personnel assigned to the Project shall begin performing Services and bill time to the Project only after 1 WTC has so approved in writing ("Personnel"). Subject to Section 7.2 below, Personnel, who are dedicated to the Project on a full-time basis, shall continue performing Services on a full-time basis for the Project unless a member of such Personnel becomes deceased, goes on medical leave, voluntarily leaves the employment of Construction Manager, or is terminated for a violation of Construction Manager's sexual harassment, drug, or violence in the workplace policies or such other similar bad acts. Construction Manager shall not terminate the employment of full-time Personnel nor reassign full-time Personnel to work on any other project other than the Freedom Tower for any other reason without the prior written consent of 1 WTC.

7.2 1 WTC shall have the right in its sole and absolute discretion to direct Construction Manager to remove from or replace any Personnel on the Project.

7.3 With respect to vacation leave, sick days, and personal days:

7.3.1 Personnel shall be entitled to use only those vacation days, sick days, and personal days that have been earned (i) during execution of the Project and (ii) while carrying out such Personnel's duties under this Agreement. For the avoidance of doubt, vacation days, sick days, and personal days earned by Personnel on a project other than the Freedom Tower Project may not be used during execution of the Freedom Tower Project.

7.3.2 Personnel must use each of their vacation days, sick days, and personal days within the calendar year such days are earned.

7.4 Construction Manager shall require that each individual Personnel member comply with the provisions of Section 32.9 of this Agreement, as set forth in Rider K (Project Prevention Corruption Program) to the Contract, which Contract is referenced in **Attachment 2**

as Rider V (Form of Trade Contract, dated January 19, 2007), and Construction Manager shall obtain from each individual Personnel member the certifications and all necessary disclosure forms.

8. SUBCONSULTANTS.

8.1 Construction Manager may contract with entities to perform a portion of Construction Manager's Services, which entities may be retained only upon the prior written approval of 1 WTC ("Subconsultant"). Such approval, to be effective, must authorize the following: (i) the Subconsultant; (ii) the form of the contract with the Subconsultant, which form must be pre-approved by 1 WTC; and (iii) the amount of compensation to be paid to the Subconsultant. No changes may be made to a pre-approved form of Subconsultant agreement except as thereafter approved in writing by 1 WTC, which authorization and approval must be obtained prior to execution of such agreement by Construction Manager and Subconsultant.

8.2 This Agreement is based upon Construction Manager's special qualifications for the Services herein contemplated; accordingly, any assignment, subletting, or other transfer of this Agreement or any part hereof or of any moneys due or to become due hereunder without the prior express consent in writing of 1 WTC shall be void and of no effect.

8.3 All persons to whom Construction Manager sublets Services shall be deemed to be Construction Manager's agents, and no subletting or approval thereof shall be deemed to release Construction Manager from its obligations under this Agreement or to impose any obligation on 1 WTC to such Subconsultant or give the Subconsultant any rights against 1 WTC.

8.4 For each agreement entered into by Construction Manager with a Subconsultant, or by a Subconsultant with a subconsultant of any tier, Construction Manager shall (i) for each contract in an amount greater than $100,000, obtain the certifications and all necessary disclosure forms from each such Subconsultant and its subconsultants of any tier, and (ii) require that all Subconsultants and their subconsultants of any tier comply with the provisions of Section 32.9 of this Agreement, all as set forth in Rider K (Project Corruption Prevention Program) to the Contract.

9. COMPENSATION.

9.1 Construction Manager's Fee.

9.1.1 As full compensation to Construction Manager for performance of its Services and all of its obligations in connection with this Agreement, 1 WTC, subject to Section 23 (Suspension and Termination), shall pay Construction Manager a fee, which fee shall be calculated as set forth below in Section 9.1.2 ("Construction Manager's Fee" or "Fee").

9.1.2 Construction Manager's Fee shall be equivalent to 1.5% of the Cost of the Work, as set forth in Section 9.2 below, provided, however:

9.1.2.1 Except as provided in Section 7.1 hereof, or except to the extent 1 WTC gives its prior written consent, the Fee shall be reduced to 1.375% of the Cost of the Work for the entire Project should Mel Ruffini cease full-time service for the Project anytime during execution of the Project; and

9.1.2.2 In no event shall a Change Order that increases the Cost of the Work be subject to the Fee unless the Change Order is for a cardinal change, as that term is commonly understood.

9.2 The term "Cost of the Work" shall mean and include: i) Trade Costs, as set forth in Section 9.2.1 below; and ii) General Conditions Costs, as set forth in Sections 9.2.2.1 through 9.2.2.4 below;

9.2.1 The term "Trade Costs" shall mean and include the money due and owing Contractors in accordance with the Contracts for Work on the Project, including without limitation the procurement of required insurance set forth in the Contracts.

9.2.2 The term "General Conditions Costs" shall mean and include the costs set forth in Sections 9.2.2.1 through 9.2.2.4 below:

9.2.2.1 Personnel Salaries. General Conditions Costs shall include the actual salaries of Personnel for full-time service on the Project, calculated monthly based on one-twelfth (1/12) of such Personnel's annual salary, multiplied by 1.5 to reflect the agreed-upon non-auditable burden rate of 50% ("Burden Rate"). The Burden Rate shall be applied to such actual salaries and shall represent reimbursement to Construction Manager for all other costs incurred by Construction Manager for such Personnel, subject to the provisions of Subsections (i) through (vi) immediately below; provided, however, for purposes of this Section 9.2.2.1 only, Personnel shall exclude any non-exempt personnel eligible to receive overtime pay who belong to a labor union, perform work on the Project under the terms of a collective bargaining agreement and in accordance with the Contract Documents, and are paid wages for such work. General Conditions Costs for such excluded Personnel are to be calculated in accordance with Section 9.2.2.2 below (Costs of Non-Exempt Union Labor). For the avoidance of doubt, the term "Personnel" for purposes of this Section 9.2.2.1 shall include members of a labor union who are exempt from receiving overtime pay and render superintendence services on the Project.

(i) Burden Rate includes applicable taxes, employee benefits, insurance payments, maternity leave, paternity leave, medical leave, family leave, disability benefits, bonuses, overtime pay, premium pay, parking and car allowance, fringe benefits, retirement plans, union dues, contributions and assessments required by law, collective bargaining agreements, or amounts which are customarily paid to or on behalf of Personnel of Construction Manager.

(ii) Burden Rate shall not apply to Non-Exempt Union Labor described in Section 9.2.2.2 below.

(iii) Burden Rate shall not apply to partners, principals, or temporary employees of Construction Manager, including without limitation Jay Badame, John Livingston, Dan Tishman, and Michael Mennella; provided, however, if Mike Mennella spends fifty percent (50%) or more of his time working on the Freedom Tower Project, as determined on a monthly basis, then the Burden Rate shall apply to his time during each such month.

(iv) For the entire duration of this Agreement, the Burden Rate shall be fixed and not subject to increase for the performance of Services and all other contemplated services hereunder.

(v) Attached hereto as **Attachment 4 to Exhibit A** (Schedule of Annual and Hourly Personnel's Salaries) is a schedule of actual salaries and titles of all Construction Manager's Personnel assigned to the Project who have been approved by 1 WTC.

(vi) With respect to Personnel who bill time on an hourly basis for Services performed, 1 WTC reserves the right to conduct an audit to determine the salary rate applicable to any such employee in order to verify the salary rate and time billed for the Services of each such employee. It is understood that such employee shall not bill time to the Project for holidays, vacation days, sick leave, or personal days, maternity, medical, or family leave, nor for any other item included in the Burden Rate in Section 9.2.2.1(i) above.

(vii) With respect to Personnel who do not bill time on an hourly basis for Services performed, 1 WTC reserves the right to conduct an audit to determine the salary rate applicable to any such employee in order to verify the salary rate and the time allocated to the Project of each such employee.

(viii) 1 WTC adopts the Authority's policy on increases in pay. It is the intention of 1 WTC to grant an increase if Construction Manager demonstrates compliance with all of the following conditions: that an increase in salary is (a) in accordance with the program of periodic merit and cost of living increases normally administered by the Authority; (b) warranted by increased costs of providing Services under this Agreement; (c) based upon increases in salaries and billing rates which are generally applicable to all of Construction Manager's clients; and (d) in accordance with the Authority's salary rate increase policy for the current year for Authority employees possessing comparable skills and experience. If, during any calendar year, the Authority limits are not available to Construction Manager in a timely fashion, increases falling within such limits may be approved retroactively, as appropriate.

9.2.2.2 Costs of Non-Exempt Union Labor. General Conditions Costs shall include the actual wages plus actual fringe benefits paid by Construction Manager to a worker for work performed on the Project, where such worker is (i) non-exempt and eligible to receive overtime pay, and (ii) a member of a labor union; provided, however, that such work is performed and payment made under the terms of an applicable collective bargaining agreement and in accordance with the Contract Documents.

9.2.2.3 Costs of Subconsultants. General Conditions Costs shall include an amount equivalent to the aggregate amount actually paid to Subconsultants by Construction Manager.

9.2.2.4 Reimbursable Expenses. The following out-of-pocket costs to the extent such costs are (i) necessarily and reasonably incurred by Construction Manager in the reasonable opinion of 1 WTC, and (i) actually paid by Construction Manager in its performance of the Services hereunder, as follows ("Reimbursable Expenses"):

(i) Reasonable expenses necessary for the operation and furnishing of Construction Manager's field office, including but not limited to rent, field office fit out, furniture, computer and telefax equipment, equipment, stationery, supplies, telefax, telegrams, long distance telephone calls, telephone service at the Project, express mail, messenger delivery, postage, pest control, and similar petty cash items in connection with the Services; provided, however, that such field office it utilized solely for the Freedom Tower Project. Reasonable expenses of and usage charges for cell phones, walkie-talkies, and Blackberry® devices for those Personnel for whom 1 WTC has pre-approved in writing such expenses and charges. In the event any work occurs or services are rendered from this field office for work other than the Freedom Tower Project, then the field offices and all of the expenses set forth in this Subsection (i) shall be excluded from Reimbursable Expenses as though such expenses were set forth in Section 9.2.3 below. In the event the Authority purchases any equipment pursuant to this Subsection (i), such equipment will belong to the Authority. In the event Construction Manager purchases any equipment pursuant to this Subsection (i), the purchase of such equipment must be pre-approved in writing by 1 WTC. In the event Construction Manager owns existing equipment that it moves to the field office pursuant to this Subsection (i), 1 WTC will approve payment for such existing equipment on a case by case basis.

(ii) Costs of removal of all debris from the Project, except as to contaminated soils being removed in accordance with any remediation agreement, subject to Section 12 (Hazardous Materials) of the Agreement.

(iii) Costs incurred due to an emergency affecting the safety of persons and property ("Emergency Costs"), unless such Emergency Costs are due to Construction Manager's willful misconduct or negligence ("Excluded Emergency Costs"); Excluded Emergency Costs shall be reimbursed only to the extent 1 WTC receives reimbursement for such Excluded Emergency Costs from insurance proceeds. For purposes of this Section 9.2.2.4(iii), the term "emergency" means the occurrence of an event requiring immediate action by Construction Manager to protect persons or property such that insufficient time exists to enable Construction Manager to seek prior approval from 1 WTC for the expenditure of the costs.

(iv) Costs of the necessary printing of all drawings, specifications, and other approved reproductions.

(v) Costs of photos of the construction, if required by 1 WTC.

(vi) Costs of meals for field office working meetings and for meals of Personnel working overtime after 8:00 p.m. or working on weekends, limited to $25.00 per diem, per person, for weekends and overtime.

(vii) Costs of mileage for local travel undertaken by superintendence Personnel (a) traveling after 8:00 p.m. while performing Services or from Project site to home at 8:00 p.m. or later after performing Services, or (b) traveling between home and the Project site during a weekend or holiday in order to perform Services, all in accordance with the Authority's guidelines with respect to same; provided, however, that such local travel is by personal vehicle, taxi, bus, or rail service; and that such local travel involves an out-of-pocket expense for the specific travel authorized by this Subsection (vii) and is not undertaken using a pass obtained by such Personnel for periodic travel (i.e., a monthly or weekly pass) such that no actual out-of-pocket expense is incurred for such individual trip.

(viii) Costs of final cleaning of windows, interior areas and curtainwall, if required by 1 WTC.

(ix) Costs for flagpersons and street cleaning, if required by 1 WTC.

(x) Costs for temporary barricades and Project fence.

(xi) Costs incurred in connection with security Personnel.

(xii) Costs for surveys.

(xiii) Costs for trailers, temporary toilets.

(xiv) Costs incurred for pre-approved reasonable coach travel associated with the Project.

(xv) Costs for winter heat as mutually agreed upon by Construction Manager and 1 WTC; Construction Manager shall submit a plan for winter heat to 1 WTC prior to each winter season.

9.2.2.5 Other Reimbursable Costs. The following costs shall be reimbursed by 1 WTC to Construction Manager but shall not be part of the Cost of the Work subject to a Construction Manager's Fee. Such reimbursable costs shall include an amount equal to the out-of-pocket expenses of Construction Manager (i) necessarily and reasonably incurred by Construction Manager in the reasonable opinion of 1 WTC, and (ii) actually paid by Construction Manager in its performance of the Services hereunder, as follows:

(i) Insurance premiums, deductibles, any self-insured retention for the benefit of 1 WTC with respect to any insurance or retention not provided by 1 WTC, and any required taxes on all such costs; but only to the extent reimbursement for any cost set forth in

this clause (i) is not otherwise provided for in the Agreement; and only if such cost is (a) required by the terms of the Agreement, and (b) beyond the scope of the OCIP;

(ii) Direct costs in connection with the administration of warranty work by Construction Manager after Final Completion;

(iii) Reasonable legal fees and costs pre-approved in writing (a) to prosecute a default under a Contract, (b) to enforce a Contract provision, or (c) to enforce 1 WTC's rights under the Contract; provided, however, it shall not be the responsibility of Construction Manager to pursue any such legal process for the benefit of 1 WTC unless 1 WTC authorizes same and agrees to reimburse Construction Manager for its out-of-pocket costs.

9.2.3 Excluded Expenses. Construction Manager agrees that the following expenses, even if incurred in furtherance of its Services, shall not be Reimbursable Expenses and shall be paid for, to the extent incurred, by Construction Manager:

9.2.3.1 Construction Manager's overhead, including, without limitation, expenses necessary for the operation and furnishing of Construction Manager's principal office, such as furniture, equipment, stationery, supplies, telefax, telegrams, long distance telephone calls, telephone service, express mail, messenger delivery, utilization of computer systems, computer aided design and drafting (CADD), cameras, recording or measuring devices, flashlights and other small, portable equipment, safety supplies and similar petty cash items in connection with the Services.

9.2.3.2 Salaries or other compensation of Construction Manager's Personnel at Construction Manager's principal office and branch offices, unless Construction Manager obtains prior written approval from 1 WTC, in which case such salaries or other compensation will be subject to the terms of Section 9.2.2.1 above.

9.2.3.3 Expenses of Construction Manager's branch offices except as explicitly allowed in Section 9.2.2.4 above.

9.2.3.4 Meals for Construction Manager's Personnel, subject to Section 9.2.2.1(iv).

9.2.3.5 Any part of Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Services.

9.2.3.6 Rental or depreciation costs.

9.2.3.7 General expenses of any kind, except as may be expressly included in Section 9.2.2.4 above or approved in writing by 1 WTC, in accordance with Section 9.2.3.17 below.

9.2.3.8 Costs incurred due to the willful misconduct or negligence of, or breach of the Agreement by, Construction Manager, any Subconsultant, anyone

directly or indirectly employed by any of them (other than the Contractors), or for whose acts any of them may be liable.

9.2.3.9 Except as set forth herein, costs incurred by reason of Construction Manager's membership in, or fees paid by Construction Manager, to trade or professional organizations.

9.2.3.10 Workers' compensation costs and any other costs covered under the OCIP with respect to Construction Manager's field office supervisor and field office staff.

9.2.3.11 All fees for obtaining building permits shall be paid directly by 1 WTC, but Construction Manager shall provide any services reasonably necessary to assist 1 WTC in obtaining any permits.

9.2.3.12 Construction Manager's federal, state, or local income taxes.

9.2.3.13 Indirect costs and expenses of Construction Manager in connection with the administration of the warranty after Final Completion.

9.2.3.14 Costs for subcontracts entered into by Construction Manager prior to the date of this Agreement pursuant to the authority granted to Construction Manager in the General Contractor Agreement, which costs shall be reimbursed and associated fees shall be paid to Construction Manager in accordance with the General Contractor Agreement.

9.2.3.15 Other than for non-exempt union labor who shall be billed at cost, overtime or hazardous pay, including, without limitation, overtime work or night work or pay for performing hazardous duties.

9.2.3.16 Any tax paid with respect to any purchase or rental charge, including, without limitation, New York State or New York City sales tax, where the purchase or rental charge is exempt from such tax pursuant to Section 32.11 of this Agreement.

9.2.3.17 The cost of any item not specifically and expressly included in the items described in Section 9.2.2.4 above, unless Construction Manager obtains prior written approval from 1 WTC for each reimbursement of a specific, extraordinary, single, and non-reoccurring item of expense, which approval shall be granted or denied at 1 WTC's sole, subjective, and absolute discretion.

10. PROGRESS PAYMENTS.

10.1 Payments Via Mobilization Account.

10.1.1 Tishman shall establish a separate non-interest bearing checking account ("Mobilization Account"), which Construction Manager shall use for the payment of (i) General Conditions Costs; and (ii) Deductible Expenses paid after April 1, 2008 (subject to the provisions set forth in Sections 19.4.1 and 19.4.9) (collectively, General Conditions Costs and Deductible Expenses paid after April 1, 2008, shall be referred to in this Agreement as "Mobilization Account Expenses"). Construction Manager shall not earn any Fee on any Deductible Expense, including Deductible Expenses paid via the Mobilization Account. Construction Manager shall use the funds in the Mobilization Account to pay for Mobilization Account Expenses in accordance with this Section 10.

10.1.2 1 WTC shall fund the Mobilization Account in accordance with (i) the Mobilization Account Funding Schedule per the column in such schedule labeled "Payment Amount" ("Capitalization Payments"), as set forth in **Attachment 11 to Exhibit A** (Mobilization Account Schedules), and (ii) the provisions of this Section 10. The first Capitalization Payment to the Mobilization Account shall be the Initial Working Capital as set forth in the Mobilization Account Funding Schedule.

10.1.3 Construction Manager shall requisition 1 WTC monthly to replenish funds in the Mobilization Account for Mobilization Account Expenses that have been incurred by Construction Manager and paid for with funds drawn from the Mobilization Account during the previous calendar month ("Mobilization Requisition"). The Mobilization Requisition shall be submitted to 1 WTC no later than the first day of each calendar month (or, if such day is not a business day, then the first business day thereafter) and shall include only Mobilization Account Expenses incurred and paid by Construction Manager with funds drawn from the Mobilization Account during the immediately preceding calendar month. In no event shall such Mobilization Requisition contain Mobilization Account Expenses forecast rather than those incurred and paid. As a precondition to replenishment of the Mobilization Account, Construction Manager shall provide all payment documentation requested by, and in form and substance satisfactory to, 1 WTC.

10.1.3.1 After review and approval of a Mobilization Requisition, 1 WTC shall replenish the Mobilization Account for all approved items in that Mobilization Requisition with the following exception: in no event shall any amount deposited by 1 WTC into the Mobilization Account cause the balance of such account, as of the last day of the month in which the Mobilization Account Expenses are being requisitioned, to have exceeded the applicable cumulative amount as set forth in the column labeled "Cumulative Amount" in the Mobilization Account Funding Schedule of Attachment 11, taking into consideration any Capitalization Payment that is due and owing at the time of payment of an approved Mobilization Requisition.

10.1.3.2 If in any month Construction Manager properly incurs Mobilization Account Expenses that exceed the Cumulative Amount that applies to that month ("Excess Mobilization Account Expenses"), Construction Manager shall be responsible to pay such Excess Mobilization Account Expenses with its own funds. Construction Manager may include the Excess Mobilization Account Expenses in its Mobilization Requisition for Mobilization Account Expenses that apply to the month in

which the Excess Mobilization Account Expenses were incurred; provided, however, that to the extent 1 WTC approves the Excess Mobilization Account Expenses, such approved amount shall be reimbursed separately from, and not as part of, the replenishment payment that restores the balance of the Mobilization Account to the required Cumulative Amount. Such reimbursement of Excess Mobilization Account Expenses approved by 1 WTC shall be made at approximately the same time that the replenishment payment is made pursuant to this Section 10.1.3 for the time period to which such Excess Mobilization Account Expenses are allocable.

10.1.3.3 The Cumulative Amount required to be maintained in the Mobilization Account pursuant to this Section 10.1 shall decrease, commencing in April 2012, in accordance with the Mobilization Account Repayment Schedule, as set forth in the Mobilization Account Schedules in **Attachment 11 to Exhibit A.** Each amount by which the required balance of the Mobilization Account is reduced as set forth in the Mobilization Account Repayment Schedule is a "Repayment Amount." Upon each date set forth in the first column of the Mobilization Account Repayment Schedule (a "Repayment Date"), Construction Manager shall make payment to 1 WTC from the Mobilization Account of an amount equal to the corresponding Repayment Amount set forth in the same line as that Repayment Date. If Construction Manager fails to make such payment timely, 1 WTC may deduct or withhold an amount equal to that Repayment Amount from any amount subsequently due Construction Manager under the Agreement. During the time period to which the Mobilization Account Repayment Schedule applies, Construction Manager shall continue to make monthly requisitions, and 1 WTC shall continue to make payments, with respect to Mobilization Account Expenses, as set forth above in this Section 10.1.3; provided, however, that any replenishment of funds in the Mobilization Account shall not cause the balance of the Mobilization Account to exceed the Cumulative Amount that applies under the Mobilization Account Repayment Schedule.

10.1.3.4 If 1 WTC disapproves of an item in the Mobilization Requisition for causes set forth in either clause (i) or (ii) immediately below, then Construction Manager shall return the amount of the disapproved item to the Mobilization Account within five (5) business days after 1 WTC issues a notice of disapproval of such item to Construction Manager:

(i) Construction Manager used funds in the Mobilization Account to pay for a Mobilization Account Expense that required 1 WTC's pre-approval, approval, discretion, consent, action, or review prior to payment, including, but not limited to, those described in Section 10.1.3.8; and 1 WTC had not pre-approved, had disapproved, had exercised its discretion to the contrary, had withheld its consent, had not consented to, had not performed the required action, had not conducted the required review, or otherwise had not performed or conveyed the required pre-approval, approval, discretion, consent, action, or review; or

(ii) Construction Manager used funds in the Mobilization Account to pay for an item that was not an allowable Mobilization Account Expense.

10.1.3.5 If 1 WTC issues Construction Manager a notice of disapproval in accordance with Section 10.1.3.4 above, then Construction Manager may appeal 1 WTC's disapproval in accordance with the dispute resolution provisions set forth in Section 24 of this Agreement. Notwithstanding any such appeal, Construction Manager remains obligated to return the amount of the disapproved item to the Mobilization Account within five (5) business days after issuance of the notice of disapproval to Construction Manager, pending outcome of the appeal.

10.1.3.6 If Construction Manager fails to return any funds to the Mobilization Account within five (5) business days after a notice of disapproval is issued to Construction Manager in accordance with Section 10.1.3.4 above, and fails to furnish 1 WTC promptly, within same five (5) business days, with reasonable evidence that such funds have been returned, then 1 WTC, at its sole and absolute discretion, may issue to Construction Manager a notice of termination of the Mobilization Account. Upon issuance to Construction Manager of such notice of termination of the Mobilization Account, Construction Manager immediately and automatically forfeits the use of the funds in the Mobilization Account. Construction Manager immediately shall cease writing checks and drafts or withdrawing any funds in any manner from the Mobilization Account and immediately shall return the balance of funds in the Mobilization Account to 1 WTC, such balance to be calculated in accordance with Section 10.1.3.7 below.

10.1.3.7 The balance of funds to be returned to 1 WTC from the Mobilization Account in the event a notice of termination of the Mobilization Account is issued to Construction Manager shall be calculated as follows: the balance in the Mobilization Account at the close of business on the date of the notice of termination of the Mobilization Account, as such balance is reported by the banking institution where the funds are on deposit, less: (a) the aggregate amount of checks or drafts not yet presented for payment that, prior to receipt of the notice of termination of the Mobilization Account, either had been deposited for mailing with the United States postal service or otherwise had been delivered to and received by the payee, and (b) the aggregate amount of checks or drafts (i) payable to the order of Construction Manager or its affiliates (ii) for amounts approved pursuant to a Mobilization Requisition (iii) that had not cleared the Mobilization Account as of the close of business on the day before the date of the notice of termination of the Mobilization Account.

10.1.3.8 Construction Manager expressly represents, warrants, and certifies that it shall obtain any required approval in accordance with the provisions of this Agreement, including, without limitation, Section 7 (Approval of Personnel) and Section 8 (Subconsultants), prior to using the funds in the Mobilization Account to pay for the (i) the salary of any Personnel; (ii) the applicable Burden Rate, (iii) the cost of any non-exempt union labor, or (iv) the cost of any Subconsultant.

10.1.4 1 WTC shall not withhold retainage for approved Mobilization Account Expenses appearing on the requisition described in Section 10.1.3 above.

10.1.5 In no event shall Construction Manager withdraw funds from or use funds in the Mobilization Account to pay for any expense or item other than Mobilization Account Expenses incurred by Construction Manager. For the avoidance of doubt, Construction Manager shall not use funds in the Mobilization Account to pay for Trade Costs, the Construction Manager's Fee, or for items to be paid from the Insurance Escrow Account, except for payments of Deductible Expenses after 1 WTC's obligation to fund or replenish the Insurance Escrow Account ceases on April 1, 2008.

10.2 Payment for Contractors' Applications and Construction Manager's Fee Via Trade Account.

10.2.1 Construction Manager shall establish a separate non-interest bearing checking account which Construction Manager shall use for payment of Contractors' applications for payment for progress and final payment requests, excluding General Conditions Costs ("Trade Account"). Construction Manager shall use the funds in the Trade Account to make such payments to Contractors in accordance with the requirements set forth in this Agreement.

10.2.2 1 WTC shall deposit into the Trade Account such amount that will enable the Construction Manager to pay the Contractors those amounts that have been approved and certified for payment by 1 WTC Representative in accordance with this Section 10.2. Construction Manager shall pay each Contractor its respective approved amount no later than three business (3) days after such deposit, or later if directed by 1 WTC in writing.

10.2.3 Construction Manager shall submit to 1 WTC by the first of each month one integrated progress payment request (i) for payment of all Contractors currently on the Project, which request shall be in accordance with the provisions set forth in the respective Contracts, for Work performed during the previous month, and (ii) for payment of Construction Manager's Fee as set forth in Section 10.3. Construction Manager shall submit in such request only those payments that Construction Manager recommends for payment and has certified properly as due and owing. As a precondition to any deposit into the Trade Account, Construction Manager shall provide all payment documentation requested by, and in form and substance satisfactory to, 1 WTC Representative.

10.3 Progress Payment of Construction Manager's Fee.

10.3.1 As part of the integrated progress payment request, Construction Manager shall submit to 1 WTC monthly an invoice for Construction Manager's Fee, stating in detail the portion of the Construction Manager's Fee that has been earned based on the Cost of the Work necessarily incurred; provided, however, all of the amounts comprising such Cost of the Work shall have been completed, approved and certified by 1 WTC Representative.

10.3.2 Construction Manager shall provide all documentation requested by 1 WTC in form and substance satisfactory to 1 WTC as a precondition to any payment.

10.3.3 After the invoice for the Construction Manager's Fee has been approved and certified for payment by 1 WTC Representative, 1 WTC shall pay such invoice in a reasonable time.

10.4 Payments Withheld.

10.4.1 1 WTC, at its discretion, may withhold an appropriate portion or all of (i) any progress or final payment, (ii) the Construction Manager's Fee, or (iii) any payment, reimbursement, or disbursement from; deposit into; or replenishment of, the Mobilization Account, Trade Account, or Insurance Escrow Account, for any of the following reasons: (1) a lien or other claim made, asserted, or filed, or reasonable evidence indicating such a lien or claim may be asserted, regarding the Project for payments made to or authorized by Construction Manager; (2) failure of Construction Manager to properly make a payment to a Subconsultant or Contractor, or, only in the ease where Construction Manager is not acting as agent of 1 WTC but rather is acting as a general contractor pursuant to Exhibit B, failure of a Contractor (first-tier Subcontractor) to properly make a payment to a Subcontractor or Materialman (as the terms "Subcontractor" and "Materialman" are defined in the Contract, which Contract is referenced as Rider V (Form of Trade Contract)); (3) improper, erroneous, or incomplete invoices from Construction Manager; (4) unauthorized deviation by Construction Manager from performance of its Services in accordance with the Standard of Care; (5) disbursements from the Mobilization Account for costs other than General Conditions Costs, or Deductible Expenses paid after April 1, 2008; or (6) breach of this Agreement by Construction Manager.

10.4.2 Notwithstanding the above, 1 WTC may dispute any payment, deposit, or disbursement, and deduct from future payment requests the amount in dispute until such time as the dispute is resolved in accordance with the Contract Documents.

10.4.3 If 1 WTC withholds reimbursement to Construction Manager for Excluded Emergency Costs, as set forth in Section 9.2.2.4(iii), then (a) Construction Manager agrees to pay promptly such Excluded Emergency Costs, and (b) Construction Manager shall pay all costs and expenses incurred by any Contractor arising out of or resulting from such emergency. 1 WTC's sole obligation prior to withholding funds in accordance with this Section 10.4 will be to file a claim with the appropriate insurance carrier. In the event the insurance carrier refuses to accept a claim, or 1 WTC is unable to determine the appropriate insurance carrier or manner in which to file a claim, 1 WTC's good faith effort to comply with this Section 10.4.3 will suffice.

10.4.4 1 WTC may collect or recover, in any manner permitted by law, in equity, or by the Contract Documents, any amount to which it is entitled from the Mobilization Account, from the Trade Account, from the Insurance Escrow Account, or to which it is entitled as otherwise provided in the Contract Documents.

10.5 1 WTC may perform an audit or otherwise independently verify any payment request or certification by Construction Manager.

11. INTENTIONALLY OMITTED.

12. HAZARDOUS MATERIALS.

12.1 Anything in this Agreement to the contrary notwithstanding, except as otherwise provided in Section 12.2, Construction Manager shall not have any duties or obligations. regarding the existence, remediation or removal of any hazardous waste, hazardous material, toxic substance, asbestos-containing material, petroleum product, or related materials, including, but not limited to, substances defined as "hazardous substances" or "toxic substances" as defined in the following: Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9061 *et. seq.;* Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802; and the Resource Conservation Act and Recovery Act, as amended, 42 U.S.C. Sec. 6901 *et. seq.;* and the corresponding regulations (as amended) issued pursuant to these acts (collectively, "Hazardous Materials"); provided, however, that Construction Manager will assist 1 WTC in the procurement of Contracts with remediation trades to perform any needed remediation work. It is 1 WTC's responsibility to directly contract with remediation contractors for the removal, transport, and disposal of all asbestos and hazardous waste from the site (each such contractor, hereinafter a "Remediation Contractor"). At 1 WTC's request, Construction Manager shall bid at 1 WTC's request and recommend to 1 WTC an award for both the asbestos and hazardous waste survey and monitoring firm as well as the Remediation Contractor(s). The Remediation Contractor(s) shall be directly responsible to 1 WTC for the monitoring and supervision of all asbestos and hazardous waste removal/remediation. Construction Manager shall in no way be responsible for supervision of the work of remediating, removing, transporting, or disposing of the asbestos or hazardous waste as performed by 1 WTC's Remediation Contractor. 1 WTC shall, in its contract(s) with Remediation Contractors, use reasonable efforts to, and where possible, require each such Remediation Contractor to: (i) name 1 WTC and Construction Manager as additional insureds on all relevant insurance policies relating to work on the Project; and (ii) defend, indemnify and hold harmless in connection with the Remediation Contractor's work the following entities: 1 WTC, Construction Manager, Authority, Silverstein Freedom Tower Development LLC, WTC Redevelopment LLC, World Trade Center Properties, Two World Trade Center LLC, Four World Trade Center LLC, Five World Trade Center LLC, Net Lessees' Association of the World Trade Center, Silverstein WTC Facility Manager LLC, Silverstein Properties Inc., Silverstein Development Co., Larry A. Silverstein (as an individual), Port Authority Trans Hudson (PATH), NYS Department of Transportation, WTC Retail LLC, Tishman Realty & Construction Co., Inc., Tishman Construction Corporation of New York, and the parents and affiliates, successors and permitted assigns of each of the foregoing entities and the officers and directors of each of them. To the extent 1 WTC incurs costs for naming Construction Manager as an additional insured, Construction Manager shall reimburse 1 WTC for such costs.

