



REQUEST FOR QUOTATION

Contact person/Telephone
Shanta Nelson/201-395-3480

Collective# 0000034523
Bid Due Date 09/04/2013
Bids must be received no later than 11:00 AM on the above Bid Due Date.

Deliver Goods/Services To:
EWR Auto Shop
Newark NJ 07114

Quantity	Description	Unit Price		Total	
	Thermoplastic Pavement Marking Truck Delivery to: Port Authority of New York and New Jersey Newark Liberty International Airport Building 11, Automotive Shop Newark, NJ 07114 Attn: Greg Falco Attachments: Specifications dated July 2013, Appendix A to E, and Federal Requirements to be made part of this contract. Contract Administrator: Mr. Sal D'Angelo NOTE: PLEASE CONTACT MR. D'ANGELO THREE (3) BUSINESS DAYS PRIOR TO DELIVERY FOR INSTRUCTION. DELIVERY SHALL BE MADE BETWEEN THE HOURS OF 8AM AND 2PM, MONDAY THROUGH FRIDAY.				
	<p style="text-align: center;">PLEASE QUOTE FULLY DELIVERED PRICES</p>	PAYMENT TERMS		Total Delivered Price	

This Quotation is subject to the terms and conditions set forth on the back page hereof. Bidder is advised to read these before signing.

We have read the instructions and, if favored with an order, we agree to furnish the items enumerated herein at the prices and under the conditions indicated.

Signed _____
Firm Name _____
Telephone number _____ Date _____
Fax Number _____
Federal Taxpayer ID _____

Bidder
Must
Sign
In
Two
Places

NOTICE TO BIDDERS: Unless the following term of assurance that the above offer is irrevocable is signed, the offer submitted herein shall not be deemed to be complete.

The foregoing offer shall be irrevocable for 90 days after the date on which the Port Authority of New York and New Jersey opens this proposal.

Signed _____ Date _____
Firm Name _____



REQUEST FOR QUOTATION

Bid Due Date
09/04/2013

Quantity	Description	Unit Price	Total
	<p>This is a Formal Bid Invitation Mail Sealed Bids to:</p> <p>The Port Authority of NY & NJ Attn: Bid Custodian Procurement Department 2 Montgomery Street, 3rd Floor Jersey City, NJ 07302</p> <p>by the date and time listed above, where it will be publicly opened and read.</p> <p>Bids are only accepted Monday through Friday, excluding Port Authority holidays, between the hours of 8 A.M. & 5 P.M., via regular mail, express delivery service or hand delivery.</p> <p>If you do not use or have an envelope provided, you must clearly mark the outside envelope/package with 'BID ENCLOSED' and show the company name, address, as well as Bid number and Due date as stated on this bid document.</p> <p>A valid photo id is required to gain access into the building, to attend the bid opening or hand deliver a bid.</p>		
	<p>Thermoplastic Pavement Marking Truck</p>		
	<p>PLEASE QUOTE FULLY DELIVERED PRICES</p>	<p>PAYMENT TERMS</p>	<p>Total Delivered Price</p>

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1	<p>The item covers the following services: Thermoplastic Pavement Marking Truck</p>			
	PLEASE QUOTE FULLY DELIVERED PRICES	Total Delivered Price		

**PAYMENT
TERMS**

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 Signed _____ Date _____
 Firm Name _____

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: JULY 2013
CODE: 019-4773-013

SPECIFICATIONS FOR:

THERMOPLASTIC PAVEMENT MARKING TRUCK

TECHNICAL SPECIFICATIONS

1. GENERAL

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 TRUCK-MOUNTED THERMOPLASTIC MELTING SYSTEM AND EQUIPMENT, M-B COMPANIES, INC. MODEL TPX MELTER 0613-1812 OR APPROVED EQUAL.

THE UNIT AND ASSOCIATED COMPONENTS, FEATURES, AND EQUIPMENT SHALL BE FURNISHED COMPLETE AND READY FOR USE, ALL AS MORE FULLY REQUIRED BY THE TERMS OF THESE SPECIFICATIONS AND IN STRICT ACCORDANCE THEREWITH, EVEN IF NOT SPECIFICALLY ENUMERATED IN THESE SPECIFICATIONS. THE UNIT AND ALL EQUIPMENT SHALL BE THE MANUFACTURER'S LATEST CURRENT PUBLISHED STOCK MODEL(S), WHICH MEET THE REQUIREMENTS OF THESE SPECIFICATIONS.

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 VENDOR SHALL COMPLETE THE BID PRICING SHEET, APPENDIX E.

2. VEHICLE SPECIFICATIONS

- MANUFACTURER/MODEL PETERBILT 220
- ENGINE PACCAR PX-6, TURBO DIESEL
240 HP @ 2600 RPM
- CAB TYPE CAB-OVER
- WHEELBASE 170"
- GVWR 33,000 LBS
- FRONT AXLE CAPACITY/SUSPENSION TYPE 12,000 LBS, LEAF SPRINGS
- REAR AXLE CAPACITY/SUSPENSION TYPE 21,000 LBS, LEAF SPRINGS
SINGLE SPEED GEAR RATIO TO ALLOW A
ROAD SPEED OF 65MPH
- TIRES 11R22.5, 14-PLY
- WHEELS 22.5 x 8.25 STEEL WHEEL
- TRANSMISSION ALLISON, 5-SPEED AUTOMATIC 2500RDS
- BRAKES FULL ABS AIR BRAKES, DRUM TYPE,
WITH AIR DRYER
- STEERING INTEGRAL POWER STEERING
- ELECTRICAL SYSTEM 160 AMP ALTERNATOR
12- VOLT BATTERIES
2000 TOTAL CCA
- FUEL TANK CAPACITY 45 GALLONS

KETTLE AND SHALL HAVE EASY ACCESS ON ALL SIDES FOR MAINTENANCE. THE BURNER FLAME SHALL FIRE UPWARDS TOWARD THE BOTTOM OF THE MATERIAL TANK.

