

**THE PORT AUTHORITY OF NY & NJ**

**PROCUREMENT DEPARTMENT  
4 WORLD TRADE CENTER  
150 GREENWICH STREET, 21<sup>ST</sup> FL.  
NEW YORK, NY 10007**

6/1/2017

**ADDENDUM #1**

To prospective Bidder(s) on Bid # 49857 - Supply and Deliver Hi-Rail 65' Working Height, Insulated Telescoping Aerial Truck – PATH

Due 6/22/2017, no later than 11:00AM

**I. CHANGES/MODIFICATIONS**

**The following changes/modifications are hereby made to the solicitation documents:**

“Specifications for: Path Hi-Rail 65' Working Height, Insulated Telescoping Aerial Truck, Appendix A: Vendor Detail Sheet, Appendix B: Pricing Sheet and Appendix C: Automotive Procurement Standard Contract Terms and Conditions” are made part of this Contract.

This communication should be initialed by you and annexed to your Bid upon submission.

In case any Bidder fails to conform to these instructions, its Bid will nevertheless be construed as though this communication had been so physically annexed and initialed.

THE PORT AUTHORITY OF NY & NJ

SELENE ORTEGA, MANAGER  
COMMODITIES AND SERVICES DIVISION  
PROCUREMENT DEPARTMENT

BIDDER'S FIRM NAME: \_\_\_\_\_

INITIALED: \_\_\_\_\_

DATE: \_\_\_\_\_

QUESTIONS CONCERNING THIS ADDENDUM MAY BE ADDRESSED TO SHANTA NELSON, WHO CAN BE REACHED AT (212) 435 -4661 or at snelson@panynj.gov.

PS11All

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
OPERATIONS SERVICES DEPARTMENT  
CENTRAL AUTOMOTIVE DIVISION  
241 ERIE STREET, ROOM 307  
JERSEY CITY, NEW JERSEY 07310-1397**

**DATE: JUNE, 2017  
CODE: R216-4883**

**SPECIFICATIONS FOR:**

**PATH HI-RAIL 65' WORKING HEIGHT, INSULATED TELESCOPING  
AERIAL TRUCK**

These specifications cover the furnishing of the latest production model sixty-five (65') ft. working height, insulated telescoping aerial truck with rail gear and equipment as described in the following specifications.

The Vendor shall furnish, install and deliver the equipment and accessory items defined below. The equipment shall be designed and certified to operate in accordance with all regulatory requirements as specified within these specifications, and Federal, State of New York, State of New Jersey, and City of New York laws and regulations.

The units and associated components, features, and equipment shall be furnished complete and ready for use, all as more fully restored by the terms of these specifications and in strict accordance therewith, even if not specifically enumerated in these specifications. The unit and all the equipment shall be the manufacturer's latest current published stock model(s), which meet the requirements of these specifications.

**SPECIFICATIONS**

**1. GENERAL - CAB-CHASSIS**

The Vendor shall furnish and install the following equipment and accessory items as defined below. these specifications cover the furnishing of the latest production model insulated sixty-five (65') ft. working height telescoping aerial platform truck and equipment. The vehicle shall be capable of both day and night operation.

Bids shall be submitted in duplicate. The Vendor shall submit with its bid a completed Vendor's Detail Sheet (provided at the end of the specifications) and all other brochures, data sheets, catalogues, drawings, and technical information necessary to perform a complete product evaluation also submitted in duplicate.

The unit shall consist of a 4x2 cab-chassis, conventional-type crew cab, manufacturer's latest model, Ford F-750 or PATH approved equal, with a 33,000 lb. Gross Vehicle Weight Rating (GVWR). The chassis shall accommodate all aerial device and platform body components. The cab-chassis shall have a minimum wheelbase of 266" and cab-to-axle of 156" and be equipped with all equipment and components as further described in these specifications.

## **2. ENGINE**

The engine shall be a gasoline engine, that meets the following minimum specifications:

- Ten (10) cylinders
- Three Hundred and Twenty (320) net HP
- Four Hundred and Sixty (460) lb.- ft.

The engine shall be equipped with the following:

- Cooling system, heavy duty, 50/50 mix of antifreeze and water to -40° f
- Muffler heat shield
- Engine shutdown system with an automatic override, and have a visual and audible warning for:
  - Low oil pressure
  - High engine temperature

The vehicle shall be equipped with the manufacturer's standard instrumentation and warning indicators. All controls, instrumentation and indicators shall be installed for ease of operation and be fully illuminated.

## **3. ENGINE - NOISE**

The vehicle shall conform to federal, state, and local noise codes. The sound level at the operator's position shall not exceed eighty-three (83) db(a).

## **4. MINIMUM TRANSMISSION**

The vehicle shall be equipped with a fully automatic six (6) speed transmission. Transmission shall be equipped with Power Take-Off (PTO) provision and an oil cooler.

## **5. FRONT AXLE AND SUSPENSION**

The vehicle shall be equipped with a front axle assembly conforming to the following minimum specifications:

- 12,000 lb. Gross Axle Weight Rating (GAWR)
- Multi-leaf heavy duty springs
- Shocks, double acting type
- Tubeless radial to meet GAWR

## **6. REAR AXLE AND SUSPENSION**

The vehicle shall be equipped with a rear axle assembly conforming to the following minimum specifications:

- 21,000 lb. GAWR
- Ratio to provide speed of sixty-five (65) mph at governed engine RPM
- Multi-leaf heavy duty springs
- Driver-controlled locking differential
- Tubeless radial to meet GAWR, low profile
- Super single rear tires to replace dual tires

## **7. FRAME**

The vehicle shall be equipped with a chassis frame of suitable strength and rigidity to allow operation at maximum GVWR for on-highway/off-highway operations. The frame shall meet the following minimum specifications:

- Yield strength - 120,000 psi
- Section modulus – 20.11
- Resisting bending moment – 1,600,000

The chassis shall be a continuous formed steel channel. The required section modulus shall not be obtained by the use of fish plating.

The use of inverted “I” inner or outer channels or combinations of said section to obtain required section modulus shall be permitted. When frame reinforcement is used, it shall be the full length of the frame rails.

## **8. CAB**

The vehicle shall be equipped with a manufacturer’s fully enclosed cab. It shall be a crew type cab with seating for six (6) and shall be equipped with the manufacturer’s standard equipment.

- All step surfaces shall be manufacturer’s standard
- Cab entrance assist handles, each side
- Left & Right side rear view power mirrors, west coast type, heated, with seven (7”) inch convex mirror
- Two (2) speed windshield wipers and washers, electric or air
- Tinted windows
- Heater and Defroster - high output
- Air conditioning - manufacturer’s factory installed standard, high output
- Power Equipment Group - power windows and door locks.
- Twelve (12) volt power outlet
- Six (6) sets of cab/ignition keys
- Lighting and Reflectors to meet FMVSS no. 108
- Tilt steering column

- Rubber floor mats
- Mud flaps shall be provided, black and devoid of all advertising
- Body Builder Switches (four) - mounted center instrument panel with connector access located in engine compartment
- 30/70 Air Ride (integral air pump) high-base driver and two (2) passenger bench seats

## **9. FUEL TANK**

The vehicle shall be equipped with a sixty-five (65) gallon capacity fuel tank. The fuel filler cap shall be safety chained to prevent loss. The safety chain shall not be welded; riveted or bolted to the tank.

The tank filler cap, neck, and a six (6") inch x six (6") inch square around the filler neck or the complete tank, shall be painted red. A permanent one and one-half (1½") inch high, red label with white lettering stating "Gasoline only" shall be installed as close as practical to the fuel filler neck.

## **10. ELECTRICAL SYSTEM**

The vehicle shall be equipped with an integral electrical system consisting of battery, alternator, starter, wiring harness, and other necessary components and devices. The system shall conform to the following minimum requirements:

- Twelve (12) volt nominal system voltage
- Negative ground
- Heavy duty wiring

## **11. ALTERNATOR(S):**

An engine-driven heavy-duty alternator(s) shall be installed and have the capacity to provide all electrical power required for all vehicle system's electrical demands and to maintain battery charge. The alternator(s) shall be installed using standard vehicle mounting brackets. The charging system shall conform to the following minimum requirements:

- Air-cooled
- Voltage (nominal): twelve (12) VDC
- Rated output (SAE standard J56): one hundred and seventy-five (175) AMPS
- Output @ idle: one hundred and four (104) AMPS
- Voltage regulator appropriate for the alternator

## **12. BATTERY(IES):**

The battery(ies) shall be mounted outside the cab in a location readily accessible for maintenance and replacement. The battery(ies) shall be protected from weather and splashing

by a suitable vented cover or enclosure with an easily removable or hinged cover. The battery(ies) shall conform to the following minimum requirements:

- Voltage (nominal): twelve (12) VDC
- Maintenance-free
- Minimum 1800 CCA @ 0° f to provide all required electrical demands

### **13. AERIAL DEVICE**

These specifications cover the furnishing of the latest production model, hydraulically actuated, insulated telescoping aerial lift Elliott model I60F, or PATH approved equal, with a sixty-five (65') ft. working height.

The unit shall be furnished with all hydraulic components, controls, etc. and related equipment required for their operation.

The completed unit shall conform to the current ANSI A 92.2, "American National Standard for Vehicle-Mounted Elevating and Rotating Aerial Devices." Aerial device labeling shall be in accordance with ANSI and be of a permanent nature and legible from twelve (12) feet.

### **14. TURRET ASSEMBLY**

The turret assembly shall consist of a steel weldment attached to the support assembly and arranged to allow little resistance when rotated in either direction. Rotation is accomplished by a hydraulic motor through a worm gear box. The unit shall be capable of continuous three hundred and sixty (360°) degree rotation. The turret shall be mounted at the front of the flat bed, behind the cab.

### **15. BOOMS**

Booms shall be constructed of rectangular high strength steel tubing with a minimum wall thickness of one quarter (1/4") inch assembly shall include heavy duty cylinder fittings, pivot pins, and replaceable polyethylene wear pads.

Boom lift shall be through a double-acting cylinder. Extension of the telescopic booms shall be accomplished by using double-acting cylinders. Extension of the outer section shall be accomplished first and retracted last.

All boom extension and lifting cylinders shall be equipped with cylinder-mounted holding valves.

Boom travel to be a minimum of from eighteen (18°) degrees below horizontal through eighty (80°) degrees above horizontal.

A boom rest shall be provided, structurally mounted to the flatbed body. Boom rest cradle shall be equipped with rubber padding and tie-down mechanism.

## **16. WORK PLATFORM**

The work platform is to be of the removable type, two (2) man, six hundred (600) lb. capacity, and end-mounted. The platform shall be constructed of fiberglass. The platform dimensions shall be forty (40") inch x sixty (60") inch. Platform handrails shall be a minimum forty (40") inch high with a six (6") inch toe board. Platform shall be equipped with safety rope or chain at the opening.

The platform shall include an electric or hydraulic-powered rotator allowing the operator to horizontally rotate the platform ninety (90°) degrees in either direction.

Two (2) safety belt attachment loops shall be provided to meet OSHA standards. Two (2) ANSI approved safety harnesses shall be provided to allow operators free movement within the platform.

The platform shall be maintained in a level position relative to the chassis frame in all operating positions. A closed loop hydraulic leveling system with twin cylinders interacting with a boom activated master cylinder shall be provided. Gravity leveling is not permitted. The leveling system shall be permanently connected to the boom valve bank for remote leveling controls.

## **17. CONTROL SYSTEM**

The control system regulating the movements of the boom and turntable shall be full hydraulic and include two control stations. One (1) is to be located at the turret pedestal, mounted curbside in a watertight compartment. The other is to be located at the work platform. Lower controls shall override upper controls for emergency operation. The controls should be of the lever type, and shall control all boom and rotation functions. All controls shall have a detent mechanism to avoid inadvertent operation.

The controls shall be self-centering, causing all movements to stop when released. Each lever shall be distinctively and permanently marked as to its purpose and direction of operation. The controls shall be of the metering proportional type, permitting smooth operation and accurate speed control.

Platform controls shall be located below top of handrail within platform for safety.

A throttle control shall be provided to increase engine speed from idle to a safe operating speed. To perform this operation, the vehicle shall be supplied with a harness, provided by the engine manufacturer, for remote throttle controls.

Both control stations shall include an engine start/stop switch.

An emergency electro-hydraulic power system, actuated by controls from both the lower station and the work platform, shall be provided. It must be capable of operating all boom functions in case of engine failure, operated by the truck electrical system.

## **18. OUTRIGGERS/SAFETY INTERLOCK SYSTEM**

The aerial device shall be stabilized by five (5) hydraulically operated outrigger assemblies as described below.

- There shall be two (2) front outriggers, mounted to the sub-frame assembly, out and down h-type, with a spread of sixteen (16') ft. when in the stowed position, outriggers are not to extend beyond body.
- There shall be two (2) rear outriggers, mounted to the sub-frame assembly, out and down h-type, with a spread of sixteen (16') ft. when in the stowed position, outriggers are not to extend beyond body.
- There shall be one (1) outrigger mounted on the front bumper attached to the truck frame. Outrigger assembly shall be mounted to tilt so that front hood can tilt open.

Outrigger controls shall be located at the rear of the vehicle within view of outrigger operation.

All outrigger cylinders shall be double acting type, equipped with check valves to prevent drift from both the retracted and extended position.

The vendor shall furnish and install an electromechanical safety interlock system to prevent operation of the aerial lift until the outriggers are in a firm position on the ground. This system shall also cause the outrigger circuit to be locked out until the boom is returned to the stowed position. An override shall be provided at the lower control console. In addition, the transmission shall be programmed so that it does not shift into gear until the PTO is turned off.

Automatic Safety Rotation Lockout: Proximity switches and valves shall be included in outrigger hydraulic system to 1) prevent turret rotation to side where outriggers are not fully extended, and 2) to allow boom operation above bed area with five (5°) degree rotation from centerline, each direction, while outriggers are stowed.

A master switch shall be incorporated into the system that will allow the pump, interlock system and emergency power system to operate only when the switch is in the "on" position. The emergency power should be wired directly off one (1) side of the switch.

A PTO actuated brake lock, which automatically engages the spring set parking brake when the PTO is engaged, shall be provided.

Automatic mechanical up-locks to securely position outrigger during travel.

Outrigger pads shall be either square or rectangular pivot type, sized for the necessary loads in all aerial device positions.

At the rear of vehicle an inclinometer shall be installed.



## **19. POWER TAKE-OFF**

The PTO shall be a Live Drive type PTO or PATH approved equal. An indicator light on the light panel in the cab shall illuminate when the PTO is engaged.

- a. Stationary: two hundred and fifty (250) lb.-ft.
- b. Mobile: one hundred and twenty-five (125) lb.-ft.

## **20. HYDRAULIC SYSTEM**

The hydraulic system shall be an open-center type. The hydraulic pump shall be capable of operating the aerial device and outrigger system. The system shall include a hydraulic oil cooler. A brass petcock valve for draining the reservoir shall be provided.

The hydraulic reservoir shall be a minimum of fifty-five (55) gallons. The fill opening shall be easily accessible and have a removable strainer. A fluid level sight gage and a thermometer shall be installed in a protected area on the reservoir.

No components of any kind shall be mounted on top of the fluid reservoir.

## **21. HOSES**

All hoses shall be high pressure hose, wire braid reinforced, with a minimum safety factor of 4:1. All hydraulic hoses are to be protected when routed across chassis frame rails, chassis cross members, body, or equipment with sharp edges and openings. All hoses shall be properly secured.