12.2 Notwithstanding anything to the contrary herein, Construction Manager shall be responsible for the existence, remediation, removal or damages arising from the following: (i) any Hazardous Material introduced to the Project by Construction Manager or its Subconsultants, or anyone for whom either or both are responsible; (ii) any Hazardous Material handled either improperly or unsafely or not in keeping with the Legal Requirements setting forth the requirements for handling or disposing of such Hazardous Materials; and/or (iii) any condition arising from the existence, remediation, removal or damages of a Hazardous Material

that is exacerbated by Construction Manager or its Subconsultants. Construction Manager shall ensure that both Construction Manager and 1 WTC are listed as additional insureds on any remediation contractor's environmental and Comprehensive General Liability policies hired with respect to this Section 12.2.

13. PUBLIC RELATIONS.

Construction Manager shall not communicate with the media regarding the Project without the prior written approval of 1 WTC and shall comply with the requirements of Section 22 (Confidentiality) below at all times with respect to any communication whatsoever.

14. EMPLOYMENT PROVISIONS.

14.1 Authority has a long-standing practice of encouraging Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) to seek business opportunities within Authority, either directly or as Contractors and subcontractors. The Authority's policy is articulated in Section 8 of the Contract. 1 WTC hereby adopts such policy in regards to Construction Manager's Services and in regards to the Work performed by Contractors.

14.2 To ensure maximum participation in the Project, to the extent feasible and consistent with the exercise of good business judgment, 1 WTC adopts Authority's overall contract goal of twelve percent (12%) participation by MBEs and five percent (5%) participation by WBEs for (i) all procurement, subcontracting, and ancillary service opportunities for the Construction Manager's Services and the Work performed by Contractors. 1 WTC also adopts Authority's goals that the construction labor force reflect the minority and female participation goals set forth in Section 35 of the Contract titled "Affirmative Action Requirements – Equal Employment Opportunity" for Construction Manager's Services and the Work performed by Contractors.

14.3 Construction Manager shall use its best efforts to achieve the goals and policies described in Section 14.2 above for Construction Manager's Services. Construction Manager shall facilitate, oversee, and scrutinize achievement of the goals and policies described in Section 14.2 above for Contractor's Work. Construction Manager also shall report monthly to 1 WTC regarding progress and issues with respect to compliance and progress regarding the provisions of this Section 14 and Sections 8 and 35 of the Contract.

14.4 The provisions of Sections 8 and 35 of the Contract shall be available to all bidders and those selected to be Contractors, both during the bidding process and at time of execution of each respective Contract; and to all Subconsultants and their subconsultants of any tier.

14.5 In order to facilitate meeting the MBE/WBE goals, Construction Manager shall use every good faith effort, to the maximum extent feasible, to utilize Contractors and Subconsultants who are certified MBEs or WBEs.

14.5.1 1 WTC has a list of certified MBE/WBE service firms, which list is available to Construction Manager at its request.

14.5.2 Construction Manager will be required to submit to Authority's Small Business Program for certification the names of MBE/WBE firms that Construction Manager proposes to use who are not on the list of certified MBE/WBE firms.

14.5.3 In order for a firm to be "certified" as an MBE or WBE, Authority's Small Business Program must make the determination and so certify.

15. PREPARATION OF DOCUMENTS AND GRAPHICS.

15.1 When Services to be performed by Construction Manager include the preparation of Contract Documents, or the performance of post-award Services, Construction Manager shall submit a specific quality control/quality assurance program to 1 WTC prior to the performance of said Services. When Construction Manager has completed preparation of any Contract Documents required hereunder, Construction Manager shall submit a letter to 1 WTC certifying Construction Manager's conformance with the aforementioned quality control/quality assurance program.

15.2 When Services to be performed by Construction Manager include the preparation of computer aided design and drafting (CADD) documents, Construction Manager shall submit said documents in the format of the latest available version of AutoDesk's design CADD software (.dwg), or as directed by 1 WTC prior to performance of specific Services, and such documents shall be submitted to 1 WTC on compact disks or as otherwise required by 1 WTC.

15.3 When Services to be performed by Construction Manager include the preparation of architectural graphics, Construction Manager shall prepare said graphics using a system fully compatible with 1 WTC's standard computer system. The graphics shall be prepared using the latest revision of the following software packages, as required by 1 WTC: Adobe Illustrator; Quark Xpress; Microsoft Word, and Microsoft PowerPoint. Such graphics shall be submitted to 1 WTC on compact disk or as otherwise required by 1 WTC.

16. 1 WTC REVIEW.

16.1 Construction Manager shall meet and consult with 1 WTC Representative no less than once per week in connection with the Services to be performed herein.

16.2 Any deliverable, such as Project Schedule, to be submitted or prepared hereunder by Construction Manager shall be subject to review or, where applicable, approval by 1 WTC.

16.2.1 1 WTC may disapprove, if, in 1 WTC Representative's sole opinion, any deliverable is not in accordance with the requirements of this Agreement, all applicable jurisdictional codes, 1 WTC's standards, sound engineering practices, or are impractical, uneconomical, or unsuitable for the purpose for which the construction is intended.

16.2.2 If any deliverable is so disapproved, Construction Manager shall forthwith revise said items until approved by 1 WTC, but Construction Manager shall not be compensated under any provision of this Agreement for performance of such revisions.

16.3 No approval or disapproval by 1 WTC shall relieve Construction Manager of its responsibilities under this Agreement.

17. RECORDKEEPING.

17.1 Construction Manager shall keep, and shall cause each Subconsultant under this Agreement to keep, daily records of the time spent in the performance of Services by all persons whose salaries or amounts paid thereto will be the basis for compensation under this Agreement, as well as records of the amounts of such salaries and amounts actually paid for the performance of such Services, and records and receipts of the Cost of the Work, Reimbursable Expenses, or other expenditures hereunder.

17.2 Notwithstanding any other provision of this Agreement, failure to comply with Section 17.1 shall be a conclusive and final waiver of any right to compensation for such Services or expenses that are otherwise compensable hereunder.

17.3 1 WTC shall have the right to audit all of the records of Construction Manager and Subconsultants of any tier with respect to the Project.

17.4 1 WTC shall have the right to inspect Construction Manager's records, and those of Construction Manager's Subconsultants of any tier, pertaining to any compensation payable or to be paid hereunder.

17.5 Construction Manager's files and records with respect to the Project must be maintained by Construction Manager and its Subconsultants for a period of four (4) years after completion of Services to be performed under this Agreement.

18. INDEMNIFICATION.

18.1 Construction Manager shall defend, indemnify and hold 1 WTC, Authority, and their respective affiliates, officers, directors, employees, agents, successors, and assigns ("Indemnitees") harmless from all claims, damages, losses, and expenses to the extent such claims, damages, losses, and expenses arise out of, or in connection with, failure of Construction Manager to act in accordance with the Standard of Care in connection with performance of Construction Manager's Services, including those of its Subconsultants.

19. INSURANCE.

19.1 1 WTC, at its sole and absolute discretion, may provide an insurance program ("Insurance Program") in accordance with the provisions of the first paragraph, including subparagraphs (a) through (g), of **Attachment 6 to Exhibit A** (Insurance).

19.2 Construction Manager shall procure, and cause its Subconsultants to procure, the insurance in accordance with the requirements set forth in **Attachment 6 to Exhibit A** (Insurance) other than those described in Section 19.1 above.

19.3 Construction Manager shall cooperate with the Insurance Program insurers, if any, and shall respond timely to all reasonable requests from same.

19.4 Construction Manager shall establish a separate non-interest bearing checking account in order to pay Deductible Expenses, as such term is defined in Section 19.4.4 below, with respect to certain claims under a general liability insurance policy described in Section 19.4.1 below ("Insurance Escrow Account"). The Insurance Escrow Account is applicable only to claims under such general liability insurance policy described in Section 19.4.1 below and is not applicable to claims under the OCIP or to any other claim.

19.4.1 As part of an interim insurance program expected to be approximately one year in length, Construction Manager has obtained an insurance policy on behalf of itself, 1 WTC, and others, from Illinois Union Insurance Company, policy number G22046214001, for certain commercial general liability insurance coverage with respect to the Freedom Tower Project during a one-year period beginning February 15, 2007 ("CGL Policy"). The CGL Policy names Construction Manager, 1 WTC, and the Authority as named insureds. Construction Manager shall ensure that all entities identified as Additional Insureds on **Schedule 1 of Attachment 6 to Exhibit A** are named as additional insureds to the CGL Policy. This primary CGL Policy provides for a deductible in the amount of $25,000 per occurrence applicable to each claim under the CGL Policy, with a single claim limit of $1,000,000 per occurrence and a total limit of $2,000,000. Excess coverage is provided through a variety of insurance policies to achieve a total CGL limit of $200,000,000 for the term of the interim insurance program. The CGL Policy obtained by Construction Manager is dedicated solely to the Freedom Tower Project, and the limits as set forth in this Section 19.4.1 are applicable solely to the Freedom Tower Project.

19.4.2 1 WTC shall be responsible for the payment of the premiums with respect to the CGL Policy and any stamping fee, premium tax, required excise tax, or other required tax thereon as a reimbursable cost in accordance with Section 9.2.2.5 of this Agreement; provided, however, that if the CGL Policy is cancelled or terminated within six months of commencement of the one-year period beginning February 15, 2007, then 1 WTC shall be entitled to reimbursement of the premium costs as set forth in Section 19.4.2.2 hereof.

19.4.2.1 With respect to Section 19.4.2 above, Construction Manager acknowledges and agrees that the CGL Policy was cancelled or terminated within six months of commencement of the one-year period beginning February 15, 2007, and, accordingly, that 1 WTC will receive reimbursement of the premium costs as set forth in Section 19.4.2.2; and

19.4.2.2 Construction Manager acknowledges and agrees that 1 WTC paid a total of $3,140,881 for the premiums with respect to the CGL Policy for the one-year period and that 1 WTC is due and owing a pro rata reimbursement in the amount of $1,228,243.75. Construction Manager shall pay 1 WTC such aggregate amount of $1,228,243.75 by the earlier of (i) within five (5) days of Construction Manager's receipt of the premium reimbursement from the insurer, or (ii) by September 1, 2007. In the event Construction Manager receives a partial reimbursement from the

insurer prior to September 1, 2007, then Construction Manager shall pay 1 WTC an amount equal to such partial reimbursement within five (5) days of Construction Manager's receipt of the partial reimbursement from the insurer but in no event later than September 1, 2007.

19.4.3 Construction Manager shall administer all of the claims under the CGL Policy.

19.4.3.1 Construction Manager shall give written notification to 1 WTC and its designees (i) promptly upon receipt of any claim, and (ii) five (5) business days prior to any withdrawal by Construction Manager from the Insurance Escrow Account. For purposes of this Section 19.4.3.1, the term "withdrawal" means any withdrawal, disbursement, or debit of any kind from the Insurance Escrow Account.

19.4.3.2 Construction Manager shall consult with 1 WTC regarding any settlement under the CGL Policy and give written notification to 1 WTC and its designees five (5) business days prior to settlement of any claim. With respect to a final decision regarding settlement within the limits of the CGL Policy, Construction Manager shall make such final decision where the settlement amount exceeds the deductible amount but remains within CGL policy limits; 1 WTC shall make the final decision where the settlement amount is within the deductible amount.

19.4.3.3 1 WTC will pay Construction Manager a claims administration fee of $1,500 for each claim filed against the CGL Policy. This claims administration fee shall cover all costs and expenses incurred by Construction Manager with respect to administration of the claim for which such fee was paid, including all costs and expenses for or incurred by any of Construction Manager's staff or by any third party, including a third party claims administrator. If the costs and expenses incurred by Construction Manager in the administration of a claim exceed the claims administration fee of $1,500 for such claim, then Construction Manager shall be responsible for any excess amount, and the claims administration shall be carried out by Construction Manager without further cost or expense to 1 WTC. 1 WTC shall have no financial responsibility to any third party claims administrator engaged by Construction Manager, and Construction Manager is responsible to pay for the services and expenses of such third party claims administrator, regardless of the amounts charged and whether or not such amounts exceed or can be covered by the $1,500 claims administration fee.

19.4.3.4 Construction Manager shall bill 1 WTC for a $1,500 claims administration fee with respect to each claim filed against the CGL Policy that Construction Manager administers.

19.4.4 Construction Manager shall use the funds in the Insurance Escrow Account for the sole purpose of paying the deductibles under and as defined by the CGL Policy ("Deductible Expenses").

19.4.5 1 WTC shall fund the Insurance Escrow Account with an initial deposit of $300,000 to the Insurance Escrow Account and, thereafter, in accordance with the provisions of this Section 19.4.

19.4.6 Whenever the balance in the Insurance Escrow Account falls below $200,000, Construction Manager may requisition 1 WTC to replenish the funds in the Insurance Escrow Account in order to restore the balance to $300,000 ("Insurance Requisition"); provided, however, an Insurance Requisition shall be submitted to 1 WTC no more than once per calendar month and shall include only funds withdrawn from the Insurance Escrow Account for Deductible Expenses incurred in the prior month. In no event shall the Insurance Requisition include any item forecast rather than paid. As a precondition to replenishment of the Insurance Escrow Account, Construction Manager shall provide all payment documentation requested by, and in form and substance satisfactory to, 1 WTC.

19.4.7 If 1 WTC disapproves of any item in Construction Manager's Insurance Requisition, whether or not such item is a Deductible Expense, 1 WTC shall notify the Construction Manager in writing of 1 WTC's disapproval. Construction Manager shall return the cost of any disapproved item to the Insurance Escrow Account within five (5) business days of receiving such notice of disapproval. The amount of funds to be returned to the Insurance Escrow Account shall be the amount stated in the notice of disapproval. If the total amount of such funds is not returned to the Insurance Escrow Account upon the expiration of five (5) business days after receipt of such notice of disapproval, then 1 WTC, at its sole and absolute discretion, may deduct the amount of such item from the Construction Manager's Fee.

19.4.8 After 1 WTC has approved Construction Manager's Insurance Requisition, 1 WTC will deposit the amount approved with respect to the Insurance Requisition into the Insurance Escrow Account within thirty (30) days.

19.4.9 Any obligation of 1 WTC to fund or replenish the Insurance Escrow Account ceases on April 1, 2008. The balance of funds in the Insurance Escrow Account are immediately due and owing to 1 WTC as of such date, and Construction Manager immediately shall return such funds to 1 WTC. Anything in this Agreement to the contrary notwithstanding, any Deductible Expense paid after April 1, 2008, will be reimbursed to Construction Manager from the Mobilization Account, as set forth in Section 10.1 hereof, to the extent that payment for such Deductible Expense is the responsibility of 1 WTC under this Agreement and subject to the per-occurrence limit set forth in Section 19.4.1 above.

19.4.10 Construction Manager shall cause the banking institution to forward each month directly (i) to 1 WTC, in accordance with Section 11 (Notices) of the Third Freedom Tower Amendment, (ii) to the Authority, addressed as follows: The Port Authority of NY & NJ, c/o Treasury Department, 225 Park Avenue South, 12th Floor, New York, New York 10003, Attn: Cash Management, and (iii) to any of 1 WTC's or the Authority's designees as communicated to Construction Manager from time-to-time, the monthly statement produced by the institution where the Insurance Escrow Account funds are on deposit. Construction Manager

shall provide 1 WTC with any supporting documentation 1 WTC requests after reviewing the monthly statement.

19.4.11 Prior to paying any Deductible Expense from the Insurance Escrow Account, Construction Manager shall provide evidence satisfactory to 1 WTC that the insurer has requested that such Deductible Expense be paid and that such Deductible Expense is currently due and owing.

19.4.12 1 WTC may perform an audit or otherwise independently verify any claim, Insurance Requisition or other requisition, payment, cost, or bank statement under this Section 19.4.

19.4.13 Construction Manager acknowledges and agrees that 1 WTC paid a total of $359,975 for premiums with respect to an insurance policy for terrorism coverage and that such terrorism coverage shall remain in full force and effect for the entire policy period. Construction Manager agrees to provide 1 WTC with the policy number and a complete and accurate copy of each such policy evidencing the terrorism coverage prior to execution of this Agreement.

19.4.14 Prior to execution of the Agreement, Construction Manager agrees to provide 1 WTC with the policy number and a complete and accurate copy of each such policy for all insurance coverages purchased or obtained by Construction Manager for or on behalf of 1 WTC with respect to the Project.

20. OWNERSHIP OF WORK PRODUCT.

20.1 Mylars of the Contract Drawings, originals of technical specifications, estimates, reports, records, data, charts, documents, renderings, computations, computer tapes and disks, and other documents of any type whatsoever (collectively, "Works") and mechanical or electronic copies of the Works, whether in the form of writing, figures, or delineations, which are prepared or compiled in connection with this Agreement, shall become the property of 1 WTC, and 1 WTC shall have the right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided herein. For purposes of copyright creation and ownership, such Works shall be considered "works for hire" and shall be deemed created and owned by the 1 WTC; Construction Manager shall otherwise assign such rights to 1 WTC and execute such documents and undertake such actions to effectuate such assignments and ownership.

20.2 Construction Manager hereby warrants and represents that 1 WTC will have at all times the ownership and rights provided for in Section 20.1 above, free and clear of all claims of third persons, whether presently existing or arising in the future, and whether presently known to either of the parties to this Agreement or not. This Agreement shall not be construed, however, to require Construction Manager to obtain for 1 WTC the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Construction Manager or one of its employees, or by Construction

Manager's Subconsultant or one of Subconsultant's employees, in which case such right shall be obtained by the 1 WTC under an irrevocable, non-exclusive, royalty free and worldwide license to make, have made, and use, either by itself or by anyone on 1 WTC's behalf, without additional compensation by the 1 WTC in connection with any activity now or hereafter engaged in or permitted by 1 WTC under this Agreement.

20.3 If research or development is furnished in connection with the performance of this Agreement and if, in the course of such research or development, patentable subject matter is produced by Construction Manager, its officers, agents, employees, or Subconsultants, then 1 WTC, without cost or expense to it, shall have an irrevocable, non-exclusive royalty-free and worldwide license to make, have made, and use, either by itself or by anyone on 1 WTC's behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by 1 WTC under this Agreement.

20.4 With respect to any license 1 WTC may be entitled to pursuant to this Section 20, promptly upon request by 1 WTC, Construction Manager shall furnish or obtain from the appropriate person a form of license satisfactory to 1 WTC, but it is expressly understood and agreed that, as between 1 WTC and Construction Manager, the license herein provided for shall nevertheless arise for the benefit of 1 WTC immediately upon the production of said subject matter and shall not await formal exemplification in a written license agreement as provided for above.

20.4.1 Any license agreement obtained pursuant to this Section 20 may be transferred by 1 WTC to its successors, immediate or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by 1 WTC, and such license may be otherwise transferable at 1 WTC's sole discretion.

21. PATENTS.

21.1 Construction Manager shall promptly and fully inform 1 WTC in writing of any patents or patent disputes, whether existing or potential, of which Construction Manager has knowledge, relating to any idea, design, method, material, equipment, or other matter related to the subject matter of this Agreement or coming to Construction Manager's attention in connection with this Agreement.

21.2 Construction Manager hereby acknowledges that, except as set forth herein, all Intellectual Property Rights (as such term is defined in Section 21.4 below) necessary for the development, construction, and marketing of the Freedom Tower Project are owned by, licensed to, or have been otherwise secured by 1 WTC, its Contractors, Subconsultants, and employees and agents thereof, and that any uses by Construction Manager and its agent, employees, and Subconsultants are incidental and for the benefit of 1 WTC as part of the Project.

21.3 In the event that 1 WTC is accused of infringing any Intellectual Property Rights, including, but not limited to, those rights set forth in Section 20.1, as a result of any action taken by the Construction Manager, its Subconsultants, officers, employees, or agents thereof, the Construction Manager shall defend, indemnify, and hold harmless, and hereby does indemnify

and hold harmless the Indemnitees from and against any and all claims, demands, suits, causes of action, damages, losses, costs, and expenses, including reasonable attorneys' and experts' fees and costs, arising directly or indirectly from or out of the design, creation, manufacture, advertising, promotion, distribution, sale, use, or misuse of any third-party Intellectual Property Rights or any alleged action or omission by Construction Manager, its Subconsultants, or their respective officers, directors, employees, agents, successors, assigns, or customers (collectively, "IP Claims"), including, but not limited to, any IP Claims that may be asserted by customers, suppliers, Contractors, Subconsultants, manufacturers, sales representatives (independent and otherwise), employees, and all other persons and entities which may assert any such claims. Construction Manager shall not settle or otherwise compromise any IP Claims naming 1 WTC without 1 WTC's prior written consent, which shall not be unreasonably withheld. 1 WTC shall have the option to assume the defense of any IP Claims and to hire counsel of its choice, at Construction Manager's expense. Construction Manager shall give immediate notice to 1 WTC of any occurrence that might reasonably be expected to result in any IP Claim against any one or more of the Indemnitees. All of Construction Manager's indemnification obligations hereunder shall survive the expiration or termination of this Agreement.

21.4 For purposes of this Agreement, "Intellectual Property Rights" shall be defined as patents, unpatented inventions, patent applications in process, rights in expired patents, designs, processes, know-how, inventions, mask works, common law trademarks and service marks, active, expired or cancelled trademark or service mark registrations, trade names, slogans, unregistered trade dress, registered and unregistered copyrights, agreements, licenses, trade secrets, rights of publicity, and any tangible media (including film negatives and electronic files) embodying the same.

22. CONFIDENTIALITY.

22.1 Construction Manager has entered into a Confidentiality Agreement with 1 WTC and other parties ("Confidentiality Agreement"), a copy of which is attached hereto as **Attachment 10 to Exhibit A** (Non-Disclosure and Confidentiality Agreement, World Trade Center, Tower One, New York, New York) and made a part hereof. Construction Manager acknowledges and agrees that such Confidentiality Agreement is applicable to both the Project and the Third Freedom Tower Amendment. Construction Manager shall obligate its Subconsultants and their employees in accordance with the requirements of Section 25 (Security Requirements) and shall require in all Contracts that Contractors comply with such requirements and require the Contractor's employees to do the same. A breach of the Confidentiality Agreement by Construction Manager or its Subconsultants shall be a material breach of this Agreement.

22.2 In addition to the obligations set forth in Section 22.1 above, Construction Manager shall comply with Sections 22.3 through 22.7 below, unless a requirement of any such provision conflicts with a requirement set forth in the Confidentiality Agreement. In the event of such a conflict, the most stringent requirement upon Construction Manager shall apply. In the event there is a dispute or it cannot be determined which provision is most stringent upon Construction Manager, then 1 WTC shall select the requirement with which Construction Manager must comply.

22.3 Without the express written approval of 1 WTC, Construction Manager shall keep confidential, and shall require its Subconsultants and employees to keep confidential, the information set forth in Sections 22.3.1 and 22.3.2 below. Disclosure of any such information shall constitute a material breach of the Agreement.

22.3.1 all information identified as confidential, or some other similar identifying mark or statement indicating that such item is confidential, privileged, sensitive security, and/or proprietary information, disclosed to Construction Manager by 1 WTC or PATH or their respective contractors, consultants, or construction managers, if any; or

22.3.2 all information developed by Construction Manager or its Subconsultants in the performance of Services.

22.4 Construction Manager shall execute, and shall cause its employees and its Subconsultants, and the Subconsultant's respective employees, to execute non-disclosure agreements as directed by 1 WTC concerning intellectual property and proprietary information of 1 WTC, PATH, and any third person. Disclosure of any information covered under such non-disclosure agreements shall constitute a material breach of the Agreement.

22.5 The obligation of confidentiality under this Section 22 shall not pertain to:

22.5.1 information in the public domain;

22.5.2 information lawfully received from a third party;

22.5.3 information independently developed or obtained by Construction Manager or its Subconsultants prior to any disclosure or development contemplated in Sections 22.3.1 or 22.3.2, above; or

22.5.4 information that must be disclosed under law, provided 1 WTC is given reasonable notice of the legal obligation or legal process to disclose the same and provided Construction Manager is permitted to give such notice by applicable law.

22.6 Construction Manager shall not issue or permit to be issued any press release, advertisement, or literature of any kind that refers to 1 WTC or the Services performed in connection with this Agreement, unless Construction Manager obtains prior written approval from 1 WTC. Such approval may be withheld at the sole discretion of 1 WTC if, for any reason, 1 WTC believes that publication of such information could or would be harmful to the public interest or is in any way undesirable.

22.7 Under no circumstances shall Construction Manager or its Subconsultants communicate in any way with any contractor, department, board, agency, commission, or other organization, or any person, whether governmental or private, in connection with the Services unless required by law, except upon prior written approval and instruction of 1 WTC; provided, however, that data from manufacturers and suppliers of material shall be obtained by Construction Manager when Construction Manager finds such data necessary, unless otherwise instructed by 1 WTC.

23. SUSPENSION AND TERMINATION.

23.1 If, at any time, it is impracticable or undesirable from the viewpoint or judgment of 1 WTC to proceed with or continue the performance of the Agreement or any part thereof, whether or not for reasons beyond the control of 1 WTC, then 1 WTC shall have authority to suspend performance of any part or all of the Agreement until such time as 1 WTC may deem it practicable or desirable to proceed.

23.2 This Agreement may be terminated by 1 WTC without cause for any reason whatsoever upon thirty (30) days' prior written notice from 1 WTC, in which event 1 WTC shall pay Construction Manager the amounts calculated in Sections 23.2.1 through 23.2.4, as follows:

23.2.1 Construction Manager's Fee for the Cost of the Work executed through the date of termination;

23.2.2 Plus General Conditions Costs incurred up to thirty (30) days from the date of termination except to the extent Construction Manager has written Contracts that extend beyond thirty (30) days from the termination date, which shall be transferred to 1 WTC. These obligations, where possible, shall carry a 30-day cancellation clause and to the extent they do not, such longer obligations shall require 1 WTC's written pre-approval.

23.2.3 Plus, 1 WTC shall pay Construction Manager for staff and related expenses for up to sixty (60) days to allow for transfer of such personnel except to the extent Construction Manager has written obligations beyond sixty (60) days, which shall be transferred to the Authority. Provided, however, that the General Conditions Costs for Personnel beyond the date of termination shall not exceed an average of thirty (30) days in the aggregate for all Personnel;

23.2.4 Less any back charges resulting in incurred or anticipated damages from Construction Manager's breaches of this Agreement, which amounts shall be determined by 1 WTC in its sole and absolute discretion.

23.3 In no event shall Construction Manager be entitled to anticipated or unearned Fee or profits for (i) Services not executed, or (ii) Cost of the Work (a) to be incurred or (b) incurred after the date of termination.

23.4 Construction Manager shall assign all of the Subconsultants' contracts to 1 WTC by the effective date of termination.

23.5 If this Agreement is terminated or cancelled, 1 WTC shall have no further obligation to fund or replenish the Mobilization Account, Trade Account, or Insurance Escrow Account, and any funds in such accounts (a) not actually expended in connection with performance of the Work, or (b) not irrevocably committed by Construction Manager's written agreement with a third party in connection with performance of the Work, shall be immediately due and owing to 1 WTC.

24. DISPUTE RESOLUTION.

24.1 To resolve all disputes and to prevent litigation, the parties to this Agreement authorize Authority's 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 Agreement (including claims in the nature of breach of contract or fraud or misrepresentation before or subsequent to acceptance of Construction Manager's proposal and claims of a type that are barred by the provisions of this Agreement).

24.2 Chief Engineer's decision with respect to any question or dispute under this Section 24 shall be conclusive, final, and binding on the parties. The decision may be based on such assistance as Chief Engineer may find desirable.

24.3 The effect of Chief Engineer's decision with respect to any question or dispute under this Section 24 shall not be impaired or waived by any negotiations or settlement offers in connection with the question or dispute decided, whether or not Chief Engineer participated therein, or by any prior decision of 1 WTC or others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Agreement.

24.4 All such questions or disputes under this Section 24 shall be submitted in writing by Construction Manager or 1 WTC to Chief Engineer for decision, together with all evidence and other pertinent information in regard to such question or dispute, in order that a fair and impartial decision may be made. The other party shall have a reasonable time to respond. 1 WTC may join any other entity to the dispute that has a valid dispute resolution agreement with 1 WTC. In any action against 1 WTC relating to any such question or dispute, Construction Manager must allege in its 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 Chief Engineer.

25. SECURITY REQUIREMENTS.

25.1 The Confidentiality Agreement entered into by Construction Manager (**Attachment 10** hereto) contains a Security Program Handbook for the Project. Although Construction Manager acknowledges in Section 22.1 above Construction Manager's prior and continuing agreement to comply with the provisions of the Confidentiality Agreement, which agreement includes the Security Program Handbook for the Project, for the avoidance of doubt, Construction Manager acknowledges and agrees that such Security Program Handbook is applicable to both the Project and the Third Freedom Tower Amendment and Construction Manager shall: (i) cause its Subconsultants, Contractors, and employees of such entities performing work or services on the Project to execute the Confidentiality Agreement and Security Program Handbook, (ii) cause Subconsultants and their employees to comply with the provisions therein, and (iii) use best efforts to cause Contractors and their employees to comply with the provisions therein. A breach of the Security Program Handbook for the Project by Construction Manager or its Subconsultants shall be a material breach of this Agreement.

25.2 Construction Manager acknowledges and agrees that Authority and 1 WTC each have facilities, systems, and projects where terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. 1 WTC reserves the right to impose multiple layers of security requirements on Construction Manager, its staff, Subconsultants and their staffs, Contractors and their staffs, and all others participating in the Project, depending upon the level of security required, as determined by 1 WTC in its sole, absolute, and subjective discretion. Accordingly, Construction Manager, if requested after execution of this Agreement, shall execute and comply with any security agreement or new security provision required by 1 WTC or Authority or with any new governmental regulation; or with any modification, increase, and/or upgrade to existing security requirements or governmental regulation, which modification, increase, and/or update is imposed after execution of this Agreement; and Construction Manager shall create an obligation and require that all Subconsultants and Contractors, and their respective staffs, shall do the same and Construction Manager shall cause its Subconsultants to comply with the provisions therein and shall use best efforts to cause its Contractors to comply with the provisions therein.

25.3 Security requirements include, but are not limited to, those attached hereto as **Attachment 7 to Exhibit A** (Security Requirements).

25.4 In addition to the obligations set forth in Sections 25.1 through 25.3 above, Construction Manager shall comply with Sections 25.5 through 25.7 below unless a requirement of any such provision conflicts with a requirement set forth in the security requirements described in Section 25.3 above. In the event of such a conflict, the most stringent requirement upon Construction Manager shall apply. In the event there is a dispute or it cannot be determined which provision is most stringent upon Construction Manager, then 1 WTC shall select the requirement with which Construction Manager must comply.

25.5 In accordance with Section 25.4 above, security requirements include as follows:

25.5.1 Construction Manager, Subconsultant, and Contractor criminal background checks, performed by firms acceptable to 1 WTC, and identity checks and background screening, including, but not limited to, inspection of not less than two (2) forms of valid/current government-issued identification (at least one having an official photograph) to verify person's name and residence;

25.5.2 Screening federal, state, and/or local criminal justice agency information databases and files; screening of any terrorist identification files;

25.5.3 Multi-year check of personal, employment, and/or credit history;

25.5.4 Access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning, or the like;

25.5.5 Issuance of photo identification cards; and

25.5.6 Access control, inspection, and monitoring by security guards.

25.6 Construction Manager shall require that its staff and Subconsultants, and the staff of such Subconsultants, undergo a criminal history background check; and shall furnish proof to 1 WTC, in a form acceptable to 1 WTC, that such check has been performed. No employee of Construction Manager or any Subconsultant will be permitted to perform Services under this Agreement without proof that such check has been performed and submission of the results to 1 WTC.

25.7 Construction Manager shall enforce the security provisions provided for in this Section 25 with all of its Subconsultants, Personnel, and the staff and employees of all foregoing persons and entities, and Construction Manager shall use best efforts to enforce the security provisions provided for in this Section 25 with all of the Contractors and their subcontractors of any tier.

26. CERTIFICATION OF NO INVESTIGATION (CRIMINAL OR CIVIL ANTI-TRUST), INDICTMENT, CONVICTION, DEBARMENT, SUSPENSION, DISQUALIFICATION AND DISCLOSURE OF OTHER INFORMATION.