A 3/4" 304 STAINLESS STEEL DEFLECTOR PLATE SHALL BE MOUNTED BETWEEN THE BURNER FLAME AND THE MATERIAL KETTLE BOTTOM PLATE. THE DEFLECTOR PLATE SHALL BE EASILY REMOVABLE AND REQUIRE NO TOOLS FOR REPLACEMENT.

THE BURNER SHALL BE VENTED AT THE TOP OF THE KETTLE. EACH VENT SHALL BE PROVIDED WITH A RAIN CAP WITH DRAFT PROTECTOR TO PREVENT RAIN FROM ENTERING THE HEATING CHAMBER.

HEAT TRANSFER SHALL BE THROUGH A 2" MINIMUM HEATED AIR JACKET SURROUNDING THE THERMOPLASTIC TANK AND SHALL BE INSULATED BY 2" THICK CERAMIC MINERAL WOOL INSULATION CONTAINED WITHIN REMOVABLE SIDE PANELS. INSULATION ON PANELS SHALL NOT BE EXPOSED. PANELS MUST BE BOLTED TO THE TOP, BOTTOM AND SIDES OF THE STEEL FRAMEWORK OF THE KETTLE AND ARE EASILY REMOVABLE FOR MAINTENANCE. KETTLE TOP AND BOTTOM SHALL BE INSULATED WITH 2" THICK CERAMIC MINERAL WOOL INSULATION AND NOT BE EXPOSED. A LOOSE BLANKET OF 2" INSULATION SHALL COVER THE KETTLE COMBUSTION CHAMBER BOTTOM.

A CENTER HEATED AIR RISER CHAMBER SHALL ALLOW HOT BURNER AIR TO HEAT THERMOPLASTIC FROM THE CENTER TO THE OUTSIDE, EFFECTIVELY INCREASING THE HEAT TRANSFER AREA AND DECREASING THE TIME OF AGITATOR STARTUP WHEN HEATING A KETTLE. HEATED AIR RISER CHAMBER WILL EXTEND UP AT LEAST 40% OF THE HEIGHT OF THE INTERIOR MATERIAL CHAMBER AND CONTAIN THE LOWER AGITATOR SUPPORT.

PROVIDED SHALL BE AN AGITATOR, DRIVEN BY A LOW SPEED 30 RPM HIGH TORQUE HYDRAULIC MOTOR. THE AGITATOR SHALL BE EQUIPPED WITH THREE BLADES SPACED, ONE AT THE BOTTOM, ONE AT THE MIDDLE AND ONE JUST BELOW THE FULL KETTLE CAPACITY LEVEL. THE AGITATOR BLADES SHALL BE NO MORE THAN 1/4" CLEARANCE TO THE SIDE OF THE TANK. THE LOWER END OF THE AGITATOR SHAFT WILL HAVE A BOLT ON REPLACEABLE PILOT SHAFT TIP AND BE SUPPORTED BY A REPLACEABLE INTERNAL RACE BUSHING. THE SHAFT WILL BE COUPLED TO THE HYRAULIC MOTOR WITH A SLIP TYPE DRIVE COUPLING THAT ALLOWS VERTICAL MOVEMENT BETWEEN AGITATOR SHAFT AND HYRAULIC MOTOR TO COMPENSATE FOR THERMAL EXPANSION. JAW OR CHAIN TYPE COUPLINGS WILL NOT BE ALLOWED.

A DIRECT READING THERMOMETER TO INDICATE THE THERMOPLASTIC TEMPERATURE SHALL BE PROVIDED AND MARKED "THERMOPLASTIC".

THE DIESEL BURNER SHALL BE CONTROLLED BY AN ADJUSTABLE DIGITAL TEMPERATURE CONTROLLER WITH TEMPERATURE READ-OUT. A SAFETY SHUT-DOWN SHALL BE INSTALLED TO SHUT OFF THE FUEL AND THE GUN BURNER IN THE EVENT THE GUN BURNER DOES NOT IGNITE OR GOES OVER TEMPERATURE. A THERMOCOUPLE PROBE FOR TEMPERATURE CONTROL SHALL MEASURE ACTUAL THERMOPLASTIC TEMPERATURE FOR CONTROL OF THE BURNER.

THE KETTLE TOP PLATE WITH AGITATOR MOTOR AND BEARING SUPPORT SHALL BOLT TO THE TOP OF KETTLE; REMOVAL SHALL EXPOSE THE FULL INSIDE DIAMETER OF THE MELTING CHAMBER FOR EASY CLEANING WHEN REQUIRED. THE TOP PLATE SHALL ALSO CONTAIN A SAFETY LOADING CHUTE, LIFT D-RING AND METLING CHAMBER HOODED EXHAUST VENT. TOP OF KETTLE SHALL BE WEATHER PROOF, INCLUDING THE LOADING CHUTE AND VENT TO PREVENT WATER FROM ENTERING THE MELTING CHAMBER.