## **22. FILTRATION**

- A ten (10) micron filter shall be provided in the return line
- A five (5) micron filter shall be provided in the pressure line
- A strainer shall be provided in the suction line

Appropriately sized valving shall be provided on both sides of filter to facilitate filter servicing.

Test gauge plugs shall be provided at all suitable points throughout system for maintenance and trouble-shooting.

All hydraulic system components are to be shielded from engine exhaust heat, and heat shields shall be installed on the engine exhaust system to divert any possible leakage from the hydraulic system. Hoses shall be installed inside steel tubing wherever necessary to deflect the flow of fluid from exhaust and electrical system components in the event of hose rupture or leakage.

## **23. BODY AND MISCELLANEOUS EQUIPMENT**

Mounted on chassis shall be a flatbed body, heavy duty all steel construction. Floor to be steel treadplate with manufacturer's standard non-skid surface.

Body width shall be a minimum of ninety-six (96”) inches. Body length shall be long enough so that when the aerial device is in the stowed position, the work platform does not extend outside the body in any direction. This is a major requirement.

Rear bumper, six (6”) inch structural steel channel, shall be mounted directly to the truck frame rails and reinforced directly to the frame rails on both sides. Install two (2) rubber dock bumpers, one (1) at each frame rail end on bumper.

At the front and rear of vehicle, install a reinforced steel plate and a twenty (20) ton capacity pintle hook. Included on the plate shall be rings for safety chains. A placard shall be installed showing the vehicles towing capacity.

The vehicle must be equipped with headlights and taillights on both the front and rear of the vehicle.

Install two (2) Port Authority provided twelve (12) volt floodlights FCA100-D30 mounted on a FCA530-D30 Twist-Lock Side Mount Push/Up Poles. Lights to be mounted at the rear of the cab. On/Off switch is to be mounted on the main switch panel in the cab.

Install one (1) steel forty-eight (48”) inch x eighteen (18”) inch x eighteen (18”) inch black weatherproof underbody toolbox, (1) steel twenty-four (24”) x eighteen (18”) inch x eighteen (18”) inch black weatherproof underbody toolbox, on each side of the vehicle, front most portion of body.

Back-up alarm shall meet the following specifications

- 12 VDC
- .5 AMPS
- 97 dB

A placard shall be mounted on the dash indicating the overall stowed height of the completed vehicle.

## **24. RAIL GEAR**

The chassis must be equipped with a rail gear system properly specified for a 33,000-pound vehicle. The vehicle MUST also meet the following minimum requirements to be able to traverse the PATH system.

- The vehicle on rail must have a clearance height of twelve (12’) ft.
- The vehicle must also be able to traverse a ninety-five (95’) ft. radius loop track.
- The vehicle must clear the third rail on a one hundred and twenty-five (125’) ft. radius
- The Vehicle must clear PATH “tripper system”

## **25. ELECTRICAL**

All switches and indicator lights shall be mounted and properly labeled on a single panel in the cab (location to be determined). Switches shall have an “on” indicator light per switch.

## **26. GENERATOR**

The vehicle shall be equipped with a gasoline powered generator with a minimum output of thirty-eight hundred (3800) watts. The generator will power four (4) electrical outlets, one (1) at each corner of the flat bed.

## **27. OUTRIGGER WARNING LIGHT**

Should any one of the outrigger legs leave the stowed position, a green colored warning light marked “outriggers” and mounted on the light and switch panel, shall flash continuously and intensely. This light shall continue to flash until all outriggers are returned to the stowed position.

## **28. BOOM OUT OF REST**

When all outriggers have been lowered and eliminated from the power circuit, the lift platform shall be fully operable. A single switch located in the tower cradle shall activate a blue lamp beside the outrigger lamp on the panel, to light steadily on all occasions when the lift platform moves therefrom, whether by hydraulic power or other means. This light shall be marked “Aerial Platform Operating”. Blue lamp shall be mounted on the light and switch panel.

Body lighting shall be “LED” type. All body lights shall be of the shock and vibration resistant design. Stop, tail, turn and backup lights shall be flush mounted on the body. All lighting shall meet FMVSS 108 requirements.

## **29. EMERGENCY WARNING LIGHTING**

Install on cab, an amber seven (7) pod light bar, Federal Signal Vector model VC-4801-HD (provided by The Port Authority). Switch shall be located at switch panel.

Install four (4) red LED Federal Signal Cuda Trioptics, model 352022-44 (provided by The Port Authority). Two (2) located at rear of truck and one (1) located at each side on body, mid-length. All LED lights shall be wired through a single switch located at switch panel.

All emergency lighting shall go through a constant duty relay. All wiring to be heavy duty, jacketed type, properly routed and secured to frame rails and equipment, protected to prevent chafing, pinching or system damage when running through body and along chassis. All wiring shall be color/number coded for identity.

All electrical circuits shall be protected with either circuit breakers or fuses capable of the circuit demand. All circuits to be separate on an electrical panel under dash, readily accessible for inspection and service. Panel to have space for at least two additional circuits.

All switches and valving for interlock systems to be heavy duty industrial service type.

### **30. STABILITY/TESTING AND CERTIFICATION**

The unit shall be stable (for the purposes of this spec., stability shall mean that no wheel or outrigger shall leave the ground) for loads up to one and one half (1-1/2) times the rated capacity on level ground and up to one and one third (1-1/3) times the rated capacity on ground sloped up to five (5°) degrees, for all positions of boom rotation and extension.

To achieve required stability, permanently mounted counterweights may be added to the unit. The vendor shall notify The Port Authority Engineer, in writing, as to the amount of counterweights added.

Counterweight shall be of a suitable stable dense material, such as concrete or steel, attached directly to the chassis. The addition of counterweight shall not cause the vehicle to exceed any GAWR or GVWR, and shall not cause a weight distribution or center of gravity location, which falls outside of the chassis manufacturer's recommended limitations.

Vendor is to perform and document stability testing for each unit in accordance with current ANSI regulations and testing procedures (see stability section for test parameters).

The manufacturer shall certify that the above tests have been satisfactorily completed in the presence of a Port Authority Engineer and shall furnish at the time of delivery a copy of the test results.

Any failure of any component under this testing shall be the sole responsibility of the Vendor, who shall immediately remove the vehicle and rectify any fault therein, prior to resubmitting the vehicle for re-inspection. This rectification shall be subject to the approval of the Engineer. The vehicle shall not be deemed "delivered" until all items of these specifications are fully met, and a reasonable additional time has been allowed for The Port Authority, in its sole discretion, to have any additional testing performed that they may deem necessary or desirable.

Testing is to be performed at the Vendor's facility, acceptance at The Port Authority.

### **31. FINISHING AND PAINTING**

The unit shall be furnished with a quality commercial grade finish. All surfaces shall be free of dents, gouges, buckles, surface scaling, rust corrosion or other surface irregularities. Materials shall be cleaned and conditioned in accordance with the paint manufacturer's specification.

All components shall be painted with the finished color(s) including wheels (inner and outer on duals, bumper(s), compartment interiors, ancillary equipment etc. the only exception shall be britework (chrome plated parts) or other parts specifically designated by the Engineer.

As soon as practical after preparation, the unit and all components shall be primed with two (2) coats of the primer specified below. Parts which mate or join and are inaccessible after assembly shall receive an additional coat of primer before assembly.

### **32. SPECIFIED FINISH PAINT**

- urethane or polyurethane.
- manufacturer's standard white.
- Body will be manufacturer's standard black.

### **33. COLOR, NUMBERS, DECALS, LOGOS -- PORT AUTHORITY NON-AIRFIELD VEHICLE**

If requested, the vendor shall supply a line drawing(s) with front, rear, left and right sides and top views for the Engineer to indicate the location of decals logos and striping material for approval by the Engineer. Questions regarding exact placement of decals and striping should be directed to the Engineer for approval prior to installation.

Color shall be white, and may be the manufacturer's standard color if approved by PATH. A color chip shall be provided to the Engineer prior to painting. However, when bodies or other major components are stainless, aluminum, or other materials that are not normally painted, they shall be left in their natural state. In addition, when requested, the upper surface of the hood and other areas that result in reflections in the driver's field of view are to be painted flat black, or other flat color approved by the Engineer.

The vendor shall install Port Authority furnished vehicle fleet numbers, logos and striping for each vehicle (See Figure 1, below.):

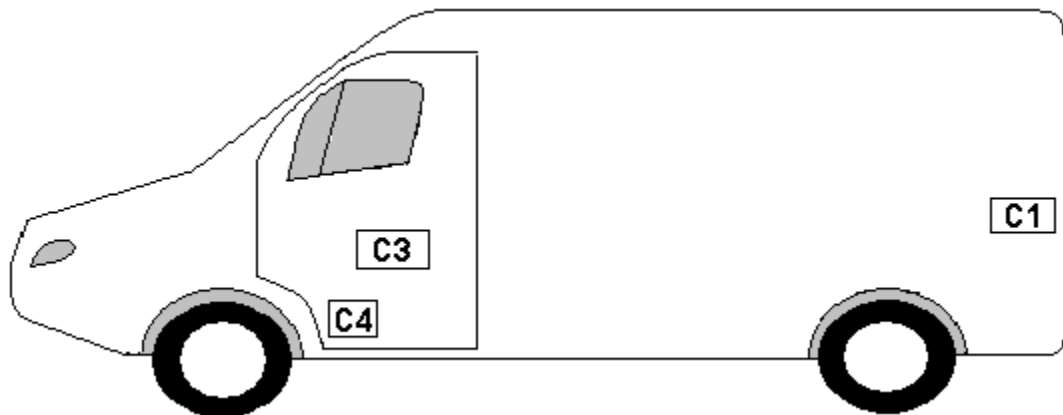
- Two (2) sets of the three and one half (3 ½") inch high five (5) digit Blue Port Authority fleet numbers (e.g. 36042). One (1) set located at the rear on each side of the vehicle as high and as near to the rear as practical. **(C1)**
- Three (3) sets of the one and one half (1 ½") inch high five (5) digit Blue Port Authority fleet numbers (e.g. 36042) at the front and rear of the vehicle. **(C2)** One (1) located on the dashboard so the operator can see the vehicle number.
- Port Authority logo centered on the vertical centerline of the vehicle on each front door. **(C3)**
- Facility logo on front lower edge of each front door below the Port Authority logo. **(C4)**
- Red/silver barricade striping material to cover entire rear bumper and portions of the vehicle rear as designated by the Engineer. **(C5)**
- Port Authority decal and No smoking sign installed on dashboard.
- "Do Not Top Off" decal installed as close as practical to fuel filler.

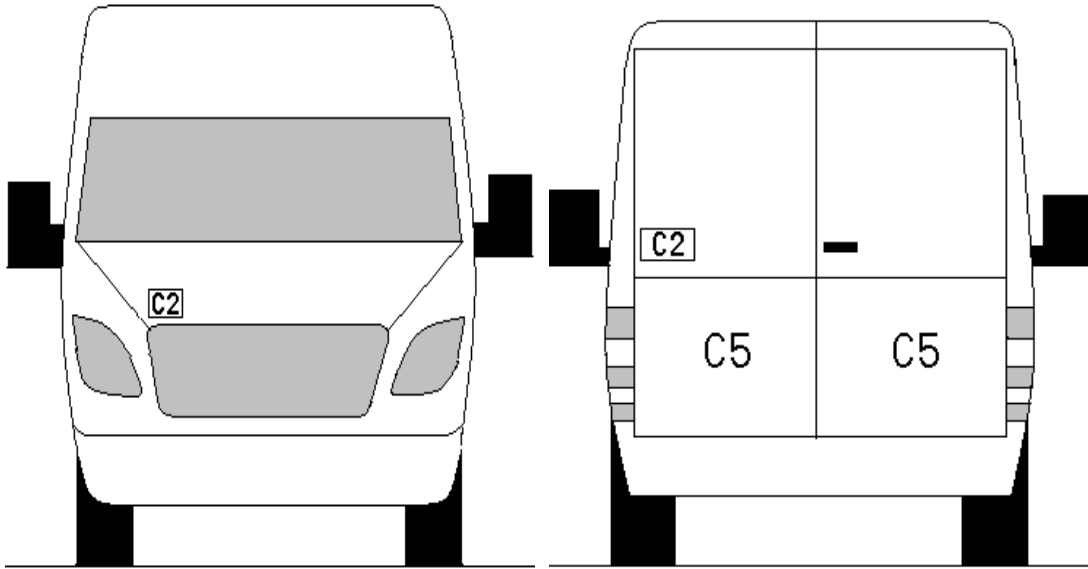
The vendor shall furnish and install the following on each vehicle:

- A label near the fuel filler point(s) and all other fluid service points indicating type of fuel or service fluid appropriate for that filling location.
- Conspicuity material treatment (red, white, or silver tape) as required by FMVSS 108, or, as would be required to meet FMVSS-108 standards if this were an on-highway vehicle, and to adequately outline the vehicle.
- Additional conspicuity material treatment (red, white, or silver tape) as required by the Engineer to assist in recognizing the size or shape of the vehicle.
- Red Plastic engraved placard with one-and-one half (1½”) inch high lettering stating vehicles overall height affixed as directed by the Engineer
- All vehicles equipped for towing a trailer (tow receiver, ball or pintle hook or other towing connection point installed on the unit), shall have a permanent weatherproof label or engraved placard located as near as practical to the towing connection point stating the maximum towing capacity and maximum permissible tongue weight.

The vendor shall supply and install any other vehicle striping, markings, and labels required to comply with all applicable Federal, State, and Local standards or recommended practices and regulations, or other necessary markings as requested

**Figure 1. Numbers, Decals, Logos - Port Authority Non-Airfield Vehicle**





**APPENDIX A**

**PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
OPERATION SERVICES DEPARTMENT  
CENTRAL AUTOMOTIVE DIVISION  
241 ERIE STREET, ROOM 307  
JERSEY CITY, NEW JERSEY 07310-1397**

**DATE: JUNE 2017  
CODE: R216-4883**

**SPECIFICATIONS FOR:**

**PATH HI-RAIL SIXTY-FIVE (65') FT. WORKING HEIGHT,  
INSULATED TELESCOPING AERIAL TRUCK**

**VENDOR'S DETAIL SHEET**

**VENDOR** \_\_\_\_\_ **TEL.NO.** \_\_\_\_\_

**REPRESENTATIVE** \_\_\_\_\_

**SUBCONTRACTOR** \_\_\_\_\_ **TEL.NO.** \_\_\_\_\_

**SUPPLIERS OF SPARE PARTS (NAME, ADDRESS)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ESTIMATED  
DELIVERY** \_\_\_\_\_ **MONTHS**

**ESTIMATED DELIVERY DATE**

\_\_\_\_\_

**ESTIMATED COST OF ADDITIONAL  
TRAINING** \_\_\_\_\_

**PATH HI-RAIL SIXTY-FIVE (65') FT. WORKING HEIGHT, INSULATED  
TELESCOPING AERIAL TRUCK**

**ENGINE:**

**MAKE** \_\_\_\_\_

**MODEL** \_\_\_\_\_



**TYPE** \_\_\_\_\_  
**CYLINDERS** \_\_\_\_\_  
**HORSEPOWER** \_\_\_\_\_  
**DISPLACEMENT** \_\_\_\_\_  
**TORQUE** \_\_\_\_\_  
**AIR CLEANER** \_\_\_\_\_  
**OIL FILTER** \_\_\_\_\_  
**GOVERNOR** \_\_\_\_\_  
**COOLING SYSTEM** \_\_\_\_\_  
**FUEL TANK CAPACITY** \_\_\_\_\_  
**SAFETY SHUTDOWN:**  
**MAKE** \_\_\_\_\_  
**MODEL** \_\_\_\_\_