26.1 By signing this Agreement, Construction Manager and each person signing on behalf of Construction Manager certifies, and in the case of a joint proposal that resulted in formation of this Agreement, each party to such proposal certifies, as to its own organization, that Construction Manager and each parent and/or affiliate of Construction Manager has not:

26.1.1 been indicted or convicted in any jurisdiction;

26.1.2 been suspended, debarred, found not responsible, or otherwise disqualified from entering into any agreement with any governmental agency or been denied a government agreement for failure to meet standards related to the integrity of Construction Manager;

26.1.3 had an agreement terminated by any governmental agency for breach of agreement or for any cause based in whole or in part on an indictment or conviction;

26.1.4 ever used a name, trade name, or abbreviated name, or an employer identification number (other than in connection with Construction Manager's reorganization in 1998) different from those inserted in any such proposal or furnished to 1 WTC;

26.1.5 had any business or professional license suspended or revoked or, within the five (5) years prior to submission of any proposal or execution of this Agreement, whichever occurred earlier, had any sanction imposed in excess of Fifty Thousand Dollars ($50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state, or local law, rule, or regulation, including environmental laws, rules, and regulations;

26.1.6 had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, proposal rigging, embezzlement, misrepresentation, or anti-trust, regardless of the dollar amount of the any sanction or the date of its imposition; and

26.1.7 been and is not currently, or been and is 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.

27. CODE OF ETHICS.

27.1 By signing this Agreement, Construction Manager and each person signing on behalf of Construction Manager certifies that:

27.1.1 the prices proposed or quoted have been arrived at independently and without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Construction Manager or with any competitor;

27.1.2 the prices proposed or quoted have not been and will not be knowingly disclosed, directly or indirectly by Construction Manager or any person identified in Section 26.1 above prior to the official opening of any such proposal, to any other Construction Manager or to any competitor;

27.1.3 no attempt has been made and none will be made to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition;

27.1.4 Construction Manager or any person identified in Section 26.1 above has not made any offer or agreement or taken any other action with respect to any 1 WTC employee or former employee, or immediate family member of either, that would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request), nor does such Construction Manager or person have any knowledge of any act on the part of an 1 WTC employee or former 1 WTC employee relating either directly or indirectly to Construction Manager or such person that constitutes a breach of the ethical standards set forth in said Code; and

27.1.5 no person or selling agency, other than a bona fide employee or bona fide established commercial or selling agency maintained by Construction Manager for the purpose of securing business, has been employed or retained by Construction Manager to solicit or secure this Agreement on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency.

27.2 The certifications in this Section 27 shall be deemed to be made by Construction Manager as follows:

27.2.1 if Construction Manager is a corporation, such certification shall be deemed to have been made not only with respect to Construction Manager itself, but also with respect to each parent, affiliate, director, and officer of Construction Manager, as well as, to the best of the certifier's knowledge and belief, each stockholder of Construction Manager with an ownership interest in excess of ten percent (10%);

27.2.2 if Construction Manager is a partnership, such certification shall be deemed to have been made not only with respect to Construction Manager itself, but also with respect to each partner.

27.2.3 if Construction Manager is a corporation, such certification shall be deemed to have been authorized by the board of directors of Construction Manager, and such authorization shall be deemed to include the signing and submission of any proposal and the inclusion therein of such certification as the act and deed of the corporation.

27.3 If Construction Manager cannot make every certification required under this Section 27, Construction Manager shall so state and shall furnish to 1 WTC prior to executing this Agreement a signed statement that sets forth in detail the reasons therefor. If Construction Manager is uncertain as to whether it can make the foregoing certifications, it shall so indicate to 1 WTC in a signed statement furnished to 1 WTC prior to executing this Agreement, setting forth in such statement the reasons for its uncertainty.

27.4 Notwithstanding that Construction Manager may be able to make the certifications required under this Section 27 prior to or at the time of executing this Agreement, Construction Manager shall immediately notify 1 WTC in writing during the term of this Agreement of any change of circumstances that might make Construction Manager unable to continue to make such certifications or require disclosure.

27.5 Certifications or signed statements made pursuant to this Section 27 shall be deemed to have been made by Construction Manager with full knowledge that they shall become a part of the records of 1 WTC and that 1 WTC shall rely on their truth and accuracy in awarding this Agreement.

27.6 If 1 WTC determines at any time prior or subsequent to the award of this Agreement that Construction Manager has falsely certified as to any material item in such certifications or statements, or has willfully or fraudulently furnished a certification or signed statement that is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the certifications and statements required to be disclosed, then 1 WTC may determine that Construction Manager is not a responsible Construction Manager with respect to its proposal regarding the Services or the Agreement or with respect to future proposals for Services or 1 WTC agreements, and 1 WTC may exercise such other remedies as are provided to it by the Third Freedom Tower Amendment or Agreement with respect to these matters.

27.7 Construction Manager acknowledges that knowingly providing a false certification or statement in any proposal for Services or under this Agreement 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.). Construction Manager also acknowledges that the inability to make such certification will not in and of itself disqualify a Construction Manager, and that in each instance, 1 WTC will evaluate the reasons therefor provided by such Construction Manager.

28. CONSTRUCTION MANAGER ELIGIBILITY.

28.1 Construction Manager acknowledges and shall abide by any determination with respect to 1 WTC's policy to honor any determination by any agency of either the State of New York or New Jersey that a Construction Manager is not eligible to submit a proposal or be awarded a public agreement because such Construction Manager has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

28.2 Construction Manager acknowledges that with respect to the policy set forth in Section 28.1 above, such policy permits a Construction Manager whose ineligibility has been so determined by an agency of either the State of New York or New Jersey to submit a proposal with respect to an 1 WTC agreement and then to establish that Construction Manager is eligible to be awarded an agreement because (i) the state agency determination relied upon does not apply to the Construction Manager; or (ii) the state agency determination relied upon was made without affording the Construction Manager the notice and hearing to which the Construction Manager 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 violation of a prevailing rate of wage law.

28.3 The full text of the resolution adopting the policy described in this Section 28 may be found in the Minutes of Authority's Board of Commissioners meeting of September 9, 1993.

29. NO GIFTS / GRATUITIES / OFFERS OF EMPLOYMENT.

29.1 During the term of this Agreement, Construction Manager shall not offer, give, or agree to give anything of value either to an 1 WTC employee, agent, job shopper, Construction Manager, or other person or firm representing 1 WTC, nor to a member of the immediate family (i.e., spouse, child, parent, brother, or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, Construction Manager, or other person or firm representing 1 WTC of duties involving transactions with Construction Manager on behalf of 1 WTC, whether or not such duties are related to this Agreement or any other 1 WTC agreement or matter. Any such conduct shall be deemed a material breach of this Agreement.

29.2 As used herein, the phrase "anything of value" shall include, but not be limited to, any (a) favor, such as meals, entertainment, transportation, etc., (other than that contemplated by the Agreement) that might tend to obligate an Authority or 1 WTC employee to Construction Manager, 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 phrase shall not include compensation contemplated by this Agreement. For purposes of this provision in Section 29, the term "1 WTC" shall be deemed to include all subsidiaries of the Authority.

29.3 Construction Manager shall insure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by Construction Manager or by its personnel for any reason whatsoever from any passenger, tenant, customer, or other person with whom

Construction Manager comes in contact during the course of performing the Services and shall so instruct its personnel.

29.4 During the term of this Agreement, Construction Manager shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of Authority).

29.5 Construction Manager shall include the provisions of this Section 29 in each subcontract it enters into under this Agreement and shall cause its Subconsultants and their Subconsultants of any tier to so include such provisions.

30. CONFLICT OF INTEREST.

30.1 During the term of this Agreement, Construction Manager shall not do any of the following:

30.1.1 participate in any way in the preparation, negotiation, or award of any contract (other than a contract for Construction Manager's own services or for those of potential Contractors to 1 WTC) to which it is contemplated 1 WTC may become a party;

30.1.2 participate in any way in the review or resolution of any claim under any contract described in Section 30.1.1 above if Construction Manager has a substantial financial interest in the contractor or potential contractor of 1 WTC or if Construction Manager has an arrangement for future employment or for any other business relationship with said contractor or potential contractor; or

30.1.3 take any other action that might be viewed as or give the appearance of a conflict of interest on the part of Construction Manager.

30.2 If any of the following situations exist, then Construction Manager shall inform 1 WTC immediately in writing of such situation, giving the full details thereof:

30.2.1 if the possibility of an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion between Construction Manager and a contractor or construction manager that has a business relationship with or has entered into a contract with 1 WTC;

30.2.2 if Construction Manager has reason to believe an arrangement as described in Section 30.2.1 above may be the subject of future discussion;

30.2.3 if Construction Manager has any financial interest, substantial or not, in a construction manager (other than Construction Manager), potential construction manager, Contractor, or potential Contractor of 1 WTC; or

30.2.4 if Construction Manager has reason to believe any situation exists that might be viewed as or give the appearance of a conflict of interest.

30.3 Unless Construction Manager gives 1 WTC (i) specific prior written advice of Construction Manager's intent to take any action that might be viewed as or give the appearance of a conflict of interest, including, without limitation, performing any work or services for any of the other projects involving the reconstruction of the area surrounding the Freedom Tower Project, and (ii) a mitigation plan acceptable to 1 WTC, Construction Manager shall not take any such action.

30.4 If 1 WTC determines that Construction Manager's performance of a portion of its Services (a) is precluded by any provision of this Section 30, or (b) is no longer appropriate because of such preclusion, then 1 WTC shall have full authority on behalf of Construction Manager and 1 WTC to order that such portion of Construction Manager's Services not be performed by Construction Manager; provided, however, that 1 WTC reserves the right to have the Services performed by others, and any compensation payable hereunder that is applicable to the deleted work shall be equitably adjusted as agreed to by both Construction Manager and 1 WTC.

30.5 Construction Manager's execution of this Agreement shall constitute a representation by Construction Manager that, at the time of such execution, except as set forth in Section 26.1.4 and in other written disclosures by Construction Manager, Construction Manager knows of no circumstances, present or anticipated, that come within the provisions of this Section 30 or that might otherwise be viewed as or give the appearance of a conflict of interest on Construction Manager's part.

30.6 Construction Manager acknowledges that 1 WTC may preclude Construction Manager from involvement in certain disposition/privatization initiatives or transactions that result from the findings of 1 WTC's evaluations hereunder or from participation in any agreements that result, directly or indirectly, from Services provided by Construction Manager.

30.7 Construction Manager acknowledges that it is the opinion of 1 WTC that any entity performing construction management or general contracting services for 1 WTC or other stakeholders in the Project or development of the World Trade Center site (such as LMDC, NYSDOT, WTC Net Lessee), where such entity is responsible for building portions of the World Trade Center site, has a potential conflict of interest with Construction Manager under this Agreement during its pendancy, except as expressly disclosed in writing and approved by 1 WTC.

30.7.1 If Construction Manager desires to enter into a third-party relationship with an entity described in Section 30.7 above, and Construction Manager believes it can provide a mitigation plan that addresses 1 WTC's perceived conflict of interest, then Construction Manager, before entering into such relationship, shall give written notice of Construction Manager's interest to 1 WTC and submit such plan for evaluation to 1 WTC.

30.7.2 1 WTC will evaluate the mitigation plan submitted under the provisions of Section 30.7.1 above and will notify Construction Manager of 1 WTC's decision as to whether 1 WTC will permit Construction Manager to enter into the third-party relationship described in such mitigation plan. If 1 WTC determines that a conflict of interest exists that, in 1 WTC's sole

opinion, makes such third-party relationship inappropriate, then Construction Manager agrees not to enter into such relationship. This provision is of the essence of this Agreement.

31. LEGAL REQUIREMENTS.

31.1 Construction Manager's Services, the Contract Drawings, and all Work performed by Contractors shall comply with all provisions of federal, state, and local laws, ordinances, codes, rules, regulations, and orders that would affect or control the designs, concepts, and construction of the Project as if the Project were being performed for a private corporation; provided, however, that if Authority's standards which are hereby adopted by 1 WTC, are more stringent, then Authority's standards shall prevail and be followed, unless Construction Manager receives written notification to the contrary signed by Authority, in which case the requirements of said notification from Authority shall apply ("Legal Requirements").

32. MISCELLANEOUS.

32.1 No certificate, payment (final or otherwise), acceptance of any Work nor any other act or omission of 1 WTC or 1 WTC Representative shall operate to release Construction Manager from any obligations under or upon this Agreement, or to estop 1 WTC from showing at any time that such certificate, payment, acceptance, act, or omission was incorrect or to preclude 1 WTC from recovering any money paid in excess of that lawfully due, whether under mistake of law or fact or to prevent the recovery of any damages sustained by 1 WTC.

32.2 This Agreement, and any exhibits, riders, and annexes attached hereto or referenced herein, and any written amendments entered into from time to time, constitute the entire agreement between the parties. No change in or modification, termination, or discharge of this Agreement in any form whatsoever shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith, or such party's duly authorized representative; provided, however, that termination in a manner expressly provided for in this Agreement shall be effective as so provided.

32.3 No officer, director, agent, or employee of either party to the Agreement shall be charged personally by the other party with any liability or held liable to the other party under any term or provision of this Agreement, or because of the execution or attempted execution by any officer, director, agent, or employee of either party or because of any breach hereof by any of them.

32.4 This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

32.5 This Agreement shall be binding and inure to the benefit of the respective heirs, executors, administrators, and successors of the parties hereto.

32.6 Construction Manager shall not assign or transfer any interest in this Agreement without the prior written consent of 1 WTC.

32.7 No consent or waiver by 1 WTC shall be effective unless it is in writing and then only to the extent specifically stated. Failure on the part of any party to enforce any act or failure to act of the other party or to declare the other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of any right hereunder. 1 WTC's payment for Services shall not be deemed an approval of Construction Manager's Services or a waiver of any rights 1 WTC may have.

32.8 If any inconsistency or contradiction exists within the Agreement and the remaining Contract Documents, this Agreement shall govern.

32.9 In the event that the Authority hires an integrity monitor in connection with the Property ("Integrity Monitor"), then the Construction Manager and Subconsultants will cooperate fully with the Integrity Monitor, 1 WTC, and the Authority, including but not limited to providing complete access to all personnel and records related to the performance of this Agreement. Failure to comply with this provision shall be a material breach of this Agreement.

32.10 Authority is not a contracting party to this Agreement and shall have no duties, obligation or liabilities in regards to this Agreement. Construction Manager shall look solely to 1 WTC for any claim, cause of action or damages arising out of this Agreement. For the avoidance of doubt, the relationship of the Authority to this Agreement and the Project is set forth below in this Section 32.10.

32.10.1 The Authority is hereby deemed an intended third-party beneficiary of this Agreement. Construction Manager acknowledges and agrees that the performance of the Services is for the benefit of the Authority, and that the Authority shall have the right to enforce the obligations of Construction Manager under this Agreement against Construction Manager directly.

32.10.2 The Authority, from time to time and on behalf of 1 WTC, either (i) may perform certain obligations of 1 WTC, or (ii) may supply or loan to 1 WTC employees of the Authority for the performance of the obligations of 1 WTC.

32.10.3 Construction Manager shall have no direct claim, right, or cause of action against Authority (i) by virtue of Authority's rights under Section 32.10.1, (ii) for any acts, errors or omissions of its employees when engaged or acting on behalf of 1 WTC, or (iii) otherwise in connection with this Agreement.

32.10.4 Construction Manager shall look solely to 1 WTC for payment of any amount due and owing Construction Manager under this Agreement or for any claim, cause of action or damages in connection with the Project. Notwithstanding anything to the contrary, Construction Manager shall have no recourse in connection with this Agreement or the Project against (i) the Authority, or (ii) any present or future Commissioner, officer, director, trustee, employee, agent or volunteer of the Authority. Such exculpation of liability is absolute and without any exception, and shall survive any termination, expiration or assignment of this Agreement.

32.11 To the extent Construction Manager purchases tangible personal property or incurs rentals charges for construction equipment with respect to the Project, and any such purchase or rental charge is exempt from New York State or New York City sales or other taxes, Construction Manager shall obtain such exemption and agrees to comply with the required rules and regulations in order to achieve the exemption as more fully set forth in Attachment 2 (Riders for Contract), Rider V thereto (Form of Trade Contract), and Rider I thereto (Sales and Use Tax Requirements).

32.12 This Agreement represents the entire and integrated agreement between Construction Manager and 1 WTC and supersedes all prior negotiations, arrangements, representations, or agreements, either oral or written.

33. CONSTRUCTION MANAGER'S QUALIFICATION TO DO BUSINESS

33.1 Tishman Construction Corporation shall register as a foreign corporation with the New York State Division of Corporations and shall become qualified to do business in the state of New York and certified by the New York State Department of State. Tishman Construction Corporation acknowledges and agrees that these are material obligations under this Agreement that it must perform as swiftly as possible.

33.2 Tishman Construction Corporation represents, warrants, and covenants that:

33.2.1 it is a corporation incorporated in the state of Delaware;

33.2.2 it is active and in good standing with the Delaware Department of State, Division of Corporations;

33.2.3 it shall take all necessary steps to register as a foreign corporation with the New York State Division of Corporations;

33.2.4 it shall take all necessary steps to become qualified to do business in the state of New York and certified by the New York State Department of State;

33.2.5 it knows of no reason why Tishman Construction Corporation shall be unable to accomplish such registration, qualification, and certification, as described in Sections 33.2.3 and 33.2.4 above; and knows of no reason why either the New York State Department of State or the New York State Division of Corporations will deny Tishman Construction Corporation such registration, qualification, or certification in the State of New York.

33.3 In the event Tishman Construction Corporation is denied either registration, qualification, or certification required under this Section 33, Tishman Construction Corporation shall cause the General Contractor Agreement, as amended by the Third Freedom Tower Amendment and all exhibits, riders, and attachments thereto, including, without limitation, Exhibit A to the Third Freedom Tower Amendment and Exhibit B to the Third Freedom Tower Amendment, (collectively, "Freedom Tower Agreements") to be assigned to Tishman Construction Corporation's subsidiary, Tishman Construction Corporation of New York.

33.4 Tishman Construction Corporation represents, warrants, and covenants that Tishman Construction Corporation of New York is:

33.4.1 a corporation incorporated in the state of Delaware;

33.4.2 active and in good standing with the Delaware Department of State, Division of Corporations;

33.4.3 registered as a foreign corporation with the New York State Division of Corporations; and

33.4.4 qualified to do business in the state of New York and certified by the New York State Department of State.

33.5 If the Tishman Construction Corporation is denied either registration, qualification, or certification required under this Section 33, Tishman Construction Corporation shall fully guarantee the performance of Tishman Construction Corporation of New York with respect to the Freedom Tower Agreements, and shall furnish 1 WTC such other security for performance of Construction Manager's obligations as may be reasonably requested by 1 WTC.

ATTACHMENTS TO EXHIBIT A OF THIRD FREEDOM TOWER AMENDMENT

Attachment 1:	Scope of Services
Attachment 2:	Riders for Contract
Attachment 3:	[Intentionally Deleted]
Attachment 4:	Schedule of Annual and Hourly Personnel's Salaries
Attachment 5:	Owner Controlled Insurance Program
Attachment 6:	Insurance
Attachment 7:	Security Requirements
Attachment 8:	[Intentionally Deleted]
Attachment 9:	Milestone Dates
Attachment 10:	Non-Disclosure and Confidentiality Agreement
Attachment 11:	Mobilization Account Schedules

ATTACHMENT 1
TO
EXHIBIT A

SCOPE OF SERVICES

1. **Scope of Construction Manager's Services.**

1.1 The Services to be performed by Construction Manager consist of (i) all of the duties and obligations set forth in this Attachment 1 to Exhibit A; and (ii) all of the duties and obligations of Construction Manager identified in the Contract Documents; and (iii) all of the duties and obligations of 1 WTC identified in the Contracts.

2. **Duties and Obligations.** In addition to the other duties and obligations set forth in Section 1.1 above, Construction Manager's Services include, without limitation:

2.1 Design Consultation.

2.1.1 Construction Manager shall represent 1 WTC throughout the design process and shall review and monitor the schematic design, design development, construction documents phases of the Project.

2.1.2 Construction Manager shall review the program furnished by 1 WTC to ascertain the design requirements of the Project and shall arrive at a mutual understanding of such requirements with 1 WTC.

2.1.3 Construction Manager shall assist 1 WTC to develop and establish design goals and objectives for the Project with 1 WTC.

2.1.4 Construction Manager shall analyze and evaluate 1 WTC's preliminary program in terms of Project design, Project Schedule, and construction budget requirements, each in terms of the other.

2.1.5 Construction Manager shall scrutinize and refine the Project design requirements, including programming, outline specifications, etc., in coordination and consultation with 1 WTC.

2.1.6 Based on early schematic designs and other design criteria prepared the Design Team, Construction Manager shall further scrutinize and refine its preliminary estimates of construction costs for program requirements using area, volume, and similar conceptual estimating techniques.

2.1.7 Construction Manager shall expeditiously analyze, review, and evaluate design documents during their development and advise on proposed site use and improvements, selection of materials, building systems and equipment, and methods of Project delivery. Construction Manager shall manage and oversee value engineering of alternative materials,

methods, and systems and analyze and recommend the relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to construction cost, including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies.

2.1.8 Construction Manager shall coordinate and synchronize its design reviews with 1 WTC and the Design Team.

2.1.9 Construction Manager shall assist 1 WTC in reaching 1 WTC's goal that its requirements and requests are properly reflected in the design documents, and Construction Manager shall review and report on same as requested by 1 WTC.

2.1.10 [Intentionally omitted]

2.1.11 Construction Manager shall coordinate and synchronize the schematic design with Design Team and Chief Engineer; shall continue to scrutinize and review the schematic design throughout the schematic design process; and shall obtain 1 WTC's approval as necessary.

2.1.12 As Design Team progresses with the preparation of the schematic design documents, Construction Manager shall prepare and update, with increasing detail and refinement and at appropriate intervals agreed to by 1 WTC, Construction Manager's and Design Team's estimates of the construction cost and of each of the Contracts. Such estimates shall be provided for Design Team's review and 1 WTC's approval. Construction Manager shall advise and warn 1 WTC and Design Team if it appears that the construction cost may exceed the latest approved Project budget and research, analyze, and recommend corrective action.

2.1.13 Construction Manager shall obtain approval from 1 WTC before proceeding from the design phase Services to the construction phase.

2.1.14 Construction Manager shall coordinate and synchronize design development with the Design Team and 1 WTC; shall continue to review and monitor design development throughout the design development process; and shall analyze and then review same with 1 WTC and obtain approval prior to proceeding to the construction phase.

2.1.15 Construction Manager shall analyze and update the Project budget based upon design development. During the design development phase, Construction Manager shall prepare and update monthly a Project Schedule for review by Design Team and acceptance by 1 WTC. Construction Manager shall obtain Design Team's comments and 1 WTC's approval for the portion of the preliminary Project Schedule relating to the performance of Design Team's services. In the Project Schedule, Construction Manager shall analyze, coordinate, and integrate Construction Manager's Services, Design Team's services, and 1 WTC's responsibilities with the anticipated Project Schedules, and Construction Manager shall highlight critical and long-lead time items.

2.1.16 Construction Manager shall obtain approval from 1 WTC before proceeding to the construction phase.

2.1.17 Construction Manager shall scrutinize and analyze and then consult with 1 WTC and Design Team regarding the Contract Drawings and make recommendations whenever design details adversely affect constructability, cost or schedules.

2.1.18 Construction Manager shall assist 1 WTC and Design Team with local, regional, state, and federal jurisdictional agencies; research and identify municipal permitting processes; manage, administer, and secure building permit approval in accordance with Section 2.1.19 below; coordinate and oversee with local permitting officials with respect to permit submissions; and assist Design Team, the Chief Engineer, and other contractors or entities in securing all other necessary permits and required approvals from public agencies and others.

2.1.19 Construction Manager shall assist 1 WTC in obtaining building permits, or the equivalent of a building permit as provided by Authority, and special permits for permanent improvements, except for permits required to be obtained directly by the various Contractors. Construction Manager shall oversee, assist, monitor, and confirm 1 WTC and Design Team in connection with 1 WTC's timely filing of sufficient and the appropriately completed documents required for the approvals of governmental authorities having jurisdiction over the Project.

2.1.20 Construction Manager shall analyze, recommend and inform 1 WTC and Design Team regarding the assignment of responsibilities for temporary Project facilities and equipment, materials, and services for common use of the Contractors. Construction Manager shall confirm and verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

2.1.21 Construction Manager shall analyze, evaluate, and then recommend a comprehensive plan to 1 WTC regarding the allocation of responsibilities for safety programs among the Contractors, including, without limitation, the Site Wide Safety Plan, Health and Safety Plan, Site Wide Security, and Tenant Construction Review Manual. During execution of the Project, Construction Manager shall be responsible to review, comment upon, and provide information to 1 WTC upon its request regarding the testing and inspection of plans and safety features and monitoring the compliance of the Contractors with respect to their responsibilities for the safety programs; and reporting regularly to 1 WTC on such compliance and the effectiveness of the Authority and Construction Manager's comprehensive plan.

2.1.22 Construction Manager shall analyze, evaluate, and recommend specific division of the Project into individual Contracts for various categories of trades and Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, Construction Manager shall analyze and review the Contract Drawings and recommend, as required, how to assure that (1) the services and Work of the Contractors are coordinated; (2) all requirements for the Project have been assigned to the appropriate Contract; (3) the likelihood of jurisdictional disputes has been minimized; and (4) proper coordination has been provided for phased construction.

2.1.23 Construction Manager shall evaluate and prepare a Project Schedule providing for the components of the Work, including phasing of construction, times of commencement and completion required of each contractor, ordering and delivery of products

requiring long-lead time, and the occupancy requirements of 1 WTC that shall be consistent with all Contractor's construction schedules incorporated into the Contracts. Such Project Schedule also shall meet 1 WTC's requirements for construction schedules as set forth in the Contract Documents. Construction Manager shall provide the current Project Schedule for each set of bidding documents.

2.1.24 Construction Manager shall oversee and manage compliance with the construction schedule, scrutinize any delays, and report the status once each month to 1 WTC, providing analysis of and recommendations regarding any delay, concern, problem, or other issue.

2.1.25 Construction Manager shall oversee, manage, expedite, and coordinate the ordering and delivery of materials requiring long-lead time.

2.1.26 Construction Manager shall analyze, evaluate, and provide input as to constructability, methods, and materials.

2.1.27 Construction Manager shall analyze and recommend, and assist 1 WTC in selecting, retaining, and coordinating, the professional services of surveyors and testing laboratories required for the Project.

2.1.28 Construction Manager shall investigate and analyze the types and quantities of labor required for the Project and determine the availability of appropriate categories of labor required for critical phases. Construction Manager shall recommend actions designed to minimize adverse effects of labor shortages.

2.1.29 Construction Manager shall research, obtain, and review applicable requirements and information re: same for equal employment opportunity programs for inclusion in the Contract Documents.

2.1.30 Construction Manager shall perform and prepare a final review, analysis, and evaluation of all documents and obtain approval from 1 WTC prior to final pricing.

2.1.31 Following 1 WTC's approval of the Contract Drawings, Construction Manager shall update and submit the latest estimate of construction cost and the Project Schedule for Design Team's review and 1 WTC's approval.

2.2 Procurement of Contractors.

2.2.1 Solicitation

2.2.1.1 Construction Manager shall develop and encourage bidders' interest in the Project. Construction Manager shall prepare and submit to 1 WTC for approval a list of prospective bidders for each solicitation, including written justification for the selected list of bidders for that solicitation, and establish bidding schedules.

2.2.1.2 Construction Manager will secure bids from at least three (3) potential contractors for any Work that is competitively bid.

2.2.1.3 In instances where less than three (3) bids are received, Construction Manager shall provide a written explanation to 1 WTC setting forth the reasons therefor.

2.2.1.4 Where the nature of the Work to be solicited requires special construction, experience or expertise, or has critical operational constraints or special situations, prior to employing a solicitation other than a method that is intended to result in a competitive bid with three bids, Construction Manager shall submit such solicitation to 1 WTC for its approval setting forth the reasons therefor.

2.2.1.5 Prior to each solicitation, Construction Manager shall submit to 1 WTC for review and approval the length of time of the bidding period, compensation method and basis for award.

2.2.2 Bid Documents

2.2.2.1 Bid documents are to be prepared and distributed by Construction Manager. All costs associated with the preparation and distributions of bid documents are Reimbursable Expenses.

2.2.2.2 Bid documents are to be submitted for the written approval of 1 WTC. Construction Manager shall not make changes to any approved documents without the prior written approval of 1 WTC.

2.2.2.3 Bid documents shall include specific instructions regarding the date, time and method of bid submission, and such instructions shall be subject to the approval of 1 WTC.

2.2.2.4 Construction Manager shall provide copies of any addenda issued for a bid and the reasons therefor which are subject to the review and approval of 1 WTC.

2.2.3 Bid Submission

2.2.3.1 Bids are to be submitted to Construction Manager in accordance with the instructions for bid submission contained in the bid documents.

2.2.3.2 Bids are to be sealed. Bidders must not submit bids via phone or fax unless specifically requested and approved by the Project Executive or his/her designee or as directed by the 1 WTC Representative.

2.2.3.3 Construction Manager, prior to receipt and opening of bids, shall provide a written estimate of the Work required by the bid documents, including unit prices and lump sum amounts, to 1 WTC.

2.2.3.4 Construction Manager shall maintain a written record of bid submissions, including the solicitation identified by a title and/or number, name and address of bidders, and dollar value of bid, and shall provide a copy of the record to 1 WTC.

2.2.3.5 1 WTC shall have the right to be present at the bid opening.

2.2.3.6 All bids for a particular trade or portion of the Work will be gathered by the Construction Manager and opened with the Project Executive or his/her designee.

2.2.3.7 During the bid opening, Construction Manager should have the budget breakdown for the trade and a copy of the bid package in the event that questions regarding the scope of Work arise.

2.2.3.8 All bid proposal information (i.e., base bid, unit price, lump sum amounts, alternatives, etc.) shall be formatted on a spreadsheet prepared for the bid opening. This information shall be compiled by Construction Manager and, when completed, initialed by all present during the bid opening.

2.2.3.9 All bid proposals are to be filed in the safe bid folders with the bid opening spreadsheet.

2.2.3.10 The bid opening spreadsheet shall be prepared in an Excel format, and the computer file shall be accessible only to Construction Manager and approved personnel. Information contained on the spreadsheet shall include the following:

(i) Project date, trade

(ii) Contractor's name, address, phone number

(iii) Contact

(iv) Base bid

(v) Budget (adjusted with each revised bid to reflect bid package and bid addenda)

(vi) Unit Prices

(vii) Alternates

(viii) Bidder's alternates

(ix) Schedule duration

(x) Qualifications

(xi) Exclusions

2.2.3.11 All revised information is to be documented on a new spreadsheet and denoted as revised. All superseded spreadsheets are to be maintained in the safe bid folder.

2.2.3.12 Project Executive or his/her designee must approve of any procedure that differs from those set forth herein.

2.2.4 Scope Review Meetings

2.2.4.1 Scope review meetings are held with the Contractors, the Construction Manager, 1 WTC, and the Architect. Prior to the meeting, an agenda will be prepared containing a complete checklist of items to be reviewed during the meeting, including:

(i) Contract boiler plate review

(ii) Retainage

(iii) Payment schedule

(iv) General Conditions

(v) MBE, WBE and EEO Requirements

(vi) Insurance requirements

(vii) Sales tax requirements

(viii) List of Contract Documents (Rider "B," List of Drawings and Specifications to the Contract)

(ix) Building and other rules and regulations

(x) Scope of Work review and value engineering opportunities

(xi) Special requirements, sequencing

(xii) Clarifications, modifications

(xiii) Alternates

(xiv) Time of performance

2.2.5 Contract bid review and negotiation

2.2.5.1 Construction Manager and 1 WTC may meet with all active bidders and discuss scope and price of bids. Upon completion of the bid scope review sessions, a revised scope and/or drawings may be issued as a bid addendum and bidders requested to submit revised or adjusted bids. Such resubmissions shall be requested from all active bidders and shall be received and opened in conformance with the bid submission procedures set forth in Section 2.2.3 above. Upon receipt of final sealed bids, the Construction Manager and the Project Executive will negotiate a best and final bid price from all active bidders. The Construction Manager will review the final proposals with the Project Executive of 1 WTC or, at such Project Executive's direction, another 1 WTC Representative, for strategy and award target.

2.2.5.2 Construction Manager shall prepare Contracts and evaluate and advise 1 WTC on the acceptability of proposed Contractors. Such Contract shall be in the form of contract referenced as Rider V (Form of Trade Contract, dated January 19, 2007) in **Attachment 2 to Exhibit A** (Riders for Contract). Construction Manager shall enforce all of the provisions of the Contract, and no changes may be made to the form of Contract without prior written approval by 1 WTC; provided, however, Construction Manager shall not be required to retain legal counsel to enforce provisions of the Contract unless 1 WTC pre-approves the retention of such counsel and agrees to reimburse Construction Manager in accordance with Section 9.2.2.5(iii) of this Agreement.