THE LOADING HATCH WILL BE WEATHER PROOF. THE MELTING CHAMBER WILL BE COVERED WHETHER THE DOOR IS OPEN FOR LOADING OR CLOSED. THE LOADING DOOR SHALL OPEN DOWN AND OUT CREATING A SHELF TO REST MATERIAL (BLOCK OR GRANULAR) ON PRIOR TO LOADING. THE BACK HALF OF THE LOADING DOOR SHALL CLOSE OFF THE MELTING CHAMBER TO MINIMIZE ANY SPLASH BACK OR FLASH FROM CONTACTING THE OPERATOR. WHEN THE LOADING DOOR IS CLOSED IT SHALL TIP THE MATERIAL INTO THE MELTING CHAMBER AND CLOSE OFF THE MELTING CHAMBER WHILE DOING SO.

DISCHARGE WILL BE A 4" PIPE SET TO ALLOW FULL PORT DRAINAGE FROM KETTLE. A 4" KNIFE VALVE WILL BE FITTED TO START AND STOP THE FLOW OF MOLTEN MATERIAL.

FORK LIFTING SHOES 3" x 9" ON 33" CENTERS WILL BE AN INTEGRAL PART OF THE BASE OF KETTLE.

A HINGED INSPECTION DOOR WITH LATCH WILL BE PLACED IN THE SIDE OF THE KETTLE FOR INSPECTION OF THE BURNER COMBUSTION AREA. THE DOOR WILL BE INSULATED. DOOR OPENING DIMENSIONS WILL BE 24" WIDE x 12" HIGH. OPENING WILL BE BORDERED WITH STEEL SHEET SO NO INSULATION IS EXPOSED.

THE HEATING KETTLE SHALL BE PROVIDED WITH THE FOLLOWING MISCELLANEOUS REQUIREMENTS:

- ADEQUATE GUARDS TO COVER MOVING PARTS.
- PLACARDS, STENCILS AND DECALS INDICATING POTENTIAL HAZARDS.
- FEED STEP ASSEMBLIES AND RAILINGS.

5. FUEL SYSTEM:

DIESEL FUEL FROM THE TRUCK TANK SHALL BE UTILIZED TO OPERATE THE TRUCK, KETTLE BURNERS, AS WELL AS THE AUXILIARY ENGINE, WHICH OPERATES THE HYDRAULIC POWER SYSTEM. THE FUEL PICKUP FOR THE KETTLE BURNERS AND AUXILIARY ENGINE SHALL BE HIGHER THAN THE PICKUP FOR THE CHASSIS ENGINE.

6. HYDRAULIC POWER:

THE HYDRAULIC SYSTEM SHALL BE POWERED BY A 17 HP MINIMUM, WATER-COOLED ENGINE, POWERING A 6 GPM MINIMUM HYDRAULIC PUMP. THE ENGINE SHALL BE EQUIPPED WITH AN AIR CLEANER, MUFFLER, ADJUSTABLE THROTTLE, OVERSIZED ALTERNATOR, AND ELECTRIC START. THIS DIESEL HYDRAULIC SYSTEM SHALL BE MOUNTED UNDER THE PLATFORM AND FORWARD ON THE PASSENGER SIDE OF THE UNIT.

ALL OPERATING SYSTEM HYDRAULIC COMPONENTS AND DRIVE MOTORS SHALL BE POWERED BY THE HYDRAULIC PUMP ABOVE.

HYDRAULIC OIL SHALL BE FILTERED, COOLED AND CIRCULATED THROUGH A SUFFICIENTLY SIZED OIL RESERVOIR AND CONDUIT SYSTEM TO MAINTAIN OIL TEMPERATURE BELOW 175° F.

7. VEHICLE LIGHTING AND ELECTRONIC EQUIPMENT:

THE VEHICLE SHALL BE EQUIPPED WITH ALL FEDERAL AND STATE REQUIRED CLEARANCE AND RUNNING LIGHTS AND REFLECTORS. LIGHTS SHALL BE INSTALLED TO MEET ALL FEDERAL AND STATE REQUIREMENTS.

BODY LIGHTING SHALL BE "LED" TYPE TRUCK-LITE, SEALED SYSTEM OR APPROVED EQUAL. SELECTION AND LOCATION OF LAMPS TO BE APPROVED BY ENGINEER PRIOR TO INSTALLATION.

ALL LED BODY LIGHTS SHALL BE OF THE SHOCK AND VIBRATION RESISTANT DESIGN. CLEARANCE AND IDENTIFICATION LIGHTS SHALL BE MOUNTED ON THE BODY. STOP, TAIL, TURN AND BACKUP LIGHTS SHALL BE FLUSH MOUNTED ON EACH SIDE OF THE REAR OF THE BODY.

ALL SWITCHES AND WARNING LIGHTS SHALL BE MOUNTED AND PROPERLY LABELED ON A SINGLE PANEL IN THE CAB. SWITCHES SHALL HAVE ONE "ON" INDICATOR LIGHT PER SWITCH.

ALL AUXILIARY ELECTRICAL CIRCUITS TO BE SEPARATELY FUSED ON A FUSE PANEL UNDER DASH, FUSE PANEL TO HAVE SPACE FOR AT LEAST TWO ADDITIONAL CIRCUITS.