**TRANSMISSION:**  
**MAKE** \_\_\_\_\_  
**MODEL** \_\_\_\_\_  
**TYPE** \_\_\_\_\_  
**OIL COOLER** \_\_\_\_\_  
**RIDE CONTROL** \_\_\_\_\_

**STEERING:**  
**TYPE** \_\_\_\_\_  
**MANUAL BACKUP** \_\_\_\_\_

**BRAKES:**  
**TYPE** \_\_\_\_\_  
**PARKING BRAKE TYPE** \_\_\_\_\_

**AXLES:**  
**FRONT:**  
**TYPE** \_\_\_\_\_  
**CAPACITY** \_\_\_\_\_  
**OSCILLATION** \_\_\_\_\_

**REAR:**  
**TYPE** \_\_\_\_\_  
**CAPACITY** \_\_\_\_\_

**WHEELS AND TIRES:**  
**FRONT:**  
**TYPE** \_\_\_\_\_  
**TIRE SIZE** \_\_\_\_\_  
**TREAD TYPE** \_\_\_\_\_  
**PLY RATING** \_\_\_\_\_

**MOUNTED SPARE** \_\_\_\_\_

**REAR:**

**TYPE** \_\_\_\_\_  
**TIRE SIZE** \_\_\_\_\_  
**TREAD TYPE** \_\_\_\_\_  
**PLY RATING** \_\_\_\_\_  
**MOUNTED SPARE** \_\_\_\_\_

**ELECTRICAL SYSTEM:**

**TYPE** \_\_\_\_\_  
**ALTERNATOR CAPACITY @**

**IDLE** \_\_\_\_\_

**BATTERY CCA RATING** \_\_\_\_\_

**HYDRAULIC SYSTEM**

**TOTAL CAPACITY** \_\_\_\_\_  
**OPERATING PRESSURE** \_\_\_\_\_  
**RESERVOIR CAPACITY** \_\_\_\_\_  
**FILTRATION** \_\_\_\_\_

**HORN** \_\_\_\_\_

**BACKUP ALARM** \_\_\_\_\_

**VERTICAL EXHAUST** \_\_\_\_\_

**SUN VISOR** \_\_\_\_\_

**DOME LIGHT** \_\_\_\_\_

**SOUND SUPPRESSION KIT** \_\_\_\_\_

**INSTRUMENTATION PANEL AS SPECIFIED** \_\_\_\_\_

**AM/FM RADIO** \_\_\_\_\_

**LIGHTING**

**CAB WORK LIGHTS:**

**MAKE** \_\_\_\_\_

**MODEL** \_\_\_\_\_

**FINISHING AND PAINTING**

**COLOR** \_\_\_\_\_ **PAINT #** \_\_\_\_\_

**EXTENDED WARRANTIES**

**LIST THE EXTENDED WARRANTIES OFFERED FROM THE EQUIPMENT MANUFACTURERS. PROVIDE EACH TYPE AND COST BELOW, AND ATTACH ALL TERMS AND CONDITIONS FOR EACH.**

<b>WARRANTY COVERAGE</b>	<b>COST</b>
1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____

**VEHICLE MUST BE EQUIPPED WITH ALL MANUFACTURER'S STANDARD EQUIPMENT.**

**APPENDIX B  
PRICING SHEET**

	<b>Unit Price</b>	<b>Total price</b>
PATH Hi-Rail 65' Insulated Telescoping Aerial Truck	\$ _____	X 1 = \$ _____

In the event of any calculation error (s), unit price prevails.

In the event a unit price is omitted, The Port Authority shall have the right to re-calculate the total price divided by the # of units thus arriving at a unit price.

**APPENDIX C**  
**AUTOMOTIVE PROCUREMENT**  
**STANDARD CONTRACT TERMS AND CONDITIONS**

**PART I- GENERAL PROVISIONS**

**1. INTENT**

These specifications cover the furnishing of the latest production Hi-Rail sixty-five (65') ft. Insulated Telescoping Aerial Truck and all equipment and components as described in these specifications.

**2. DEFINITIONS**

Authority or Port Authority:

For the purposes of this agreement, the terms "Authority" or "Port Authority" mean The Port Authority of New York and New Jersey and/or the Port Authority Trans-Hudson Corporation (PATH), as applicable.

Agreement/Contract:

For the purposes of this agreement, the terms "Agreement" and "Contract" can be used interchangeably to mean the agreement entered into by the signatories of this document, and shall consist of the Specifications, this Appendix D, and any other appendices, attachments, exhibits or addenda, as outlined in the section entitled "Entire Agreement".

Contractor/Vendor:

For the purposes of this agreement, the terms "Contractor" and "Vendor" can be used interchangeably to mean the entity entering into this Contract with the Port Authority of New York and New Jersey.

Chief Procurement Officer:

For the purposes of this agreement, Chief Procurement Officer means the Chief Procurement Officer of the Port Authority, or her successor in duties, or her authorized representative.

Days or Calendar Days:

As used in this agreement, the terms "Days or Calendar Days" shall mean consecutive calendar days, Saturdays, Sundays, and holidays, included.

Engineer:

As used in this agreement, the term "Engineer" means the Manager of the Central Automotive Division of the Port Authority, or his duly authorized representatives acting within the scope of the particular authority vested in them.

Month:

As used in this agreement, the term "Month" unless otherwise specified, means a calendar month.

Week:

As used in this agreement, the term "Week," unless otherwise specified, means seven (7) consecutive calendar days, Saturdays, Sundays, and holidays.

Work:

As used in this agreement, the term “Work” means all services, equipment and materials (including materials and equipment, if any, furnished by the Authority) and all other things necessary or proper for, or incidental to the services to be performed or goods to be furnished in connection with the service to be provided hereunder.

**3. VENDOR REQUIREMENTS**

The Vendor must have or be closely associated with an adequate, as determined by the Engineer, service facility staffed by trained and experienced service personnel and a stock of repair parts suitable for a timely response to the Authority's vehicle service requirements. All warranty work that requires more than one half a day (four (4) hours) must be performed at the Vendor's designated repair site. All costs of moving the vehicle to and from this repair site are to be at the Vendor's expense, and included in the warranty. Warranty work that requires less than one half day's work may be performed at the local automotive shop with permission from the shop supervisor, and prior notification and mutually agreeable scheduling. In such instances, Vendor staff must work cooperatively with shop personnel in accordance with applicable labor agreements.

**4. ENGINEER'S AUTHORITY**

In the performance of the Work hereunder, the Vendor shall conform to all orders, directions and requirements of the Engineer and shall perform the Work hereunder to the satisfaction of the Engineer at such times and places, by such methods and in such manner and sequence as he/she may require, and the Contract shall at all stages be subject to his/her inspection. The Engineer shall determine the amount, quality, acceptability and fitness of all parts of the Work and shall interpret the Specifications and any orders for Extra Work. The Vendor shall employ no equipment, materials, methods or staff or personnel to which the Engineer objects. Upon request, the Engineer shall confirm in writing any oral order, direction, requirement or determination.

The Engineer shall have the authority to decide all questions in connection with the Services to be performed hereunder. The exercise by the Engineer of the powers and authorities vested in him/her by this section shall be binding and final upon the Port Authority and the Vendor.

**5. GENERAL REQUIREMENTS**

The unit and associated equipment shall be furnished complete and ready for use, all as more fully required by the terms of the Specifications and in strict accordance therewith.

The unit and all equipment shall be the manufacturers' latest current published stock model(s), which meet the requirements of these specifications. The Vendor shall not substitute an equivalent make or model vehicle without prior express written approval by the Engineer. The Vendor shall submit with its bid all the brochures, drawings, and technical information necessary for a complete product evaluation.

**6. TAX EXEMPTIONS AND INDEMNITY - CUSTOMS DUTIES**

Sales to the Port Authority, as a governmental instrumentality of the states of New York and New Jersey, are exempt from taxation, either state or municipal, in those two states, and also from federal taxation, including excise taxes. The Vendor therefore certifies that there are

no such taxes included in the prices quoted herein. The Vendor should retain a copy of this agreement to substantiate the exempt sale. If, however, any sales tax, use tax, or excise tax imposed by Congress, by a state or any political sub-division thereof is now or hereafter applicable to the sale of the units to the Port Authority, such taxes will be reimbursed by the Port Authority, subject to the provisions of the tax indemnity below. In addition, the Vendor shall bear all customs duties or imposts and all export duties or imposts, if any, resulting from or in connection with the performance of this agreement.

## **7. TAX INDEMNITY**

If any claim is made against the Vendor by a governmental authority for the taxes as stated above, then the Port Authority will reimburse the Vendor in an amount equal to the amount of such tax required to be paid in accordance with the requirements of law, provided that:

The Vendor has complied with such rules and regulations as may have been promulgated relative to the claiming of any exemption from such taxes and has filed all the forms and certificates required by the applicable laws, rules, and regulations in connection therewith; and The Port 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 Port Authority may choose and to settle or satisfy said claim, and such attorney as the Port Authority may designate is authorized to act for the purpose of contesting, settling, and satisfying said claim; and

The Vendor gives immediate notice to the Port Authority of any such claim, cooperates with the Port Authority and its designated attorney in contesting said claim and furnishes promptly to the Port Authority and said attorney all information and documents necessary or convenient for contesting said claim.

If the Port Authority elects to contest any such claim, it will bear the expense of such contest.

## **8. INSURANCE PROCURED BY THE VENDOR**

The Contractor and its subcontractor(s) shall take out, maintain, and pay the premiums on Commercial General Liability Insurance, for the life of the Contract and such Insurance and shall be written on an ISO occurrence form CG 00 01 0413 or its equivalent covering the obligations assumed by the Contractor under this Contract including but not limited to premise-operations, products and completed operations and independent contractors coverage, with contractual liability language covering the obligations assumed by the Contractor under this Contract and, if vehicles are to be used to carry out the performance of this Contract, then the Contractor shall also take out, maintain, and pay the premiums on Automobile Liability Insurance covering any autos in the following minimum limits:

**Commercial General Liability Insurance - \$2 million** combined single limit per occurrence for bodily injury and property damage liability.

**Automobile Liability Insurance - \$2 million** combined single limit per accident for bodily injury and property damage liability.

The insurance shall be written on an occurrence basis, as distinguished from a “claims made” basis, and shall not include any exclusions for “action over claims” (insured vs. insured) and minimally arranged to provide and encompass at least the following coverages:

- Contractual Liability to cover liability assumed under the Contract;
- Independent Contractor's Coverage;
- Premise-Operations, Products and Completed Operations Liability Insurance;
- The insurance coverage (including primary, excess and/or umbrella) hereinafter afforded by the Contractor and all subcontractor(s) shall be primary insurance and non-contributory with respect to the additional insureds;
- Excess/umbrella policies shall "follow form" to the underlying policy;
- Excess/umbrella policies shall have a liberalization clause with drop down provision;
- Coverage for explosion, collapse and underground property damage (XCU);
- Deletion of the pollution exclusion;
- To the extent any coverage the Contractor and subcontractor(s) obtains and/or maintains under this Contract contains "Other Insurance" language or provisions, such language or provisions shall not be applicable to the additional insureds or to any insurance coverage maintained by the additional insureds;
- All insurance policies shall include a waiver of subrogation, as allowed by law, in favor of the additional insureds;
- Defense costs must be outside of policy limits. Eroding limits policies are not permitted;
- In the event the Contractor and/or its subcontractors obtains and/or maintains insurance in an amount greater than the minimum limits required under this Contract, then the full limits of that insurance coverage will be available to respond to any claim asserted against the additional insureds that arises out of or is in any way connected with this Contract;
- Additional insureds coverage shall not be restricted to vicarious liability unless required by controlling law.

In addition, the liability policy(ies) shall be written on a form at least as broad as ISO Form CG 20 10 10 01 (for ongoing operations work) together with ISO Form CG 20 37 10 01 (for completed operations work) or their equivalent and endorsed to and name "The Port Authority of New York and New Jersey and its related entities, their Commissioners, Directors, Superintendents, officers, partners, employees, agents, the City of New York, their affiliates, successors or assigns" as Insured (as defined in the policy or in an additional insured endorsement amending the policy's "Who is An Insured" language as the particular policy may provide). The "Insured" shall be afforded coverage and defense as broad as if they are the first named insured and regardless of whether they are otherwise identified as additional insureds under the liability policies, including but not limited to premise-operations, products-completed operations on the Commercial General Liability Policy. Such additional insureds status shall be provided regardless of privity of contract between the parties. The liability policy(ies) and certificates of insurance shall contain separation of insured and severability of interests clauses for all policies so that coverage will respond as if separate policies were in force for each insured. An act or omission of one of the insureds shall not reduce or void coverage to the other insureds. The Contractor is responsible for all deductibles or losses not covered by commercially procured insurance. Any portion of the coverage to be provided under a Self-Insured Retention (SIR) of the Contractor is subject to the review and approval of the General Manager, Risk Finance. Furthermore, any insurance or self-insurance maintained by the above additional insureds shall not contribute to any loss or claim.



If any of the Work is to be done on or at Port Authority facilities by subcontractors and, if the Contractor requires its subcontractors to procure and maintain such insurance in the name of the Contractor, then such insurance as is required herein shall include and cover the additional insureds and it must have insurance limits not lower than those set forth by the Port Authority herein, along with all the insurance requirements in this section known as "Insurance Procured by the Contractor".

All insurance coverage shall be provided by the Contractor and/or by or for any of its subcontractors at no additional expense to the Port Authority and its related entities. A copy of this section titled "Insurance Procured by the Contractor" shall be given to your insurance agent and subcontractors and shall form a part of the covered contract or subcontract for insurance purposes in furtherance of the insurance requirements under this Contract.

Further, it is the Contractor's responsibility to maintain, enforce and ensure that the type of coverages and all limits maintained by it and any of all subcontractors are accurate, adequate and in compliance with the Port Authority requirements; and the Contractor is to retain a copy of its subcontractors' certificates of insurance. All certificates of insurance shall be turned over to the Port Authority prior to the start of work, including subcontractors' work, and upon completion of the Contract.

***The Contractor, its subcontractors, and its insurers 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, 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.***

The Contractor and its subcontractor(s) shall also take out, maintain, and pay premiums on Workers' Compensation Insurance in accordance with the requirements of law in the state(s) where work will take place, and Employer's Liability Insurance with limits of not less than \$1 million per each accident.

Each policy above shall contain an endorsement that the policy may not be canceled, terminated, or modified without thirty (30) days' prior written notice to the Port Authority Att: Facility Contract Administrator, at the location where the work will take place with a copy to the General Manager, Risk Finance.

The Port Authority may, at any time during the term of this Contract, change or modify the limits and coverages of insurance. Should the modification or change results in an additional premium, the General Manager, Risk Finance for the Port Authority may consider such cost as an out-of-pocket expense.

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 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), including, but not limited to, the cancellation notice endorsement and stating the contract number prior to the start of work. The Contractor is also responsible for maintaining and conforming to all insurance requirements from the additional insureds and their successors or assigns. The

General Manager, Risk Finance must approve the certificate(s) of insurance before any work can begin. Upon request by the Port Authority, the Contractor shall furnish to the General Manager, Risk Finance, a certified copy of each policy, including the premiums.

If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then the Contractor and all subcontractors shall suspend performance of the Contract at the premises until a satisfactory insurance policy(ies) and certificate of insurance is provided to and approved by Risk Finance, unless the Facility or Project Manager directs the Contractor, in writing, to continue to performing work under the Contract. If the Contract is so suspended, no extension of time shall be due on account thereof.

Renewal certificates of insurance or policies shall be delivered to the Port Authority Facility Contractor Administrator, and upon request from the additional insureds, their successors or assigns at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Management must approve the renewal certificate(s) of insurance before work can resume on the facility.