2.2.6 Contractor Award

2.2.6.1 Construction Manager shall provide a written recommendation for review and approval by 1 WTC setting forth the basis for award.

2.2.6.2 Construction Manager shall prepare and submit to 1 WTC a comparison of bids, which shall include all unit prices, lump sum amounts, alternatives, etc., for each bid and the Construction Manager's estimate; a statement regarding the reasonableness of the bids and an explanation when there is a disparity between the estimate and the bids received and/or when there is a disparity between the bid of the recommended contractor and the estimate and/or between the bid of the recommended contractor and the other bids received.

2.2.6.3 Construction Manager shall submit information regarding each recommended contractor, including name and address of firm and principals, to 1 WTC for review of the firm's responsibility and business integrity prior to award.

2.2.6.4 Following the selection of a Contractor by 1 WTC, Construction Manager shall prepare and forward to Project Executive an award letter requesting approval for Construction Manager to enter into an agreement as 1 WTC's agent with the selected Contractor.

(i) The award letter shall provide the following information:

(ii) Number of bidders

(iii) Final bid summary

(iv) Contractor's name and amount

(v) Budget trade line items and amount

(vi) Line for authorization signature and date

2.2.7 Issuance, Execution and Distribution of Contract

2.2.7.1 Upon receipt of executed award letter, Construction Manager shall prepare the Contract document.

2.2.7.2 The Contract shall be in the same format as the bid package incorporating modifications made during the scope review process and final negotiation. All documents are to be based on the most current information provided during scope review; Rider B (List of Drawings and Specifications) is to incorporate the latest documents available at time of award.

2.2.7.3 The draft of the Contract should be reviewed and approved in writing by 1 WTC prior to issuance to the Contractor for execution.

2.2.7.4 Prior to signing, a copy of the Contract shall be issued to the Contractor for review, with a cover page stating when the Contractor is scheduled to meet at Construction Manager's office for execution of the actual Contract.

2.2.7.5 Construction Manager shall assemble five (5) execution originals of each Contract for signing. Each of the five (5) execution originals shall be signed by the Contractor and Construction Manager; the first and last page of every rider shall be initialed by the Contractor and Construction Manager.

2.2.7.6 Upon signing by the Construction Manager and Contractor, the five original signed Contracts will be distributed as follows:

(i) Contractor

(ii) 1 WTC/Document Control

(iii) Safe bid folder

(iv) Project Executive

(v) Construction Manager

2.2.8 Notification of Awards

2.2.8.1 Construction Manager shall submit to 1 WTC notice of Contract awards and Change Orders within three (3) business days of Contract or Change Order

execution. Notification shall be provided in an Excel format and include the following information:

(i) Contractor name and address

(ii) Contract number and title

(iii) Brief description of Contract or Change Order

(iv) Start and end dates (if applicable)

(v) Revised start and end dates (if applicable)

(vi) Contract or Change Order execution date

(vii) Contract or Change Order award amount or estimate

(viii) Form of solicitation (for new awards)

Additional descriptive information for Contracts and Change Orders may be required by 1 WTC.

2.2.8.2 Notice of Contract awards shall be posted on the Authority's Web site. Additional Contract and Change Order information may be posted at 1 WTC's discretion.

2.2.9 Protests

2.2.9.1 Construction Manager shall manage protest and appeal processes in a manner consistent with Authority protest procedures.

2.2.9.2 Construction Manager shall receive protests related to the procurement or award of Contracts and give notice to 1 WTC of receipt of such protest.

2.2.9.3 Construction Manager shall designate a management employee of the Construction Manager as Protest Officer to review the protest and supportive documents and draft a written decision and submit to 1 WTC for review and written approval within five (5) business days of the receipt of the protest where feasible.

2.2.9.4 Construction Manager shall forward the written decision to the protesting party within two (2) business days of receipt of 1 WTC's approval.

2.2.9.5 Construction Manager shall receive appeals of protest decisions and give notice to 1 WTC of receipt of such appeal.

2.2.9.6 Construction Manager shall designate a higher level management employee of the Construction Manager as Appeals Officer to review the appeal and

supportive documents and the decision of the Protest Officer and issue a written decision within five (5) business days of receipt if feasible.

2.2.9.7 Construction Manager shall forward the written decision to the appealing party within two (2) business days of receipt of 1 WTC approval.

2.2.10 Contract File Administration

2.2.10.1 Construction Manager shall maintain a contract file for each Contract award and provide a copy of the Contract to 1 WTC.

2.2.10.2 Construction Manager shall include records of any protests, appeals and associated decisions as part of the contract file for each Contract award and provide copies to 1 WTC.

2.2.10.3 Any Change Orders required under the Contract agreement shall be subject to the review and approval of 1 WTC. Construction Manager shall provide copies of approved Change Orders to 1 WTC.

2.2.10.4 Construction Manager shall provide to 1 WTC a record of all payments made to each Contractor, which payment shall be subject to audit by 1 WTC.

2.3 **Construction Phase / Administration of the Construction Contract.**

2.3.1 Construction Manager shall scrutinize, manage, and oversee construction activities at the Project site and with respect to administration of the Contracts.

2.3.2 Construction Manager shall manage, administer, direct, supervise, and perform other related services in order to coordinate the activities and responsibilities of the Contractors, each with the other, and those with the activities and responsibilities Construction Manager, 1 WTC, and the Design Team, in order to manage the Project in accordance with the latest approved Project budget, Project Schedule, and Contract Documents.

2.3.3 Construction Manager shall (i) execute and perform all of the duties and obligations required or requested of 1 WTC under each of the Contracts, and (ii) protect and exercise all of 1 WTC's rights and benefits under each of the Contracts; provided, however, that prior to Construction Manager determining a Contractor in breach of its Contract or selecting and pursing any remedy, Construction Manager shall obtain the written approval of 1 WTC.

2.3.4 Construction Manager shall schedule, facilitate, administer, and conduct regular Project meetings, including 1 WTC, Design Team, Contractors, and others approved or requested by 1 WTC. Construction Manager shall facilitate discussion of such matters as procedures, progress, and scheduling. Construction Manager shall prepare and promptly distribute minutes of such meetings to 1 WTC, Design Team, and Contractors.

2.3.5 Construction Manager shall confirm that Design Team and Contractors have established the shop drawing process, and Construction Manager shall manage and administer delivery and review of Shop Drawings and Submittals.

2.3.6 Utilizing the construction schedules provided by Contractors, Construction Manager shall evaluate and update the Project Schedule monthly, incorporating the activities of all of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Submittals, and delivery of products requiring long-lead time and procurement. The Project Schedule shall include 1 WTC's occupancy requirements showing portions of the Project having occupancy priority as the appropriate information becomes available. Construction Manager shall update and reissue the Project Schedule as required to show current conditions. If an update indicates that the previously approved Project Schedule's Final Completion date of any Contractor may not be met, Construction Manager shall inform and warn 1 WTC of such deviation and recommend corrective action to 1 WTC.

2.3.7 Consistent with the various bidding documents, and utilizing information from the Contractors, Construction Manager shall manage, oversee, scrutinize, and coordinate the sequence of construction and assignment of space in areas where the Contractors are performing Work.

2.3.8 Construction Manager shall require and use best efforts to obtain satisfactory performance from each of the Contractors. Construction Manager shall evaluate and recommend courses of action to 1 WTC when requirements of a Contract are not being fulfilled.

2.3.9 Construction Manager shall oversee and monitor the approved estimate of construction costs. Construction Manager shall prepare an analysis showing actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with such approved estimate.

2.3.10 Construction Manager shall develop, analyze, and prepare monthly cash flow reports and forecasts for the Project, unless required more often by 1 WTC, and advise 1 WTC and Design Team as to variances between actual and budgeted or estimated costs.

2.3.11 Construction Manager shall submit quarterly to 1 WTC Representative for its prior written approval a proposed budget estimating the General Conditions Costs for the remainder of the Project on a quarterly basis. For the duration of the Project, Construction Manager shall submit the proposed budget in a timely fashion in order to allow 1 WTC Representative to review and approve same.

2.3.12 Construction Manager shall manage, coordinate, prepare, and maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

2.3.13 Construction Manager shall evaluate, develop, and implement procedures for the review and processing of applications by Contractors for progress and final payments.

2.3.13.1 Based on Construction Manager's observations and evaluations of each Contractor's application for payment, Construction Manager shall scrutinize, evaluate, review, and certify the amounts due the respective Contractors.

2.3.13.2 Construction Manager shall scrutinize, oversee, monitor, and review all payments to Contractors and vendors and supporting documentation, including, without limitation, all lien waivers (partial and final) from all Contractors throughout the course of the Project.

2.3.13.3 Construction Manager shall analyze, evaluate, and prepare a Project application for payment based on the Contractors' requests for payment.

2.3.13.4 Construction Manager's certification for payment shall constitute a representation to 1 WTC, based on Construction Manager's determinations at the Project site and on the data comprising Contractors' Applications for Payment, that the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents ("Certificate for Payment"). The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Final Completion of each Contract, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion, and to specific qualifications expressed by Construction Manager. The issuance of a Certificate for Payment shall further constitute a representation that Construction Manager and Contractors are entitled to payment in the amount certified.

2.3.14 Construction Manager shall scrutinize, review, and monitor the safety programs developed by each of the Contractors for the purposes of coordinating the safety programs with those of the other Contractors as well as with any other contractor.

2.3.15 Construction Manager shall with Design Team propose, develop, and implement a quality assurance plan, including mockups, testing, and inspections. Solicitation of third-party-controlled inspections must be approved in advance and in writing by 1 WTC.

2.3.16 Construction Manager shall oversee and manage Project site visits and provide or arrange for responses to Contractor inquiries.

2.3.17 Construction Manager shall provide the services and assistance necessary to avoid a construction conflict; when a conflict does occur, Construction Manager shall use best efforts to resolve the dispute.

2.3.18 Construction Manager shall scrutinize and determine, subject to review by 1 WTC, that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents, guarding 1 WTC against defects and deficiencies in the Work. As appropriate, Construction Manager shall have authority, upon written authorization from 1 WTC, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed, or completed. Construction Manager may reject Work that does not conform to the requirements of

the Contract Documents; provided, however, Contractor may appeal Construction Manager's rejection of such Work to 1 WTC; and, in the event of an appeal, 1 WTC shall make the final decision as to whether the Work shall be rejected. Notwithstanding anything to the contrary herein, 1 WTC shall retain at all times the right to reject any Work at 1 WTC's sole, absolute, and subjective discretion.

2.3.19 Construction Manager shall scrutinize, schedule, oversee, and coordinate the sequence of construction in accordance with the Contract Documents and the latest approved Project Schedule.

2.3.20 Construction Manager shall transmit to Design Team requests for interpretations of the meaning and intent of the Contract Drawings and, with the Design Team's assistance, shall resolve questions that arise.

2.3.21 Construction Manager shall review and evaluate requests for changes in costs and/or time, assist in negotiating Contractors' proposals for such changes, submit recommendations to Design Team and 1 WTC, and, if such proposals are accepted, prepare Change Orders and Construction Change Directives that incorporate Design Team's modifications to the Contract Drawings.

2.3.22 Construction Manager shall review, analyze, evaluate, and document any claim made or any claim Construction Manager anticipates may be made.

2.3.23 Construction Manager shall receive certificates of insurance from the Contractors, review and evaluate them for conformance with the requirements of the respective Contracts, and forward them to 1 WTC.

2.3.24 In collaboration with Design Team, Construction Manager shall establish and implement procedures for expediting the processing and approval of Shop Drawings and other Submittals. Construction Manager shall review and evaluate all Shop Drawings and other Submittals from the Contractors. Construction Manager shall coordinate and synchronize Submittals with information contained in related documents and transmit to Design Team those which have been reviewed and deemed complete by Construction Manager. Construction Manager's actions shall be performed and completed with such reasonable promptness as to cause no delay in the Work or in the activities of 1 WTC or Contractors.

2.3.25 Construction Manager shall oversee, scrutinize, monitor, evaluate, analyze, and record the progress of the Project. Construction Manager shall prepare and submit written, detailed progress reports to 1 WTC and Design Team, including information and evaluation with respect to each Contractor and each Contractor's Work, as well as on the entire Project, and determining and showing percentages of completion. Construction Manager shall maintain a daily Project log containing a record of weather, each Contractor's Work on the Project site, and, for each Contractor, the number of workers, identification of major equipment, Work accomplished, problems encountered, and other similar relevant data as 1 WTC may require.

2.3.26 Construction Manager shall arrange and be responsible for and maintain complete progress photos and other visual records, files, and documentation with respect to the progress of the Project, as requested by 1 WTC. Construction Manager shall make all photos and other visual records available to 1 WTC upon request and shall deliver them to 1 WTC upon Final Completion of all Contracts for the Project.

2.3.27 Construction Manager shall maintain at the Project site for 1 WTC one (1) record copy of all Contracts, Contract Drawings, addenda, Construction Change Directives, Change Orders, and other modifications, in good order and marked currently to record changes and selections made during construction; and, in addition, approved Shop Drawings and similar required Submittals. Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations certified by a qualified surveyor or professional engineer. Construction Manager shall make all such records available to Design Team and, upon completion of the Project, shall deliver all such records to 1 WTC.

2.3.28 As requested by 1 WTC, Construction Manager shall oversee and coordinate requirements for 1 WTC-provided material, systems, and equipment with Contractors and vendors, and arrange for, monitor, and confirm the delivery, storage, protection, and security of 1 WTC-provided materials, systems, and equipment that are a part of the Project until such items are incorporated into the Project or returned to 1 WTC.

2.3.29 When Construction Manager determines that a Contractor's Work, or a designated portion thereof, is sufficiently complete to allow Contractor to prepare a punch list, then Construction Manager, jointly with the Contractor, shall prepare for Design Team and 1 WTC a list of incomplete or unsatisfactory items and schedule and monitor them for completion. Construction Manager shall coordinate, oversee, and monitor the correction and completion of the Work and evaluate and make recommendations to Design Team. When the Work is ready for final inspections, then Construction Manager shall participate and assist Design Team in conducting inspections to determine whether the Work or designated portion thereof meets the Contract's requirements for Final Completion.

2.4 **Financing.**

2.4.1 During the course of the Project, Construction Manager shall assist with, monitor, and, as appropriate, administer any financing aspect of the Project, including the following:

2.4.1.1 Construction Manager shall prepare and provide necessary Project information, documentation, and materials as requested by various lenders and as approved by 1 WTC.

2.4.1.2 Construction Manager shall scrutinize and coordinate the financing requirements and cash flow reports of the contracts with Design Team, any other member of the design team, Chief Engineer, Contractors, and Subconsultants of any tier.

2.4.1.3 Construction Manager shall scrutinize and manage, and use best efforts to control construction costs and/or time, and negotiate on behalf of 1 WTC as necessary or required and pre-approved by Authority, in accordance with the schedule, Project, safety, and quality goals of 1 WTC.

2.4.1.4 Construction Manager shall comply on behalf of 1 WTC with ongoing Project and construction requirements.

2.5 **Furniture, Fixtures, Equipment, and Other Technical Requirements.**

2.5.1 Construction Manager shall analyze and determine the scope and requirements for furniture, fixtures, equipment, tele/data cabling, operational equipment, security requirements, etc., to be provided or purchased by 1 WTC, as requested by 1 WTC.

2.5.2 Construction Manager shall gather and evaluate information and product data that meets the scope and requirements of 1 WTC with respect to furniture, fixtures, equipment, tele/data cabling, operational equipment, security requirements listed in Section 2.5.1 above, as requested by 1 WTC.

2.5.3 Construction Manager shall evaluate and assist in qualifying vendors and reviewing pricing and product proposals with respect to furniture, fixtures, and equipment, as requested by 1 WTC.

2.5.4 Construction Manager shall coordinate and oversee the delivery, installation, and commissioning of furniture, fixtures, and equipment, and coordinate same with vendors, as requested by 1 WTC.

2.6 **Project Closeout.**

2.6.1 Construction Manager shall (i) oversee and manage preparation of and review of construction punch lists by Contractors and (ii) coordinate and, along with the Design Team, verify completion of punch list items.

2.6.2 Construction Manager shall oversee, manage, coordinate and confirm delivery of keys, manuals, plans and specifications, as-built drawings, etc.

2.6.3 Construction Manager shall schedule, manage, and oversee all product and equipment demonstrations.

2.6.4 Construction Manager shall oversee and manage (i) the delivery, installation, and commissioning of equipment; (ii) commissioning processes and procedures; and (iii) the initial start-up and testing of all systems to confirm compliance with specifications.

2.6.5 Construction Manager shall ensure and confirm that all equipment use permits and regulatory sign-offs are obtained and delivered to 1 WTC upon Project completion.

2.6.6 Construction Manager shall oversee, scrutinize, and coordinate activities and obtain sign-offs necessary for the issuance of a final certificate of occupancy or Authority's equivalent.

2.6.7 Construction Manager shall scrutinize, evaluate, review, administer, and process final payments and lien documentation.

2.6.8 Construction Manager shall coordinate, oversee, and confirm performance of corrective and warranty work prior to closeout of the Project.

2.7 **Other.**

2.7.1 Construction Manager shall prepare and deliver to 1 WTC not less than once each month a report addressing progress, problems, issues, and concerns with respect to the status of these Services and the status of any additional services Construction Manager is performing with respect to the Project.

2.7.2 Construction Manager shall perform other construction management services related to the Project as requested by 1 WTC.

2.7.3 Duties, responsibilities, and limitations of authority of Construction Manager as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of 1 WTC.

2.7.4 Construction Manager shall use the management software designated by 1 WTC, including, without limitation, Authority's document management software, LiveLink.

2.7.5 Construction Manager shall follow the Authority's policies and procedures as set forth in the Agreement, including all Attachments hereto, and as may be modified or established from time to time.

3. Conditions of Performance of Services.

3.1 Construction Manager immediately shall inform 1 WTC Representative of any unsafe condition discovered at any time during the course of performing these Services.

3.2 Pedestrians (including PATH and NYCT patrons), vehicular traffic, and PATH operations at the World Trade Center site always shall have priority over any and all of Construction Manager's operations, except as directed by Authority and 1 WTC with respect to the Project.

3.3 Construction Manager shall limit its work to the areas necessary for the performance of the tasks herein and shall not interfere with the operation of the facility without first obtaining specific approval from 1 WTC.

3.4 During all periods of time when Construction Manager is not performing operations at the Project site, Construction Manager shall store all equipment being used for

performance of such operations related to the tasks herein in areas designated by 1 WTC Representative, and 1 WTC shall provide all security required for such equipment unless 1 WTC requests that Construction Manager shall perform such tasks, in which case Construction Manager shall do so at 1 WTC's expense.

3.5 Construction Manager shall not permit any objects or pieces of equipment to lie unattended on sidewalks, roadways, or structures at any time except with proper permits.

ATTACHMENT 2
TO
EXHIBIT A

RIDERS FOR CONTRACT

Rider D	Insurance Rider, dated November 30, 2006, as modified
Rider DX	Owner Controlled Insurance Program
Rider E	[Intentionally Deleted]
Rider F	Non-Disclosure and Confidentiality Agreement
Rider G	Sustainable Construction Requirements, dated April 11, 2007, as modified
Rider H	Requirements for Work in PATH Right of Way, dated June 16, 2006
Rider I	Port Authority of New York & New Jersey Sales and Use Tax Requirements: Port Authority of New York & New Jersey Sales Tax Letter, dated _____, 2007 New York State Contractor Exempt Purchase Certificate Form S120.1 New York State Certificate of Capital Improvement Form ST-124
Rider K	Project Corruption Prevention Program, dated January 8, 2007
Rider L	Payment Procedures
Rider M	Tishman Construction Safety Guidelines, dated November 3, 2005
Rider N	Port Authority of New York & New Jersey WTC Site Rules and Regulations, dated January 1, 2006
Rider Q	Above and Below Grade Site Logistics Plans
Rider R	[Intentionally Deleted]
Rider S	Site Security Requirements
Rider T	Milestones Dates
Rider V	Form of Trade Contract, dated January 19, 2007

ATTACHMENT 3
TO
EXHIBIT A

[INTENTIONALLY DELETED]

ATTACHMENT 4
TO
EXHIBIT A

SCHEDULE OF ANNUAL AND HOURLY PERSONNEL'S SALARIES

2007 Annual Salaries for WTC1 Project

PROJECT MANAGEMENT STAFF:		
Executive Staff		Annual Salary
Corporate Executive	Mike Mannella	341,280
Project Executive	Mel Ruffini	258,400
Project Director	Jim Durkin	188,400
Project Director-Below Grade	Gary Cohen	185,000
Project Director-Above Grade	Joe Capone	181,000
MEP Project Director	John Kovacs	208,400
Analyst	Amy Wincko	120,000
Purchasing Agents		
Purchasing Agent # 1	Marty Adelman	125,000
Purchasing Agent # 2	Chris Cocotas	59,000
Estimators and Schedulers		
Scheduler #1	Clive Chan	115,000
Project Managers		
PM # 1 - Below Grade Structural/Arch	Juan Estevez	100,000
PM # 2 - Curtainwall/Exterior	Steve Cannizzo	90,000
Assistant P.M's / Project Engineers		
APM # 1 - Below Grade Structural/Arch	Brian Boylan	97,474
APM # 8 - Port Authority / Misc	Tanya Berba	61,000
APM # 9 - Hoist/Logistics	Lisette Molina	94,000
MEP Project Managers		
Senior Project Manager	Bob Mackie	175,800
MEP Assistant P.M's		
APM # 2 - Upper MEP Electrical	Steve Violante	68,000
Accounting		
Cost Control Manager	Randy Koller	127,500
Assistant Accountant #1	Betty Eng	82,530
Clerk	David Burgos	42,000
EEO/LEED		
EEO Director	Henry Estrada	158,400
EEO/LEED Manager	Flora Ramos	75,000
SECURITY		
Administrator	Charlotte Pezolt	45,000
SECRETARY		
Secretary # 1	Marica Curavic	52,250
PLAN CLERK		
Plan Clerk # 1	Bernie Fitzsimmons	41,280
Plan Clerk # 2	Kevin Lasalle	40,000
SUPERINTENDENTS - FIELD		
General Superintendent	Elio Cattina	213,400
Project Superintendent #1	Marc Becker	135,000
ASSISTANT SUPERINTENDENTS-FIELD		
Assistant Superintendent - Below Grade #1 Arch/Struc	Carmine Castelano	100,000
Assistant Superintendent - Below Grade #2	Frank Hussey	66,000
Assistant Superintendent - Below Grade #3 Arch/Struc	Antoine Bernard Jr.	53,000
Assistant Superintendent - Below Grade #4 Arch/Struc	Brian Troast	60,000
SUPERINTENDENTS - MEP		
Superintendent - Below Grade M&P	Brian Lyons	137,000
SITE SAFETY		
Senior Safety	Dwayne Carter	108,000
Assistant # 1	Thayne Zigale	80,000
Assistant # 2	Anthony Fedor	88,000
FIELD SECRETARY / PLAN CLERK		
Secretary # 1	Gail Ramsingh	38,500

Name	Title	Hourly Rate
BANKS, LAUREN	Analyst	$52.08
BENJAMIN, EUGENE N	Document Clerk	$37.50
BONSE, JOHN C	Estimator	$108.33
BUBIAS, EDUARDO	Estimator	$92.50
CHIARELLO, RAFFAELA M	Secretary	$38.75
CINELLI, DINA M	Purchasing Agent	$47.50
CORDAHI, IRENE	Purchasing Agent	$47.50
DeVARD, EMANUEL J	Estimator	$53.00
DIAMANTOPOULOS, JAMES N	Senior Estimator	$125.00
ENDRES, WILLIAM	Corporate Executive - Estimating	$220.33
FOTEV, PAVEL V	Document Clerk	$27.08
GALLAGHER, RICHARD R	Estimator	$120.83
GLYNN, JOHN F	Chief Estimator	$166.67
JOYCE, BOB	Risk Management	$99.33
KHAN, IRFAN R	Estimator	$82.50
KOLAIAN, CHRISTOPHER J	Purchasing Agent	$87.50
KWAN, MAY YEE	Structural Manager	$91.67
LUNDY, SAYYEDA R	Scheduler	$39.17
MADISON, JAMES A	Corporate Executive	$91.67
McDONNELL, JAMES R	Structural Manager	$132.08
MITCHELL, LINDA	Secretary	$56.67
MOHABIR, HAIMWANTE	Secretary	$45.00
MOSCOVICI, SORIN	Estimator	$108.33
MOTHERWAY, WILLIAM	Risk Management Director	$183.33
NABAS, DESIREE K	Scheduler	$52.92
NEGLIA, BRIAN	Estimator	$62.50
PANKEY, SHAVONE C	Secretary	$27.08
PAULL, ALLAN M	Corporate Executive - Structual	$152.83
PHILLIPS, ROB	Risk Management	$107.25
REILLY, EDWARD P	Estimator	$108.33
SCHISLER, ERIC B	Corporate Executive - Purshasing	$105.00
SELIGA, CHRISTOPHER C	Corporate Executive - Scheduling	$108.33
SERRANO, EVELYN	Secretary	$45.21
SPAMPANATO, JANET E	Executive Secretary	$62.92
STARANKA, JOHN E	Scheduler	$143.75
TSVIK, VALERY	Estimator	$69.17
WALKER, LOUIS E	Estimator	$94.17
WELSING, PAUL V	Corporate Executive - Purshasing	$131.67
ZENG, WALTER T	Estimator	$112.50

The above hourly rates are based on 1800 hours using a 1.5 multiplier. If 2080 hours were to be used the multiplier would need to be increased to 1.735 since vacation, holidays, sick & peronal days are not included in our fringe benefit rate.

ATTACHMENT 5
TO
EXHIBIT A

OWNER CONTROLLED INSURANCE PROGRAM

RIDER "DX"
OWNER CONTROLLED INSURANCE PROGRAM
WORLD TRADE CENTER – TOWER ONE
NEW YORK, NEW YORK

May 18, 2007

1. Owner Controlled Insurance Program.

1.1 Overview. 1 WTC has arranged an Owner Controlled Insurance Program ("OCIP") with Aon Risk Services, Inc. of New York ("Aon"), effective as of March 31, 2007. The OCIP is more fully described in the Insurance Guide for Contractors ("Insurance Guide"). The Insurance Guide, which shall be furnished upon request to all Enrolled Parties (defined below), is not a Contract document. Contractors performing Work at the Project site are eligible to and shall apply for enrollment in the OCIP unless they are an Excluded Party (defined below). The OCIP will provide to Enrolled Parties (as defined below) the following insurance coverage: Workers' Compensation, Commercial General Liability Insurance, Builders' Risk, Contractors Pollution Liability, and Terrorism/Excess Liability Insurance as summarily described in the Insurance Guide, in connection with the performance of the Work ("OCIP Coverages").

1.2 Enrolled Parties and Their Insurance Obligations.

(a) OCIP Coverages shall cover Enrolled Parties (defined below). Enrolled Parties are:

(i) 1 WTC, the Authority, and other affiliated entities;

(ii) Construction Manager;

(iii) eligible Contractors, eligible Subcontractors of any tier, and eligible Subconsultants of any tier, who are approved by 1 WTC, Construction Manager, and Aon for purposes of inclusion in the OCIP; and

(iv) such other persons or entities as 1 WTC, Construction Manager, and Aon may designate.

Each such party in items (i) through (iv) above who is actually enrolled in and insured under the OCIP is referred to individually as an "Enrolled Party" and collectively as "Enrolled Parties."

(b) Enrolled Parties, excluding those entities listed in Section 1.2(a)(i) above, shall obtain and maintain, at their own expense, and shall require each of their Subcontractors of any tier to obtain and maintain at each such Subcontractor's own expense, the insurance coverages specified in (i) Rider D, items C, D, and E thereof, and (ii) Rider D, items A and B thereof, for off-site activities and for operations and risks not otherwise provided by the OCIP (collectively, items (i) and (ii) are referred to as "Supplemental Insurance Policies").

1.3 Excluded Parties and Their Insurance Obligations.

(a) The OCIP does not cover those parties who are not Enrolled Parties ("Excluded Parties").

(b) Excluded Parties shall obtain and maintain, and shall require each of their Subcontractors of any tier to obtain and maintain, insurance coverages as specified in Rider D, including Paragraphs A and B thereof, and as set forth in the Insurance Guide with respect to non-Enrolled Parties.

1.4 OCIP Insurance Policies Establish OCIP Coverages. The OCIP Coverages and exclusions summarized in the Insurance Guide and in the Contract documents are set forth in full in the respective insurance policy forms with respect to the OCIP Coverages. The summary descriptions of the OCIP Coverages in this Exhibit DX or the Insurance Guide are not intended to be complete or to alter or amend any provision of the actual OCIP Coverages. In the event any provision of this Exhibit DX, other Contract documents, or the Insurance Guide conflicts with the OCIP insurance policies, the provisions of the actual OCIP insurance policies shall govern. The OCIP insurance policies may be reviewed by Construction Manager or any Contractor at the office of 1 World Trade Center LLC, c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York.

1.5 Summary of OCIP Coverages. OCIP Coverages shall apply only to those operations of each Enrolled Party performed at the Project site in connection with the Work and only to Enrolled Parties that are eligible for the OCIP. OCIP Coverages shall not apply to ineligible parties, even if erroneously enrolled in the OCIP (such parties shall be deemed Excluded Parties). An Enrolled Party's operations away from or off of the Project site, including its regularly established main or branch office, factory, warehouse, or other property, or product manufacturing, assembling, or otherwise, shall not be covered. A summary of OCIP Coverages is attached hereto and incorporated herein as Attachment DX-1.

1.6 Evidence of Coverages.

(a) Contractor shall furnish evidence satisfactory to 1 WTC of all insurance coverages required of Contractor pursuant to this Rider DX.

(b) The obligation to procure and maintain any insurance required by the Contract documents is a separate responsibility of Contractor and independent of the duty to furnish evidence of insurance. By furnishing evidence of insurance, Contractor represents and warrants to 1 WTC that the limits and scope of coverage of such insurance comply in all respects with the requirements of the Contract documents and that the required limits, as of the date that such evidence of insurance is delivered to the 1 WTC, are unimpaired: (i) by any payments made, or reasonably expected to be made, by the insurer, or (ii) by any amounts reserved for pending claims or anticipated expenses.

(c) Receipt or review by 1 WTC or Aon of any copies of insurance policies or insurance certificates, or failure to request such evidence of insurance or to object to any portion of such insurance that does not comply with the requirements of this Exhibit DX, other Contract documents, or the Insurance Guide, shall not be deemed a waiver by 1 WTC or Aon of any such requirements and shall not relieve Contractor of any obligation to comply with the insurance provisions of the Contract documents.

1.7 1 WTC's Insurance Obligations. 1 WTC shall pay the premiums for the OCIP Coverages. 1 WTC will receive or pay, as the case may be, all adjustments to such costs, whether by way of dividends, retroactive adjustments, return premiums, other moneys due, audits or otherwise. Contractor, and each of their Subcontractors, hereby assign to 1 WTC the right to receive all such adjustments. 1 WTC assumes no obligation to provide insurance other than that provided in the OCIP. 1 WTC's furnishing of OCIP Coverages shall in no way relieve or limit, or be construed to relieve or limit, Construction Manager or Contractor, or any of their Subcontractors of any tier, from any responsibility, liability, or obligation imposed by Riders D and DX, other Contract documents, the Insurance Guide, the OCIP insurance policies, or by law, including, without limitation, any indemnification obligation that Construction Manager or Contractor, or any of their Subcontractors of any tier, has to 1 WTC thereunder. 1 WTC reserves the right at its option, without obligation to do so, to modify terms and conditions of insurance policies, change insurers, or make other changes in the OCIP, provided that the limits and scope of coverage provided is not materially and adversely affected.

1.8 Enrolled Parties Responsibilities – Insurance Costs.

(a) Each Enrolled Party shall identify to 1 WTC the amount of the credit that resulted from excluding coverage provided by the OCIP when calculating the Lump Sum or contract price for such Enrolled Party's Work.

(b) Each Enrolled Party is responsible to enroll all of its eligible Subcontractors of any tier in the OCIP. If an Enrolled Party fails to enforce the enrollment of any of its eligible Subcontractors of any tier, then the Enrolled Party shall be financially responsible to 1 WTC for the amount of the credit that would have resulted had any such Subcontractor been enrolled in the OCIP and for any liability arising out of or resulting from the acts or omissions of any such Subcontractor not enrolled in the OCIP. Construction Manager will not permit any Contractor or Subcontractor of any tier to access, or perform Work on, the construction site unless such Contractor or Subcontractor provides Construction Manager with the proper Certificates of Insurance evidencing the required insurance and effective date of coverage in accordance with Exhibit D and, to the extent such Contractor or Subcontractor is to be enrolled into the OCIP, until such time as enrollment is effective.