ALL WIRING TO BE HEAVY DUTY, JACKETED TYPE, PROPERLY ROUTED AND SECURED TO FRAME RAILS AND EQUIPMENT IN SUCH A MANNER SO AS TO PREVENT CHAFING, PINCHING OR SYSTEM DAMAGE. ALL WIRING SHALL BE COLOR/NUMBER CODED FOR IDENTITY.

MARKER AND CLEARANCE LIGHTS SHALL BE INSTALLED ON THE FRONT, REAR AND BOTH SIDES OF THE BODY TO MEET ALL FMVSS REQUIREMENTS. REFLECTORS SHALL BE INSTALLED ON BOTH SIDES OF THE VEHICLE MEETING ALL FMVSS REQUIREMENTS.

FRONT LIGHT BAR:

INSTALL A PORT AUTHORITY SUPPLIED LIGHT BAR ON THE CAB OF THE VEHICLE. THE LIGHT BAR SHALL BE POWERED BY A HEAVY DUTY POWER RELAY, CIRCUIT BREAKER AND SWITCH MOUNTED ON THE DRIVERS CONSOLE.

REAR WARNING LIGHTS:

MOUNTED AT THE REAR OF THE TRUCK, ON THE REAR FACE OF THE UTILITY BODY, SHALL BE TWO (2) FEDERAL SIGNAL AMBER LED FLASHERS, QUADRAFLARE MODEL QL64XF, ONE (1) EACH SIDE.

AUTO-EJECT SHORELINE CONNECTOR:

A 20-AMP KUSSMAUL "SUPER AUTO-EJECT" SHORELINE MALE MOTOR BASE MODEL 091-55-20-120 OR APPROVED EQUAL, SHALL BE INSTALLED ON THE STREET SIDE OF THE BODY. THE SHORELINE SHALL BE WATERPROOF, WITH A SPRING LOADED GASKETED COVER. THE SHORELINE SHALL BE WIRED TO THE JUNCTION CIRCUIT BREAKER BOX LOCATED WITHIN THE POWER DISTRIBUTION CONTROL PANEL. THE SHORELINE AUTO-EJECT SOLENOID SHALL BE CONNECTED TO THE STARTER SOLENOID OF THE VEHICLE AND ONLY BE ACTIVATED WHEN THE KEY IS IN THE START MODE. THE SHORELINE SHALL BE EQUIPPED WITH A MATCHING FEMALE CONNECTOR DESIGNED FOR USE WITH THE AUTO-EJECT SHORELINE AND SHIPPED LOOSE WITH THE VEHICLE. ONE (1) FEMALE CONNECTOR SHALL BE PROVIDED.

A RED INDICATOR LIGHT SHALL BE INSTALLED IN THE DRIVERS SWITCH CONSOLE TO INDICATE THAT THE VEHICLE SHORELINE IS PLUGGED INTO THE VEHICLE.

BATTERY CONDITIONER/POWER SUPPLY:

THE VEHICLE SHALL BE EQUIPPED WITH A 10-AMP BATTERY CONDITIONER/POWER SUPPLY, MARINCO/GUEST 12/24 VOLT, 2 BANK, MODEL #GU2611A OR APPROVED EQUAL, TO CHARGE THE VEHICLE BATTERIES WHEN PLUGGED INTO THE EXTERNAL SHORELINE. THE BATTERY CHARGER SHALL BE A FULLY AUTOMATIC CONTROLLED TAPER CHARGER AND PROVIDE NO CHARGE WHEN THE BATTERIES ARE COMPLETELY CHARGED. THE CONDITIONER SHALL BE A HEAVY DUTY, CONTINUOUS DUTY, SOLID-STATE UNIT. AN AUTOMATIC TRANSFER SWITCH SHALL BE PROVIDED TO TRANSFER FROM SHORELINE POWER TO GENERATOR POWER.

8. MISCELLANEOUS EQUIPMENT:

- TWO (2) LOCKABLE ALUMINUM TOOL BOXES, 24" L x 18" H x 18" W, SHALL BE MOUNTED UNDER THE PLATFORM AT THE REAR.
- ONE (1) HYDRAULICALLY OPERATED, 2,000 LB CAPACITY LIFTGATE, THIEMAN MODEL SL-20ESR-6 OR APPROVED EQUAL, MOUNTED ON THE CURB SIDE OF THE VEHICLE, TO LIFT THE HAND CART ONTO AND OFF THE TRUCK PLATFORM. THE PLATFORM SHALL BE 48" X 36" EXTRUDED ALUMINUM WITH A 12" RAMP EXTENSION. IT SHALL HAVE ELECTRIC/HYDRAULIC OPERATION, WITH POWER UP AND DOWN. THE LIFTGATE, WHEN STOWED, SHALL ACT AS A SIDE OF PLATFORM BODY. TIE DOWN POINTS AND CHAINS SHALL BE ATTACHED TO PLATFORM. LOCATION SHALL BE DECIDED AT TIME OF CONSTRUCTION.
- ONE (1) PAIR OF HIGH TEMPERATURE/NONFLAMMABLE LONG SLEEVED GLOVES
- ONE (1) FACE SHIELD
- ONE (1) HEAT RESISTANT APRON
- TWO (2) 20# FIRE EXTINGUISHERS.
- FIRST AID KIT: MOUNTED INSIDE OF THE TRUCK CAB
- A 5 POUND ABC DRY CHEMICAL FIRE EXTINGUISHER TYPE-MOUNTED IN THE TRUCK CAB
- A TRIANGLE KIT