If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Contractor shall promptly obtain a new and satisfactory certificate and policy and provide same to the Port Authority.

Failure by the Contractor to meet any of the insurance requirements, including the requirement that the Port Authority be afforded the full extent of the insurance obtained under this Contract without limitation, shall be deemed a material breach of contract and may be a basis for termination of this Contract by the Port Authority.

The requirements for insurance procured by the Contractor and subcontractor(s) shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Contractor under this Contract. The insurance requirements are not a representation by the Port Authority as to the adequacy of the insurance necessary to protect the Contractor against the obligations imposed on it by law or by this or any other contract.  
[CITS#5305N]

## **9. OBLIGATION TO ORDER VEHICLE(S)**

Upon award of contract, the Contractor shall take all actions necessary to facilitate on-time delivery. The Contractor must submit written proof to the Engineer within fourteen (14) days after award of contract that the vehicle(s) have been ordered. This proof shall consist of valid purchase order(s) or factory order and acceptance with production slot information from the factory. Failure of the Vendor to place a valid and binding order within the fourteen (14) days, or to ensure that its dealer places a valid and binding order within fourteen (14) days, shall be cause for the Authority to cancel the contract without any further obligation to the Vendor.

## **10. PRE-MANUFACTURING MEETING**

At the Engineer's request, there shall be a pre-manufacturing meeting prior to ordering/building the vehicles. It shall take place at a Port Authority location and shall involve Vendor personnel that are directly involved with vehicle ordering/manufacturing. At this meeting, the Vendor shall give the Port Authority the appropriate phone numbers, email and contact person(s) at to enhance the communication during the construction

process. At the meeting, they will discuss the placement of decals, radios, lights and various other systems that will be installed, as needed by the vehicle manufacturer and/or the Port Authority.

### **11. TITLE TO UNITS**

Upon delivery and payment for each vehicle, all portions of the vehicle and all components installed on the vehicle, which had not previously become Port Authority property under the provisions the section entitled "Final Payment" shall become the property of the Port Authority. The Vendor shall furnish to the Port Authority all such bills of sale and certificates of title or origin and other instruments as may be required, assuring the Authority of title to all materials free of liens and other encumbrances.

### **12. PAYMENTS**

After delivery, receipt of an invoice and all other required documents, and acceptance by the Engineer of a unit, the Port Authority will advance to the Vendor, within thirty (30) days, a payment of an amount equal to the unit price as set forth in the Pricing Sheet.

Cost for approved "Extra Work" shall be invoiced separately, accompanied by the written approved "Extra Work" authorized by the Engineer and subject to any monetary deductions, as determined solely by the Port Authority Engineer.

The invoice and documents required to be submitted for each vehicle are as follows:

The invoice for the delivered vehicle, which shall indicate a full description of the vehicle, the cab-chassis' make and model, the vehicle identification number, and the Port Authority number.

A certificate of origin fully completed transferring title and ownership to the Port Authority of NY & NJ.

The above invoice and certificate of origin shall serve to pass title of each complete vehicle to the Port Authority, free of liens, third party claims, or any other security interests.

### **13. FINAL PAYMENT**

The acceptance by the Vendor, or by anyone claiming by or through the Vendor, of the final payment hereunder shall be, and shall operate as, a release to the Port Authority of all claims and of all liability to the Vendor for all things done or furnished in connection with the contract and for every act and neglect, of the Authority or others relating to or arising out of the contract including claims arising out of breach of contract and claims based on claims of third persons.

The Vendor's agreement as provided in the immediately preceding paragraph above shall be deemed to be part of the consideration forming part of this contract as a whole and not to be gratuitous; but in any event even if deemed gratuitous and without consideration, such agreement as provided in the immediate preceding paragraph above shall nevertheless be enforceable. Such release shall include all claims, whether or not in litigation and even though still under consideration by the Authority. Such release shall be effective notwithstanding any purported reservation of rights by the Vendor to preserve such claim. The acceptance of any check designated as "Final Payment" or bearing any similar designation shall be conclusively presumed to demonstrate the intent of the Vendor that such

payment was intended to be accepted as final, with the consequences provided in this numbered clause.

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

#### **14. EXTRA WORK**

The Vendor is required to provide separate materials, supplies, equipment and personnel for Extra Work when such is deemed necessary by the Engineer. "Extra Work" as used herein shall be defined as work within the scope of services described in this Agreement that causes an increase or decrease in the cost of, or the time required for performance of, the agreed-upon work under this Agreement.

The Engineer may order Extra Work in writing at any time when making changes to the general scope of this Agreement. If such change causes an increase or decrease in the cost of, or the time required for performance of the agreed upon work, an equitable adjustment.

The Engineer will issue, in writing, a Request for Quotation (RFQ) to the Vendor for cost and time impacts of the Extra Work to be performed.

- (a) The Vendor shall submit an Extra Work proposal 15 days after receipt of the RFQ, or as otherwise specified by the Engineer. Said proposal shall include the total proposed cost of the Extra Work, detailed in accordance with the cost breakdown specified herein, together with any associated proposed revision to the Agreement schedule.
- (b) If the Vendor fails to submit an Extra Work proposal within the specified time, or if in the sole opinion of the Engineer, such Extra Work proposal submitted by the Vendor is not representative of the Extra Work to be performed, or for any other reason, the Engineer may nevertheless direct the Vendor to proceed with such Extra Work in writing. Failure to perform such Extra Work when directed by the Engineer, even in the absence of agreement as to price, schedule impact, payment terms, or other issues, may be grounds for default.

Compensation for such Extra Work shall be determined by mutual agreement between the Engineer and the Vendor. In the event that the Vendor becomes aware of anything that may affect the scope of work or services that may result in an adjustment of the cost or the time required for performance, the Vendor shall advise the Engineer immediately upon notice of

such condition. The written notice shall explain the circumstances giving rise to the Extra Work and shall set forth the proposed adjustment in compensation or time. This notice shall be given to the Engineer prior to the time that the Vendor perform work or services related to the proposed adjustment.

Implementation of Extra Work by the Vendor without advance written notice and approval from the Engineer may, at the Engineer's sole discretion, result in nonpayment of the invoices reflecting such Extra Work. Compensation for such Extra Work shall be determined by mutual agreement between the Engineer and the Vendor.

Extra Work proposals shall be priced as described below, and shall include all associated information and calculations. Subcontractors' costs in the Extra Work proposals shall be detailed in the same cost breakdown specified herein.

However, should the parties fail to reach such an agreement, the Vendor's compensation shall be increased by the following amounts and such amounts only:

In the case of Extra Work performed by the Vendor itself, an amount equal to the actual direct cost in money of (a) labor required for such Extra Work, plus a fixed dollar amount, as determined by the Engineer, not to exceed the amount that is equal to ten percent (10%) of the Engineer's final estimate of the direct cost in money for labor as required for such Extra Work, (b) materials required for work performed plus a fixed dollar amount, as determined by the Engineer, not to exceed the amount that is equal to five percent (5%) of the Engineer's final estimate of the direct cost in money for materials as required for such Extra Work, and (c) such rental for equipment (other than small tools) required for such Extra Work as the Engineer deems reasonable.

In the case of Extra Work performed by a subcontractor, an amount equal to the sum of (a), (b) and (c) above, plus a fixed dollar amount, as determined by the Engineer, not to exceed the amount that is equal to five percent (5%) of the sum of the foregoing costs, percentage of cost, and rental provided that any such Subcontract has been approved, in advance, by the Engineer. In no case shall the amount of the aggregate mark-up for the Vendor and all of his subcontractors at every tier exceed the dollar amount that is equal to twenty and three quarters per cent (20.75%) of the direct cost of the Extra Work

Subcontractors' costs in the Extra Work quote shall be detailed in the same cost breakdown specified herein, except that the first tier subcontractor shall not be allowed any overhead or profit on any of the lower tier sub-subcontractor Work.

## **15. TIMES FOR PERFORMANCE**

The Vendor shall complete the performance of the delivery and acceptance of all of the units, as described in the clause hereof entitled "delivery." The Vendor's obligation for the performance within the times provided for in this agreement is of the essence of this agreement. The Vendor guarantees that it can and will complete such performance within the times hereinbefore stipulated or within the times as extended in accordance with the terms of this agreement.

## **16. INTELLECTUAL PROPERTY**

The right to use all patented materials, appliances, processes of manufacture or types of construction, trade and service marks and copyrights, collectively hereinafter referred to as the “intellectual property rights” in the performance of the work shall be obtained by the Vendor without separate or additional compensation. The Vendor shall indemnify the Port Authority against and save it harmless from all loss and expense incurred as a result of any claims in the nature of intellectual property rights infringement arising out of the Port Authority’s use, in accordance with the immediately preceding statement, of any protected intellectual property rights. The Vendor, if requested, shall conduct all negotiations with respect to and defend such claims. If the Port Authority be enjoined either temporarily or permanently from the use of any subject matter as to which the Vendor is to indemnify the Port Authority against infringement, then the Port Authority may, without limiting any other rights it may have, require the Vendor to supply temporary or permanent replacement vehicles/units approved by the Engineer, and if the Vendor fails to do so the Vendor shall, at its expense, remove all such enjoined vehicles/units and refund the cost thereof to the Port Authority or take such steps as may be necessary to insure compliance by the Port Authority with said injunction, to the satisfaction of the Port Authority.

## **17. VENDOR’S WARRANTIES**

The Vendor represents and warrants:

- A.** That it is financially solvent, that it is experienced in and competent to perform the requirements of this contract, that the facts stated or shown in any papers submitted or referred to in connection with its proposal are true, and, if the Vendor be a corporation, that it is authorized to perform this contract;
- B.** That it has carefully examined and analyzed the provisions and requirements of this contract, and that from its own investigations it has satisfied itself as to the nature of all things needed for the performance of this contract, the general and local conditions and all other matters which in any way affect this contract or its performance, and that the time available to it for such examination, analysis, inspection and investigation was adequate;
- C.** That the contract is feasible of performance in accordance with all its provisions and requirements and that it can and will perform it in strict accordance with such provisions and requirements;
- D.** That no commissioner, officer, agent, or employee of the Authority is personally interested directly or indirectly in this contract or the compensation to be paid thereunder; That, except only for those representations, statements or promises expressly contained in this contract, no representation, statement or promise, oral or in writing, of any kind whatsoever by the Authority, its commissioners, officers, agents, employees, or consultants has induced the Vendor to enter into this contract or has been relied upon by the Vendor, including any with reference to: (1) the meaning, correctness, suitability, or completeness of any provisions or requirements of this contract; (2) the nature, quantity, quality, or size of the materials, equipment, labor, and other facilities needed for the performance of this contract; (3) the general or local conditions which may in any way affect this contract or its performance; (4) the price of the contract; or (5) any other matters, whether similar to or different from those referred to in (1) through (4) immediately above, affecting or having any connection with this contract, the bidding thereon, any discussions thereof, the performance thereof or those employed therein or connected or concerned therewith.

## **18. TERMINATION PROVISIONS, AND RIGHTS AND REMEDIES**

Any right of termination set forth in this paragraph shall be in addition to and not in lieu of any and all rights and remedies that the Port Authority shall have at law or in equity consequent upon the Contractor's breach of this Contract and shall be without prejudice to any and all other rights and remedies available to the Port Authority. It is hereby specifically agreed and understood that the exercise by the Port Authority of any right of termination set forth in this paragraph shall not be or be deemed to be an exercise by the Port Authority of an election of remedies that would preclude the Port Authority from exercising any right to money damages it may have for the period prior to the effective date of termination to the original expiration date of the Contract, and this provision shall be deemed to survive the termination of this Contract as aforesaid.

### **I. Termination due to Impossibility of Performance**

a. If one or more of the following events shall occur:

1. If fire or other cause shall destroy all or a substantial part of the Facility.
2. If any governmental agency shall condemn or take a temporary or permanent interest in all or a substantial part of the Facility, or all of a part of the Port Authority's interest herein;

then upon the occurrence of such event or at any time thereafter during the continuance thereof, the Port Authority shall have the right on twenty-four (24) hours written notice to the Contractor to terminate this Contract, such termination to be effective upon the date and time specified in such notice.

In such event this Contract shall cease and expire on the effective date of termination as if said date were the date of the expiration of this Contract. Such termination shall not, however, relieve the Contractor of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of termination.

b. If one or more of the following events shall occur:

1. The Contractor shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property; or
2. By order or decree of a court the Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors, or, if the Contractor is a corporation, by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or
3. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Contractor and shall not be dismissed within thirty (30) days after the filing thereof; or

4. The interest of the Contractor under this Contract shall be transferred to, passed to or devolve upon, by operation of law or otherwise, any other person, firm or corporation, or
5. The Contractor, if a corporation, shall, without the prior written approval of the Port Authority, become a surviving or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or
6. If the Contractor is a partnership, and the said partnership shall be dissolved as the result of any act or omission of its copartners or any of them, or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or
7. By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Contractor and such possession or control of all or substantially all of the property of the Contractor and shall continue in effect for a period of fifteen (15) days;

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Port Authority shall have the right upon five (5) days' notice to the Contractor to terminate this Contract and the rights of the Contractor hereunder; termination to be effective upon the date and time specified in such notice as if said date were the date of the expiration of this Contract. Termination shall not relieve the Contractor of any liabilities or obligations hereunder which have accrued on or prior to the effective date of termination.

## **II. Termination for Cause or Convenience**

The Port Authority may terminate this contract, in whole or in part, at any time by written notice to the Contractor for cause or when it is in the Authority's best interest (for convenience), pursuant to 49 C.F.R. 13.36 (i)(2) and 2 CFR 200, Appendix II (B). In the event of termination for convenience, the Contractor will be paid its costs as provided for in the Contract, for work performed up to the time of termination for convenience.

### **1. Termination for Cause**

a. If any of the following shall occur:

1. The Contractor shall cease working, abandon any part of his performance, desert, stop or discontinue its services in the premises for any reason whatsoever and regardless of the fault of the Contractor; or
2. The Contractor shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Contract on its part to be kept, performed or observed, within five (5) days after receipt of notice of default thereunder from PATH or the Port Authority on behalf of the Port Authority (except where fulfillment of its obligations requires activity over a greater period of time, and the Contractor shall have commenced to perform whatever may be required for fulfillment within five (5) days after receipt of notice and continues



such performance without interruption except for causes beyond its control); then upon the occurrence of any such event or during the continuance thereof, the Port Authority shall have the right on twenty-four (24) hours' notice to the Contractor to terminate this Contract and the rights of the Contractor hereunder, termination to be effective upon the date and time specified in such notice. Termination shall not relieve the Contractor of any liabilities which shall have accrued on or prior to the effective date of termination.

- b. If any of the events enumerated in this Section shall occur prior to commencement date of this Contract, the Port Authority, upon the occurrence of any such event or any time thereafter during the continuance thereof by twenty-four (24) hours' notice, may terminate or suspend this Contract and the rights of the Contractor hereunder, such termination or suspension to be effective upon the date specified in such notice.
- c. No payment by the Port Authority of any monies to the Contractor for any period or periods after default of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Contractor and no act or thing done or omitted to be done by the Port Authority shall be deemed to be a waiver of the right of the Port Authority to terminate this Contract or of any other right or remedy to which the Port Authority maybe entitled because of any breach thereof. No waiver by the Port Authority of any default on the part of the Contractor in the performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Contractor shall be or be construed to be a waiver by the Port Authority of any other subsequent default in the performance of any of the said terms, covenants and conditions.