(c) If the Enrolled Party carries a deductible, or self-insured retention, under any of its Supplemental Insurance Policies, then the following information may be required:

(1) Three (3) years of currently valued loss history for all entities that retain losses. Paid, outstanding, and total incurred losses must be evidenced by policy period;

(2) Three (3) years of payroll history for all entities; and

(3) Any other information required by 1 WTC or Aon.

(d) Costs for insurance coverage maintained by the Enrolled Parties that are redundant of the OCIP shall not be reimbursable. All change orders or Extra Work Orders will be submitted net of insurance, and labor rates will be reduced to reflect the insurance reduction.

(e) If any Enrolled Party does not provide Aon with information sufficient to allow verification of the applicable insurance cost, Aon may independently calculate enrollment insurance costs based on undiscounted, manual, or program rates at its sole discretion.

1.9 Contractor's OCIP Obligations.

(a) Contractor shall:

(1) Incorporate the terms of this Exhibit DX and Exhibit D in all contracts and subcontracts of any tier with respect to the Project.

(2) Enroll itself (unless 1 WTC or Aon directs otherwise), in the OCIP within five (5) days of execution of the Contract and maintain enrollment in the

OCIP until a notice of final completion of Work has been issued by 1 WTC, and (i) ensure that all of its eligible Subcontractors of any tier enroll in the OCIP within five (5) days of subcontracting and prior to the commencement of any Work at the Project site by each such Subcontractor, and maintain enrollment in the OCIP until a notice of final completion of work has been issued by 1 WTC.

(3) Comply with all of the administrative, safety, insurance, and other requirements outlined in this Exhibit DX, elsewhere in the Contract documents, the Insurance Guide, or the OCIP insurance policies.

(4) Provide each of its Subcontractors of any tier with a copy of the Insurance Guide and ensure the compliance of each such Subcontractor with the provisions of Exhibits D and DX, the other Contract documents, the OCIP insurance policies, and the Insurance Guide. The failure of (a) 1 WTC to include the Insurance Guide in the Bid Proposal documents or (b) Construction Manager or Contractor to provide each of their eligible Subcontractors of any tier with a copy of same, shall not relieve Construction Manager or Contractor, or any of their Subcontractors of any tier, from any of the obligations contained therein.

(5) Acknowledge, and require all of its Subcontractors of any tier to acknowledge, in writing, that 1 WTC and Aon are not agents, partners, or guarantors of the insurance companies providing coverage under the OCIP (each such insurer, an "OCIP Insurer") and that 1 WTC is not responsible for any claim or dispute between or among Contractor, its Subcontractors of any tier, and any OCIP Insurer. Any type of insurance coverage or limits of liability in addition to the OCIP Coverages that Contractor or any Subcontractor of any tier requires for its or their own protection, or that is required by applicable laws, statutes, ordinances, codes, rules or regulations, or by any public authority, shall be Contractor's or its Subcontractor's sole responsibility and expense and shall not be billed to 1 WTC.

(6) Cooperate fully with Aon and the OCIP Insurers, as applicable, in its or their administration of the OCIP.

(7) Provide all documents or information within five (5) business days of 1 WTC's or Aon's request. Such information may include, but not be limited to, written and/or electronic payroll records as required by the Workers' Compensation insurance carrier, certified copies of insurance coverages, declaration pages of coverages, certificates of insurance, underwriting data, prior loss history information, safety records or history, OSHA citations, or such other data or information as 1 WTC, Aon, or OCIP Insurers may request in the administration of the OCIP, or as required by the Insurance Guide.

(b) Contractor's failure to procure or maintain the insurance required by Rider D, or, if an Enrolled Party, the Supplemental Insurance Policies, and to assure that all of its Subcontractors of any tier procure and maintain such required insurance during the entire term of the Agreement, and as otherwise required, shall constitute a material breach of this Agreement for which 1 WTC immediately may suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect 1 WTC's interests and pay any and all premiums in connection therewith, and withhold or recover all monies so paid together with interest thereon from the date paid by 1 WTC until the date paid by Contractor or Subcontractors of every tier.

1.10 Contractor's and Construction Manager's Representations and Warranties to 1 WTC. Contractor represents and warrants to 1 WTC on behalf of itself and its Subcontractors of any tier with respect to items (a), (b), (c), and (e); and Construction Manager represents and warrants to 1 WTC on behalf of itself and its Subconsultants of any tier with respect to items (a), (b), and (e) below; and Construction Manager represents and warrants to 1 WTC with respect to item (d) below:

(a) That all information it submits to 1 WTC, Aon, or (in the case of the Contractor) the Construction Manager shall be accurate and complete.

(b) That Contractor or Construction Manager, as the case may be, on behalf of itself and its Subcontractors or Subconsultants of any tier, has had the opportunity to read and analyze copies of the OCIP binders and specimen policies, which are available for review in accordance with Section 10.4 of this Exhibit DX. Any reference or summary in the Contract or Agreement, in this Exhibit DX, in any other Contract document or Contract Document, or in the Insurance Guide as to amount, nature, type, or extent of OCIP Coverages and/or potential applicability to any potential claim or loss is for reference only. Contractor and its Subcontractors of any tier or, in the case of Construction Manager, Construction Manager and its Subconsultants of any tier, have not relied upon said reference or summary but solely upon their own independent review and analysis of the OCIP Coverages in formulating any understanding and/or belief as to amount, nature, type, or extent of the OCIP Coverages and/or the potential applicability of the OCIP Coverages to any potential claim or loss.

(c) That Contractor identified in its Bid Proposal the amount of the credit that resulted from excluding insurance coverage provided by the OCIP when calculating the Lump Sum or contract price for such Contractor's Work; and that such amount was not included in its Bid Proposal for the Work, or the applicable Lump Sum or contract price, and will not be included in any change order, Extra Work Order, or any request for payment for the Work or Extra Work.

(d) That Construction Manager shall confirm with respect to each Contract awarded, that prior to the effective date of the respective Contract the alternate

Costs of OCIP Coverages. In the event Contractor (or a Subcontractor of any tier) underreports, misclassifies, or misrepresents in any requisition for funds or in other reports, any labor cost incurred, then the Contractor and Subcontractor of any tier shall be liable for the costs of the audit, which shall include but not are limited to the fees of Aon, and of the attorneys and accountants conducting the audit and review. If the Contractor, or its Subcontractors of any tier, fail to timely comply with the provisions of this Exhibit DX or the requirements of the Insurance Guide, 1 WTC may withhold any payment due such party until such time as they have performed the requirements of this Exhibit DX. Such withholding by 1 WTC shall not be deemed to be a default hereunder.

1.14 **Safety**. Contractor shall be solely responsible for safety pertaining to its Work. Contractor shall comply with the written program referred to in the Insurance Guide as well as all local, state and federal safety standards.

2. **Commencing Work**. Contractor and its Subcontractors of any tier cannot commence performance of the Work until all of the insurance requirements have been met.

3. **Compliance by Construction Manager**. Unless directed or excepted otherwise by 1 WTC, Construction Manager shall comply, and shall cause its Subconsultants of any tier to comply, with all of the provisions set forth in this Rider DX in the same manner as Contractor, and its Subcontractors of any tier, are obligated to comply; and 1 WTC shall have the same rights with respect to Construction Manager and its Subconsultants of any tier as 1 WTC has with respect to Contractor and its Subcontractors of any tier.

4. **Definitions**. Each initial-capped term used but not defined in this Exhibit DX shall have the meaning set forth in the Contract. Such terms include, without limitation, 1 WTC, Authority, Bid Proposal, Construction Manager, Contractor, Contract, Extra Work, Extra Work Order, Project, Subconsultant, Subcontractor, and Work.

deduct amount for any credit resulting from excluding insurance coverage provided by the OCIP is provided to 1 WTC; provided, however, if a Contract was or is awarded without OCIP coverage, then no credit results and confirmation is not required.

(e) That 1 WTC shall not pay or compensate, and shall have no obligation to pay or compensate, Contractor or any Subcontractor of any tier, or Construction Manager or any Subconsultant of any tier, in any manner, for Costs of OCIP Coverages. The "Costs of OCIP Coverages" is defined as the amount of Contractor's and its Subcontractors' of any tier, or, in the case of Construction Manager, Construction Manager's and its Subconsultants' of any tier, reduction in insurance costs due to eligibility for OCIP Coverages as determined by information available to 1 WTC and/or Aon regarding the costs of similar coverages taking into account limits of liability, coverages, and rating of the insurer.

1.11 **Audits**. Contractor agrees that for a period of seven (7) years following Substantial Completion of the entire Work, 1 WTC, Aon, and/or any OCIP Insurer may audit Contractor's or any of its Subcontractor's (of any tier) payroll records, books, and records, insurance coverages, insurance cost information, or any other information that Contractor provides to 1 WTC, Aon, or the OCIP Insurers to confirm their accuracy and to assure that Costs of OCIP Coverages are not included in any payment for the Work.

1.12 **1 WTC's Election to Modify or Discontinue OCIP**. 1 WTC, for any reason, may modify the OCIP Coverages, discontinue the OCIP, or request that Contractor or any of its Subcontractors of any tier withdraw from the OCIP, upon thirty (30) days' written notice. Upon such notice, Contractor and/or one or more of its Subcontractors of any tier, as specified by 1 WTC in such notice, shall obtain and thereafter maintain at 1 WTC's expense, not to exceed the applicable Costs of OCIP Coverages as determined by 1 WTC (or a portion thereof as specified by 1 WTC), all (or a portion thereof as specified by 1 WTC) of the OCIP Coverages. The form, content, limits of liability, cost, and the insurer issuing such replacement insurance shall be subject to 1 WTC's approval to the extent such cost does not exceed the applicable Enrolled Party's credit for the OCIP coverage. If the cost does exceed such Enrolled Party's credit for the OCIP coverage, then 1 WTC and the Enrolled Party shall jointly approve the form, content, insurer, limits of liability, and such excess cost.

1.13 **Withhold of Payments**. To the fullest extent permitted by law, 1 WTC may withhold from any payment owing to Contractor the Costs of OCIP Coverages if included in a request for payment from Contractor. In the event a 1 WTC audit of Contractor's (or a Subcontractor's of any tier) records and information reveals a discrepancy in the insurance, payroll, safety, or any other information required by the Contract documents to be provided by Contractor to 1 WTC, Aon, or Construction Manager, or reveals the inclusion of Costs of OCIP Coverages in any payment for the Work, 1 WTC shall have the right to full deduction from the contract price of all such

May 18, 2007

Attachment DX-1

Summary of OCIP Coverages

ATTACHMENT DX-1

SUMMARY OF OCIP COVERAGES

Below is a summary of the OCIP Coverages. The OCIP Coverages apply ONLY to the operations of each Enrolled Party at the Project construction site as provided for in the Contract. It does NOT apply to the off-site operations of any Contractor or Subcontractor of any tier, including but not limited to, operations at their regularly established main or branch office, factory, warehouse or other property.

The limits stated below constitute the combined limits for both the Project and a second project referred to as the "Memorial Complex"; the Memorial Complex generally consists of the construction of two reflecting pools, a museum referred to as the Memorial Museum, a facility referred to as the Visitors Orientation and Education Center (VOEC), and a plaza and the redevelopment of approximately eight acres of land, referred to as the Memorial Plaza and Redevelopment (collectively, the term "Combined Project" shall mean the Project and the Memorial Complex project).

Neither the Contractor nor a Subcontractor of any tier shall be responsible for the payment of any deductible under the OCIP.

A. Workers' Compensation

A separate standard NYS Workers' Compensation policy will be issued to each Contractor or Subcontractor of any tier performing work at the Project construction site. Coverage will include:

1. Workers' Compensation, including Occupational Disease, and
2. Employers' Liability, subject to the laws of New York State;
3. 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 and Subcontractor of any tier to comply with NYS Workers' Compensation law by providing their own coverage for their workers. Please contact the Construction Manager for clarification.

B. Commercial General Liability Insurance

The OCIP will provide Commercial General Liability Insurance to each Contractor and Subcontractor of any tier, as follows:

1. Primary $2,000,000 Combined Single Limit (CGL) each one occurrence.
2. $498,000,000 each occurrence in excess of the $2,000,000 primary limit.
3. Losses Insured under the Commercial General Liability and Excess Liability policies may be subject to certain annual, or period, aggregation of limits of liability as more fully described in the insurance policy documents.

4. 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").
   - Personal Injury Liability
   - Cross Liability in respect to Bodily Injury claims
   - Incidental Malpractice Liability
   - Advertising Liability

   - EXCLUSIONS include, but are not limited to:
     - Aircraft Liability
     - Asbestos/Environmental
     - Automobile Liability and Physical Damage
     - Intentional acts
     - Pollution
     - Professional Liability
     - Property in Insured's Care, Custody and Control
     - Radioactive Contamination, Chemical, Biological, Bio-Chemical, Electro-magnetic Weapons
     - Watercraft Liability
     - War

C. Builder's Risk Insurance

Builder's Risk Insurance coverages are as follows for the period April 30, 2007 to December 31, 2011.

1. Limits - $1,000,000,000 per occurrence for the Combined Project (subject to a $50,000,000 annual aggregate for Flood and Earthquake damage and $250,000,000 per occurrence as respects Windstorm). The following sublimits of coverage also apply:
   a. $10,000,000 per any one location as respects Offsite Storage
   b. $10,000,000 per any one conveyance as respects Property in Transit
   c. $10,000,000 per any on occurrence as respects Expediting Expense
   d. $5,000,000 per any once occurrence as respects Contractors Extra Expense
   e. $1,000,000 per any one occurrence as respects Trees, Shrubs, Plants and Landscaping
   f. $5,000,000 per any one occurrence and in the annual aggregate as respects Pollution Cleanup and Removal.
   g. $1,000,000 per any one occurrence as respects Plans, Blueprints, and Drawings.
   h. $5,000,000 per any one occurrence as respects Fire Brigade Charges/Extinguishing Expenses.

i. 25% of the amount of loss or damage as respects Debris Removal nor more than $50,000,000.
j. $50,000,000 per any one occurrence as respects Law or Ordinance, Demolition and Increased Cost of Construction.

2. OCIP Coverages include, but are not limited to:

All property to be used in or incidental to the Project, including property in the Enrolled Party's custody, property in which the Enrolled Party has an insurable interest, property for which the Enrolled Party is liable, including but not limited to:

- Builders Risk
- Debris removal
- Demolition and increased cost of construction
- EDP equipment and media and extra expense
- Expediting expense
- Extra expense
- Fire brigade charges and extinguishing expenses
- Materials
- Off-site
- Partial payment of loss
- Permission to occupy
- Plans, blueprints, drawing, renderings, etc.
- Pollutant clean-up (covered perils)
- Professional fees
- Removal charges
- Resulting damage from error in design, faulty workmanship, or faulty material recovered
- Temporary works
- Testing
- Transit including shipments on inland or coastal waters, excluding ocean
- Valuable papers and records
- Waiver of Subrogation, if in writing

And as more fully described in the Lexington Manuscript Completed Value Builders Risk policy form.

3. The policies contain various EXCLUSIONS, including but not limited to:

- Aircraft
- Automobiles
- Contents/Personal Property
- Contractor's (or Subcontractor's of any tier) Equipment
- Cranes (not to become permanently fixed, but used as a part of contract)
- Machinery, Contractor's (or Subcontractor's of any tier) machinery, tools, temporary structures, and equipment <u>not</u> destined to become a permanent part of a building or structure
- Soft Costs
- Watercraft

And as more fully described in the Lexington Manuscript Completed Value Builders Risk policy form.

D. Contractors Pollution Liability

Contractors Pollution Liability coverage is as follows:

1. Limits - $100,000,000 each loss for the Combined Project, with a $100,000,000 policy aggregate.

2. Sub-limit - $10,000,000 Microbial Matter.

3. Bodily injury, property damage, or environmental damage caused by pollution conditions resulting from covered operations (the project work) only, and must be unexpected and unintended from the standpoint of the Insured.

4. The bodily injury, property damage, or environmental damage must occur during the policy period.

E. Terrorism

1. 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.

ATTACHMENT 6
TO
EXHIBIT A

INSURANCE

Project: Freedom Tower, 1 World Trade Center, New York, New York
Tishman Insurance Requirements
1-19-2007
INSURANCE

The parties agree that the Project shall be insured as set forth in A - O below; provided, however, that sometime during execution of the Project, 1 WTC may provide, at its sole discretion, either an insurance program ("Insurance Program") or have the Construction Manager implement a Contractor Controlled Insurance Program (CCIP). The parties agree that if an Insurance Program is put in place by 1 WTC or a CCIP is put in place by the Construction Manager on behalf of 1 WTC, the requirement of the Construction Manager to provide "A" and "B" below shall no longer be in effect for on-site work and be provided for off-site activities. The Construction Manager and 1 WTC agree to mutually cooperate in the development of an Insurance Program or CCIP, and the terms of the Insurance Program or CCIP, including, but not limited to:

a) Assisting in the development of underwriting and exposure data required for the submission
b) Participation in underwriting meetings and site tours as may be required as part of the marketing process
c) Cooperation with the safety consultants of the Authority in development of a Project safety program for submittal to the potential insurance markets
d) Cooperation with the Insurance Program/CCIP Safety Program as developed in conjunction with the Authority, 1 WTC, the Construction Manager, Consultants and the Insurance Carrier.
e) Completing the required documentation, and causing all of the Contractors and Subcontractors to complete the required documentation including, but not limited to:
   i) Enrollment Information
   ii) Payroll Information
   iii) Safety Program Information
f) Cooperating with any potential accident or claim investigations and any specific reporting requirements superseding those identified in A - M below
g) Provide 1 WTC or the Construction Manager or designated Insurance Program/CCIP administrator with appropriate credits for the cost of insurance that will not be required to be provided as a result of coverage afforded under the OCEP/CCIP by completing Bid Deduction Worksheet specifically identifying the costs associated with Workers' Compensation, Commercial General Liability, Excess Liability and other coverages to be identified.

Prior to commencement of any work under this Contract and until all obligations under this contract are fulfilled, the Construction Manager shall maintain the following insurance on 1 WTC's behalf, and furnish to 1 WTC and the specified Additional Insureds, Certificates of Insurance evidencing same and reflecting the effective date of such coverage as follows. 1 WTC shall bear the expense of only the insurance described in paragraphs A (Worker's Compensation and occupational Disease Insurance), B (Commercial General Liability), and N (Pollution Legal Liablity) below. The expense of the remaining insurance described below shall be borne by the Contractors, at no cost to 1 WTC:

A. Worker's Compensation and Occupational Disease Insurance in accordance with the applicable law or laws: Employer's Liability Insurance with Limit of Liability as required by New York State.

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 Two Hundred Million Dollars ($200,000,000) per occurrence and in the aggregate. The general aggregate must be applicable on a per project basis. Coverage must include the following:

   1. Contractual Liability for liability assumed under this Contract and all other Contracts relative to the project.

   2. Completed Operations/Products Liability with a seven (7) year extension beyond completion and acceptance of the project. Any Insurance Program or CCIP will be required to provide any and all completed operations

coverage for work performed prior to the implementation of said Insurance Program or CCIP.

3. Broad Form Property Damage.

4. XC&U" Perils Covered , where applicable

5. Personal Injury Liability (A, B & C) and Advertising Injury Coverage

6. Independent Contractors.

7. Additional Interest/Insured Endorsement (CG 2010 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 1 WTC and all other indemnities named in the Contract.

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 1 WTC 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 1 WTC or any other indemnitee.

11. 1 WTC, The Port Authority of New York & New Jersey, Port Authority Trans Hudson (PATH) and Tishman will be named insureds on the policy.

12. TRIA coverage in a separate policy for $100 Million Dollars for certified and non-certified terrorism acts at the cost of 1 WTC.

13. Railroad Protective Liability insurance will be purchased as required and will remain at the sole cost of 1 WTC. The responsibility to pay any and all deductibles related to claims under this policy will remain with 1 WTC.

C. Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles with a combined Bodily Injury and Property Damage Limit together with any excess liability or umbrella liability insurance coverage of at least Five Million ($5,000,000) Dollars. Automobile Insurance must include all additional insureds and be scheduled as primary on the Umbrella policy.
   a. Coverage is to be endorsed to reflect that the insurance provided is to be primary and non-contributory for the 1 WTC and all other indemnities named in the Contract.

D. Where an Off Project Site property exposure exists, the Construction Manager shall furnish to 1 WTC 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 indemnitees named in the contract.

F. The amount of insurance contained in aforementioned insurance coverages, shall not be construed to be a limitation of liability and the carrying of the insurance described shall in no way be interpreted as relieving the General Contractor of any responsibility of liability under the Contract.

H. The Construction Manager shall file certificates of insurance prior to the commencement of work and with 1 WTC and Port Authority which shall be subject to 1 WTC and the Port Authority's approval of adequacy of protection and the satisfactory character of the Insurer. In the event of failure of the Construction Manager to furnish and maintain said insurance and to furnish satisfactory evidence thereof, 1 WTC and/or Port Authority shall have the right (but not the obligation) to take out and maintain the same for all parties on behalf of the Construction Manager.

I. The Construction Manager shall cause the Contractors and Subcontractors performing work or services in connection with the project shall maintain "All Risk" Property Insurance for all materials, equipment and supplies located at the project site and for Temporary Structures and Contractor's Tools and Equipment until completion of the project. Coverage is to be provided on a replacement cost basis including the perils of Flood, Earthquake and Terrorism (TRIA).

J. Any type of insurance or any increase of limits of liability not described above which the Construction Manager 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 Construction Manager on their Owned an/or Rented Equipment and Materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation against 1 WTC and all other additional insureds and indemnitees 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 1 WTC and all other additional insureds and indemnitees named in the Contract.

L. The Construction Manager shall cause the same conditions that apply under this contract to each Contractor and Subcontractor; however, the Contractors and Subcontractor shall be required to maintain limits of liability in accordance with Tishman Construction Corporation Minimum Liability Limits Exhibit and said limits to be applicable on a per project basis.

M. Within five (5) days after the award of this Contract and prior to the start of work, the Contractor must submit an original Certificate of Insurance to the Authority's Contract Administrator and to the Authority's Risk Management Division at the location where the work will take place. This Certificate of Insurance MUST show evidence of the above insurance policy (ies), stating the agreement/contract number prior to the start of work.

N. On behalf of and at the cost of 1 WTC, for a period of not more than one year from the execution of this contract, the Construction Manager shall maintain Pollution Liability Insurance with limits of not less than Ten Million ($10,000,000) Dollars covering the interests of both the Construction Manager and 1 WTC. At the conclusion of this one-year period, 1 WTC must purchase this coverage for the Construction Manager and all trades at the cost of 1 WTC for the length of the project plus 5 years of extended reporting or completed operations. This coverage must provide the broadest possible coverage available in the market at the time of purchase.

O.

Schedule 1 - Additional Insureds:

a) WTC Retail LLC
b) City of New York
c) World Trade Center Memorial Foundation
d) Lower Manhattan Development Corporation
e) STV Construction, Inc
f) NYS State Department of Transportation
g) Metropolitan Transit Authority

h) Silverstein Freedom Tower Development LLC
i) Two World Trade Center LLC
j) Three World Trade Center LLC
k) Four World Trade Center LLC
l) World Trade Conter Properties LLC
m) 1 WTC Holdings LLC
n) 2 WTC Holdings LLC
o) 3 WTC Holdings LLC
p) 4 WTC Holdings LLC
q) Silverstein Properties, Inc.
r) Silverstein East WTC Facility Manager LLC
s) WTC Redevelopment LLC
t) Silverstein WTC Mgmt. Co. LLC
u) Silverstein WTC Mgmt. Co. II LLC
v) Silverstein WTC Properties LLC
w) Silverstein WTC LLC
x) Silverstein 2/3/4 WTC Redevelopment LLC
y) Spring World Inc.
z) Spring World Holdings Inc
aa) WTC Investors LLC
bb) Net Lessees' Association of the World Trade Center
cc) WTC Management and Development LLC
dd) Silverstein WTC Management and Development LLC
ee) WTC Investors Management and Development LLC
ff) Larry A. Silverstein
gg) And the parents and affiliates, successors and permitted assigns of each of a) through ff) above and the officers and directors of each of them.

ATTACHMENT 7
TO
EXHIBIT A

SECURITY REQUIREMENTS

RIDER "S"
SITE SECURITY REQUIREMENTS

WTC Division 1 Security Article

Access to the WTC Site

All personnel, vehicles, equipment, and materials entering the site shall comply with the requirements described herein.

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 Authority in planning and performing the required activities. The facilities and services provided by the Authority are to be shared in common by all parties requiring access to the site. The direct costs to perform the screening and badging described herein shall be borne by the 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 screened so as to ascertain that they satisfy the requirements set forth in the "WTC ID Process-disqualifying Crimes" document dated June 2006 which is attached hereto as Attachment A. The Authority will conduct such screening only upon written request of the contractor on behalf of the individual. The screening is contingent upon the following:

- Every individual requesting access to the site must agree to have a background check.
- Every such individual shall be required to fill out and sign a background screening application and consent form.
- Individuals must be citizens of the US, lawful Resident Aliens, or otherwise lawfully permitted to work in the US.

The Authority shall conduct the 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 screening individuals shall 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 (ID) badge shall be issued by the Authority to the individual. The individual's access to the site shall be limited to the level deemed to be appropriate by the Authority.

As part of the individual badging and identification process each individual shall 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 destroyed when no longer needed. The individual is prohibited from the site once the data is destroyed.

Personnel entry to and exit from the site shall be through a number of Personnel Security Portals provided, installed, maintained, and operated by the Authority. It is expected but not guaranteed that there shall be 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 shall be required to present their individual identification badges for entry. The ID badges 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 will be randomly inspected.

Personnel who have not been screened and approved to enter the site as described above, either because the screening process has not yet been completed or because permanent ID badge 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 badging stations at or near the WTC Site. The Authority will issue a Temporary ID Badge to the individual upon the following conditions:

- The contractor requests the Temporary ID Badge on behalf of the individual. This request must be made by a permanently badged representative of the contractor who must accompany and vouch for the individual requiring the Temporary ID Badge.
- 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 US, a lawful Resident Alien, or otherwise lawfully permitted to work in the US.

The Temporary ID Badge will allow access to the site for a period not to exceed five (5) calendar days. Every user of a Temporary ID Badge shall be inspected, together with any packages, tools or equipment they intend to bring onto the site.

The contractor shall notify the Authority of personnel terminations or reassignments so that access credentials can be cancelled as soon as no longer needed. The Authority may, at any time for any reason, withdraw credentials allowing individuals access to the site.

B) <u>Equipment and Vehicle Access</u>

All equipment and vehicles, with their contents, entering the site shall have been inspected by the Authority prior to being allowed access to the site. Such inspection shall be for the purposes of validating that the equipment or 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 equipment or 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 "On-Site" and "Off-Site" Equipment and Vehicle Inspection Facilities. The On-Site facilities shall be located at the points of entry to the site. There are expected, but not guaranteed, to be four such On-Site points at all times. The Off-Site facilities shall be located as follows: 1) In New Jersey, at a location yet to be determined, but no farther than fifteen (15) miles from the New Jersey entrance to the Holland Tunnel, 2) In Brooklyn, at a location yet to be determined, but no farther than two (2) miles from the entrance to the Brooklyn Battery Tunnel, 3) at or near the New Jersey entrance to the George Washington Bridge; to be used only when requested by the contractor for permitted oversize loads. The Authority shall operate, relocate, and if necessary reconfigure, the Equipment and Vehicle Inspection Facilities to accommodate the work to the greatest degree feasible.

The contractor, in coordination with the Authority, shall be responsible for scheduling inspections of all equipment and vehicles requiring access to the site, regardless of where the inspection is to take place. All inspections shall be by appointment only and shall require a minimum of 48 hours notice to the Authority. Requests for inspection shall be made by the contractor in writing,

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 inspection of oversize loads are subject to the same requirements except that 72 hours notice shall be required.

The Authority shall process all such requests in the order received and shall assign to the contractor a time and place for the inspection most appropriate to the vehicle's route. The contractor shall be responsible to ensure that the item to be inspected presents itself, together with all required documentation, at the assigned location and time. Failure to do so will result in delays and may require rescheduling of appointment for inspection. If the Authority deems any particular vendor, supplier, contractor, or other entity to be consistently late for scheduled inspections it may institute any different requirements that it may deem necessary to avoid or mitigate delays.

On-Site inspections shall only be allowed upon satisfying all other requirements described herein and only for the following categories of vehicles:

- Concrete Delivery Trucks.
- Fuel and Water Tanker trucks.
- Local (originating within a 25 mile radius from site) high volume deliveries as approved by the Authority in advance.
- Empty dump trucks.
- Tractors with no load.
- Tractors with empty flat beds.
- Heavy construction equipment.
- Contractor vehicles not transporting materials onto the site.

In addition to the on-site inspection the Authority may require that concrete, fuel, water, and local delivery trucks be pre-inspected and sealed at their point of origin. In all cases, the contractor shall make request for pre-inspection and sealing sufficiently in advance as to allow the Authority adequate time to provide such service if it deems such to be necessary and appropriate.

All other vehicles must be inspected at the "Off-Site" locations.

For On-Site inspections the equipment or vehicle shall present itself at the assigned place within the allotted timeframe. Inspection shall include:

- Verification of equipment or vehicle and personnel identity and credentials.
- Physical inspection of the equipment or vehicle and its contents as deemed necessary by the Authority

Upon successful inspection the equipment or vehicle will be allowed direct entry to the site. If necessary due to personnel security requirements, an escort will be assigned.

For Off-Site inspections the vehicle shall present itself at the assigned place and time. Inspection shall include:

- Verification of submitted information.

- Physical inspection and imaging of the equipment or vehicle and its contents as deemed necessary by the Authority.
- Verification of personnel identity and credentials.
- Sealing the load/vehicle, tagging with tracking GPS device and assignment of time and place for entry to site.

The vehicle shall then proceed to the site. Upon arrival at the assigned entry point it shall be re-inspected as follows:

- Verification of equipment or vehicle and personnel identity.
- Verification that arrival time and routing, as determined by the tracking information, matches expected parameters.
- Verification of seals.
- Physical inspection of the equipment or vehicle as deemed necessary by the Authority

Upon successful inspection the tags, seals, and tracking devices will be removed and it will be allowed direct entry to the site. If necessary due to personnel security requirements, an escort will be assigned.

C) Implementation

The preceding requirements are anticipated to be implemented as follows:

- Personnel Security Portals including turnstiles are expected to be operational in or around June 2007. At that time the ID badges will be used without biometric data.
- Personnel biometric data for site access is expected to be operational in or around the 4th quarter of 2007.
- Off-Site Equipment and Vehicle Inspection Facilities are expected to be operational in or around the 4th quarter of 2007.

D) Attachments

A *WTC ID Process-disqualifying Crimes dated June 2006*

ATTACHMENT 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

ATTACHMENT A

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.

ATTACHMENT A

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

ATTACHMENT A

Note ** No convictions within the past ten (10) years preceding the date of this application

ATTACHMENT A

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.
* (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;

ATTACHMENT A

(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

ATTACHMENT 8
TO
EXHIBIT A

[INTENTIONALLY DELETED]

ATTACHMENT 9
TO
EXHIBIT A

MILESTONE DATES

EXHIBIT

MILESTONE DATES

MILESTONE	DATES
Completion of Below Grade Superstructure	8/24/2008
Completion of Roof Steel Framing	8/24/2010
Turnover of E-W Corridor to the Hub Project from West Street to Column Line 12	5/7/2007
Start Structural Steel Superstructure Erection	8/20/2008
Access for Tenant Construction with use of Interior Elevators:	
Floors 20-27	1/1/2011
Floors 28-35	1/1/2011
Floors 36-42	3/1/2011
Floors 43-49	3/1/2011
Floors 50-56	6/1/2011
Floors 57-63	6/1/2011
Floors 64-76	1/1/2012
Floors 77-88	1/1/2012
Completion of Core Slab Floor 104	11/11/2010
Completion of Curtainwall @ roof	6/30/2011
Completion of Service Elevators	12/15/2011
Normal Power from 4/5 Network	5/14/2010
Normal Power from 93/93M Network	11/17/2011
Start DX Unit Delivery	8/21/2009
Condenser Water Available	1/5/2012
Building Complete and Ready for TCO Inspection	12/16/2011
CORE & SHELL ZERO OCCUPANCY T.C.O. OR EQUIVALENT	9/19/2012

ATTACHMENT 10
TO
EXHIBIT A

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

RIDER "F"
NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
WORLD TRADE CENTER – TOWER ONE
NEW YORK, NEW YORK

May 11, 2007

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT ("**Confidentiality Agreement**") is made as of this ____ day of _____, 2007, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY ("**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; 1 WORLD TRADE CENTER LLC, a Delaware Limited Liability Company, with offices c/o the Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York 10003 ("**1 WTC**"), (collectively, the "**Port Authority Parties**"); and _____ having an office and place of business at _____ ("**Recipient**").