9. DECALS

THE VENDOR SHALL INSTALL PORT AUTHORITY SUPPLIED FLEET NUMBERING, LOGOS AND DECALS AS FOLLOWS:

- YELLOW, 5" WIDE 3M TAPE BORDERED WITH ¼" BLUE STRIPE ON EACH SIDE (FRONT TO REAR) OF THE VEHICLE ALONG THE UPPER BELT LINE (WHERE APPLICABLE)
- BLUE 4" HIGH, FIVE (5) DIGIT VEHICLE NUMBERS, ONE SET LOCATED AT THE REAR OF THE VEHICLE EACH SIDE
- BLUE 2" HIGH, FIVE (5) DIGIT VEHICLE NUMBERS, ONE SET LOCATED ON THE REAR LEFT SIDE OF THE VEHICLE AND ONE SET LOCATED ON THE FRONT RIGHT SIDE OF THE HOOD
- PORT AUTHORITY DECAL CENTERED ON THE FRONT CAB DOOR, EACH SIDE
- BLUE 2" HIGH, FACILITY IDENTIFICATION, ONE SET ON EACH SIDE OF THE CAB AT THE FRONT LOWER SECTION OF THE FRONT DOORS
- PORT AUTHORITY DECAL AND NO SMOKING SIGN ON DASHBOARD
- 1" HIGH FIVE DIGIT WHITE PORT AUTHORITY FLEET VEHICLE NUMBER ON DASHBOARD PA DECAL
- RED/SILVER ALTERNATING 6" STRIPING, LOCATED ON THE FLAT SURFACE AREAS ON REAR OF THE VEHICLE, FORMING AN INVERTED "V" PATTERN
- RED/SILVER ALTERNATING 2" STRIPING, LOCATED VERTICALLY ON INTERIOR COMPARTMENT DOORS (WHERE APPLICABLE)

VEHICLE MARKINGS PROVIDED BY THE VENDOR:

- FMVSS 108 CONSPICUITY TAPE ALONG BOTH SIDES AND REAR OF BODY. TAPE TO BE 3M CONSPICUITY MARKING 983-32 RED/WHITE
- ALL OTHER VEHICLE STRIPING, MARKINGS, AND LABELS REQUIRED TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS
- WHEN APPLICABLE, 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

10. 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 BRITWORK (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.

SPECIFIED PRIMERS:

GRAY PRIMER APPROVED BY FINISH PAINT MANUFACTURER

OR

ZINC CHROMATE PRIMER - MUST BE USED ON ALL ALUMINUM COMPONENTS

THE FINAL FINISH SHALL CONSIST OF THREE (3) COATS OF THE PAINT SPECIFIED BELOW. THE FINISH SHALL BE OF HIGH GLOSS AND UNIFORM COLOR WITH FULL HIDING AND SHALL BE FREE FROM SAGS, RUNS, ORANGE PEEL, CRAZING, PITTING OR OTHER PAINT DEFECTS.

SPECIFIED FINISH PAINT - URETHANE OR POLYURETHANE

MANUFACTURER'S STANDARD WHITE (BODY SHALL MATCH CAB)

THE VENDOR SHALL NOTIFY THE ENGINEER WHEN THE UNIT IS READY FOR FINISHING AND THE ENGINEER MAY ELECT TO INSPECT THE UNIT PRIOR TO PAINTING. ANY INQUIRIES REGARDING PAINT SHALL BE ADDRESSED TO THE ENGINEER. UPON REQUEST BY THE ENGINEER THE VENDOR SHALL SUPPLY A 4" X 6" PAINT SAMPLE FOR APPROVAL PRIOR TO PAINTING.

11. OPEN END OPTION

AS USED IN THIS NUMBERED CLAUSE:

"MODEL YEAR" SHALL MEAN THE VEHICLE MODEL YEAR OF THE MANUFACTURER OF THE VEHICLES ENDING ON THE PRODUCTION CUT-OFF DATE FOR THE VEHICLES. IN THE EVENT THERE IS NO DEFINED MODEL YEAR OR PRODUCTION CUT-OFF DATE FOR THE VEHICLES, THEN FOR PURPOSES OF THIS NUMBERED CLAUSE "MODEL YEAR" SHALL MEAN THE PERIOD COMMENCING ON THE DATE OF THE PORT AUTHORITY'S ACCEPTANCE OF THE VENDOR'S BID AND ENDING ON THE THREE HUNDRED SIXTY-FIFTH (365TH) DAY THEREAFTER.

"INITIAL MODEL YEAR" SHALL MEAN THE MODEL YEAR APPLICABLE ON THE PORT AUTHORITY'S DATE OF ACCEPTANCE OF THE VENDOR'S BID.

"SUBSEQUENT MODEL YEARS" SHALL MEAN THE THREE (3) CONSECUTIVE ANNUAL PERIODS IMMEDIATELY FOLLOWING THE INITIAL MODEL YEAR.

INITIAL MODEL YEAR: BY WRITTEN NOTICE FROM THE DIRECTOR OR A DULY AUTHORIZED REPRESENTATIVE TO THE VENDOR GIVEN AT ANY TIME DURING THE INITIAL MODEL YEAR, THE PORT AUTHORITY SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO PURCHASE FROM THE VENDOR ADDITIONAL UNIT(S) OF INITIAL MODEL YEAR VEHICLES ORIGINALLY PURCHASED HEREUNDER AT THE SAME UNIT PRICES, CONFORMING TO THE SAME SPECIFICATIONS, AND UPON THE SAME TERMS AND CONDITIONS AS CONTAINED HEREIN WITH RESPECT TO SUCH VEHICLES.