## **2. Termination for Convenience**

- a. In addition to all other rights of revocation or termination hereunder and notwithstanding any other provision of this Contract, the Port Authority may terminate this Contract and the rights of the Contractor hereunder for convenience at any time upon five (5) days written notice to the Contractor; and in such event this Contract shall cease and expire on the date set forth in the notice of termination as fully and completely as though such date were the original expiration date hereof; and if such effective date of termination is other than the last day of the month, the amount of the compensation due to the Contractor from the Port Authority shall be prorated when applicable on a daily basis. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed, but no allowance shall be made for anticipated profits.

## **III. Rights and Remedies**

- a. If (1) the Contractor fails to perform any of its obligations under this Contract or any other agreement between PATH or the Port Authority and the Contractor (including its obligation to PATH or the Port Authority to pay any claim lawfully made against it by any supplier, subcontractor or worker or other person which arises out of or in connection with the performance of this Contract or any other agreement with PATH or the Port Authority) or (2) any claim (just or unjust) which arises out of or in connection with this Contract or any other agreement between PATH or the Port Authority and the Contractor is made against the Port Authority or PATH or (3) any subcontractor under this Contract or any other agreement between PATH or the Port

Authority and the Contractor fails to pay any claims lawfully made against it by any supplier, subcontractor, worker or other third person which arises out of or in connection with this Contract or any other agreement between PATH or the Port Authority and the Contractor or (4) if in the opinion of PATH or the Port Authority any of the aforesaid contingencies is likely to arise, then the Port Authority or PATH, as applicable, shall have the right, in its discretion, to withhold out of any payment (final or otherwise) such sums as the Port Authority may deem ample to protect it against delay or loss or to assure the payment of just claims of third persons, and to apply such sums in such manner as the Port Authority may deem proper to secure such protection or satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Port Authority to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of such payment, shall not be deemed to indicate that the Port Authority does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Port Authority to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such rights by the Port Authority shall create any obligation of any kind to such supplier, subcontractor, worker or other third person. If, however, the payment of any amount due the Contractor shall be improperly delayed, the Port Authority will pay the Contractor interest thereon at the rate of 6% per annum for the period of the delay, it being agreed that such interest shall be in lieu of and in liquidation of any damages to the Contractor because of such delay.

- b. If the Port Authority has paid any sum or has incurred any obligation or expense which the Contractor has agreed to pay or reimburse the Port Authority, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligation or expense by reason of the failure, neglect or refusal of the Contractor to perform or fulfill any one or more of the conditions, covenants, or agreements contained in this Contract, or as a result of an act of omission of the Contractor contrary to the said conditions, covenants and agreements, the Contractor shall pay to the Port Authority the sum or sums so paid or expense so incurred, including all interests, costs and damages, promptly upon the receipt of the Port Authority's statement therefor. The Port Authority may, however, in its discretion, elect to deduct said sum or sums from any payment payable by it to the Contractor.
- c. If the Port Authority pays any installment to the Contractor without reducing said installment as provided in this Contract, it may reduce any succeeding installment by the proper amount, or it may bill the Contractor for the amount by which the installment paid should have been reduced and the Contractor shall pay to the Port Authority any such amount promptly upon receipt of Path's statement therefor.
- d. The Port Authority shall also have the rights set forth above in the event the Contractor shall become insolvent or bankrupt or if its affairs are placed in the hands of a receiver, trustee or assignee for the benefit of creditors.

## **19. RIGHTS OF THE PORT AUTHORITY**

If the Vendor is guilty of any breach hereof, the Port Authority shall be entitled:

- A. To withhold out of monies otherwise due such sums as the Engineer deems necessary to protect it from loss or delay and to apply such sums from the Vendor's account as the Engineer deems best to secure such protection.
- B. To have any work completed for the Vendor's account either itself or through others.
- C. To cancel this agreement as to all or any part of the uncompleted portion thereof.
- D. To obtain specific performance, an injunction or any other appropriate equitable remedy.
- E. To money damages.
- F. To exercise any other appropriate right or remedy at law or in equity.

For the purpose of this agreement, breach shall include, but shall not be limited to, the following, whether or not the time has yet arrived for performance of an obligation under this agreement: a statement by the Vendor to the Authority indicating that it cannot or will not perform any one or more of its obligations under this agreement; any act or omission of the Vendor or any other occurrence which makes it improbable at the time that it will be able to perform any one or more of its obligations under this agreement; any suspension of or failure to proceed with any part of the work by the Vendor which makes it improbable at the time that it will be able to perform any one or more of its obligations under this agreement; any false certification at any time by the Vendor as to any material item certified pursuant to the clauses of Part II hereof (Contractor's Integrity Provisions), or the willful or fraudulent submission of any signed statement pursuant to such clauses which is false in any material respect; or the Vendor's incomplete or inaccurate representation of its status with respect to the circumstances provided for in such clauses.

The enumeration in this numbered clause or elsewhere in this agreement of specific rights and remedies of the Authority shall not be deemed to limit any other rights or remedies which the Authority would have in the absence of such enumeration or act as a waiver of any other of its rights or remedies not inconsistent therewith or to stop it from exercising such other rights or remedies.

## **20. RIGHTS OF THE VENDOR**

Inasmuch as the Vendor can be adequately compensated by money damages for any breach of this contract which may be committed by the Authority, the Vendor expressly agrees that no fault, act or omission of the Authority shall constitute a material breach of this contract, entitling him to cancel or rescind it or to suspend or abandon performance.

## **21. VENDOR NOT AN AGENT**

This Agreement does not constitute the Vendor the agent or representative of the Port Authority for any purpose whatsoever except as may be specifically provided in this Agreement. It is hereby specifically acknowledged and understood that the Vendor, in performing its services hereunder, is and shall be at all times an independent Vendor and the officers, agents and employees of the Vendor shall not be or be deemed to be agents, servants or employees of the Port Authority.

## **22. ASSIGNMENTS**

The Vendor shall not delegate, assign, or otherwise transfer this contract or any rights or obligations hereunder or any monies due or to become due hereunder without the express written consent of the Port Authority. The Vendor may, however, subcontract portions of the work to be performed provided that the Engineer expressly so permits in writing. No subcontractor shall have any rights against the Port Authority and all subcontractors shall be deemed the Vendor's agents.

No delegation of performance by the Vendor shall relieve the Vendor either of the duty to perform or of any liability for breach.

## **23. NO ESTOPPEL OR WAIVER**

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

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

## **24. COMPLIANCE WITH RULES AND REGULATIONS**

The vehicles/units to be provided under this Contract shall comply with all the latest regulations and provisions of federal, State of New York, and State of New Jersey, ordinances, codes, rules, regulations, orders, permits, and licenses and with fire underwriter's requirements, which would be applicable if the Port Authority were a private corporation and as if these units were for over-the-road use, except that, where the requirements set forth in the specifications are more stringent, those specifications shall control.

In addition, the completed units shall comply with the latest published codes and regulations of the following:

- All applicable requirements set forth in 49CFR
- DOT (Department of Transportation), requirements
- FMVSS (Federal Motor Vehicle Safety Standards)
- Regulations of the States of New York and New Jersey
- ASME (American Society of Mechanical Engineers)
- SAE (Society of Automotive Engineers)
- National Electrical Code
- NFPA (National Fire Protection Association)
- National Fluid Power Association

Port Authority regulations entitled: "The Port Authority Airport Rules And Regulations." A copy of "The Port Authority Airport Rules And Regulations" may be obtained by calling Aviation Technical Services at (212) 435-3696 or a copy may be obtained from the websites:

[www.panynj.gov/airports/pdf/Rules\\_Regs\\_Revision\\_8\\_04\\_09.pdf](http://www.panynj.gov/airports/pdf/Rules_Regs_Revision_8_04_09.pdf)

[www.panynj.gov/airports/pdf/rr-appendix-b.pdf](http://www.panynj.gov/airports/pdf/rr-appendix-b.pdf)

- All other rules and regulations as required or used in standard industry practices that govern the design for the efficient and proper function of the vehicle

## **25. ERRORS AND OMISSIONS**

If the Vendor discovers any errors or omissions in the specifications, in the drawings or in the work undertaken and executed by him, he shall immediately notify the Engineer and the Engineer shall promptly verify the same. If, with the knowledge of such error or omission and prior to the correction thereof, the Vendor proceeds with any work affected thereby, he shall do so at his own risk, and the work so done shall not be considered as work done under and in performance of this agreement unless and until approved and accepted.

## **26. MATERIALS AND WORKMANSHIP**

All equipment furnished and the parts thereof shall be the manufacturers' latest listed and published stock models, except where modification is specifically permitted or required. The equipment and parts shall meet all the applicable requirements of the Specifications.

Any reference to a specific product in these Contract Documents is to indicate

approved products or details. Other products or details will be considered suitable if they meet the intent of the performance characteristic cited or are comparable to the product or detail cited. The Port Authority shall be the sole judge of as to whether a proposed substitution will be approved, and no substitution shall be ordered or utilized without the Engineer's prior written approval. The Port Authority may require the Contractor to furnish, at the Contractor's expense, a special performance guarantee or other assurance with respect to any approved substitution. Furthermore, the approval of any substitute proprietary item or make shall not in any way entitle the Contractor to additional compensation therefor. If the Contractor fails to deliver a suitable approved equal that is acceptable to the Engineer, then the Contractor shall supply the item specified herein, as more fully described in the Specifications.

Brand name or equal descriptions are used as a means to define the performance or other salient characteristics of procurements. In the subject solicitation, even if the phrase “or approved equal” is inadvertently omitted, it is implied after any brand name.

All materials used shall be new unless otherwise specified. All design, workmanship, and materials shall at all times and places be subject to the inspection of the Engineer. Should they fail to meet his approval, they shall be forthwith made good, replaced, or corrected (as the case may be) by the Vendor at its own expense.

## **27. APPROVAL BY ENGINEER**

The approval by the Engineer of any workmanship, materials, drawings, designs, or details of construction of the unit shall be construed merely to mean that, at that time, the Engineer knows of no good reason for objecting thereto, and no such approval shall release the Vendor from his full responsibility for the satisfactory construction and operation of the unit.

The decision of the Engineer shall be final and binding on the parties as to the quality, acceptability, and fitness of all parts of the unit, as to conformity of the unit with, and as to the interpretation of, the specifications, drawings, and technical requirements of this agreement and as to all questions in connection with the work hereunder.

Whenever the words "approved," "required," "satisfactory," "necessary," "equal," or words of similar import are used in this agreement, they shall mean approved or required by the Engineer and satisfactory, necessary, or equal in the opinion of the Engineer.

## **28. VEHICLE WARRANTIES**

The Vendor warrants and guarantees each vehicle against any defects in design, workmanship, and materials and against failure to operate satisfactorily for a minimum period of one (1) year from the date on which the vehicle is placed in-service, other than defects or failures shown by the Vendor to have arisen solely from accident or abuse occurring after acceptance by the Engineer, and agrees to replace any part or parts, which in the opinion of the Engineer shall fail for the above reasons. In addition, if at any time after the above warranty periods any defects arise or are found in the design of the vehicles, the Vendor shall inspect the causes in detail at a Port Authority facility, report its findings to the Engineer, and correct the defects as required and in agreement with the Engineer. All repairs shall be performed within twenty-four (24) hours of reporting a warranty repair item, and if a longer time is needed because of parts, redesign, or testing, additional time may be granted if the Vendor demonstrates that it is taking every possible step to resolve all issues and submits a letter indicating an estimated completion date. The Vendor shall be responsible for all costs (including parts, labor, vehicle transportation charges, etc.) required to perform any warranty work or to correct any defects. If any warranty work or work required to correct any defects requires transporting the vehicle back to the Vendor's plant or to any other shop, the Vendor shall be responsible for all costs and making the proper arrangements in a timely manner. In addition, after delivery of each vehicle, if the vehicle is to be transported out of any Port Authority facility, the Vendor shall be fully as responsible for each complete vehicle in his possession as he was prior to its receipt by the Authority and shall provide all vehicle liability insurance as required by the Port Authority, covering the vehicle(s) until re-delivery to and acceptance.

Notwithstanding the specific requirements of this agreement, any inspection or acceptance of the vehicle, the foregoing warranty, or the existence of any patent or trade name, the Vendor nevertheless warrants and represents that the vehicle shall be of the best quality and shall be fully fit for the purposes for which it is to be used. The foregoing warranty shall not, however, be a limitation on any rights, which the Port Authority would have, either expressed or implied, in connection with this agreement in the absence of such guaranty, the said guaranty being given only for the greater assurance of the Port Authority.

In the event of a failure which places the vehicle in an "out of service" status, as determined by the Engineer, the Vendor agrees to perform an inspection within twenty-four (24) hours after the Engineer notifies the Vendor of such failure. Upon determination by the Engineer that the failure is to be repaired by the Vendor under this warranty, the Vendor agrees to either replace the failed component or repair it, the repair of same to commence within twenty-four (24) hours after the determination of the Engineer. In the event that the component is to be replaced, the Vendor agrees to have the replacement item shipped within twenty-four (24) hours after the Engineer's determination.

### **29. AVAILABILITY OF SPARE PARTS**

The Vendor warrants that it shall maintain, or have maintained, a stock of spare parts at inventory levels for the period described in the immediately following paragraph.

The Vendor shall itself, or through a dealer, supply (at prices not in excess of those charged any other owners of vehicles), spare parts required to support the units to be supplied hereunder for ten (10) years from the date of delivery of the last vehicle. These parts shall be available within seventy-two (72) hours of placement of an order. In order to meet this requirement, the Vendor may maintain a spare parts outlet or contract with a customs broker to expedite the customs clearance of foreign parts. It shall, however, remain the responsibility of the Vendor to meet the seventy-two (72) hour delivery requirement.

### **30. PARTS INTERCHANGEABILITY:**

All components of each type of unit in this order shall be identical; i.e., alternators, filters, distributors, hydraulic pumps, hydraulic valves, etc.

### **31. PRINCIPLES OF DESIGN**

These vehicles must be designed for maximum safety, reliability, and ease of operation. Every effort is to be taken by the manufacturer to assure that the principles of human Engineering and ergonomics are designed into the functional controls of the vehicle. Systems on the unit shall incorporate the use of fail-safe design to assure maximum safety while in operation. Adequate redundancy must be built into any system as deemed necessary. Specific applications of these principles will be evidenced in design criteria including:

**A.** The vehicle weight distribution shall be properly distributed with a laden or unladen vehicle to provide the proper loading on all axles, and provide the vehicle with the proper traction, steering, other driveability factors.

**B.** All bolts, washers, and nuts used to assemble all structural components and any high fatigue parts shall be Grade 8 with elastic self-locking type nuts. All bolts, washer, and nuts used shall be manufactured in the United States of America.

**C.** All electronic system wiring shall be properly shielded as required to assure that circuits are not affected by other vehicle systems or any external interferences.

**D.** All vehicle components and systems shall operate without being affected by interference damage or disruption including detrimental effects or interference to on-board computer modules from either vehicle generated noise, or stray Electromagnetic Frequency (“EMF”) or Radiomagnetic Frequency (“RMF”) fields encountered from any airport operations. EMF and RMF noise sources that may be generated by the vehicle, especially if such noise is detrimental to aircraft, Air Traffic Control, or air navigation equipment, shall be shielded. In the event a unit is found to create or encounter EMF or RMF problems, the Vendor will be responsible for remedying the problem to the satisfaction of the Authority.

**E.** All systems shall be designed to allow quick and efficient operation of the unit.

Pneumatic, electrical, electronic, hydraulic, and other systems shall be operational within a minimum amount of temperature stabilization, and accumulator or system build-up.