WHEREAS, the Recipient has advised the Port Authority Parties that it is interested in submitting a Bid Proposal or other request to perform work or services ("**Proposal**") for the Port Authority Parties' consideration under which the Recipient would be performing work or services in regard to the design or construction of Tower 1, commonly known as the Freedom Tower ("**Freedom Tower Project**"), being constructed at the World Trade Center site in New York, New York (such site, together with any improvements thereon and therein, the World Trade Center site or "**WTC Site**"); and

WHEREAS, each of the parties to this Confidentiality Agreement desires to pursue discussions and negotiations concerning such a Proposal; and

WHEREAS, the Recipient has also advised the Port Authority Parties that in order to formulate and pursue a Proposal it will require certain information in the possession of the Port Authority Parties with respect to the WTC Site and Freedom Tower Project; and

WHEREAS, the Recipient acknowledges that the Port Authority Parties have existing and significant interests and obligations in establishing, maintaining and protecting the security and safety of the Freedom Tower Project and surrounding areas and related public welfare matters; and

WHEREAS, in furtherance of critical governmental interests regarding public welfare, safety and security at the WTC Site, the Port Authority Parties have collected information and undertaken the development of certain plans and recommendations regarding the security, safety and protection of the WTC Site and Freedom Tower Project, including the physical construction and current and future operations of the WTC Site and Freedom Tower Project; and

WHEREAS, to enable the Recipient's formulation of a Proposal, the Port Authority Parties are willing, subject to the terms and conditions set forth below, to provide limited access and disclose to the Recipient or certain of its Related Parties (as defined below) certain information in the possession of the Port Authority Parties with respect to the WTC Site and

Freedom Tower Project, which may contain or include confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, relating to the WTC Site, the Freedom Tower Project or its occupants or other matters, the disclosure of which could result in significant public safety, financial and other damages to the Port Authority Parties, the WTC Site, the Freedom Tower Project, its occupants, and the City of New York and surrounding communities; 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 certain of such information to a strict need to know basis, the Port Authority Parties have requested, as a condition of their sharing or providing access to such confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, that the Recipient enter into this Confidentiality Agreement and that its Related Parties thereafter acknowledge and agree that that they will be required to treat as strictly confidential and 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.

WHEREAS, as a condition to the provision of such information to Recipient and certain Related Parties, the Recipient has agreed to enter into this Confidentiality 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 Confidentiality Agreement.

NOW, THEREFORE, in consideration of the provision by the Port Authority Parties of Information for Evaluation 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:

(a) **"Authorized Disclosure"** means the disclosure of Confidential Information strictly in accordance with the Confidentiality Control Procedures applicable thereto: (i) as to Confidential Proprietary Information, strictly for Evaluation Purposes; and (ii) as to Confidential Privileged Information, only to the extent expressly approved in writing and in advance by the Port Authority Parties and then only the particular Confidential Privileged Information that is required to accomplish an essential element of the Proposal (iii) as to all Confidential Information, only to a Related Party that has a need to know such Confidential Information strictly for the purposes set forth in this Subsection 1(a) and that has agreed in writing to be bound by the terms of this Confidentiality Agreement and has executed a form of Acknowledgement as set forth in Exhibit A.

(b) **"Confidential Information"** means, collectively, Confidential Proprietary Information, Confidential Privileged Information and Information which is labeled, marked or otherwise identified by or on behalf of the Port Authority Parties 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 whether prepared by the Recipient, the Port Authority Parties or others, Sensitive Security Information and Critical Infrastructure Information. The following Information shall not constitute Confidential Information for the purpose of this Confidentiality Agreement:

(i) Particular Information, other than Confidential Privileged Information, that is provided to the Recipient by a source other than the Port Authority Parties, 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 Parties, with respect to such Information and that the identity of such source is not itself part of such Confidential Information.

(ii) 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, or any other person to whom the Recipient or a Related Party provides such Confidential Information.

(c) **"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 state or federal laws, (ii) Critical Infrastructure Information (iii) Sensitive Security Information and (iii) Safety and Security Information.

(d) **"Confidential Proprietary Information"** means and includes Information which contains financial, commercial or other proprietary, business Information concerning the Proposal, the Port Authority Parties, the Freedom Tower Project or the WTC Site, including, without limitation, the terms of or negotiation positions concerning the Proposal.

(e) **"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 Confidentiality Agreement, including, without limitation, the procedures, safeguards and requirements are contained in the Port Authority Handbook, the rules, requirements and procedures of the Port Authority Parties of which the Recipient has notice and such procedures, safeguards and requirements that the Recipient would customary impose in connection with corresponding categories of such Recipient's own confidential information, all of the foregoing to be implemented with the highest standard of care.

(f) **"Critical Infrastructure Information"** has the meaning set forth in the Homeland Security Act of 2002 (42 U.S.C. §5195c(e)) 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 (6 U.S.C. §131-134).

(g) **"Evaluation Purposes"** means the use of Confidential Information strictly and only for the purposes of development, preparation, negotiation and evaluation of the financial, commercial and other terms of the Proposal and only for such period of time during which a Proposal by the Recipient is under consideration by the Port Authority Parties.

(h) **"Information"** means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, photographs, and other media 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.

(i) **"Port Authority Handbook"** means, collectively, the "Port Authority of NY & NJ Handbook for Protecting Security Information" and the "Security Information Practices and Procedures Annex," copies of each of which are attached hereto as Exhibit B.

(j) **"Related Party"** and **"Related Parties"** mean the employees, officers, partners or members of the Recipient, as applicable, and the Recipient's outside consultants, advisors, accountants, architects, engineers or Subcontractors or Subconsultants, as those terms are defined in the Recipient's Agreement to perform work or services for the Freedom Tower Project, (and their respective employees, officers, partners or members) to whom any Confidential Information is disclosed or made available.

(k) **"Safety and Security Information"** means and includes Information: (a) the access to or disclosure of which to unauthorized third parties could (i) adversely affect in any way the security, safety or protection of the Freedom Tower Project or the WTC Site, (ii) reveal guidelines, techniques and procedures for protection against terrorist acts, for law enforcement, investigations and prosecutions, (iii) endanger the life and physical safety of individuals or (iv) result in other harm and injury to the protection security and safety of the WTC Site, the Freedom Tower Project, its occupants and others, or to the general public welfare; (b) which concerns in whole or in part the operations of the Freedom Tower Project or the WTC Site, the disclosure of any of which would not customarily be made public by the Port Authority Parties; or (c) which contains information concerning any of the following in connection with the Freedom Tower Project or the WTC Site: plans and specifications, contingency plans, points of contact, safety, security and other operating procedures, vehicular criteria, operations, operational requirements and operational strategies, screening procedures, detention procedures, security protocols and assessments, defensibility information, perimeter security, building systems or construction activities.

(l) **"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).

2. **Use of Confidential Information.** All Confidential Information shall be used by the Recipient in accordance with the following requirements:

(a) All Confidential Information shall be held in confidence and shall be processed, treated, disclosed and used by the Recipient only for Evaluation Purposes and in accordance with the Port Authority's Confidentiality Control Procedures (including, without limitation the Port Authority Handbook, receipt of which is acknowledged by the Recipient and shall be acknowledged in writing by each of Recipient's Related Parties) and applicable legal requirements. Confidential Information may be disclosed only if, and to the extent that, such disclosure is an Authorized Disclosure.

(b) Recipient and its Related Parties acknowledge and agree that (i) any violation by the Recipient or any of its Related Parties of the terms, conditions or restrictions of this Confidentiality 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.

(c) Recipient (and each Related Party) covenants to the Port Authority Parties that it (and each Related Party to which Confidential Information may be disclosed in accordance with this Confidentiality Agreement) 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 Confidentiality 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 Confidential Privileged Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Confidentiality Agreement and applicable Confidentiality Control Procedures, and such that Confidential Proprietary Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Confidentiality Agreement and applicable Confidentiality Control Procedures.

(d) The Port Authority Parties 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 Parties 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.

(e) Nothing in this Confidentiality Agreement shall require the Port Authority Parties 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 Confidentiality 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 Confidentiality Agreement.

(f) The Recipient (and each Related Party) agrees to be responsible for enforcing the provisions of this Confidentiality 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 Parties' 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 Confidentiality 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 (iii) the content or import of such Confidential Information. The Recipient may disclose Confidential Information only to its Related Parties who need to know the Confidential Information for Evaluation Purposes and who shall be advised by the Recipient of this Confidentiality Agreement, shall agree in writing to act in accordance herewith and shall have executed and delivered to the Port Authority Parties a fully and properly completed Acknowledgement in the appropriate form, attached hereto as Exhibit A, and only under circumstances where the Recipient shall be satisfied that such Related Parties in fact shall act in accordance herewith.

(g) As to all Confidential Information provided by or on behalf of the Port Authority Parties, nothing in this Confidentiality 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 Parties thereof with sufficient promptness so as to enable the Port Authority Parties 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 the Port Authority Parties deem appropriate. In the absence of a protective order, disclosure shall be made, in consultation with the Port Authority Parties, 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 Confidentiality Agreement, the

Recipient shall immediately give the Port Authority Parties written notice of that fact and a detailed account of the circumstances regarding such disclosure, to the Port Authority Parties.

4. **Retention Limitations; Return of Confidential Information.** Upon the earlier occurrence of either the Port Authority Parties' 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 Parties 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.

5. **Duration and Survival of Confidentiality Obligations.** The obligations under this Confidentiality Agreement shall be perpetual (unless otherwise provided in this Confidentiality Agreement) or until such time as the Confidential Information is no longer considered confidential and privileged by the Port Authority Parties.

6. **Severability.** Each provision of this Confidentiality Agreement is severable and if a court should find any provision of this Confidentiality Agreement to be unenforceable, all other provisions of this Confidentiality 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 significantly endanger the Port Authority Parties, their facilities (including, without limitation, the Freedom Tower Project and the WTC Site), their patrons and the general public and that damages at law are an inadequate remedy for any breach, or threatened breach, of this Confidentiality Agreement by Recipient or its Related Parties. The Port Authority Parties shall be entitled, in addition to all other rights or remedies, to seek such restraining orders and injunctions as the Port Authority Parties may deem appropriate for any breach of this Confidentiality Agreement, without being required to show any actual damage or to post any bond or other security.

8. **Governing Law.** This Confidentiality 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 Parties (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 Confidentiality Agreement and its enforcement. The Port Authority Parties (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient agree that the execution and performance of this Confidentiality Agreement shall have a New York situs and, accordingly, they each consent (and solely with respect to the Port Authority Parties, 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

Confidentiality 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 Confidentiality 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 (a) hand delivery, or (b) 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 Confidentiality Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by the 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 Section 9.

If to the Authority: _____

The Port Authority of New York and New Jersey
225 Park Avenue South, 19th 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 Confidentiality 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 Confidentiality Agreement may not be changed, modified, discharged, or terminated, except by an instrument in writing signed by all of the parties hereto.

11. **Potential Proposal Negotiations**. Although this Confidentiality Agreement is made in the context of a Proposal, it not an offer or acceptance and shall not be construed as such. Either party may discontinue discussions or negotiation of a Proposal at any time for any reason or no reason each in their own sole discretion and without notice to the other and without any duty to negotiate in accordance with any standards. No express or implied representation or warranty is made by the Port Authority Parties as to the accuracy or completeness of any Information disclosed hereunder and the Port Authority Parties expressly disclaim any such representation or warranty. The Recipient hereby releases the Port Authority Parties from any and all liability that may be based on errors contained in any Information furnished to the Recipient or any of its Related Parties or omissions from such Information. The Recipient and its Related Parties acknowledge and agree that the Port Authority Parties shall have no obligation to deal exclusively with the Recipient or any of its Related Parties with respect to any Proposal or the subject matter thereof.

12. **Counterparts**. This Confidentiality 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.

13. **Parties Bound**. This Confidentiality Agreement shall be binding upon the parties and their respective successors. The foregoing shall not be affected by the failure of any Related Party to join in this Confidentiality Agreement or to execute and deliver an Acknowledgement hereof.

14. **Authority**. The undersigned individuals executing this Confidentiality Agreement on behalf of the respective parties below represent that they are authorized to execute this Confidentiality Agreement on behalf of the Port Authority Parties and the Recipient respectively and to legally bind such parties.

15. **Disclosure of Ownership Rights or License**. Nothing contained herein shall be construed as the granting or conferring by the Port Authority Parties of any rights by ownership, license or otherwise in any Information.

16. **No Liability**. Neither the Commissioners of the Port Authority Parties, 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 Confidentiality Agreement, or because of its execution or attempted execution or because of any breach, or attempted or alleged breach thereof.

17. **Construction.** This Confidentiality Agreement is the joint product of the parties hereto and each provision of this Confidentiality 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 Confidentiality 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 and the PORT AUTHORITY PARTIES have executed this Confidentiality Agreement as of the date first above written.

Dated: New York, New York
_____ ____, 2007

RECIPIENT:

_____

By: _____

Title: _____

Date: _____

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Title: _____

Date: _____

1 WORLD TRADE CENTER LLC

By: _____

Title: _____

Date: _____

EXHIBIT A

ACKNOWLEDGEMENT BY RELATED PARTY ENTITY

The undersigned _____, is the _____[TITLE]_____ of _____[NAME OF ENTITY]_____, a __[TYPE OF ENTITY AND JURISDICTION OF FORMATION]_, located at _____. I am duly authorized to execute this Acknowledgment on behalf of the above Related Party that is involved with the functions of _____ in connection with a Proposal relating to the Freedom Tower Project located at the WTC Site. I acknowledge and confirm that the above named Related Party has been provided with a copy of and shall be bound and abide by the all of the terms, requirements and conditions set forth in the Confidentiality Agreement, dated _____ ___, 2007, between _____ and the Port Authority Parties and by the Port Authority Handbook described in the Confidentiality Agreement. Appropriate and responsible officers and employees of the Related Party have carefully read and understand the terms and conditions of the Confidentiality Agreement. The Related Party has notice and acknowledges that any breach or violation of such the 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: _____

EXHIBIT A

ACKNOWLEDGEMENT BY RELATED PARTY INDIVIDUAL

The undersigned _____, is/are employed by _____ [NAME OF ENTITY] _____, a ___ [TYPE OF ENTITY AND JURISDICTION OF FORMATION] _____ located at _____. In my capacity as _____, I/we am/are involved with the functions of _____ in connection with a Proposal relating to the Freedom Tower Project located at the WTC Site. I acknowledge that I have been provided a copy of, carefully read, understand and shall be bound and abide by the all of the terms, requirements and conditions set forth in the Confidentiality Agreement, dated _____ ___, 2007, between _____ and the Port Authority Parties and by the Port Authority Handbook described in the Confidentiality Agreement. I have notice and acknowledge that any breach or violation of such the terms, requirements and conditions may result in the imposition of remedies or sanctions as set forth or otherwise described therein against me.

Signed: _____
Print Name: _____
Title: _____
Date: _____

May 11, 2007

EXHIBIT B

PORT AUTHORITY HANDBOOK

(attached)

EXHIBIT C

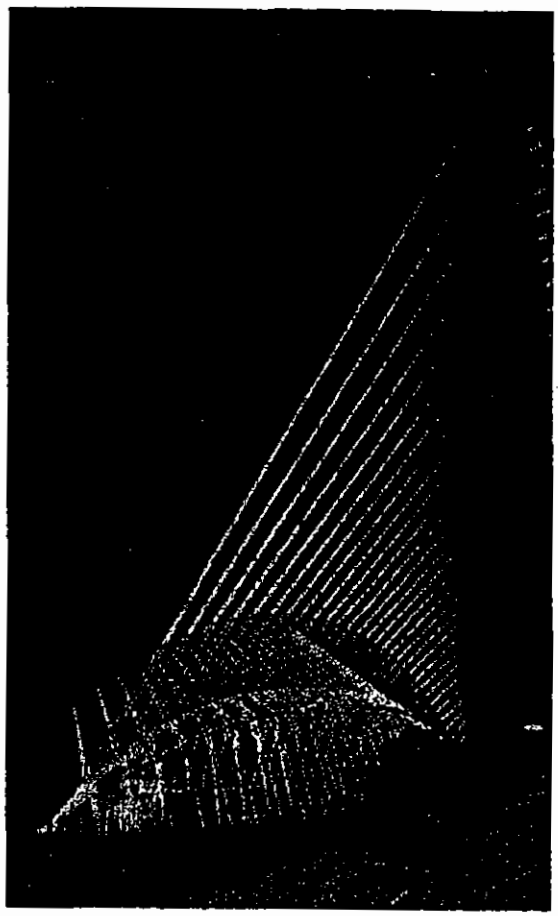
SECURITY INFORMATION PRACTICES AND PROCEDURES (SIPP)

(attached)

Rider F
May 11, 2007

THE PORT AUTHORITY OF NY & NJ

Handbook for Protecting Security Information



NOVEMBER 1, 2004
REVISED-JULY 8, 2005

The Port Authority of New York and New Jersey
Handbook for Protecting Security Information

Summary

This Security Program Handbook describes in detail The Port Authority of New York and New Jersey's (PANYNJ) requirement for the implementation and application of uniform security procedures regarding the identification, handling, care and storage of Confidential and Privileged Security Information belonging to the PANYNJ and Sensitive Security Information as identified in 49 CFR parts 15 and 1520. Confidential and Privileged Port Authority Security Information is information that, if subject to unauthorized access, modification, loss or misuse could adversely affect the PANYNJ, public safety and homeland security. Sensitive Security Information, in accordance with 49 U.S.C. 114(s), is information obtained or developed in the conduct of security activities, including research and development, the disclosure of which TSA has determined would--

- Constitute an unwarranted invasion of privacy - including, but not limited to, information contained in any personnel, medical, or similar file)
- Reveal trade secrets or privileged or confidential information obtained from any person;
- Be detrimental to the security of transportation.

This handbook describes the requirements and other safeguards that are necessary to prevent unauthorized disclosure of both Confidential and Privileged Port Authority Security Information and Sensitive Security Information, and to control the authorized disclosure of this information for use internally within the Port Authority or when released by the Port Authority to outside entities.

The components of this Security Program Handbook are:

Security Manual - Establishes uniform procedures for identification, handling, receipt, care, and storage of Confidential and Privileged Security Information and Sensitive Security Information (SSI).

Access Control Guide - Establishes the basis for determining what type of information requires special handling and that which does not.

Non-Disclosure and Confidentiality Agreement -

Company Non-Disclosure and Confidentiality Agreement: As a condition of its providing confidential and privileged security information, the Port Authority is requiring those working on projects that require access to Port Authority Security Information / Sensitive Security Information, whether retained by it or by other contractors or consultants for its projects, to enter into this agreement, thereby acknowledging that they understand that it will be required to safeguard any such information provided, as well as its work product including conclusions of security assessments, evaluations and/or recommendations.

Individual Non-Disclosure and Confidentiality Agreement Acknowledgement: Acknowledges the agreement between the PANYNJ and those individuals provided access to Confidential and Privileged Port Authority Security Information / Sensitive Security Information, whereby the individual agrees to not disclose Confidential and Privileged Port Authority Security Information / Sensitive Security Information to any unauthorized person. . Additionally, this agreement informs the individual of (1) the trust that is placed in them by providing them access to this information; (2) their responsibility to protect this information from unauthorized disclosure. Port Authority employees with a "need to know" will be required to sign an agreement.

Security Information Practices and Procedures document (SIPP)

This supplemental document details the procedures outlined in the Security Handbook and applies them within a specific program. Users of the Security Handbook should contact the appropriate Security Information Manager to confirm that they are referencing the appropriate Security Information Practices and Procedures document.

Procedures For Handling
Confidential And Privileged Security Information
and
Sensitive Security Information

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SECTION 1. Introduction

This document establishes uniform procedures for the identification, handling, receipt, care, and storage of Confidential and Privileged Port Authority Security Information and Sensitive Security Information (SSI). This Manual prescribes requirements and other safeguards that are necessary to prevent unauthorized disclosure of this information and to control authorized disclosure of it when released by The Port Authority of New York and New Jersey (PANYNJ) to architects, engineers, consultants, contractors, subcontractors, suppliers, and others deemed necessary in order to design, bid on and subsequently complete the work or contract.

Each organization that requires access to Confidential and Privileged Port Authority Security Information / Sensitive Security Information shall appoint a senior management level employee to be the company's Security Information Manager. The role of the Security Information Manager is an important one. This person is responsible for implementing and maintaining the firm's PANYNJ Program For Protecting Confidential and Privileged Security Information / SSI. An alternate Security Information Manager shall also be appointed. The alternate will assume the responsibilities of the Security Information Manager in their absence.

SECTION 2. Access to Confidential and Privileged Security Information

To protect Confidential and Privileged Security Information / SSI, each organization that requires access to this information shall participate in the requisite confidentiality and non-disclosure agreements and provide PANYNJ approved training to any employees requiring access to this information.

The firm shall ensure that employees: (1) are citizens of the United States of America or an alien who has been lawfully admitted for permanent residence or employment (indicated by immigration status) as evidenced by Immigration and Naturalization Service documentation or a national of the United States as defined by the Immigration and Nationality Act[1]; and (2) have the requisite need to know as defined in the Department of Transportation and the Department of Homeland Security's regulations on Protection of Sensitive Security Information[2]; and (3) have completed the PANYNJ Non-Disclosure and Confidentiality Agreement Acknowledgment. If an employee refuses to execute the acknowledgment, access to the protected information must be denied. The requirements set forth above regarding citizenship or permanent residency may be waived by the Port Authority and PATH as appropraite. This information will be reflected on the Authorized Personnel Project List, cribed below, that will be provided to the PANYNJ.

The dissemination must be included in any contract awarded that will require access to Confidential and Privileged Security Information / SSI.

The dissemination of Confidential and Privileged Security Information / SSI shall only be made upon the determination that the recipient is authorized to receive it. Authorization is based on a potential recipient's need-to-know as determined by the Security Information Manager and the proper execution of a PANYNJ Confidentiality Agreement Acknowledgement.

Confidential and Privileged Security Information / SSI includes proprietary data and/or other information that, if subject to unauthorized access, modification, loss or misuse could adversely affect the PANYNJ, public safety and homeland security.

SSI is, in accordance with 49 U.S.C. 114(s), information obtained or developed in the conduct of

[1] The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States. 8 U.S.C. 1101(a)(22) (Dec 19, 2003)
[2] 49 CFR § 15.11; 49 CFR § 1520.11

security activities, including research and development, the disclosure of which TSA has determined would—

- Constitute an unwarranted invasion of privacy - including, but not limited to, information contained in any personnel, medical, or similar file
- Reveal trade secrets or privileged or confidential information obtained from any person;
- Be detrimental to the security of transportation.

The Security Information Manager from each organization that requires access to Confidential and Privileged Security Information is required to prepare an Authorized Personnel Contract Project List - a list of employees who are authorized to access Confidential and Privileged Security Information and the date they executed the Confidentiality/Non-Disclosure Agreement. A copy of this list will be provided to the PANYNJ. This list will be used as a method for authenticating that individuals have been briefed into the program and are certified for access to Confidential and Privileged Security Information.

Security requirements are a material condition of all PANYNJ contracts that will require access to Confidential and Privileged Security Information. Contracts shall be subject to termination for default, when it has been determined that a failure to comply with security requirements resulted from willful misconduct or a lack of good faith.

An individual's access to the Confidential and Privileged Security Information / SSI may be contingent upon satisfactory completion of a security background check and the imposition of satisfactory procedures and requirements for safeguarding.

Unauthorized disclosure of SSI may be grounds for a civil penalty and other enforcement or corrective action by DOT, and appropriate personnel actions for Federal employees. Corrective action may include issuance of an order requiring retrieval of SSI to remedy unauthorized disclosure or an order to cease future unauthorized disclosure.

When a person authorized access to safeguarded information becomes aware that the information has been released to unauthorized persons, the authorized person must promptly notify the Security Information Manager. In the case of SSI, the Security Information Manager

must immediately inform TSA or the applicable DOT or DHS component or agency of the breach.

SECTION 3. Security Training & Briefings

Each organization that provides an employee with access to Confidential and Privileged Security Information shall provide training and briefings appropriate to their involvement.

Training Materials

Sample briefings and training materials may be requested from the PANYNJ.

Security Information Manager Training

The role of the Security Information Manager is critical. The Security Information Manager is responsible for implementing and maintaining the facility's PANYNJ Security Program. The Security Information Manager is responsible for educating employees on the handling of Confidential and Privileged Security Information / SSI. Security Information Managers are required to complete a half-day training session. Training requirements shall be based on the company's involvement with Confidential and Privileged Security Information and may include an orientation course. Security Information Manager training will also include a detailed explanation of the process for qualifying an individual's credentials for access. The PANYNJ is responsible for providing an initial security briefing to the Security Information Manager.

Initial Security Briefings

Prior to being granted access to Confidential and Privileged Security Information / SSI, an employee will receive an initial security briefing that includes the following:

a. An explanation of security procedures applicable to the employee's job.
b. An overview of the security categorization.

After receiving this briefing and prior to being granted access to any Confidential and Privileged Security Information the employee must execute a PANYNJ Non-Disclosure and Confidentiality Agreement Acknowledgement. If an employee refuses to execute the agreement, access to Confidential and Privileged Security Information must be denied.

Refresher Training

Employees granted access to Confidential and Privileged Security Information shall be provided with some form of PANYNJ approved security education and training annually. Refresher training shall reinforce the information provided during the initial security briefing and shall keep employees informed of any changes in security regulations.

SECTION 4. Safeguarding Confidential and Privileged Security Information

All persons granted access to Confidential and Privileged Security Information / SSI are responsible for safeguarding all such information in their possession or control. Confidential and Privileged Security Information / SSI shall be protected at all times either by appropriate storage or having it under the personal observation and control of a person authorized to receive it. Each person who works with Confidential and Privileged Security Information is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it.

Use and storage

During actual working hours, steps shall be taken to preclude access to Confidential and Privileged Security Information / SSI by unauthorized personnel. Before or after actual working hours, Confidential and Privileged Security Information / SSI shall be stored in an environment with password protection or in a secure container such as a safe, locked desk or file cabinet.. Only authorized individuals are permitted access to the locks combination or to the locks key. A list should be maintained as to which individuals have access to which container. It is strongly suggested that more than one employee has access to each storage container. Authorized individuals must protect combinations and keys.

Reproduction

Confidential and Privileged Security Information / SSI may be reproduced to the minimum extent necessary - consistent with the need to carry out contract performance provided that the reproduced material is marked and protected in the same manner as the original material. Authorized individuals must accomplish all reproduction. Authorized service providers may be used for this task provided that the information remains safeguarded.

Disposal of information

When Confidential and Privileged Security Information is no longer needed it shall be disposed of by any method that prevents unauthorized retrieval. All paper products will be destroyed using a crosscut shredder at a minimum. Authorized individuals must perform the destruction. Authorized service providers may be used for this task provided that the information remains safeguarded until the destruction is completed.

Transmission and Shipment of Confidential and Privileged Security Information

Confidential and Privileged Security Information may be sent via the U.S. Postal Service or express mail services (e.g. FEDEX) provided it is packaged and sealed in a way that does not disclose its contents or the fact that it is Confidential and Privileged Security Information. All packages shall be sealed in a manner that easily identifies whether the package has been opened prior to delivery to the final consignee. The use of double wrapped package or a tamper resistant envelope may be used to fulfill this requirement.

In addition, the package must be addressed to an individual whose name appears on the Authorized Personnel Contract Project List or preferably to the Security Information Manager.

Security Information Access Control Guides

The PANYNJ is responsible for providing Security Program participants with the Security Information Access Control Guides needed during the performance of the contract.

The Security Information Access Control Guide identifies the types of Security Information that will require protection. It is each organization's responsibility to understand and apply all aspects of this guide. Security information Access Control Guidance is the exclusive responsibility of the PANYNJ, and the final determination of the appropriate categorization for the information rests with the PANYNJ.

If the PANYNJ does not advise to the contrary, a firm must return all Confidential and Privileged Information in its possession to the PANYNJ upon completion of a contract. If instead, the firm chooses to dispose of the information it must follow the destruction requirements identified in this manual. The contractor shall provide a written list/certification that all Confidential and Privileged Security Information has been properly destroyed. If the PANYNJ determines that a firm has a continuing need for the Confidential and Privileged Information a letter will be issued to show the authorized retention period and to provide final disposition instructions.

SECTION 5. Markings

Marking of Confidential and Privileged Security Information:
All documents, drawings, etc. that contain Confidential and Privileged Security Information / SSI must contain protective markings. In addition, the front page (or front and back cover if appropriate) shall be marked at the top and bottom of the page. In the case of Port Authority Confidential and Privileged Security Information, the protective marking is: CONFIDENTIAL AND PRIVILEGED SECURITY INFORMATION. A 16-point font size should be used for this marking. All copies of Confidential and Privileged Security Information / SSI documents shall also bear the required markings.

Interior pages of a document shall be conspicuously marked or stamped at the top and bottom with the category of the information appearing thereon. The document may be conspicuously marked or stamped Confidential and Privileged Security Information / SSI at the top and bottom of each interior page, when the particular information to which protection is assigned is adequately identified.

Interior pages of a document shall be conspicuously marked or stamped at the top and bottom with the category of the information appearing thereon. Alternatively, the document may be conspicuously marked or stamped Confidential and Privileged Security Information / SSI at the top and bottom of each interior page, when necessary to achieve production efficiency, and the particular information to which protection is assigned is adequately identified. Portions of this document shall be marked in a manner that eliminates doubt as to which of its parts contain or reveal Confidential and Privileged Security Information or SSI.

Sets of documents large enough to be folded or rolled shall be marked so that the marking is visible on the outside of the set when it is rolled or folded. In addition, all sensitive project information shall contain the following label on the front cover, title sheet or first page (for Confidential and Privileged Security Information plans and drawings the label shall be applied to each drawing):

"WARNING": This document is the property of the PANYNJ. Further reproduction and/or distribution outside the contract team is prohibited without the express written approval of:
The Port Authority of NY & NJ

In the case of paper records containing SSI, protective markings must be conspicuously placed on the top, and the distribution limitation statement on the bottom, of the outside of any front and back cover, including a binder cover or folder, if the document has a front and back cover; any title page; and each page of the document. The protective marking is: SENSITIVE SECURITY INFORMATION. A 16-point font size should be used for this marking.

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 Transportation Security Administration 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. . An 8-point font size should be used for this marking.

In the case of non-paper records that contain SSI, including motion picture films, videotape recordings, audio recording, and electronic and magnetic records, a covered person must clearly and conspicuously mark the records with the protective marking and the distribution limitation statement such that the viewer or listener is reasonably likely to see or hear them when obtaining access to the contents of the record.

SECTION 6. Authorized Personnel Project Lists: Team Rosters

Each organization that participates on a contract that involves Confidential and Privileged Security Information will prepare an Authorized Personnel Project List. The list will include:

- Firm's name and address
- Name and contact information for the firm's Security Information Manager and Alternate
- A list of employees authorized to access Confidential and Privileged Security Information and the date they signed the Confidentiality/Non-Disclosure Agreement Acknowledgement

A copy of this list will be provided to the PANYNJ. Additional copies of this list will be provided to other companies authorized access, which the firm will interact with during the performance of the contract. This list will be used as a method for authenticating that individuals are authorized access to Confidential and Privileged Security Information. The PANYNJ needs to be notified immediately of any/all changes to key personnel on the roster. Each organization's Security Information Manager is responsible for the accuracy of this list. If an individual's name does not appear on the list they will be denied any access to Confidential and Privileged Security Information.

SECTION 7. Document Accountability

Each organization that has Confidential and Privileged Security Information / SSI in its possession will have in place a system that will account for the material in such a manner that retrieval is easily accomplished at the contract's conclusion. The accountability log must include:

- The date that a document was received or created
- The identity of the sender or creator
- A very brief description of the document
- Number of copies
- Transmission history (sent to whom, when)
- Certification that the document has been destroyed or returned to the PANYNJ

SECTION 8. Information Technology Systems

Information systems that are used to electronically capture, create, store, process or distribute Confidential and Privileged Security Information must be managed to protect against unauthorized disclosure. Protection requires a balanced approach to include but not limited to operational (software security controls), physical and personnel controls.

The main objectives are to

- Restrict access to authorized users exclusively
- Compartmentalization of all Confidential and Privileged Security Information
- Complete removal of all Confidential and Privileged Security Information from the system when it is no longer needed

Each contractor and consultant will provide the PANYNJ with an Information Technology Systems Protection Plan for approval. The Protection Plan should describe the measures that the firm will epply to accomplish the objectives stated above.