SUBSEQUENT MODEL YEARS: FOR UP TO THREE SUBSEQUENT MODEL YEARS, BY WRITTEN NOTICE FROM THE DIRECTOR OR A DULY AUTHORIZED REPRESENTATIVE TO THE VENDOR, THE PORT AUTHORITY SHALL HAVE THE FURTHER RIGHT, BUT NOT THE OBLIGATION, TO PURCHASE FROM THE VENDOR ADDITIONAL UNIT(S) OF VEHICLE(S) ORIGINALLY PURCHASED HEREUNDER BUT OF SUBSEQUENT MODEL YEARS AT THE SAME UNIT PRICES BUT AS ADJUSTED AS SET FORTH BELOW, CONFORMING TO THE SAME SPECIFICATIONS, AND UPON THE SAME TERMS AND CONDITIONS AS AMENDED BY THE FOLLOWING:

- A. IF PRICE CHANGES ARE IN EFFECT FOR SUCH VEHICLES DURING THE SUBSEQUENT MODEL YEARS, THE VENDOR MAY, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF THE PORT AUTHORITY'S NOTICE OF EXERCISE OF THIS OPTION, SUBMIT A REQUEST TO THE PORT AUTHORITY FOR THE APPLICATION OF PRICE CHANGES TO THE ADDITIONAL UNIT(S) PROPOSED TO BE PURCHASED.

ALL SUCH REQUESTS MUST INCLUDE AN APPROPRIATE EXPLANATION AND JUSTIFICATION FOR SUCH PRICE CHANGES, INCLUDING THE PUBLISHED PRICE LISTS FOR THE VEHICLES AND THEIR COMPONENTS IN EFFECT AT THE TIME OF THE VENDORS ORIGINAL BID HEREUNDER, THE EQUIVALENT PUBLISHED PRICE LISTS FOR THE VEHICLES AND THEIR COMPONENTS IN EFFECT AT THE TIME OF THE PORT AUTHORITY'S NOTICE, AND ANY ADDITIONAL EVIDENCE WHICH THE PORT AUTHORITY DEEMS NECESSARY FOR ITS EVALUATION OF THE VENDOR'S REQUEST FOR THE PRICE CHANGES.

- B. NO PRICE CHANGES SHALL EXCEED THE CHANGE IN THE PRICE CALCULATED UTILIZING THE CONSUMER PRICE INDEX FOR URBAN CUSTOMERS (CPI-U); SERIES ID: CUURA101SASL2RS; NOT

SEASONALLY ADJUSTED; NEW YORK – NORTHERN NEW JERSEY – LONG ISLAND, NY-NJ-CT-PA AREA; ALL ITEMS LESS SHELTER; 1982=100, PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR (HEREIN CALLED THE "PRICE INDEX").

THE VENDOR SHALL INCLUDE ALL BACKUP MATERIALS AND CALCULATIONS WITH THE REQUEST FOR INCREASED PRICING.

- C. SPECIFICALLY, THE REQUESTED PRICE ADJUSTMENT MAY NOT EXCEED THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX BY USING AS THE NUMERATOR THE INDEX THREE MONTHS PRIOR TO THE MOST RECENT ANNIVERSARY OF THE CONTRACT, AND AS THE DENOMINATOR THE SAID INDEX THREE MONTHS PRIOR TO THE COMMENCEMENT OF THE CONTRACT. THIS ADJUSTMENT LIMITATION SHALL APPLY FOR EACH SUBSEQUENT MODEL YEAR. THE NEW PRICES SHALL REMAIN CONSTANT FOR ALL SUBSEQUENT PURCHASES MADE IN THE SAME MODEL YEAR. IN THE EVENT THE SAID INDEX IS NO LONGER PUBLISHED OR ITS BASIS IS CHANGED, THE PARTIES SHALL IN GOOD FAITH CHOOSE A SUBSTITUTE INDEX OF AGREE ON ANOTHER BASIS FOR ESCALATION.

NOTWITHSTANDING THE ABOVE TERMS AND CONDITIONS, WITHIN SIXTY (60) DAYS FOLLOWING ITS RECEIPT OF THE FOREGOING SUBMISSION OF THE PRICE ADJUSTMENT REQUEST, THE PORT AUTHORITY SHALL HAVE THE RIGHT, IN ITS SOLE DISCRETION, TO REJECT THE PRICE CHANGES AND WITHDRAW ITS OFFER TO PURCHASE THE ADDITIONAL UNIT(S). THE REJECTION OF THE VENDOR'S REQUEST FOR PRICE CHANGES SHALL BE IN WRITING.

NOTHING IN THIS NUMBERED CLAUSE SHALL BE CONSTRUED TO OBLIGATE THE PORT AUTHORITY TO PURCHASE ANY ADDITIONAL UNIT(S) OF VEHICLE(S), OR ANY MINIMUM NUMBER OF ADDITIONAL UNIT(S) OF VEHICLE(S), FROM THE VENDOR, OR TO PRECLUDE THE PORT AUTHORITY FROM PURCHASING ANY ADDITIONAL VEHICLES FROM ANY OTHER SOURCE WHATSOEVER USING SUCH PROCUREMENT METHODS AS IT MAY IN ITS SOLE DISCRETION DEEM APPROPRIATE TO BEST SERVE THE PUBLIC INTEREST.