**F.** All operating controls, light switches, and controls for auxiliary equipment shall be clearly and permanently marked and identified by means of resistant plastic identification plates with recessed lettering of a contrasting color. Should be powered to run with the ignition in a key on position.

**G.** The use of pilot lights or indicators for all controls or switches.

**H.** Venting systems for vehicle fuel, coolant, hydraulics, etc., shall not discharge or vent over any equipment, but shall direct such overflows to a suitable recovery system in order not to cause an environmental spill.

**I.** All emergency shut-off valves shall be properly identifiable, as to location and operation.

**J.** All controls shall be immediately identifiable as to the correct positioning by logic of operation or clear indications.

**K.** All gauges shall be suitably marked as to the intended purpose and shall be easily visible by the operator.

**L.** All systems requiring servicing shall be equipped with approved self-contained checking devices. The preferred check device for hydraulic system reservoir shall be sight gauges that are clearly marked to show service level and type of fluid. Pressure gauges shall be installed on accumulators, on all other components, or elsewhere as required with easily connectable service ports in close proximity.

**M.** Diesel engine(s) shall be approved for continuous operation using fuel meeting specifications for No. 1 or No. 2 diesel as set forth in ASTM D-976 combined with 20% Biodiesel meeting specification ASTM D 6751 for Biodiesel fuel. If these fuels require additives or involve restrictions, all such requirements, restrictions, and concerns are to be submitted in writing with the bid for PATH’s approval. Instructions shall be detailed in a placard or decal located at the fuel fill location as close to the fill neck as practical.

Steps, stairways, ladders walkways handholds, handrails, and used to access the cab, maintenance and operational areas or other parts of the equipment shall conform to the most recent edition of SAE J185 – Access Systems for Off-Road Machines, using the ‘preferred’ dimensions offered in this standard

### **32. ACCESSIBILITY OF COMPONENTS**

All parts of the unit and auxiliary equipment shall be easily accessible for inspection, operation, and maintenance. All electrical components shall be centrally located and enclosed in an airtight weatherproof electrical box. All air system components shall also be centrally located and marked. All components shall be readily removable and replaceable.



These features are considered mandatory and the unit will be closely inspected to assure conformance with these requirements.

If, in the opinion of the Engineer, any part or component is not readily accessible, removable, or replaceable, the Engineer may require the Vendor to correct these deficiencies at the Vendor's own expense, before acceptance. Any departure from the requirements of these specifications shall be immediately remedied by the Vendor at his own expense.

### **33. MARKING OF CONTROLS**

All operating controls, light switches, and accessory equipment that may be installed on the unit shall be clearly and permanently marked and identified by a metal or oil resistant plastic identification plates with stamped recessed lettering filled with a contrasting color paint. The lettering for the instrument panel controls shall be approximately one-half (1/2") inch high and approximately one (1") inch high for all other locations. The above shall apply to all controls. All switches shall be "on" in the up position.

### **34. IDENTIFICATION CARDS**

Each delivered vehicle shall have a 5" x 9" index card affixed to the inside of the windshield. This card shall contain the following information and shall be visible from the outside of the vehicle:

Vendor's Name

Purchase Order Number

Make & Model

Port Authority Engineer's Name (listed on purchase order)

Vehicle Identification Number (VIN)

### **35. SERVICING BEFORE DELIVERY (MAKE-READY)**

Prior to delivery, each vehicle shall be completely serviced by the Vendor in its shop, including engine tune-ups, lubrication, and wheel alignment. Equipment with water-cooled engines being delivered shall be protected with permanent anti-freeze to a minimum of -40°f. The anti-freeze shall contain corrosion inhibitors. All systems on the unit shall be fully serviced and filled with all required fluids, and be ready for the full in-service operation. A copy of the Vendor's final inspection form shall be forwarded to the Engineer with the invoice.

### **36. CERTIFICATE OF ORIGIN**

The Vendor shall submit to the Engineer seven (7) days before delivery of each unit, the certificate of origin for a vehicle. This certificate shall be fully completed so as to enable the transfer of ownership to the Port Authority of NY & NJ.

If the Vendor or the truck dealer is based in the state of New York, the Vendor shall also submit with the above certificate of origin, the New York State Certificate of Sale, form MV-50, fully completed.

If the Vendor or the truck dealer is based in the state of New Jersey, the Vendor, in addition to submitting the above certificate of origin, must conform to New Jersey state motor vehicle requirements.

The above document(s) shall be sent to:

The Port Authority of NY & NJ  
Port Authority Technical Center  
Central Automotive Division  
241 Erie Street, Room 307  
Jersey City, New Jersey 07310-1397  
Attn: Mark A. Gernavage, Engineer

All licensing documents shall be sent to the above address but shall show the legal address as follows:

The Port Authority of NY & NJ  
4 World Trade Center  
150 Greenwich Street  
New York, NY 10007

### **37. INSPECTION AND ACCEPTANCE TESTING**

Inspection of workmanship, materials, designs, and performance of the unit may be made at the Vendor's factory at the sole discretion of the Engineer. The Port Authority will pay all expenses of its inspectors. The Engineer will inspect each unit delivered to insure that the unit meets all requirements of the specifications. The Engineer will also conduct acceptance testing utilizing the tests set forth in the specifications. Upon satisfactory completion of the inspection and the acceptance testing, the Engineer will advise the Vendor, in writing, of vehicle acceptance. Any defect or failure to comply with any requirements of these specifications shall be immediately remedied by the Vendor at its own expense prior to retesting of the unit.

### **38. QUALITY CONTROL**

Critical components and the complete unit must demonstrate compliance with these specifications. The Vendor shall be responsible for assuring the quality control of his suppliers and shall arrange for the required tests, certifications, and for the test location and all equipment required for testing. The Vendor shall notify the Engineer when major components are ready for testing, and the Engineer will decide whether representatives of the Authority will be present at the tests.

The Vendor shall develop and submit for the Engineer's approval test plans covering all tests required to be performed hereunder. All such tests shall be performed in accordance with the approved plans.

If the unit or any component fails a test, the unit or component must be retested when the deficiencies have been corrected. The Engineer may at his sole discretion require extra testing of the failed unit or component or of all units or components to assure that the noncompliance was not the result of a design error or indicative of the inability of the unit or component to withstand the intended service.

The Port Authority shall have the option of witnessing the following specific tests on randomly selected finished vehicles to assure that they meet minimum performance requirement:

A. Vehicle driveability to include vehicle weight distribution, braking, top speed, etc.

- B. Interlock and parking brake system
- C. Other tests as specified elsewhere in these specifications, required, or as requested by the Engineer.

### **39. RISKS ASSUMED BY THE VENDOR**

To the extent permitted by law, the Contractor shall indemnify and hold harmless the Port Authority, its Commissioners, Directors, agents, servants, officers, representatives and employees from and against all claims and demands, just or unjust, of third persons (including Contractor's agents, servants, officers, representatives and employees) arising out of or in any way connected to or alleged to arise out of or alleged to be in any way connected with the Contract and all other services and activities of the Contractor under this Contract and for all expenses incurred by it and by them in the defense, settlement or satisfaction thereof, including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential, whether they arise out of or are in any way connected to the Contractor's operations or to its performance of work under this Contract, or arise out of the acts or omissions of the Contractor, the Port Authority, its Commissioners, Directors, agents, servants, officers, representatives or employees, third persons (including Contractor's agents, servants, officers, representatives and employees), or from the acts of God or the public enemy, or otherwise, including claims and demands of any local jurisdiction against the Port Authority in connection with this Contract.

The Contractor assumes the following risks, whether such risks arise out of or are in any way connected to the Contractor's operations or to its performance of work under this Contract, or arise out of acts or omissions (negligent or not) of the Contractor, the Port Authority or third persons (including agents, servants, officers, representatives, Commissioners, Directors and employees of the Port Authority and the Contractor) or from any other cause, excepting only risks occasioned solely by affirmative willful acts of the Port Authority done subsequent to the opening of proposals on this Contract, and shall to the extent permitted by law indemnify the Port Authority for all loss or damage incurred in connection with such risks:

- a. The risk of any and all loss or damage to Port Authority property, equipment (including but not limited to automotive and/or mobile equipment and component parts), materials and possessions, on or off the premises, the loss or damage of which shall arise out of the Contractor's operations hereunder. The Contractor shall if so directed by the Port Authority, repair, replace or rebuild to the satisfaction of the Port Authority, any and all parts of the premises or the Facility which may be damaged or destroyed by the acts or omissions of the Contractor, its officers, agents, or employees and if the Contractor shall fail so to repair, replace, or rebuild with due diligence the Port Authority may, at its option, perform any of the foregoing work and the Contractor shall pay to the Port Authority the cost thereof.
- b. The risk of any and all loss or damage of the Contractor's property, equipment (including but not limited to automotive and/or mobile equipment, and component parts) materials and possessions on the Facility.
- c. The risk of claims, whether made against the Contractor or the Port Authority, for any and all loss or damages occurring to any property, equipment (including but not limited to automotive and/or mobile equipment and component parts), materials and possessions of the Contractor's agents, employees, materialmen and others performing work hereunder.

d. The risk of claims for injuries, damage or loss of any kind whether just or unjust of third persons (including agents, servants, officers, representatives, Commissioners, Directors and employees of the Port Authority and the Contractor) arising or alleged to arise out of or in connection with the Contractor's operations or its performance of work hereunder, whether such claims are made against the Contractor or the Port Authority.

If so directed, the Contractor shall at its own expense defend any suit based upon any such claim or demand, even if such suit, claim or demand is groundless, false or fraudulent, and in handling such shall not, without obtaining 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 provision of any statutes respecting suits against the Port Authority.

Neither the requirements of the Port Authority under this Contract, nor of the Port Authority of the methods of performance hereunder nor the failure of the Port Authority to call attention to improper or inadequate methods or to require a change in the method of performance hereunder nor the failure of the Port Authority to direct the Contractor to take any particular precaution or other action or to refrain from doing any particular thing shall relieve the Contractor of its liability for injuries to persons or damage to property or environmental impairment arising out of its operations.

The making of final payment shall not release the Vendor from his obligations under this numbered clause. Moreover, neither the enumeration in this numbered clause nor the enumeration elsewhere in this contract of particular risks assumed by the Vendor or of particular claims for which he is responsible shall be deemed (1) to limit the effect of the provisions of this numbered clause or of any other clause of this contract relating to such risks or claims, (2) to imply that he assumes or is responsible for risks or claims only of the type enumerated in this numbered clause or in any other clause of this contract, or (3) to limit the risks which he would assume or the claims for which he would be responsible in the absence of such enumerations.

#### **40. HIGH SECURITY AREA**

Services under the Contract may be required in designated secure areas, as the same may be designated by the Engineer from time to time ("Secure Areas"). The Port Authority shall require the observance of certain security procedures with respect to Secure Areas, which may include the escort to, at, and/or from said high security areas by security personnel designated by the Contractor or any subcontractor's personnel required to work therein. All personnel that require access to designated secure areas who are not under positive escort by an authorized individual will be required to undergo background screening and personal identity verification.

Forty-eight (48) hours prior to the proposed performance of any work in a Secure Area, the Vendor shall notify the Engineer. The Vendor shall conform to the procedures as may be established by the Engineer from time to time and at any time for access to Secure Areas and the escorting of personnel hereunder. Prior to the start of work, the Vendor shall request a description from the Engineer of the Secure Areas which will be in effect on the commencement date. The description of Secure Areas may be changed from time to time and at any time by the Engineer during the term of the Contract.

## **41. NOTIFICATION OF SECURITY REQUIREMENTS**

The Authority has the responsibility of ensuring safe, reliable and secure transportation facilities, systems, and projects to maintain the well-being and economic competitiveness of the region. Therefore, the Authority reserves the right to deny access to certain documents, sensitive security construction sites and facilities (including rental spaces) to any person that declines to abide by Port Authority security procedures and protocols, any person with a criminal record with respect to certain crimes or who may otherwise pose a threat to the construction site or facility security. 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, or may make any amendments with respect to such requirements as determined by the Authority.

These security requirements may include but are not limited to the following:

- **Execution of Port Authority Approved Non-Disclosure and Confidentiality Agreements**

At the direction of the Port Authority, the Contractor shall be required to have its principals, staff and/or subcontractor(s) and their staff, execute Port Authority approved non-disclosure agreements.

- **Contractor/ Subcontractor identity checks and background screening**

The Port Authority's designated background screening provider may require 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; access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning, or the like.

The Contractor may be required to have its staff, and any subcontractor's staff, material-men, visitors or others over whom the Contractor/subcontractor has control, authorize the Authority or its designee to perform background checks, and a personal identity verification check. Such authorization shall be in a form acceptable to the Authority. The Contractor and subcontractors may also be required to use an organization designated by the Authority to perform the background checks.

As of January 29, 2007, the Secure Worker Access Consortium (S.W.A.C.) is the only Port Authority approved provider to be used to conduct background screening and personal identity verification, except as otherwise required by federal law and/or regulation (such as Security Identification Display Area (SIDA), the federal regulatory requirements for personnel performing Work at aviation facilities and the Transportation Worker Identification Credential for personnel performing in secure areas at Maritime facilities). Information about S.W.A.C., instructions, corporate enrollment, online applications, and location of processing centers can be found at <http://www.secureworker.com>, or S.W.A.C. may be contacted directly at (877) 522-7922 for more information and the latest pricing. The cost for said background checks for staff that pass and are granted a credential shall be reimbursable to the Contractor (and its subcontractors) as an out-of-pocket expense as provided herein. Staff that are rejected for a credential for any reason are not reimbursable.

- Issuance of Photo Identification Credential

No person will be permitted on or about the Authority construction site or facility (including rental spaces) without a facility-specific photo identification credential approved by the Authority. If the authority requires facility-specific identification credential for the Contractor's and the subcontractor's staff, the Authority will supply such identification at no cost to the Contractor or its subcontractors. Such facility-specific identification credential shall remain the property of the Authority and shall be returned to the Authority at the completion or upon request prior to completion of the individual's assignment at the specific facility. It is the responsibility of the appropriate Contractor or subcontractor to immediately report to the Authority the loss of any staff member's individual facility-specific identification credential. The Contractor or subcontractor shall be billed for the cost of the replacement identification credential. Contractor's and subcontractor's staff shall display Identification badges in a conspicuous and clearly visible manner, when entering, working or leaving an Authority construction site or facility.

Employees may be required to produce not less than two forms of valid/current government issued identification having an official photograph and an original, unlaminated social security card for identify and SSN verification. Where applicable, for sensitive security construction sites or facilities, successful completion of the application, screening and identify verification for all employees of the Contractor and subcontractors shall be completed prior to being provided a S.W.A.C. ID Photo Identification credential.

- Access control, inspection, and monitoring by security guards

The Authority may provide for Authority construction site or facility (including rental spaces) access control, inspection and monitoring by Port Authority Police or Authority retained contractor security guards. However, this provision shall not relieve the Contractor of its responsibility to secure its equipment and work and that of its subconsultant/subcontractor's and service suppliers at the Authority construction site or facility (including rental spaces). In addition, the Contractor, subcontractor or service provider is not permitted to take photographs, digital images, electronic copying and/or electronic transmission or video recordings or make sketches on any other medium at the Authority construction sites or facilities (including rental spaces), except when necessary to perform the Work under this Contract, without prior written permission from the Authority. Upon request, any photograph, digital images, video recording or sketches made of the Authority construction site or facility shall be submitted to the Authority to determine compliance with this paragraph, which submission shall be conclusive and binding on the submitting entity.