The plan should include:

- A hardware baseline description and configuration diagram
- Software list
- Procedures for restricting access to authorized users exclusively
- Procedures used for compartmentalizing all Confidential and Privileged Security Information
- Procedures used to place system into and remove from "protected" mode
- Procedures used for removal of Confidential and Privileged Security Information

All electronic exchange of Confidential and Privileged Security Information / SSI must be accomplished using a project web site with centrally managed access control on a per individual basis with encrypted transfer.

SECTION 9. Bidding & Procurement

Confidential and Privileged Security Information that is provided under a solicitation is subject to the handling requirements for Confidential and Privileged Security Information identified in this manual.

Dissemination of Confidential and Privileged Security Information shall only be made upon the determination that the recipient is authorized to receive it. The measure for determining authorization is "need-to-know" and completion of a PANYNJ Confidentiality Agreement. This includes all persons or firms necessary to do work at the request of the PANYNJ such as architects and engineers, consultants, contractors, sub-contractors, suppliers, and others that the contractor deems necessary in order to submit an offer/bid or to complete the work or contract. It is the responsibility of the person or firm disseminating the information to assure that the recipient is an authorized user and to keep records of recipients.

The contractor shall provide a written list/certification that he and his subcontractors have properly disposed of all Confidential and Privileged Security Information after Contract award, after completion of any appeals process or completion of the work.

Section 10. Security Information Access Control Guide

The following are the basis for categorization of information and material involved in design, development, construction and/or maintenance contracts for PANYNJ projects.

Authority

The uniform procedures for categorization and/or control of Confidential and Privileged Port Authority Security Information related to architecture, engineering, construction, or rehabilitation of Port Authority facilities are issued under the authority of the Port Authority of NY&NJ.

Standards

Construction of security systems often requires that an exact standard be met or exceeded in order to insure that the security system will function properly. Drawings, details, and specification books are to indicate materials to be used, as well as any other information necessary to construct the system. They are not to indicate that the type of construction shown meets a security standard, or to contain any reference to the limits or capabilities of the type of construction/security system. This information will only be contained or referred to in the detailed Statement of Work.

Applicability

This guide applies to PANYNJ personnel, as well as to firms and individuals who are under contract, purchase order, letter contract, or who are in receipt of Confidential and Privileged Security Information through a request for quote, proposal, bid, or third party agreement.

All users of this guide are encouraged to assist in improving and maintaining its currency and accuracy.

Public Release

The fact that this section defines certain information as UNMARKED does not allow automatic public release of this information. Proposed public disclosures of UNMARKED Information regarding construction/renovation shall be processed through Port Authority's project manager or the duly designated representatives for the specific contract.

Contractual Release

Contractors are responsible to the PANYNJ for all Confidential and Privileged Security Information drawings, including shop drawings, or other documentation provided to subcontractors.

Security Information Access Control Guide

Information constituting Confidential and Privileged Security Information and UNMARKED.

Topic	Categorization	Remarks
Any mention of information that reveals vulnerabilities, built-in or potential, relating to our critical infrastructure.	**CONFIDENTIAL & PRIVILEGED**	
That a facility is designed with extensive security features.	**UNMARKED**	
Identity of individual security systems installed at the facility.	**CONFIDENTIAL & PRIVILEGED**	
Time frame or schedules showing project progress.	**UNMARKED**	
The general areas of the project or where security systems will be installed.	**UNMARKED**	
Announcement of security subcontract awards.	**UNMARKED**	
Results of site survey documentation or review that address specific physical security vulnerabilities.	**CONFIDENTIAL & PRIVILEGED**	When referring to specific terrorist threats and/or the specific capabilities of the installation to counter the threat, or when referring to site-unique technical threat.
Design and construction information revealing details unique or essential to the	**UNMARKED**	**UNMARKED** when referring to commercially available security systems, accepted

security system(s).	**CONFIDENTIAL & PRIVILEGED**	construction techniques, information which is in the public domain and/or when security systems will be installed in area accessible to public view. **CONFIDENTIAL & PRIVILEGED** when referring to methods of defeating the security system(s) and/or covert/unexposed security systems.
Design drawings with specific forced entry ratings	**CONFIDENTIAL & PRIVILEGED**	
Shop drawings that provide specific rating information	**CONFIDENTIAL & PRIVILEGED**	
What specific security system/ hardware model number is installed at a specific location?	**CONFIDENTIAL & PRIVILEGED**	When referring to fire safety systems, access denial systems, intrusion detection systems, core area security systems, and in-place surreptitious entry verification systems.
Details concerning overall security system(s) or individual subsystem(s), including design, engineering, construction, and fabrication. Also includes capabilities, vulnerabilities diagrams, operational	**UNMARKED** **CONFIDENTIAL & PRIVILEGED**	**UNMARKED** when data is commercially available in the public domain. **CONFIDENTIAL & PRIVILEGED** when high technology data, which was

characteristics, and support requirements.		developed by or for the PANYNJ, is revealed; or when data is site specific or concerns core area systems.
Security system effectiveness, to include range, maneuverability, resolutions, accuracy, and readiness cycle.	**UNMARKED** **CONFIDENTIAL & PRIVILEGED**	**UNMARKED** when the information is commercially available or in the public domain. **CONFIDENTIAL & PRIVILEGED** when the system was developed or modified for or by the PANYNJ; or when the information concerns a specific special application.
Information identifying critical elements of the system; such as master controls, overrides, backup power sources.	**UNMARKED** **CONFIDENTIAL & PRIVILEGED**	**UNMARKED** If equipment is readily observable to the public. **CONFIDENTIAL & PRIVILEGED** when an element has been developed and/or modified by or for the PANYNJ for a special application; or when such elements are not readily observable by the public.
Security systems command and control operating instructions and supporting	**CONFIDENTIAL & PRIVILEGED**	

countermeasures when referring to a specific site or project location.		
Blast protection design requirements for new or existing PANYNJ facilities.	**CONFIDENTIAL & PRIVILEGED**	
Blast analysis that addresses specific vulnerabilities to new or existing PANYNJ facilities.	**CONFIDENTIAL & PRIVILEGED**	If specific weaknesses are reflected or maximum tolerances are provided.
Structural plans, details, and specifications.	**UNMARKED** **CONFIDENTIAL & PRIVILEGED**	**UNMARKED** when generic criteria are used. Site-specific information generated from generic criteria is UNMARKED. **CONFIDENTIAL & PRIVILEGED** if site-specific information involves details of security system(s) or additional protection.
Design data revealing engineering, construction, or fabrication details of a Communications Center electrical system or facility support systems with signal cables (e.g., intercom, telephone). This includes grounding systems.	**UNMARKED** **CONFIDENTIAL & PRIVILEGED**	**UNMARKED** if generic design criteria/terms are used. **CONFIDENTIAL & PRIVILEGED** if data reflects calculations resulting in selection of specific items to be used inside a specific Communications Center and/or listing of those items.
Drawings and specifications for	**CONFIDENTIAL &**	**CONFIDENTIAL &**

emergency generator room or building.	**PRIVILEGED**	**PRIVILEGED** if site-specific or if any reference to control or security system.
What vulnerabilities will render the electrical and communications system(s) inoperative.	**CONFIDENTIAL & PRIVILEGED**	
Record documents identifying protective measures around Operations & Control Centers	**CONFIDENTIAL & PRIVILEGED**	
Record documents identifying the location of Police and Emergency Communication Lines	**CONFIDENTIAL & PRIVILEGED**	

INFORMATION CONSTITUTING SSI

Except as otherwise provided in writing by TSA, in the interest of public safety or in furtherance of transportation security, the following information, and records containing such information, constitute SSI:

Security Programs and Contingency Plans	**SSI**	Any security program or security contingency plan issued, established, required, received, or approved by DOT or DHS, including-- Any aircraft operator or airport operator security program or security contingency plan under this chapter; Any vessel, maritime facility, or port area security plan required or directed under Federal law; Any national or area security plan prepared under 46 U.S.C. 70103; and Any security incident response plan established under 46 U.S.C. 70104.
Security Directives	**SSI**	Any Security Directive or order-- (i) Issued by TSA under 49 CFR 1542.303, 1544.305, or other authority; (ii) Issued by the Coast Guard under the Maritime Transportation Security Act, 33 CFR part 6, or 33 U.S.C. 1221 et seq. related to maritime security; or (iii) Any comments, instructions, and implementing guidance pertaining thereto.
Information Circulars	**SSI**	Any notice issued by DHS or DOT regarding a threat to aviation or maritime transportation, including any--

		(i) Information Circular issued by TSA under 49 CFR 1542.303, 1544.305, or other authority; and (ii) Navigation or Vessel Inspection Circular issued by the Coast Guard related to maritime security.
Performance Specifications	**SSI**	Any performance specification and any description of a test object or test procedure, for– Any device used by the Federal government or any other person pursuant to any aviation or maritime transportation security requirements of Federal law for the detection of any weapon, explosive, incendiary, or destructive device or substance; and Any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.
Vulnerability Assessments	**SSI**	Any vulnerability assessment directed, created, held, funded, or approved by the DOT, DHS, or that will be provided to DOT or DHS in support of a Federal security program.

Security Inspection or Investigative Information.	**SSI**	Details of any security inspection or investigation of an alleged violation of aviation or maritime transportation security requirements of Federal law that could reveal a security vulnerability, including the identity of the Federal special agent or other Federal employee who conducted the inspection or audit.
	SSI	In the case of inspections or investigations performed by TSA, this includes the following information as to events that occurred within 12 months of the date of release of the information: the name of the airport where a violation occurred, the airport identifier in the case number, a description of the violation, the regulation allegedly violated, and the identity of any aircraft operator in connection with specific locations or specific security procedures. Such information will be released after the relevant 12-month period, except that TSA will not release the specific gate or other location on an airport where an event occurred, regardless of the amount of time that has passed since its occurrence. During the period within 12 months of the date of release of the information, TSA may release summaries of an aircraft operator's, but not an airport operator's, total security violations in a specified time range without identifying specific violations or locations. Summaries may include total enforcement actions, total proposed civil penalty amounts, number of cases opened, number of cases referred to TSA or FAA

		counsel for legal enforcement action, and number of cases closed.
Threat Information	**SSI**	Any information held by the Federal government concerning threats against transportation or transportation systems and sources and methods used to gather or develop threat information, including threats against cyber infrastructure.
Security Measures	**SSI**	Specific details of aviation or maritime transportation security measures, both operational and technical, whether applied directly by the Federal government or another person, including— Security measures or protocols recommended by the Federal government; Information concerning the deployments, numbers, and operations of Coast Guard personnel engaged in maritime security duties and Federal Air Marshals, to the extent it is not classified national security information; and Information concerning the deployments and operations of Federal Flight Deck Officers, and numbers of Federal Flight Deck Officers aggregated by aircraft operator.
Security Screening Information	**SSI**	The following information regarding security screening under aviation or maritime transportation security requirements of Federal law:

		Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person. Information and sources of information used by a passenger or property screening program or system, including an automated screening system. Detailed information about the locations at which particular screening methods or equipment are used, only if determined by TSA to be SSI. Any security screener test and scores of such tests. Performance or testing data from security equipment or screening systems. Any electronic image shown on any screening equipment monitor, including threat images and descriptions of threat images for threat image projection systems.
Security Training Materials	**SSI**	Records created or obtained for the purpose of training persons employed by, contracted with, or acting for the Federal government or another person to carry out any aviation or maritime transportation security measures required or recommended by DHS or DOT.

Identifying Information of Certain Transportation Security Personnel	**SSI**	Lists of the names or other identifying information that identify persons as– Having unescorted access to a secure area of an airport or a secure or restricted area of a maritime facility, port area, or vessel or; Holding a position as a security screener employed by or under contract with the Federal government pursuant to aviation or maritime transportation security requirements of Federal law, where such lists are aggregated by airport; Holding a position with the Coast Guard responsible for conducting vulnerability assessments, security boardings, or engaged in operations to enforce maritime security requirements or conduct force protection; Holding a position as a Federal Air Marshal; or the name or other identifying information that identifies a person as a current, former, or applicant for Federal Flight Deck Officer.
Critical Aviation or Maritime Infrastructure Asset Information	**SSI**	Any list identifying systems or assets, whether physical or virtual, so vital to the aviation or maritime transportation system that the incapacity or destruction of such assets would have a debilitating impact on transportation security, if the list is— Prepared by DHS or DOT; or Prepared by a State or local government agency and submitted by the agency to DHS or DOT.
Systems Security Information	**SSI**	Any information involving the security of

		operational or administrative data systems operated by the Federal government that have been identified by the DOT or DHS as critical to aviation or maritime transportation safety or security, including automated information security procedures and systems, security inspections, and vulnerability information concerning those systems.
Confidential Business Information	**SSI**	Solicited or unsolicited proposals received by DHS or DOT, and negotiations arising there from, to perform work pursuant to a grant, contract, cooperative agreement, or other transaction, but only to the extent that the subject matter of the proposal relates to aviation or maritime transportation security measures; Trade secret information, including information required or requested by regulation or Security Directive, obtained by DHS or DOT in carrying out aviation or maritime transportation security responsibilities; and Commercial or financial information, including information required or requested by regulation or Security Directive, obtained by DHS or DOT in carrying out aviation or maritime transportation security responsibilities, but only if the source of the information does not customarily disclose it to the public.
Research and Development	**SSI**	Information obtained or developed in the conduct of research related to aviation or maritime transportation security activities, where such research is approved, accepted, funded, recommended, or directed by the DHS

		or DOT, including research results.
Other Information	**SSI**	Any information not otherwise described in this section that TSA determines is SSI under 49 U.S.C. 114(s) or that the Secretary of DOT determines is SSI under 49 U.S.C. 40119. Upon the request of another Federal agency, TSA or the Secretary of DOT may designate as SSI information not otherwise described in this section.

THE PORT AUTHORITY OF NY & NJ

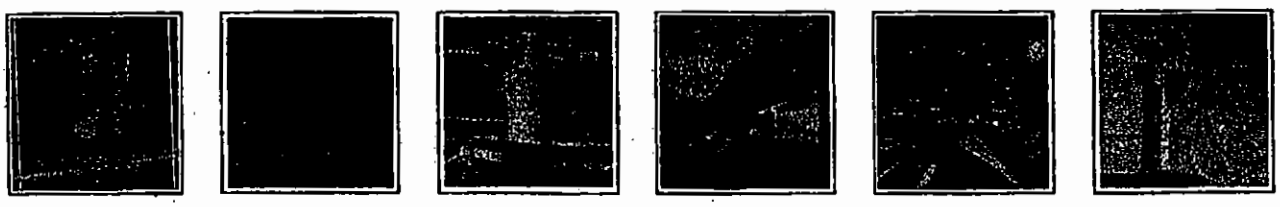
Appendix I.

The Protection of

Confidential and Privileged Security Information

and

Sensitive Security Information

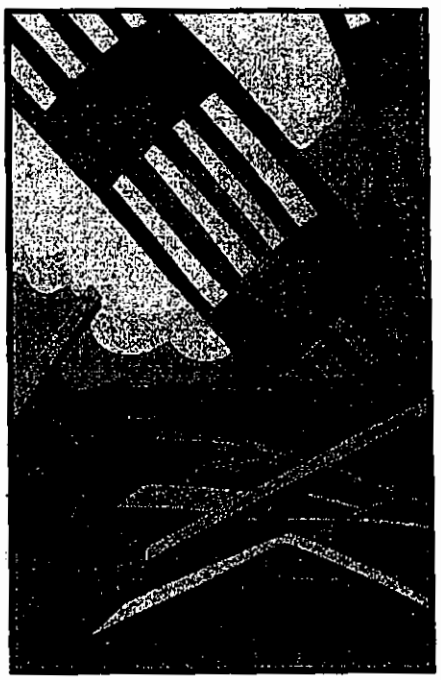


The Need

World events force changes in the way we live and conduct business.

U. S. Department of Homeland Security:

"The significance of protecting sensitive information cannot be ignored. The protection of critical infrastructure reduces the vulnerability of the United States to acts of terrorism."



Introduction

Port Authority Confidential and Privileged Security Information

&

Sensitive Security Information

sensitive information that the disclosure of which, would be detrimental to the public interest and might compromise public safety and security as it relates to Port Authority property, facilities, systems, and / or operations

information that reveals vulnerabilities relating to infrastructure / operations / fire & life safety

What are we protecting?

The Goal of the Program

The goal of the program is to implement uniform procedures for handling the Port Authority's Confidential and Privileged Security Information.

Trying to get everyone on the same page.

The Main Components of the Program

- Security Manual
- Access Control Guide
- Non-Disclosure Agreement

Integration

Security Manual: establishes procedures for ...

- Use and storage
- Reproduction
- Transmission/Shipment of Sensitive Information
- Disposal of information
- Marking of Sensitive Material
- Team Rosters
- Document Accountability Log
- Information Technology Systems

Handling Requirements

Practically Speaking ...

What information do we protect?

&

How do we protect it?

What do I need to do?

The Security Manual: establishes procedures for ...

- **Use and storage**

  During working hours, steps shall be taken to prevent access to Confidential and Privileged Security Information by unauthorized personnel.

  When not in use it will be stored in a secure container, such as a safe, locked desk or file cabinet.

- **Reproduction**

  Information copied from a document must contain the same protective markings as the original.

The Security Manual: establishes procedures for ...

- **Team Roster**

  Each company will prepare an Authorized Personnel Team Roster, a list of individuals who have executed a Confidentiality Agreement Acknowledgement and require access.

  These lists will be exchanged among the project team.

- **Transmission & Shipment**

  Security Information may be sent via the U.S. Postal Service provided it is packaged in a way that doesn't disclose its contents or the fact that it is Confidential and Privileged.

  The package must be addressed to someone on the Team Roster.

The Security Manual: establishes procedures for ...

- **Disposal of Security Information**

  Security Information must be disposed of using a method that prevents unauthorized retrieval.

  All paper products will be destroyed using a cross cut shredder.

- **Marking of Security Information**

  All documents and drawings that contain Confidential and Privileged Security Information or Sensitive Security Information must be marked or stamped.

Access Control Guide: Which Information Gets Protected?

Identifies the information within a contract that is designated Confidential and Privileged Security Information or Sensitive Security Information (SSI).

Only information within a contract is Confidential and Privileged Security Information or SSI and requires special handling.

Identification

Access Control Guide: Examples of the types of information to be protected?

- Design Requirements and Calculations for Blast Protection
- Design Drawings with Specific Forced Entry Ratings
- Specifications for Sensitive Contractor Design Items
- Shop Drawings that provide Specific Rating Information
- Record Documents Identifying Protective Measures around Operations & Control Centers
- Record Documents identifying the Location of Police and Emergency Communication Lines

Which information?

Confidentiality Agreement

Non-Disclosure and Confidentiality Agreement:

As a condition of its providing confidential and privileged security information, the Port Authority is requiring those working on projects that require access to Port Authority Security Information / Sensitive Security Information, whether retained by it or by other contractors or consultants for its projects, to enter into this agreement, thereby acknowledging that they understand that it will be required to safeguard any such information provided, as well as its work product including conclusions of security assessments, evaluations and/or recommendations.

Individual Acknowledgement:

Acknowledges the agreement between the PANYNJ and those individuals provided access to Confidential and Privileged Port Authority Security Information / Sensitive Security Information, whereby the individual agrees to not disclose Confidential and Privileged Port Authority Security Information / Sensitive Security Information to any unauthorized person.

The Security Information Manager

The Security Information Manager is responsible for implementing and maintaining the PANYNJ Program for protecting Security Information.

Each organization that requires access to this information will appoint a senior management level employee to be the their Security Information Manager and an alternate.

Key point of contact

Security Violations

Security requirements are a material condition of all PANYNJ contracts that deal with Confidential and Privileged Security Information. Contracts shall be subject to termination for default, when it has been determined that a failure to comply with security requirements resulted from willful misconduct or a lack of good faith.

Unauthorized disclosure of SSI may be grounds for a civil penalty and other enforcement or corrective action by DOT.

Failure to comply

Next Steps

Non-Disclosure & Confidentiality Agreement / Acknowledgement

The Security Manual / Access Control Guide

Selection of a Security Information Manager

Briefings & Training

Implementation

Exhibit "C"

World Trade Center Construction Department
Downtown Restoration Program
Port Authority Projects* at the WTC Site

Security Information Practices and Procedures (SIPP)

November 1, 2004, Rev 0
August 4, 2005, Revision 1
April 11, 2007, Revision 2

** Note: Does not apply to third party exclusive projects such as Memorial, Tower 2, Tower 3, and Tower 4.*

The Port Authority of New York and New Jersey
Security Information Practices and Procedures (SIPP)
WTC Transportation Hub

Table of Contents

(Per the Handbook for Protecting Security Information, April, 2007)

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3 Security Training & Briefings	(not included)
4. Safeguarding Security Information	3
5. Marking Documents	5
6. Authorized Personnel Project Lists	(not included)
7. Document Accountability Log	(not included)
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9. Bidding & Procurement	7
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SECTION 1. Introduction

The sections of this document augment the corresponding sections of the Handbook for Protecting Security Information (April, 2007) when applied to PA projects at the WTC site. All sections of the Handbook are listed below, if a particular section of the Handbook will be complied with as written, that section is noted here as 'not included'. Where a section is being augmented, the following text provides the additional procedures to be complied with.

SECTION 2. Access to Security Information

The requirements set forth regarding citizenship or permanent residency may be waived by the Port Authority and PATH as appropriate. The waiver shall be in writing and must have the approval of the Director of World Trade Center Construction. In such cases, access to and the handling of Confidential and Privileged Information (C&P) and / or Sensitive Security Information (SSI) will be in accordance with all requirements and conditions otherwise set forth in the handbook and applicable federal laws and regulations. In addition, depending on the circumstances of the requested waiver, additional information security safeguards may be imposed to ensure the full intent of this policy remains in force.

SECTION 3. Security Training & Briefings, not included

SECTION 4. Safeguarding Security Information

All persons granted access to C&P/ SSI are responsible for safeguarding all such information in their possession or control. C&P/ SSI information shall be protected at all times either by appropriate storage or having it under the personal observation and control of a person authorized to receive it. Each person who works with C&P/ SSI information is personally responsible for taking proper precautions to prevent unauthorized persons from gaining access to such information.

This work instruction is intended to describe the processes used to control secure documents/ data in the form of either electronic or hard copy, and is to be implemented for the control/ processing/ handling/ storage of all secure data as generated, received, or distributed by the Project design staff.

Use and Storage

The person to whom it is assigned must maintain any hard copy C&P/ SSI data. Assignment of individual documents to appropriate staff members is made only by the Security Information Manager (SIM), or the Deputy Security Information Manager (DSIM), and marked using access control methods (see Section 5). Individuals to whom such information is assigned may only review/ share the contents of such documents with appropriate staff, i.e., those who have signed the project's Non-Disclosure Acknowledgement (NDA) form.

Access to any secure data storage / workrooms will be controlled by the SIM. Such secure data storage/ workrooms will be locked at all times. Secure data file cabinets will be locked at the end of each workday.

Reproduction
C&P/ SSI documents may be reproduced to the minimum extent necessary – consistent with the need to carry out contract performance provided that the reproduced material is marked and protected in the same manner as the original material.

Hard copy secure data may not be reproduced without the permission of the SIM. Reproduction of secure documents may be performed / witnessed only by appropriate staff who have signed the project's NDA.

Transmission and Shipment of Confidential and Privileged Security Information

Hard copy secure data may be sent through the U.S. Postal Service, express mail service (e.g. DHL) or inter-office courier, provided that it is double wrapped/ boxed. Preparation of such packages must be performed by, or witnessed by appropriate staff who have signed the project's NDA. Packaging labeling shall not indicate the security level of the contents.

All packages must have a specific individual "recipient" named on the shipping label. The individual "recipient" named on the shipping label must appear on the Authorized Personnel Contract Project List, or preferably be the SIM for that respective entity.

Document Control
For a description of the Document Control Tracking System for C&P/ SSI Information, please refer to Section 5.

Secure Data Disposal
Any C&P/ SSI data that is no longer needed is to be destroyed by either depositing into a locked shredding bin awaiting pick-up by an authorized service provider or by use of a cross cut shredder, by appropriate staff. A record of hard copy CP/ SSI information that has been destroyed must be maintained in the Accountability Log by the SIM, DSIM or other appropriate staff.

Note: A consultant/ contracting firm must return all C&P/ SSI information in its possession to the Port Authority (the Authority) upon completion of a contract. If instead, the firm is permitted by the SIM to dispose of the information, it must follow the destruction requirements identified in this manual. The firm must provide a written list to the SIM certifying that all C&P/ SSI information has been properly destroyed.

SECTION 5. Marking Documents

The Document Control tracking System for C&P/ SSI Documents is as follows:

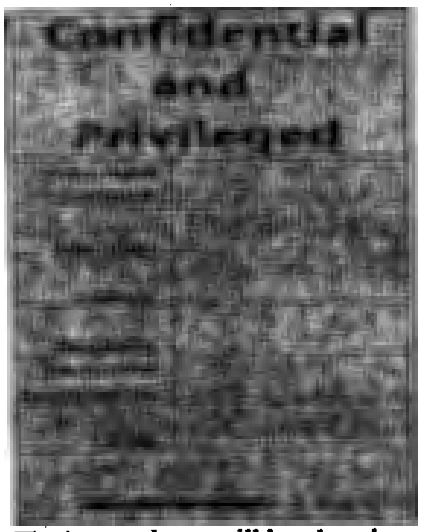
Identification
Documents that have been identified by the SIM as C&P, will be given sequential numbers with the prefix 'CP' (Confidential & Privileged), followed by an acronym for the transmitting department, in this example, PCP (Priority Capital Programs). Next, the current year will be represented by its last two digits, and the last number is sequential. Together, these fields form the Document Control ID number. **E.g. CP-PCP-05-1**

Transmitting Documents
The SIM must have a completed and signed NDA for all recipients of C&P/ SSI information.

A Transmittal Acceptance Form must accompany all outgoing documents. This Form must be signed by the recipient upon receipt, and returned to the SIM.

When a request to transmit a set of C&P/ SSI documents to an individual (the "Recipient") is made by appropriate staff, the document, if not previously assigned a Document Control ID number, is given one by the SIM. An identifying number is assigned once a transmittal request is made.

For example, **CP-PCP-05-1** would be assigned to a document, followed by the identifying sequential number '**1**', which would indicate the copy assigned to the addressee. The Document Control ID number (CP-PCP-05-1), in addition to the Identifier (1), becomes the Document Tracking Number. e.g. **CP-PCP-05-1-1**



The image above will be placed on the document as to not obstruct information on the document.

If more than one copy of document **CP-PCP-05-1** is to be transmitted, each addressee will receive a copy with the next sequential identifying number, making it a unique set. A

second addressee would receive document **CP-PCP-05-1-2**, a third party's copy would be **CP-PCP-05-1-3**, etc. This information, including the name of the agency, recipient, signature of the responsible approver, and date, are shown on the face of each confidential document.

Multiple Copies
If a single recipient is receiving multiple copies of a C&P/ SSI document, each copy would have a unique sequential identifying number. The Document Control ID number refers to a specific document and remains the same. In this example, the next document to be transmitted would be **CP-PCP-05-2**, followed by **CP-PCP-05-3**.

SECTION 6. Authorized Personnel Project Lists, not included

SECTION 7. Document Accountability Log, not included

SECTION 8. Information Technology Systems

Purpose

Information systems that are used to electronically capture, create, store, process or distribute C&P/ SSI information must be managed to protect against unauthorized disclosure. The main objectives are to:

- Provide access exclusively to appropriate staff.
- Compartmentalization of all C&P/ SSI security information
- Complete removal of all C&P /SSI information from the system when it is no longer needed.

This work instruction is intended to describe the processes used to control secure electronic data, and is to be implemented for the control / processing / handling / storage of all secure electronic data as generated, received, or distributed by the WTC Transportation Hub project staff.

Transmission/ Exchange of Electronic Information

The Authority uses Livelink as its project and program website solution to collaborate with team members both inside and outside of the firewall. The use of a web-based collaboration tool has numerous benefits that result in time- savings, cost savings, accountability, security, and disaster recovery. Within the Authority, the Downtown Restoration Program (DRP), the Security Capital Program, and the Goethals Bridge Program utilize Livelink, as do numerous smaller projects.

Access to these password-protected websites is controlled by permissions that apply to each individual user account. In this manner, users are allowed access folders and files in Livelink only when approved by the Project or Program Manager. Once users are logged in to the Livelink website they are working in a secure environment.

With these measures in place, as described in the Security Handbook, the PA has deemed that "all electronic exchange of C&P/ SSI must be accomplished using a project website with centrally managed access control on a per individual basis with encrypted transfer". For the DRP, the Livelink website is the only project website to be used for the storage and/or electronic exchange of C&P/SSI information. Under no circumstances shall e-mail or other websites be used for this purpose.

Although the entire DRP Website is secure, in order to provide for better organization and auditing of files that contain C&P/ SSI, special containers have been created. Information that has been designated as C&P and/ or SSI may only reside in these areas. Initially these containers have been created in the Stage II Drawing Exchange individual discipline folders, with one C&P/SSI container in each discipline's consultant exchange folder. Drawing files containing C&P/SSI content must be kept only in these folders. Access to these containers is limited to SIMs and/ or their designees.

Additional C&P/ SSI containers will allow other files such as reports, presentations, etc. to be stored.

In addition to the Livelink website, electronic C&P/ SSI information may also be shared via secure Local Area Networks (LAN). Information should be removed from the LAN as soon as the recipient has acknowledged receipt of the information. As is the website, these LANs are password protected, and access to them is only for those individuals who have signed the NDA and are provided with permission by the SIM.

If a situation arises whereby electronic files must be exchanged by electronic media such as CD, DVD, or Floppy Disk, all provisions within this Manual for handling physical documents must be satisfied. The use of USB drives or other volatile memory or storage devices is prohibited.

Secure Data Disposal

Electronic secure CAD files stored on the Authority's M; drive or secure hard drives may only be destroyed / erased by both the SIM and the CADD Manager. Mil Standard compliant software will be used for the destruction of secure software files. Electronic destruction / erasure of secure data files may only be performed after the review and approval of the SIM. Electronic secure files residing in Livelink may only be deleted by those with delete rights, and only with permission from the SIM.

SECTION 9. Bidding & Procurement

Introduction

The following is the procedure to be followed when processing Confidential and Privileged (C&P) shop drawings.

As a critical player in the shop drawing process, it must be emphasized with the General Contractor (GC) that the burden for coordinating/ enforcing the PA procedure, with their subcontractors, is their responsibility.

Process

A pre-construction meeting is to be held before the start of each project. The PA's project SIM, the GC's SIM, their respective document control personnel and the subcontractors are to be in attendance, as well as the reviewer/engineer of record. At the pre-construction meeting, the Construction Manager (CM)/ GC and subcontractors will be reminded of their obligation to submit a shop drawing listing with a submission schedule within 30 days of award. This listing will be required to identify each submittal and whether the submittal is to be issued as a C&P document or as an un-restricted document. In addition, the PA's SIM and Document Control Manager will give a presentation to explain the PA document security policies, the C & P submittal process and the respective responsibilities of all parties.

The subcontractors are responsible for giving a C & P number to each C & P drawing that is produced. The GC shall coordinate the numbers with the subcontractors and log the numbering sequence for their record before it is forwarded to PA.

The numbering system should comply with the following:

- Contract Number and/or Work Order Number, Spec Section, Sequence Submittal, and Sequence of CP submittal for that submittal. For example, for Contract Number 100-506, Work Order Number 05, if the first structural steel submittal were C & P, it would be numbered: 100.506-WO-05-05120-001-001

Other items of note/ concern include:

- As with all C & P information, electronic versions may not be emailed.
- Shop drawings that have been identified as C & P may not be submitted electronically, but only by hard copy, or be transmitted via Livelink with appropriate permissions.
- It is preferable to not forward C & P information on Requests for Information (RFI's). But if it is necessary a similar routing as that of a submittal shall apply.

Procedure

The exact procedure for processing of C & P shop drawings is as follows:

The subcontractor produces shop drawings in accordance with the list of drawings agreed

to at the pre-construction meeting. The subcontractor maintains one copy of the shop drawings for its records and forwards the quantity required to the GC. A Transmittal Acceptance Form (TAF) is required to be signed by the GC and returned to the subcontractor.

The GC logs the receipt of the shop drawings submittal into the master log, maintains one copy for its records, and forwards the remainder to the PA's project Document Control. A TAF is required to be signed by the PA Document Control and returned to the GC.

The PA's Document Control logs the receipt of the shop drawings submittal into the Master Log, maintains one copy for its records, and forwards the remainder to the engineer/architect reviewer. A TAF is required to be signed by the reviewer and returned to PA Document Control.