THE VENDOR REPRESENTS THAT THE LAST DAY ON WHICH ORDERS MAY BE PLACED FOR THE MODEL YEAR CURRENTLY IN EFFECT IS:

_____/_____/_____
(DATE TO BE INSERTED BY VENDOR)

ACKNOWLEDGED FOR VENDOR:

BY: _____
TITLE: _____
DATE: _____

APPENDIX A
AUTOMOTIVE PROCUREMENT
STANDARD CONTRACT TERMS AND CONDITIONS

1. Intent

These specifications cover the furnishing of the latest thermoplastic pavement marking truck and all equipment and components as described in these specifications.

2. Definitions

Director:

For the purposes of this agreement, "Director" shall mean the Director of Procurement of the Port Authority for the time being, or her authorized representative or successor in duties, acting personally.

Engineer:

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

Manager:

As used in this agreement, the term "Manager" shall mean the Manager of the Commodities and Services Division of the Procurement Department acting either personally or through her duly authorized representatives acting within the scope of the particular authority vested in them.

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 (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 Port Authority shop personnel in accordance with agency 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 Manager 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 these specifications and in strict accordance therewith.

The unit and all equipment shall be the manufacturer's latest current published stock model(s) which meet the requirements of these specifications. 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 the 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. Certificate of Registry for tax-free transactions under Chapter 32 of the Internal Revenue Code is No. 13-730079k. 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 is 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 Vendor

The vendor shall take out, maintain, and pay the premiums on Commercial General Liability Insurance, including but not limited to premises-operations, products-completed operations, and independent contractors coverage, with contractual liability language covering the obligations assumed by the vendor under this Contract and, if vehicles are to be used to carry out the performance of this Contract, then the vendor shall also take out, maintain, and pay the premiums on Automobile Liability Insurance covering owned, non-owned, and hired autos in the following minimum limits:

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

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

Garage-keepers' Legal Liability - \$200,000 per location in the Comprehensive Form
(IF APPLICABLE)

In addition, the liability policy (ies) shall name The Port Authority of NY and NJ and its wholly owned entities, as additional insured, including but not limited to premise-operations, products-completed operations on the Liability Policies. Moreover, the Commercial General Liability Policy shall not contain any provisions for exclusions from liability other than provisions for exclusion from liability forming part of the most up to date ISO form or its equivalent unendorsed Commercial General Liability Policy. The liability policy (ies) and certificate of insurance shall contain separation of insureds condition and severability of interests so that coverage will respond as if separate policies were in force for each insured. Furthermore, the vendor's insurance shall be primary insurance as respects to the above additional insured (s), its representatives, officials, and employees. Any insurance or self insurance maintained by the above additional insured (s) shall not contribute to any loss or claim. These insurance requirements shall be in effect for the duration of the contract to include any warrantee/guarantee period.

The certificate of insurance and liability policy (ies) must contain the following endorsement for the above liability coverages:

"The insurer(s) shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, 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 vendor 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 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 of NY and NJ, Att: Facility Contract Administrator, at the location where the work will take place and to the General Manager, Risk Management.

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

Within five (5) days after the award of this agreement or contract and prior to the start of work, the vendor must submit an original certificate of insurance, to the Port Authority of NY and NJ, Facility Contract Administrator, at the location where the work will take place. This certificate of insurance MUST show evidence of the above insurance policy (ies), stating the agreement/contract number prior to the start of work. The General Manager, Risk Management must approve the certificate(s) of insurance before any work can begin. Upon request by the Port Authority, the vendor shall furnish to the General Manager, Risk Management, 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, if the Manager shall so direct, the vendor shall suspend performance of the contract at the premises. If the contract is so suspended, no extension of time shall be due on account thereof. If the contract is not suspended (whether or not because of omission of the Manager to order suspension), then the Authority may, at its option, obtain insurance affording coverage equal to the above required, the cost of such insurance to be payable by the vendor to the Port Authority.

Renewal certificates of insurance or policies shall be delivered to the Facility Contractor Administrator, Port Authority 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 vendor shall promptly obtain a new and satisfactory certificate and policy.

The requirements for insurance procured by the Vendor shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the vendor under this contract. The insurance requirements are not a representation by the Authority as to the adequacy of the insurance to protect the vendor against the obligations imposed on them by law or by this or any other Contract. CITS # 4344N- Thermoplastic Pavement Marking Truck.

9. Dealer Obligation To Order Vehicle(s)

Upon award of contract, the dealer shall take all actions necessary to facilitate on-time delivery. The dealer shall 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 to place a valid and binding order within the fourteen (14) days shall be cause for the Authority to cancel the contract without any further obligation to the dealer.

10. Pre-Manufacturing Meeting

At the Engineer's request, there will be a pre-manufacturing meeting prior to ordering/building the vehicles. It will take place at a Port Authority location and will involve Vendor personnel that are directly involved with vehicle ordering/manufacturing. At this time, 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 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 of paragraph no. 12 entitled "Final Payments" 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. Final Payments

After the satisfactory delivery of all equipment whatsoever required to be sold, the making of such tests and inspections as may be necessary or desirable and instructing personnel in the operation and maintenance of the equipment furnished hereunder, and the doing of all other things by the vendor as required by this contract, the vendor shall provide to the Engineer a certificate of completion. The certificate of completion shall be a written letter from the vendor to the Engineer certifying that all equipment under this contract, including extra materials and services, and all other matters, have been provided or delivered and performed in accordance with the specifications and the requirements of the Engineer.