- Compliance with the Port Authority Information Security Handbook

The Contract may require access to Port Authority information considered Protected Information ("PI") as defined in the Port Authority Information Security Handbook ("Handbook"), dated October, 2008, corrected as of November 14, 2013, and as may be further amended. The Handbook and its requirements are hereby incorporated into this agreement and will govern the possession, distribution and use of PI if at any point during the lifecycle of the project or solicitation it becomes necessary for the Contractor to have access to PI. Protecting sensitive information requires the application of uniform safeguarding measures to prevent unauthorized disclosure and to control any authorized disclosure of this information within the Port Authority or when released by the Port Authority to outside entities. The following is an outline of some of the procedures, obligations and directives contained in the Handbook:

- (1) require that the Contractor and subcontractors, when appropriate, sign Non-Disclosure and Confidentiality Agreements (NDAs), or an Acknowledgment of an existing NDA, provided by the Authority as a condition of being granted access to Protected Information categorized and protected as per the Handbook;
  - (2) require that individuals needing access to PI be required to undergo a background check, pursuant to the process and requirements noted in § 3.2 of the Information Security Handbook.
  - (3) require Contractors and commercial enterprises to attend training to ensure security awareness regarding Port Authority information;
  - (4) specific guidelines and requirements for the handling of PI to ensure that the storage and protection of PI;
  - (5) restrictions on the transfer, shipping, and mailing of PI;
  - (6) prohibitions on the publication, posting, modifying, copying, reproducing, republishing, uploading, transmitting, or distributing PI on websites or web pages. This may also include restricting persons, who either have not passed a pre-screening background check, or who have not been granted access to PI, from viewing such information;
  - (7) require that PI be destroyed using certain methods, measures or technology pursuant to the requirements set forth in the Handbook;
  - (8) require the Contractor to mandate that each of its subcontractors maintain the same levels of security required of the Contractor under any Port Authority awarded contract.
  - (9) prohibit the publication, exchange or dissemination of PI developed from the project or contained in reports, except between Contractors and subcontractors, on a need to know basis, without prior approval of the Port Authority;
  - (10) require that PI only be reproduced or copied pursuant to the requirements set forth in the Handbook.
- Audits for Compliance with Security Requirements

The Port Authority may conduct random or scheduled examinations of business practices under this section entitled “NOTIFICATION OF SECURITY REQUIREMENTS” and the Handbook in order to assess the extent of compliance with security requirements, Confidential Information procedures, protocols and practices, which may include, but not be limited to, verification of background check status, confirmation of completion of specified training, and/or a site visit to view material storage locations and protocols.

#### **42. EQUAL EMPLOYMENT OPPORTUNITY, AFFIRMATIVE ACTION, NON-DISCRIMINATION**

The Contractor shall take all necessary and reasonable steps to ensure non-discrimination in the performance and administration of all aspects of this Contract.

- A. Contractor hereby agrees that no person on the ground of race, color, national origin, creed/religion, sex, age or handicap/disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the furnishing of goods or services or in the selection and retention of subcontractors and/or vendors under this Contract. Contractor shall also ascertain and comply with all applicable federal, state and local laws, ordinances, rules, regulations, and orders that pertain to equal employment opportunity, affirmative action, and non-discrimination in employment.
- B. Contractor agrees that these “Non-Discrimination Requirements” are a binding part of this

Contract. Without limiting the generality of any other term or provision of this Contract, in the event the Authority, or a state or federal agency finds that the Contractor or any of its subcontractors or vendors has not complied with these "Non-Discrimination Requirements", the Authority may cancel, terminate or suspend this Contract in whole or in part in accordance with these Automotive Procurement Standard Contract Terms and Conditions.

- C. Contractor agrees to cooperate fully with the Authority's investigation of allegations of discrimination. Cooperation includes, but is not limited to, allowing the Authority to question employees during the investigation of allegations of discrimination, and complying with directives that the Authority or the State or Federal government deem essential to ensure compliance with these "Non-Discrimination Requirements."

#### **43. SHIPMENT**

The Vendor shall ship the units under bills of lading designating the consignee as the Port Authority of New York and New Jersey, c/o Vendor, said bills of lading to provide that the Vendor will pay the insurance and freight charges, and the Port Authority will be the named insured on said insurance but risk of loss or damage until delivery shall be the Vendor's. In such case, the Vendor's obligations under the clause entitled "Risks Assumed by the Vendor" shall not be impaired.

If the Vendor's plant is located more than four hundred (400) miles from the designated delivery point, the Vendor shall ship the unit(s) by railroad or flatbed truck and the Vendor's obligations under the clauses entitled, "delivery" and "risks assumed by the Vendor" shall not be impaired.

If the Vendor's plant is more than four hundred (400) miles from the designated delivery point, at the Vendors request the Engineer may approve over-the-road transportation of the completed unit to the Port Authority, with an associated cost savings. In all such instances, the Vendor must utilize his own drivers, or the services of a licensed and bonded driveaway service having a Federal Motor Carrier Safety Administration rating of not less than "Satisfactory". In addition, his driver or the driveaway service must be specifically instructed, in writing, with copies provided to the Engineer prior to approval, as to all truck chassis, power train, tire, and other manufacturers' restrictions on speed, fuel, continuous hours of operation, and any other 'break-in' or operational restrictions. A driver's log and receipts shall be provided demonstrating compliance with the above stated restrictions. Finally, the vehicle must be cleaned, fueled, and prepared in accordance with requirements of this contract after transportation and prior to delivery to the Port Authority.

#### **44. NO THIRD PARTY RIGHTS**

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

#### **45. DELIVERY**

The Vendor shall deliver vehicle(s) to the delivery location(s) indicated in the table located in Paragraph 51 hereof; or, to any other location as directed by the Engineer within a fifty (50) mile radius of the Statue of Liberty. If the Engineer requests for the Vendor to drop-ship the



cab-chassis' or vehicle(s) to an alternate delivery location(s), the Vendor shall be responsible to make all necessary arrangements for the delivery(ies), and the Vendor and the Engineer shall mutually agree on any cost adjustments for delivery to the alternate delivery location.

The Vendor shall deliver the unit complete and ready for service, within two hundred and seventy (270) calendar days after receipt, by it, of the acceptance of its proposal.

The Vendor shall develop and maintain a weekly updated manufacturing and delivery schedule. Upon request, the Vendor shall submit to the Engineer, within two (2) days of the request, a copy of the updated manufacturing and delivery schedules.

The vehicles shall be shipped for sidewalk delivery to the location(s) indicated in the table in Paragraph 51 hereof. Sidewalk delivery is defined as the Vendor's responsibility for removing the vehicles from the truck and placement onto the ground at a location designated by receiving personnel.

Vehicles shipped by other than the Vendor's own truck shall not abrogate this responsibility. The Port Authority shall not be responsible for re-delivery charges as a result of failure to comply with this clause. Port Authority personnel will not be available to assist in off-loading vehicles.

The Vendor shall notify the Engineer of delivery, at least three (3) working days in advance. The deliveries shall be made to the location(s) indicated in the table at the end of this appendix.

All deliveries shall be made during the hours of 9:00 am to 2:00 pm Monday through Friday excluding holidays celebrated in the state of delivery. The equipment shall be deemed to have been delivered only if it is complete and in readiness for use and if it meets with the acceptance of the Engineer as elsewhere provided in this agreement. The times above-provided for delivery may be extended (subject, however, to the provisions of this numbered clause) only if in the opinion of the Engineer the Vendor is necessarily delayed in delivery solely and directly by a cause which meets both of the following conditions:

- A.** Such cause is beyond the Vendor's control and arises without his fault.
- B.** Such cause arises after the opening of proposals on this agreement and neither was, nor could have been, anticipated by investigation before such opening.

The Vendor shall provide the above conditions in writing and shall have an approval by the Engineer in writing. In any event, even though a cause of delay meets the above conditions, an extension shall be granted by the Engineer only to the extent that:

- A.** The delivery is actually and necessarily delayed.
- B.** The effect of such cause cannot be anticipated and avoided or mitigated by the exercise of all reasonable precautions, efforts, and measures (including planning, scheduling, and re-scheduling) whether before or after the occurrence of the cause of delay.

Notwithstanding the above, no extension of time shall be granted for a delay which would not have affected the time of delivery were it not for the fault of the Vendor or for other delay for which the Vendor is not entitled to an extension of time.

Any reference herein to the Vendor shall be deemed to include subcontractors and materialmen, whether or not in privity of contract with the Vendor, and employees of all the

foregoing. Therefore, the Vendor shall be charged with a delay caused by a subcontractor, materialmen or their employees.

The period of any extension of time shall be that necessary to make up the time actually lost, subject to the provisions of this numbered clause, and shall be only for those units actually delayed. The Engineer may defer all or part of his decision on an extension, and any extension may be rescinded or shortened if it subsequently is found that the delay can be overcome or reduced by the exercise of reasonable precautions, efforts, and measures.

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

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

It is the intent of this agreement that the Vendor shall assume the responsibility for manufacturing the units in a manner acceptable to the Engineer and, consequently, no disapproval by the Engineer of any drawings submitted by the Vendor or of any other act or omission of the Vendor shall be cause for an extension of time.

The Vendor assumes the risk of damages due to delay arising from any acts and causes whatsoever, including, but not limited to, wrongful acts and omissions of the Authority, its officers, employees, Vendors, and agents, and its sole remedy against the Authority shall be an extension of time as set forth herein.

#### **46. DRAWINGS, SCHEMATICS, AND FUNCTIONALITY CHARTS**

Within six (6) weeks after acceptance of its bid, the Vendor shall deliver to the Engineer for approval complete and fully detailed and dimensioned drawings in triplicate showing how it proposes to construct the complete unit with all equipment, the pumping system, the weight distribution of the complete unit both loaded and unloaded, and any other drawings, sketches and calculations requested by the Engineer. These drawings shall show the size and exact location of all principal parts as well as the method of mounting and other data necessary or desirable to provide complete information on what the Vendor proposes to furnish.

The Engineer will approve the drawings or require additions or corrections to be made therein, returning a copy of those drawings on which additions or corrections are required. The Vendor shall promptly make the required additions and corrections and resubmit such drawings within ten (10) days of their return to the Vendor in triplicate to the Engineer for his approval. Each unit as finally furnished and delivered shall be in strict accordance with the drawings as finally approved. Any work performed by the Vendor before approval of the drawings relating to such work shall be at the Vendor's risk and the work so done shall not be considered as work done under and in performance of this agreement unless and until approved and accepted by the Engineer.

All drawings, parts lists, data, and other papers of any type whatsoever, whether in the form of writing, figures, or delineations, which are prepared in connection with this agreement and submitted to the Authority, shall become the property of the Authority, except to the extent that rights are reserved to others under existing valid patents and are not given the Authority under the clause hereof entitled "intellectual property". Subject to the above, the Authority shall have the right to use or permit the use of all such drawings, data, and other papers, and any oral information received by the Authority, any ideas or methods represented by such papers and information for any purpose and at any time, without other compensation than that specifically provided herein. No such papers or information shall be deemed to have been given in confidence, and any statement and/or legend to the contrary on any of the said drawings, data, or other papers shall be void and of no effect.

The Vendor's drawings shall include but not be limited to the following:

- A. General layout of the complete unit, showing all dimensions of the general configuration, position of the major components, turning clearances, weight distribution (laden and unladen), and the location of the vehicle's center of gravity.
- B. Schematic of the following systems, showing all components with full make and part numbers (manufacturer's specification data shall be submitted with drawings): color coded for Identification of systems
  - Electrical and electronic system(s)
  - Pneumatic System(s)
  - Hydraulic System(s)
  - Functionality chart showing detailed operation of all systems in all modes of operation
- C. Any other drawings, schematics, charts, or documentation, as requested by the Engineer.

#### **47. OPERATION, MAINTENANCE, REPAIR DATA AND PROPRIETARY DIAGNOSTIC EQUIPMENT AND PROGRAMS**

The Vendor shall provide operations, parts and service manuals. The manuals shall cover the diagnosis and repair of all vehicle systems, specifically including, chassis, powertrain, wiring, emissions, vocational equipment, and all subsystems and components. Manuals shall be provided electronically on cd-roms or USB flash drives, and if cd-roms or USB flash drives are not available, as bound "hard" copies if not available electronically, or in a format

approved by the Engineer. All paper manuals shall be bound and assembled. Manuals are to be shipped per delivery instructions (see paragraph 51).

Do not ship the manuals with the unit.

The operating and maintenance or shop manual shall be the latest manufacturer's handbook, covering in detail the recommended operating, maintenance, and service procedures.

The repair or shop manual shall include detail drawings, schematic electric and hydraulic or other piping diagrams, and complete parts lists for all components of the unit and associated equipment furnished. The Vendor shall include a complete set of shop drawings as part of each shop manual.

Where components or equipment of several manufacturers have been used in assembling the unit, the manuals shall include operating, maintenance, and repair manuals and parts lists of all manufacturers, covering all of the components used.

Where the Vendor or manufacturer uses components manufactured by others in building equipment which it sells under its own trade name, the Vendor shall furnish the parts numbers and full data from the original manufacturers for all components used, as well as the part numbers it may assign to these components as being parts of its product.

In addition to the manuals, all proprietary diagnostic tools, equipment, software and programs (solely provided by the manufacturer and not available as an aftermarket product) shall be provided as recommended by the manufacturer for diagnostics and maintenance of the unit(s). When such diagnostic tools, equipment, software and programs require updating, maintenance contracts, or subscriptions, the Vendor will offer such services to the Port Authority as though the Port Authority was a dealer or distributor, at dealer or distributor pricing, for as long as the vehicles are owned by the Port Authority.

The manuals diagnostic tools, equipment, software and programs shall be furnished in sets. Each set shall include an operator's manual, parts catalog, shop repair manual, and diagnostic tools, equipment, software and programs.

The total number of sets of manuals diagnostic tools, equipment, software and programs furnished under these specifications shall be as follows:

- A. Three (3) sets for the first vehicle ordered.
- B. One (1) additional set for each subsequent vehicle ordered up to a maximum of nine (9) sets total (total includes A and B).

All manuals shall be in the English language. All dimensions, measurements, and other pertinent data shall be given in U.S. Standard units (i.e., inches, pounds, etc.). (foreign language terms and metric measurements shall not be accepted.)

All technical support documentation diagnostic tools, equipment, software and programs required by this section shall be delivered at least two weeks prior to the delivery of the first unit. In the event the manuals diagnostic tools, equipment, software and programs are not delivered as specified above, a retainage amount of ten percent (10%) will be held by the Port Authority from any payments due under the clause entitled "Final Payments", and will be held until such time that all of the required documentation has been received to the satisfaction of the engineer.

The Vendor shall send Parts & Service Manuals diagnostic tools, equipment, software and programs directly to the Port Authority Automotive Shops, as designated at the end of this

section. Vendors shall send to the engineer receipts of delivery from each shop, to expedite payment release.

The manuals diagnostic tools, equipment, software and programs shall be shipped separately and not with the vehicles. Final payment will not be released prior to receipt of these materials.

#### **48. PREVENTIVE MAINTENANCE INSTRUCTIONS**

In addition to the manuals specified above, the Vendor shall furnish an equal number of condensed preventive maintenance frequency and instructions for each preventative maintenance routine required for the unit. These frequencies and instructions shall consist of manufacturer's recommendations for periodic lubrication, cleaning, and other preventive maintenance, and shall be made up in a compact form to cover the particular unit delivered. The Preventative Maintenance Instructions must include a listing of all part numbers and part descriptions necessary to perform the specific preventative maintenance task such as filter descriptions and part numbers, special tools needed to perform the task, and replacement fluid specifications and quantities.