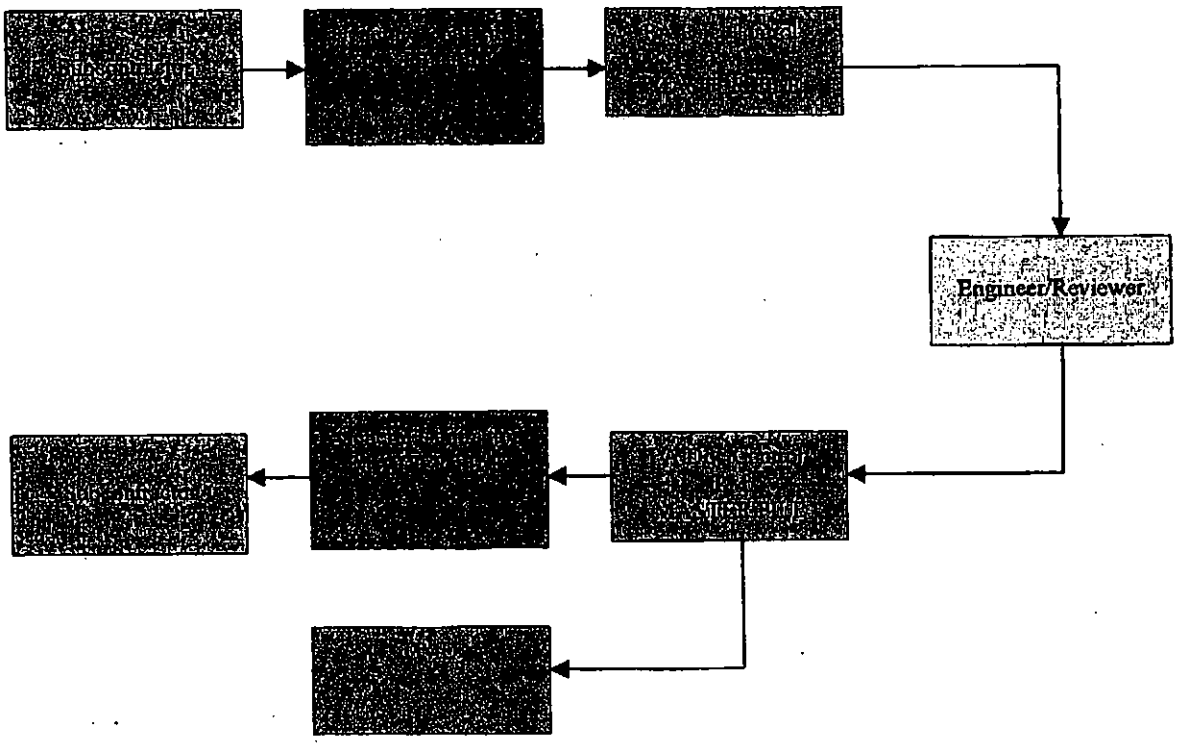
The engineer/ architect reviewer completes the review within the required time frame, maintains one copy for its records, and returns the marked-up remainder to PA Document Control. A TAF is required to be signed by PA Document Control and returned to the engineer/ architect reviewer.

PA Document Control maintains one copy for its records, provides one marked- up copy to CMD (define), and the remainder to the GC. A TAF is required to be signed by CMD and the GC and returned to PA Document Control.

The GC maintains one copy for its records, and returns the remainder to the subcontractor. A TAF is required to be signed by the subcontractor and returned to the GC.

(See Flow Chart attached).

C&P Shop Drawing Procedure Flow Chart



SECTION 10. Security Access Control Guide

Purpose

The Security Information Access Guide (SIAG) is the basis for categorization of information and material involved in the Project. Security information access control guidance is the exclusive responsibility of the Authority, and the final determination of the appropriate classification for the information rests with the Authority.

Standards

Construction of security systems often requires that an exact standard be met or exceeded in order to ensure that the security system will function properly. Drawing details and specification books are to indicate materials to be used, as well as any other information necessary to construct the system. They are not to indicate that the type of construction shown meets a security standard, or to contain any reference to the limits or capabilities of the type of construction/security system. This information will only be contained or referred to in the detailed statement of work.

Applicability

The SIAG applies to Authority personnel, as well as to firms and individuals who are under contract, purchase order, letter contract, or who are in receipt of C&P/ SSI Information.

ATTACHMENT 11
TO
EXHIBIT A

MOBILIZATION ACCOUNT SCHEDULES

Mobilization Account Funding Schedule

Date	Payment Amount	Cumulative Amount[1]
Initial Working Capital	$1.0 million	$1.0 million
April 2007	$1.0 million	$2.0 million
October 2007	$0.5 million	$2.5 million
April 2008	$0.5 million	$3.0 million
October 2008	$0.5 million	$3.5 million
April 2009	$1.5 million	$5.0 million
October 2009	$0.5 million	$5.5 million
April 2010	$0.5 million	$6.0 million
October 2010	$0.5 million	$6.5 million
April 2011	$0.5 million	$7.0 million

Mobilization Account Repayment Schedule

Date	Repayment Amount	Cumulative Amount*
		$7.0 million
April 2012	$1.5 million	$5.5 million
October 2012	$3.0 million	$2.5 million
April 2013	$1.5 million	$1.0 million
October 2013	$1.0 million	$0.0 million

[1] This amount represents the total balance required to be in the Mobilization Amount, after deposit of monthly replenishment amounts pursuant to Section 10.1, during the time period commencing on the corresponding "Date" in the first column of the Schedule that is in the same line as the Cumulative Amount and continuing until the day before the "Date" set forth on the next line of the Schedule.

EXHIBIT B

SCHEDULE OF GC TERMS AND CONDITIONS

EXHIBIT B
TO
THIRD FREEDOM TOWER AMENDMENT

THIS PART B AGREEMENT ("the Part B Agreement"), dated as of July 13, 2007, by and among (a) TISHMAN CONSTRUCTION CORPORATION, a Delaware corporation, having an office at 666 Fifth Avenue, New York, NY 10103 ("Tishman" or "General Contractor"); and (b) 1 World Trade Center LLC, a Delaware Limited Liability Company, having an office c/o The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, NY 10003 ("1 WTC").

WITNESSETH

WHEREAS, the World Trade Center Site – Freedom Tower Project involves the design, permitting, approval, construction, and construction administration of World Trade Center Tower One on the World Trade Center site in New York City ("Property"). The World Trade Center Site – Freedom Tower Project will incorporate approximately 3.5 million gross square feet of new construction both above and below grade in a Class A office building complex which, in addition to sixty-nine (69) office tenant floors, includes specialty components such as an observation deck, retail space, two-level restaurant, three-level broadcast facility, core and shell spaces for PATH and support spaces, and an iconic top rising at the peak to the broadcast antennae (specifically excluding the broadcast antennae themselves). Below grade, the World Trade Center Site – Freedom Tower Project will incorporate storage, service areas, a car parking area, building and tenant mechanical facilities, loading docks, and other key building functions which lie beneath portions of the Freedom Tower, the open space between the Freedom Tower and the Performing Arts Center (PAC), Fulton Street, West Street-Route 9A and Vesey Street. All of the descriptions of the World Trade Center Site – Freedom Tower Project in this paragraph shall be referred to in this Agreement as the "Project," the "Freedom Tower Project," or "Freedom Tower."

WHEREAS, pursuant to that certain Third Freedom Tower Amendment to General Contractor Agreement dated July 13, 2007 (the "Third Freedom Tower Amendment") 1 WTC and Tishman have agreed that under certain circumstances Tishman will act as a general contractor with respect to the Freedom Tower Project and under other circumstances Tishman will act as an agent construction manager with respect to the Freedom Tower Project;

WHEREAS, Exhibit A to the Third Freedom Tower Amendment (the "Part A Agreement") sets forth terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as an agent construction manager with respect to the Freedom Tower Project under the circumstances more specifically described in the Third Freedom Tower Amendment;

WHEREAS, 1 WTC and Tishman wish to set forth in this Part B Agreement the terms and conditions that shall apply to the relationship between 1 WTC and Tishman when Tishman acts as general contractor with respect to the Freedom Tower Project, under the circumstances more specifically described in the Third Freedom Tower Amendment; and

WHEREAS, to facilitate the orderly management of the Freedom Tower Project, to maintain administrative efficiency and to achieve other benefits with respect to the Freedom Tower Project, all of the provisions of Exhibit A from Section 1 through and including Section 32 and "Attachments 1-10" to Exhibit A (such provisions and Attachments are collectively the "Part A Terms and Conditions") also shall apply when Tishman acts as a general contractor with respect to Freedom Tower Project, except as modified in this Part B Agreement.

NOW THEREFORE, in consideration of the agreements and mutual covenants of the parties herein contained and other consideration, the sufficiency of which is hereby acknowledged by 1 WTC and Tishman, the parties hereto agree as follows:

1. **Incorporation by Reference.** The Part A Terms and Conditions are incorporated by reference into this Part B Agreement as if fully set forth below in this Paragraph 1; provided, however, that such Part A Terms and Conditions, upon incorporation into this Part B Agreement, shall be deemed amended and modified as set forth below.

2. **Definitions.**

2.1 All references to the "Construction Manager" in the Part A Terms and Conditions shall be deemed to mean the "General Contractor" for purposes of this Part B Agreement.

2.2 All references to the "Contracts" and "Contractors" in the Part A Terms and Conditions shall be deemed to mean the "Subcontracts" and "Subcontractors," respectively, for purposes of this Part B Agreement.

2.3 All references to the "Agreement" in the Part A Terms and Conditions shall be deemed to mean the "Part B Agreement" for purposes of this Part B Agreement.

3. **Compensation.**

3.1 For purposes of this Part B Agreement, Section 9.1.2 of the Part A Terms and Conditions is hereby modified as follows: the language "1.5% of the Cost of the Work" is deleted and replaced with the language "2.5% of the Trade Costs."

3.2 For purposes of this Part B Agreement, Section 9.1.2.1 of the Part A Terms and Conditions shall not apply.

4. **Scope of Services.**

4.1 For purposes of this Part B Agreement, the first sentence of Section 3.4 of the Part A Terms and Conditions is hereby deleted and replaced with the following: "The Services are described below in this Section 3.4."

4.2 For purposes of this Part B Agreement, the following subparagraphs are hereby added to Section 3.4 of the Part A Terms and Conditions:

"3.4.1 The General Contractor shall act pursuant to and in accordance with the terms, covenants and provisions of the Third Freedom Tower Amendment and shall cause to be performed and provided, through Subcontracts identified in Sections 2.2.1 and 2.3.1 of the Third Freedom Tower Amendment, subject to the terms of this Part B Agreement, all labor, materials, equipment, tools and services required for the complete construction of the Work identified in Sections 2.2.1 and 2.3.1 of the Third Freedom Tower Amendment, all such Work being in accordance with the terms of the Contract Documents."

"3.4.2 Nothing contained in this Part B Agreement shall be deemed to require or authorize the General Contractor to perform with its own forces any act which would constitute the rendering of professional services, such as the practice of architecture, engineering or laboratory testing. The reviews, recommendations and advice to be furnished by the General Contractor under this Part B Agreement pertaining to engineering or architectural matters shall not be deemed to be warranties or guaranties or constitute the performance of professional services other than as a general contractor, it being understood that any such recommendation or advice pertaining to engineering or architectural matters shall only be considered as a recommendation by the General Contractor, which is subject to the review and approval of the 1 WTC and its professional consultants. The General Contractor warrants that all Work will be performed in a competent manner, will be of good quality and workmanship, free from faults and defects and in accordance with the Contract Documents and that materials installed into the Project shall be new, unless otherwise specified in the Contract Documents. The General Contractor agrees that the Authority shall be a third party beneficiary of any and all warranties contained in this Exhibit B Agreement and/or by the Contract Documents."

"3.4.3 During the construction phase of the Project (the "Construction Phase"), the General Contractor shall:

(a) Supervise the performance of the Work by the Subcontractors and coordinate and schedule the Work of all Subcontractors on the Project with the activities of 1 WTC, the Architect, their engineers and consultants, the General Contractor and other subcontractors, and take all reasonably required steps to cause such Subcontractors to complete their respective portions of the Work in accordance with their respective Subcontracts.

(b) Perform, or cause to be performed, the General Conditions work.

(c) Without assuming the Architect's responsibility for inspection of the Work, or the responsibility of other engineers and consultants performing controlled inspections of the Work, review the Work done by Subcontractors to determine whether the Work is being performed in accordance with the requirements of the Contract Documents and generally to guard 1 WTC against defects and deficiencies in the Work and advise 1 WTC and the Architect of any discovered deficiencies. The General Contractor shall be required to take all required actions to assure to 1 WTC that the Work performed by the General

Contractor and Subcontractors complies with all terms and conditions of the Contract Documents or their respective Subcontracts. If, during the progress of the Work, the General Contractor's supervisory personnel discover work being performed contrary to the Contract Document requirements and/or good construction practices, or have reasonable cause to believe that any Work is not in accordance with the Contract Documents and/or good construction practices, the General Contractor shall promptly notify the Architect and 1 WTC. The General Contractor shall be fully responsible for arranging for all necessary inspections and testing of the Work and, to the extent General Contractor determines such Work has not been performed in accordance with the Contract Documents and/or good construction practices, the General Contractor shall be fully responsible for the cost of inspection and testing and for correcting such Work without adjustment of the Cost of Work. The General Contractor shall require any Subcontractor to stop Work or any portion thereof and require special inspection or testing of any Work and, if required by 1 WTC after examination and determination of noncompliance, removal, uncovering, repair and restoration to the standard of the Contract Document requirements without adjustment of the Cost of Work, as applicable, whether or not such Work be then fabricated, installed or completed, in accordance with the requirements of the respective Subcontract.

(d) Arrange for expediting of long-lead equipment required in connection with the Work and advise 1 WTC with respect to potential delays in their purchase and delivery.

(e) Prepare (i) a construction schedule in a form suitable to 1 WTC, showing each major trade, the critical path and all milestone dates, and shall update and deliver same to 1 WTC monthly, or as more frequently as reasonably requested by 1 WTC and (ii) an anticipated cost report of construction costs for the Project, as applicable, also on a monthly basis, showing past, present and future expenditures required to complete the Project, and which report shall reflect all claims and pending Change Orders issued during the period covered by such report.

(f) Schedule and conduct job meetings with 1 WTC and the Architect when necessary; coordinate meetings with appropriate parties as necessary and prepare and furnish to all attendees minutes of such meetings; such minutes to be issued to all parties prior to the next scheduled meeting.

(g) In conjunction with the Architect and 1 WTC identify, require, and arrange to be performed by an independent testing laboratory or other consultant, all subject to 1 WTC's prior approval, such tests as shall be determined to be necessary and appropriate except for controlled inspections which shall be performed by others.

(h) Cause to be obtained all necessary construction operation licenses and permits, including, without limitation, with 1 WTC's and the Architect's

cooperation, a core and shell final certificate of occupancy or Authority equivalent, except if and to the extent that the same, under applicable contract, law or practice, must be or are normally obtained by 1 WTC (such as the initial building permit), the Architect or Subcontractors; and, in such event, the General Contractor shall cooperate with 1 WTC, the Architect or Subcontractors, as the case may be, in obtaining such licenses and permits.

(i) Keep such accounts and costs records, in addition to those specified in Section 17 of this Part B Agreement (as incorporated from Section 17 of the Part A Terms and Conditions), as are required to be maintained by the General Contractor pursuant to 1 WTC's or 1 WTC's lender's or lenders' (collectively, the "Lenders") requirements (if applicable), such as trade by trade and General Conditions Costs records, cost records required in connection with time and material and unit price change order work, man hours, certified payrolls, and monitoring of the workforce for compliance with affirmative action goals (provided such goals are provided by 1 WTC prior to awarding the relevant Subcontracts).

(j) Prepare, file, and secure required Authority approval for a comprehensive Site Safety Plan with the Authority and thereafter review and coordinate the safety program with the Subcontractors. The General Contractor and the Subcontractors shall be responsible for the safety of persons or property at the Property and in the immediate vicinity for which the General Contractor would be liable under the New York City Building Code. The General Contractor shall comply with and be responsible for causing all Subcontractors to comply with all federal, state and local safety, health and environmental statutes, rules, regulations and orders and all other requirements of law, including, without limitation, the Construction Safety Act of 1969, the Williams-Steiger Occupational Safety and Health Act and the Administrative Code of the City of New York and the environmental site safety plan entitled "Health and Safety Guidelines for Foundation Construction", dated April 26, 2002 and prepared by Langan Engineering and Environmental Services, Inc. (the "Langan Report"), a copy of which has been delivered to the General Contractor.

(k) Assist and cooperate with 1 WTC in any legal actions or proceedings that may arise out of or relate to the Work, including appearances, as reasonably necessary.

(l) Cooperate with 1 WTC's insurers (or insurance brokers) and/or safety consultants.

(m) Supervise the performance by Subcontractors of the correction of defective Work, including, without limitation, performance of all guarantees given by Subcontractors, but in no event longer than the expiration of the relevant guarantee/warranty period prior to Lessee's acceptance of the Work, at which point Lessee's maintenance staff will undertake such supervision.

(n) Coordinate the submission by Subcontractors for approval by the Architect and other consultants of all required shop drawings, samples and catalogue cuts; maintain a log of all such submissions; promptly advise 1 WTC of any potential problems pertaining to the timeliness of such submissions and approvals; advise 1 WTC periodically as to the status of such submissions; advise 1 WTC and the Architect of any errors in such submissions that are discovered by the General Contractor (without assuming the Architect's responsibility for reviewing and approving such submissions); and coordinate the various disciplines after the Architect's approval of the respective shop drawings and before installation.

(o) Cause all Subcontractors who are required to maintain and provide, on an on-going and continuous basis, comprehensive "as-built" and coordination drawings of their Work on mylar for the mechanical, electrical and plumbing as-built drawings, together with one copy of the AutoCAD compatible computer files used to prepare the same, to the extent drawings were prepared on AutoCAD under the terms of their respective Subcontracts, and to deliver same to 1 WTC upon final payment to each such Subcontractor.

(p) At all times as part of the General Conditions Costs, cause the Property to be kept free from accumulation of waste material or rubbish caused by the Work. Subcontracts shall include a provision requiring daily carrying of rubbish and debris to designated stockpiling areas and/or receptacles, to the maximum extent possible. Upon substantial completion of the Project, the General Contractor shall cause all waste material and rubbish generated by General Contractor and its Subcontractors to be removed from and about the Property, and, to the extent practicable, all tools, construction equipment, machinery and surplus materials of General Contractor and its Subcontractors.

(q) Review requests for changes by the Architect, submit recommendations to 1 WTC regarding same, make independent recommendations regarding changes to the Work to enable expeditious and economical completion of the Work, negotiate change orders, prepare and process written change orders for approval by 1 WTC, and thereafter transmit same to the appropriate Subcontractors.

(r) Review Subcontractors' monthly requisitions for progress payments and make recommendations to 1 WTC regarding approval of same. The General Contractor's and all Subcontractors' monthly requisitions shall be in a form acceptable to and in full conformance with the Lenders' requirements (if applicable).

(s) If requested, cooperate with 1 WTC in the selection and retention of professional and other consultants in connection with the Work.

(t) Consult with 1 WTC and the Architect when any Subcontractor requests interpretations of the Contract Documents, promptly give notice to 1 WTC and the Architect of any dispute or claim which may arise during construction of the Project, assist in the timely resolution of any such dispute or claim in accordance with 1 WTC's directions and recommendations regarding settlement of such disputes and claims. To the extent that 1 WTC issues such directions and/or recommendations and the subject and resolution of such dispute or claim is determined to be both outside the scope of Work to be performed by the General Contractor under this Agreement and outside the scope of Work to be performed by the Subcontractor under its Subcontract and the Contract Documents, then any additional costs incurred by the General Contractor in complying with 1 WTC's directions and/or recommendations regarding the resolution of such dispute or claim shall be a Cost of the Work.

(u) Make recommendations to 1 WTC regarding the advisability of pre-purchasing materials to be incorporated into the Work and stored off-site (if approved in advance by 1 WTC and the Lenders (if applicable)), cooperate with 1 WTC in making arrangements for inspection of same, including such arrangements as 1 WTC shall deem necessary or desirable for (i) access to such materials for the purpose of segregation, on-going inspection, project identification and removal of the same, (ii) protecting 1 WTC's title to such materials, free and clear of all liens, encumbrances and rights of others, and (iii) insuring and protecting the same and not make any payments for materials stored off-site, unless all such arrangements have been approved in writing by 1 WTC.

(v) The General Contractor shall assist in conducting final inspections of the Work (without assuming the Architect's responsibility for inspection of the Work) and shall request of 1 WTC and the Architect a determination of Substantial Completion of the Work or designated portions thereof and assist in the preparation of a list of incomplete or unsatisfactory items (the "Punchlist") with the Architect and 1 WTC, and thereafter prepare a schedule for completion of such items. The date of "Substantial Completion" of the Work, or designated portions thereof, is the date construction is sufficiently complete in the opinion of the Architect, in accordance with the Contract Documents, so that 1 WTC can occupy or utilize the Project, as applicable, or designated portions thereof for the use for which it was intended. Warranties called for by this Agreement and/or by the Contract Documents shall commence on the date set forth in the applicable Contract Documents.

(w) The General Contractor shall request of 1 WTC and the Architect a determination of Final Completion of the Project and provide written notice to 1 WTC and the Architect that the Project is completed and ready for final inspection. This will be preceded by the Punchlist inspection by the General Contractor and approval of the corrective work by the Architect and 1 WTC. For purposes of this Part B Agreement, the term "Final Completion of the Project" shall mean full completion of the Project (including all Punchlist items) in full

compliance with the Contract Documents and the issuance by the Authority of a core and shell final certificate of occupancy or Authority equivalent.

(x) Cooperate with 1 WTC's maintenance or operational personnel during initial start-up and testing of utilities, equipment and systems.

(y) Cooperate and consult with 1 WTC and the Architect and their respective consultants and engineers, in closing-out Subcontractors, including processing of appropriate backcharges; review requests for final payment to Subcontractors and make recommendations to 1 WTC regarding approval of same; and receive and transmit to 1 WTC required cost certifications and/or other documentation required by the Lenders (if applicable), as well as guarantees, affidavits, releases, certificates of compliance (if required), maintenance manuals, liens and other waivers in such form as the Lenders, if applicable, may reasonably require, bonds and other documents required by the Contract Documents and the Subcontracts prior to final payments being made to Subcontractors.

(z) Review and make recommendations with respect to Subcontractors' forms of guarantee, release and requisition for final payment(s).

(aa) Maintain a complete set of drawings, specifications, purchase orders, contracts, shop drawings and related documents at the Property or at the General Contractor's main office, and turn over all as-built drawings prepared by appropriate Subcontractors to 1 WTC upon completion of the Work or earlier as directed by 1 WTC.

(bb) Assist 1 WTC in enforcement of guarantees and warranties of Subcontractors.

(cc) Review each Subcontractor's insurance certificate as to the coverage required to be carried by such Subcontractor hereunder in order to determine whether it complies with 1 WTC's requirements before submission to 1 WTC.

(dd) Cooperate with 1 WTC with respect to final acceptance and close-out by the Lenders (if applicable).

(ee) Make recommendations and render assistance regarding labor disputes and jurisdictional disputes.

(ff) Take such action as may be reasonably necessary in an emergency to protect life and property and notify 1 WTC of such actions as soon as practicable.

(gg) The General Contractor shall use all reasonable efforts to maintain good relations with labor unions as well as minority and other related interest groups in an effort to maintain peaceful labor relations and a trouble-free job site for the duration of the Project, and advise 1 WTC of any anticipated problems in connection therewith.

(hh) Cooperate with 1 WTC and construct a management office, to the extent shown on or called for in the Contract Documents and included in the Cost of Work or, in the alternative, include this work in accordance with a Change Order approved by 1 WTC.

(ii) The General Contractor shall, as directed by 1 WTC, institute and supervise a program for minority participation in the labor force and in the ownership of Subcontractors in accordance with requirements of any tax incentive or other program or programs applicable to the Project and/or each Sub-Project, as applicable, or the requirements of the Authority from time to time provided that such program is delivered to General Contractor by 1 WTC prior to the awarding of the applicable Subcontracts.

(jj) Provide a cash flow schedule for the Work once the major Project requirements have been identified, and adapt same to 1 WTC's and the Lenders' requirements (if applicable), as necessary.

(kk) Provide a detailed trade-by-trade construction time schedule for the Project in a form suitable to 1 WTC, once the major Project requirements, as applicable, have been identified, which schedule shall be updated on a monthly basis or as more frequently as reasonably requested by 1 WTC."

5. **Miscellaneous Provisions.**

5.1 **Effective Date.** This Part B Agreement shall be deemed effective as follows:

5.1.1 With respect to any Retained Obligations to which this Part B Agreement applies, September 10, 2003.

5.1.2 With respect to all work and services to which this Part B Agreement applies, other than those described in Section 5.1.1 above, November 17, 2006.

5.2 **Representations and Warranties.** Tishman represents and warrants that there are no outstanding liens, claims or demands that have been made, asserted or filed, and no reasonable evidence exists indicating that such a lien, claim or demand may be asserted, by any subcontractor identified in Subparagraphs 2.2.1 or 2.3.1 or, to the extent its subcontract is not

terminated, any subcontractor identified in Subparagraphs 2.4.1 of the Third Freedom Tower Amendment, or, to the best of General Contractor's knowledge, information, and belief, by any materialmen or subcontractor of any tier of any such identified subcontractor, for any amount outstanding, due, owed or claimed for any reason, including, without limitation, the subcontract amount or any purchase order amount or for costs, extra costs, time or delay; that all amounts outstanding, due, owed or claimed to or by such identified subcontractors, and, to the best of General Contractor's knowledge, information, and belief, materialmen and subcontractors of any tier, have been paid or satisfied in full or, if not paid or satisfied in full, any such unpaid or unsatisfied amount or amount owed is set forth in a detailed statement of account provided to 1 WTC by General Contractor as of the date and no later than at the time of the execution of the Third Freedom Tower Amendment.

5.3 **Prevailing Wage**. General Contractor shall require each subcontractor identified in Sections 2.2.1 or 2.3.1 or, to the extent its Subcontract is not terminated, any subcontractor identified in Section 2.4. of the Third Freedom Tower Amendment, to comply with all of the provisions set forth in Attachment 1 to this Exhibit B to the Third Freedom Tower Amendment, and General Contractor shall monitor and enforce such requirements. In addition, General Contractor shall comply with all prevailing wage and other requirements with respect to its own employees and its Subconsultants and their employees.

5.4 **Riders**. Notwithstanding anything to the contrary set forth in this Exhibit B, and except as and subject to the terms and conditions set forth in Subparagraph 2.4.2 of the Third Freedom Tower Amendment, General Contractor shall require each subcontractor identified in Subparagraphs 2.2.1 or 2.3.1 or, to the extent its subcontract is not terminated, any subcontractor identified in Subparagraph 2.4.1 of the Third Freedom Tower Amendment, to comply with all of the provisions set forth in the following riders:

Rider F:	Non-Disclosure and Confidentiality Agreement
Rider G:	Sustainable Construction Requirements, dated March 13, 2006 (Revision #2)
Rider H:	Requirements for Work in PATH Right of Way, dated June 16, 2006
Rider K:	Project Corruption Prevention Program, dated January 8, 2007
Rider L:	Payment Procedures
Rider M:	Tishman Construction Safety Guidelines, dated November 3, 2005
Rider N:	Port Authority of New York & New Jersey WTC Site Rules and Regulations
Rider Q:	Above and Below Grade Site Logistics Plans
Rider S:	Site Security Agreements

5.5 **Allowances**. 1 WTC and General Contractor acknowledge that, as of the date of execution of the Third Freedom Tower Amendment, certain Subcontracts provide for the following allowances: $700,000 with respect to the LaQuila Subcontract; $612,500 with respect to the Banker Steel Subcontract; and $150,000 with respect to the Petrocelli Subcontract. Such allowances shall be used at the discretion of General Contractor; provided, however, that General

Contractor agrees that (i) the allowances are also not-to-exceed amounts, which may not be increased under any circumstance; (ii) the foregoing not-to-exceed amounts represent the total amount available as provided for in each respective Subcontract on the date of execution of such Subcontract and may not represent the available balance on the date of execution of the Third Freedom Tower Amendment (i.e., some portion of the allowance may have been used as of the date the Third Freedom Tower Amendment was executed). General Contractor agrees to provide 1 WTC with written notice of the use of any portion of any of these allowances within 5 business days prior to intended use. General Contractor agrees to return to 1 WTC, in the form of a deductive change order, all allowance amounts remaining at Final Completion. General Contractor agrees that to the extent General Contractor converts the Banker Steel Subcontract to a Contract subject to the terms of Exhibit A, the allowance currently included in the Banker Steel Subcontract shall be eliminated from the Contract that Banker Steel must execute upon becoming a Contractor. General Contractor warrants and represents that, except for the allowances in the LaQuila Subcontract, Banker Steel Subcontract, and Petrocelli Subcontract as described in this Section 5.5, no other allowances exist or are provided for in any other Subcontract set forth in the Schedule of Subcontracts in Exhibit 2 to the Third Freedom Tower Amendment.

5.6 **Miscellaneous Modifications.** The Part A Terms and Conditions as incorporated into this Part B Agreement are further modified as set forth below in this Subparagraph 5.2.

5.6.1 In Section 2.4.3 of the Part A Terms and Conditions, all language is deleted in its entirety.

5.6.2 In Section 3.5 of the Part A Terms and Conditions, add the following language to the end of the first sentence: "under the Part A Agreement". Also in Section 3.5 of the Part A Terms and Conditions, all language following the first sentence is deleted in its entirety.

5.6.3 In Section 4.1 of the Part A Terms and Conditions, all language is deleted in its entirety.

5.6.4 In Section 4.2 of the Part A Terms and Conditions, all language is deleted in its entirety.

5.6.5 In Section 4.4 of the Part A Terms and Conditions, add the following language to the end of the section: "Notwithstanding anything to the contrary in this Agreement or in the Contract Documents, 1 WTC shall have no liability for any construction means, methods, techniques, sequences or procedures, or for any safety program or precaution. If General Contractor has any objection to any exercise by 1 WTC of its right under this Section 4.4, such objection shall be made and delivered to 1 WTC immediately in writing or deemed forever waived."

5.6.6 In Section 18.1 of the Part A Terms and Conditions, add the following language to the end of the last sentence: ", or arise out of, or in connection with, the Work".

5.6.7 In Section 22 of the Part A Terms and Conditions, all obligations imposed on General Contractor with respect to its Subconsultants and, as applicable, the employees of Subconsultants, shall be deemed to also apply to General Contractor with respect to all Subcontractors and, as applicable, all of their respective employees.

5.6.8 In Section 23.4 of the Part A Terms and Conditions, assignment of contracts shall include contracts of all Materialmen and Subcontractors of any tier at 1 WTC's option.

5.6.9 In Section 25.1 of the Part A Terms and Conditions, at the beginning of clause (iii), delete the words "use best efforts to".

5.6.10 In Section 2.2.6.4 of Attachment 1 of the Part A Terms and Conditions, third line, delete the words "as 1 WTC's agent".

5.6.11 In Attachment 1 of the Part A Terms and Conditions, delete all language in Sections 2.3, 2.4, and 2.5 in its entirety.

ATTACHMENT TO EXHIBIT B OF THIRD FREEDOM TOWER AMENDMENT

Attachment 1: Prevailing Rate of Wage

Attachment 1
to
Exhibit B
of
Third Freedom Tower Amendment

PREVAILING RATE OF WAGE

For purposes of this Attachment 1 with respect to Subcontractors under the Part B Agreement, and notwithstanding anything to the contrary herein: all references below to the "Construction Manager" in this Attachment 1 shall be deemed to mean to the "General Contractor"; and all references to the "Contracts" or "Contractors" in this Attachment 1 shall be deemed to mean the "Subcontracts" and "Subcontractors," respectively.

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 Construction Manager 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 Construction Manager 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 Construction Manager; 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 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. Neither the Construction Manager nor 1 WTC shall 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.

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 "Construction Manager Access to Records" for all employees employed in the Work. Such records shall contain the name, address and social security number of each such employee, 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 Construction Manager (on forms furnished by the Construction Manager) of all his payroll records and those of each of his Subcontractors as the Construction Manager 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 Construction Manager (including its designees), and the Contractor and its Subcontractors shall permit such representatives to interview employees during working hours on the job site.

The Construction Manager may at any time request the Contractor to prepare a daily report on the Construction Manager form entitled *Contractor Daily Sign-In Sheet*, copies of which can be obtained from the Construction Manager, 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 Construction Manager.

In an area of his office at the site of the Work which is accessible to his employees, the Contractor shall display such printed material as may be provided by the Construction Manager 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.

[END OF EXHIBIT B]