#### **49. PREVENTATIVE MAINTENANCE PARTS KITS**

To facilitate timely preventative maintenance of the units until parts stocking is established, the Vendor shall also provide with each unit all parts required to complete the manufacturers' recommended preventative maintenance for at least six (6) months, two hundred (200) engine hours, or ten thousand (10,000) miles of operation. The kit shall include all filters, belts, hoses, and other parts scheduled for replacement within the specified period. It shall not include standard automotive service fluids such as motor oil, washer fluid, coolant, etc., although if special lubricants, additives or conditioners are required during this time, such items must be included in the kit.

Each kit shall be furnished with the delivered vehicle in a sealed box or similar container with the vehicle number and the type of maintenance need plainly and conspicuously marked on the box or container. The box or container shall also have a packing list of the contents, identifying the quantity and description of each item contained inside, attached to the exterior. Preventative Maintenance Parts Kits are to be listed on delivery papers, bills of lading, or other receipt documents furnished with the vehicle.

#### **50. TRAINING**

The Vendor shall provide two (2) separate eight (8) hour training sessions on the operation of the vehicles.

The Vendor shall also provide two (2) separate eight (8) hour training sessions on the maintenance, repair, troubleshooting, and inspection of the vehicles. The Port Authority shall designate when and where the sessions will be conducted.

Prior to performing any training, the Vendor shall prepare the complete training curriculum and send it to the Engineer for approval, ten (10) days prior to the delivery of the unit(s).

The Port Authority shall designate when and where the session will be conducted, and will provide classrooms and/or shop space for the training. The instructor must speak and write in English.

**51. DELIVERY INSTRUCTIONS FOR VEHICLES AND MANUALS**

The Vendor shall deliver vehicle(s) and parts and service manuals directly to the Port Authority automotive shops, as designated below. Vendors shall send to the Engineer receipts showing delivery of vehicles and manuals from each shop. Payment will not be released without these documents.

<b>NUMBER OF VEHICLES MANUALS AND TRAINING</b>	<b>DELIVERY ADDRESS</b>
ONE (1) MANUAL	Port Authority of NY & NJ Central Automotive Division 241 Erie Street, Room 307 Jersey City, NJ 07310 Attn: Mark A. Gernavage Tel: (201) 216-216-2367 Fax: (201) 216-216-2355 <b>GPS: 40.731317,-74.04297</b>
ONE (1) VEHICLE ONE (1) MANUAL SIXTEEN (16) HRS: OPERATOR TRAINING SIXTEEN (16) HRS: MECHANIC TRAINING	Port Authority of NY & NJ Central Automotive Shop 777 Jersey Avenue Jersey City, NJ 07310 Attn: Ron Westervelt Tel: (201) 386-6861 Fax: (201) 386-6871 <b>GPS: 40.731562,-74.044807</b>

**52. CONFIDENTIAL INFORMATION/NON-PUBLICATION**

- a. As used herein, confidential information shall mean all information disclosed to the Vendor or the personnel provided by the Vendor hereunder which relates to the Authority's and/or PATH's past, present, and future research, development and business activities including, but not limited to, software and documentation licensed to the Authority or proprietary to the Authority and/or PATH and all associated software, source code procedures and documentation. Confidential information shall also mean any other tangible or intangible information or materials including but not limited to computer identification numbers, access codes, passwords, and reports obtained and/or used during the performance of the Vendor's Services under this Contract.
- b. Protected Information shall mean and include collectively, as per The Port Authority of New York & New Jersey Information Security Handbook (October 15, 2008, corrected as of November 14, 2013), Confidential Information, Confidential Proprietary Information, Confidential Privileged Information and information that is labeled, marked or otherwise identified by or on behalf of the Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. Confidential Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Authority or a third-party or when the Authority receives such information from others and agrees to treat such information as Confidential.

- c. The Vendor shall hold all such Protected Information in trust and confidence for the Authority, and agrees that the Vendor and the personnel provided by the Vendor hereunder shall not, during or after the termination or expiration of this Contract, disclose to any person, firm or corporation, nor use for its own business or benefit, any information obtained by it under or in connection with the supplying of services contemplated by this Contract. The Vendor and the personnel provided by the Vendor hereunder shall not violate in any manner any patent, copyright, trade secret or other proprietary right of the Authority or third persons in connection with their services hereunder, either before or after termination or expiration of this Contract. The Vendor and the personnel provided by the Vendor hereunder shall not willfully or otherwise perform any dishonest or fraudulent acts, breach any security procedures, or damage or destroy any hardware, software or documentation, proprietary or otherwise, in connection with their services hereunder. The Vendor shall promptly and fully inform the Director in writing of any patent, copyright, trade secret or other intellectual property rights or disputes, whether existing or potential, of which the Vendor has knowledge, relating to any idea, design, method, material, equipment or other matter related to this Contract or coming to the Vendor's attention in connection with this Contract.
- d. The Vendor shall not issue nor permit to be issued any press release, advertisement, or literature of any kind, which refers to the Port Authority or to the fact that goods have been, are being or will be provided to it and/or that services have been, are being or will be performed for it in connection with this Agreement, unless the vendor first obtains the written approval of the Port Authority. Such approval may be withheld if for any reason the Port Authority believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

### **53. ENTIRE AGREEMENT**

The Agreement between the Port Authority and the Vendor consists of this document, the Request For Quotation ("RFQ"), the Request for Proposals ("RFP"), Bid documents, the Specifications, any Appendices, and all other documents required to be submitted by the Vendor with its proposal, and the Authority's acceptance of the Vendor's proposal and constitutes the complete and exclusive statement of the terms of the agreement between the parties, and the agreement may not be explained or supplemented by course of dealing, usage of trade, or course of performance; and this document shall supersede all other communications, written or oral.

### **54. CHANGES IN AGREEMENT**

Except as specifically provided in the clause hereof entitled "Rights of the Port Authority," no change in or termination or modification of this agreement shall be effective unless in writing and signed by the party to be charged therewith.

### **55. APPLICABLE LAW**

This agreement shall be construed in accordance with the laws of the state of New York. The Vendor hereby consents to the exercise by the courts of the states of New York and New Jersey of in personam jurisdiction over it with respect to any matter arising out of or in connection with this agreement and waives any objection to such jurisdiction which it might otherwise have; and the Vendor agrees that mailing of process addressed to it, at the address

of the Vendor indicated herein by certified mail, shall have the same effect as personal service within the state of New York upon a domestic corporation of the state of New York.

**56. NO PERSONAL LIABILITY**

Neither the Commissioners of the Port Authority, nor Directors of PATH, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Vendor with any liability, or held personally liable to the Vendor under any term or provision of this Contract, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach, thereof.



## **PART II- CONTRACTOR'S INTEGRITY PROVISIONS**

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

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 Bidder and each parent and/or affiliate of the Bidder has not

- a. been indicted or convicted in any jurisdiction;
- b. been suspended, debarred, found not responsible or otherwise disqualified from entering into any contract with any governmental agency or been denied a government contract for failure to meet standards related to the integrity of the Bidder;
- c. had a contract terminated by any governmental agency for breach of contract or for any cause based in whole or in part on an indictment or conviction;
- d. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Bid;
- e. had any business or professional license suspended or revoked or, within the five years prior to bid opening, 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 environmental law, rule or regulation;
- f. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust regardless of the dollar amount of the sanctions or the date of their imposition; and
- g. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency, including an inspector general of a governmental agency or public authority.

### **2. NON-COLLUSIVE BIDDING, AND CODE OF ETHICS CERTIFICATION, CERTIFICATION OF NO SOLICITATION BASED ON COMMISSION, PERCENTAGE, BROKERAGE, CONTINGENT OR OTHER FEES**

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

- a. the prices in its bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- b. the prices quoted in its bid have not been and will not be knowingly disclosed directly or indirectly by the Bidder prior to the official opening of such bid to any other bidder or to any competitor;
- c. no attempt has been made and none will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose

- of restricting competition;
- d. this organization has not made any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated March 11, 2014, or as may be revised, (a copy of which is available upon request) nor does this organization have any knowledge of any act on the part of an Authority employee or former Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;
  - e. no person or selling agency other than a bona fide employee or bona fide established commercial or selling agency maintained by the Bidder for the purpose of securing business, has been employed or retained by the Bidder to solicit or secure this Contract on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency; and
  - f. the Bidder has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Contract.
  - g. no person or organization has been retained, employed or designated on behalf of the Bidder to impact any Port Authority determination with respect to (i) the solicitation, evaluation or award of this Contract, or (ii) the preparation of specifications or request for submissions in connection with this Contract.

The foregoing certifications in this Part III, Sections 1 and 2, 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 parent, affiliate, director, and officer of the Bidder, as well as, to the best of the certifier's knowledge and belief, each stockholder of the Bidder 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 certifications, 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.

In any case where the Bidder cannot make the foregoing certifications, the Bidder shall so state and shall furnish with the signed bid a signed statement which sets forth in detail the reasons therefor. If the Bidder is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its bid, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph "2g", if the Bidder cannot make the certification, it shall provide, in writing, with the signed bid: (i) a list of the name(s), address(es), telephone number(s), and place(s) of principal employment of each such

individual or organization; and (ii) a statement as to whether such individual or organization has a “financial interest” in this Contract, as described in the Procurement Disclosure Policy of the Authority (a copy of which is available upon request to the Chief Procurement Officer of the Procurement Department of the Authority). Such disclosure is to be updated, as necessary, up to the time of award of this Contract. As a result of such disclosure, the Port Authority shall take appropriate action up to and including a finding of non-responsibility.

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

Notwithstanding that the Bidder may be able to make the foregoing certifications at the time the bid is submitted, the Bidder shall immediately notify the Authority in writing during the period of irrevocability of bids and the term of the Contract, if Bidder is awarded the Contract, of any change of circumstances which might under this clause make it unable to make the foregoing certifications, might render any portion of the certifications previously made invalid, or require disclosure. The foregoing certifications or signed statement shall be deemed to have been made by the Bidder with full knowledge that they would become a part of the records of the Authority and that the Authority will rely on their truth and accuracy in awarding and continuing this Contract. In the event that the Authority should determine at any time prior or subsequent to the award of this Contract that the Bidder has falsely certified as to any material item in the foregoing certifications, has failed to immediately notify the Port Authority of any change in circumstances which might make it unable to make the foregoing certifications, might render any portion of the certifications previously made invalid, or require disclosure, or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Authority may determine that the Bidder is not a responsible Bidder with respect to its bid on the Contract or with respect to future bids on Authority contracts and may exercise such other remedies as are provided to it by the Contract with respect to these matters. 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 therefor provided by the Bidder. Under certain circumstances the Bidder may be required as a condition of Contract award to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent Monitor to be selected by the Port Authority, said Monitor to be charged with, among other things, auditing the actions of the Bidder to determine whether its business practices and relationships indicate a level of integrity sufficient to permit it to continue business with the Port Authority.

3. **BIDDER ELIGIBILITY FOR AWARD OF CONTRACTS - DETERMINATION BY AN AGENCY OF THE STATE OF NEW YORK OR NEW JERSEY CONCERNING ELIGIBILITY TO RECEIVE PUBLIC CONTRACTS**

Bidders are advised that the Authority has adopted a policy to the effect that in awarding its contracts it will honor any determination by an agency of the State of New York or New Jersey that a Bidder is not eligible to bid on or be awarded public contracts because the Bidder has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

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

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

#### **4. CONTRACTOR RESPONSIBILITY, SUSPENSION OF WORK AND TERMINATION**

During the term of this Contract, the Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Port Authority to present evidence of its continuing legal authority to do business in the States of New Jersey or New York, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Port Authority, in its sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Port Authority issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and an opportunity to be heard with appropriate Port Authority officials or staff, the Contract may be terminated by Port Authority at the Contractor's expense where the Contractor is determined by the Port Authority to be non-responsible. In such event, the Port Authority or its designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach, including recovery of costs from Contractor associated with such termination.

#### **5. NO GIFTS, GRATUITIES, OFFERS OF EMPLOYMENT, ETC.**

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

As used herein "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by the Contract or any other

Port Authority contract), etc. which might tend to obligate the Port Authority employee to the Contractor, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Contract or any other Port Authority contract. Where used herein, the term "Port Authority" shall be deemed to include all subsidiaries of the Port Authority.

The Contractor shall insure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by it and by its personnel for any reason whatsoever from the passengers, tenants, customers or other persons using the Facility and shall so instruct its personnel.

In the event that the Contractor becomes aware of the occurrence of any conduct that is prohibited by this section entitled "No Gifts, Gratuities, Offers of Employment, Etc.", it shall report such occurrence to the Port Authority's Office of Inspector General within three (3) business days of obtaining such knowledge. (See "<http://www.panynj.gov/inspector-general>" for information about to report information to the Office of Inspector General). Failing to report such conduct shall be grounds for a finding of non-responsibility.

In addition, during the term of this Contract, the Contractor shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated March 11, 2014, or as may be revised (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

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

## **6. CONFLICT OF INTEREST**

During the term of this Contract, the Contractor shall not participate in any way in the preparation, negotiation or award of any contract (other than a contract for its own services to the Authority) to which it is contemplated the Port Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such a contract if the Contractor has a substantial financial interest in the contractor or potential contractor of the Port Authority or if the Contractor has an arrangement for future employment or for any other business relationship with said contractor or potential contractor, nor shall the Contractor at any time take any other action which might be viewed as or give the appearance of conflict of interest on its part. If the possibility of such an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion, or if the Contractor has reason to believe such an arrangement may be the subject of future discussion, or if the Contractor has any financial interest, substantial or not, in a contractor or potential contractor of the Authority, and the Contractor's participation in the preparation, negotiation or award of any contract with such a contractor or the review or resolution of a claim in connection with such a contract is contemplated or if the Contractor has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Contractor shall immediately inform the Chief Procurement Officer in writing of such situation giving the full details thereof. Unless the Contractor receives the specific written approval of the Chief Procurement Officer, the Contractor shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. The Chief Procurement Officer may require the Contractor to submit a mitigation plan addressing and mitigating any disclosed or undisclosed conflict, which is subject to the approval of the Chief Procurement

Officer and shall become a requirement, as though fully set forth in this Contract. In the event the Chief Procurement Officer shall determine that the performance by the Contractor of a portion of its Services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Contractor's said Services is determined by the Chief Procurement Officer to be no longer appropriate because of such preclusion, then the Chief Procurement Officer shall have full authority on behalf of both parties to order that such portion of the Contractor's Services not be performed by the Contractor, reserving the right, however, to have the Services performed by others and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Contractor's execution of this document shall constitute a representation by the Contractor that at the time of such execution the Contractor knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Contractor's part. The Contractor acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any contract, which results, directly or indirectly, from the Services provided by the Contractor hereunder. The Port Authority's determination regarding any questions of conflict of interest shall be final.

## **7. DEFINITIONS**

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

Affiliate - Two or more firms are affiliates if a parent owns more than fifty percent of the voting stock of each of the firms, or a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the firms, or if the firms have a common proprietor or general partner.

Agency or Governmental Agency - 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.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting and/or law enforcement 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.

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

Parent - An individual, partnership, joint venture or corporation which owns more than 50% of the voting stock of the Bidder.

If the solicitation is a Request for Proposal:

Bid - shall mean Proposal;

Bidder - shall mean Proposer;

Bidding - shall mean submitting a Proposal.

In a Contract resulting from the taking of bids:

Bid - shall mean bid;

Bidder - shall mean Bidder; except and until the Contract has been awarded, then it shall mean Contractor

Bidding - shall mean executing this Contract.

In a Contract resulting from the taking of Proposals:

Bid - shall mean Proposal;

Bidder - shall mean Proposer;

Bidding - shall mean executing this Contract.