The certificate of completion shall not be construed to constitute an extension of the vendor's time of performance in the event that he has failed to complete the sale in accordance with the terms of this contract. Moreover, the acceptance of the certificate of completion by the Port Authority shall not operate to release the vendor from any obligation under this contract.

After the Engineer receives and accepts the certificate of completion and an invoice for each vehicle/equipment with all other required documents, within thirty (30) days the Port Authority will pay to the vendor by check a payment of an amount equal to the total price of the said vehicle/equipment plus any other costs for "Changes and Extras", in accordance with the requirements stipulated in the paragraph entitled "Changes and Extras," less any payments already made in connection with said vehicle/equipment, and subject to any monetary deductions, as determined solely by the Port Authority.

The acceptance by the vendor, or by anyone claiming by or through him, of the said payment, 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 sale and for every act and neglect of the Port Authority and others relating to or arising out of the sale, including claims arising out of breach of contract and claims based on claims of third persons.

The vendor's Contract 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 contract 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 they shall not be entitled to, and hereby waives any right they 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 (6%) percent per annum for the period, if any, in which such interest is due.

13. Changes and Extras

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 which differs from that expressly or impliedly required in the Specifications in their present form.

The Vendor is to supply the amount of materials, supplies, equipment and personnel required by the Engineer within twenty- four (24) hours following receipt of written or verbal notice from the Engineer or, in the case of an emergency as determined by the Engineer, within four (4) hours following his receipt of the Engineer's written or oral notification.

Compensation for such Extra Work shall be determined by mutual agreement between the Engineer acting personally and the Vendor. 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 net cost in money of (a) labor required for such Extra Work, plus ten percent (10%) of such net cost, (b) materials required for such Extra Work plus five percent (5%) of such net cost, 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 subvendor, an amount equal to the sum of (a), (b) and (c) above, plus an additional five percent (5%) provided that any such Subcontract has been approved, in advance, by the Engineer.

As used in this numbered clause:

"Labor" means laborers and supervisors directly employed at the Site of the Work subject to the Engineer's authority to determine what employees of any category are required for Extra Work and as to the portion of their time allotted to Extra Work; and "cost of labor" means the wages actually paid to and received by such employees plus a proper proportion of (a) vacation allowances and union dues and assessments which the employer actually pays pursuant to contractual obligation upon the basis of such wages, and (b) taxes actually paid by the employer pursuant to law upon the basis of such wages. "Employees" as used above means only the employees of one employer.

"Materials" means temporary and consumable materials as well as permanent materials; and "cost of materials" means the price (including taxes actually paid by the Vendor pursuant to law upon the basis of such materials) for which such materials are sold for cash by the manufacturers or producers thereof, or by regular dealers therein, whether or not such materials are purchased directly from the manufacturer, producer or dealer (or if the Vendor is the manufacturer or producer thereof, the reasonable cost to the Vendor of the manufacture and production), plus the reasonable cost of delivering such materials to the Site of the Work in the event that the price paid to the manufacturer, producer or dealer does not include delivery and in case of temporary materials, less their salvage value, if any. The cost of all Extra Work performed by the Vendor shall not exceed six percent (6%) of the Estimated Total Contract Price of this Contract unless otherwise expressly authorized in writing by the Engineer. These funds shall be used only when necessary and are not routinely spent as part of the Contract.

The Vendor shall submit all reports, records and receipts as are requested by the Engineer so as to enable him to ascertain the time expended in the performance of Extra Work, the quantity of labor and materials used therein and the cost of said labor and materials to the Vendor.

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

14. Times For Performance

The vendor shall complete the performance of the delivery and acceptance of the complete units, as described in the clause hereof entitled "Delivery." The vendor's obligation for the performance within the times provided for in this contract is of the essence of this contract. The vendor guarantees that he can and will complete such performance within the times hereinbefore stipulated or within the times as extended in accordance with the terms of this contract. Inasmuch as the damage and loss to the Authority, resulting from delay in completing the vendor's performance within the times herein stipulated, will include items of loss whose amounts will be incapable or very difficult to accurately estimate, the damages to the Authority for each calendar day, by which the vendor does not complete his performance within the times above stipulated, or within such times as extended in accordance with the terms of this contract, shall be liquidated in the sum of two hundred and fifty dollars (\$250.00) per calendar day per vehicle for each day (including Saturdays, Sundays, and holidays) that the vendor fails to meet the final date established for delivery of such vehicle.

15. 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 facilities approved by the Engineer, and if the vendor fails to do so the vendor shall, at its expense, remove all such enjoined facilities 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.

16. 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 there under;
- E. That, except only for those representations, statements or promises expressly contained in this contract, no representation, statement or promise, oral or in writing, of any kind whatsoever by the authority, its commissioners, 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.

17. 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 for 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 contract 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 contract, 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 contract: a statement by the vendor to the authority indicating that he cannot or will not perform any one or more of his obligations under this contract; any act or omission of the vendor or any other occurrence which makes it improbable at the time that he will be able to perform any one or more of his obligations under this contract; any suspension of or failure to proceed with any part of the work by the vendor which makes it improbable at the time that he will be able to perform any one or more of

his obligations under this contract; any false certification at any time by the vendor as to any material item certified pursuant to the clauses of the information for bidders entitled "certification of no investigation (criminal or civil anti-trust), indictment, conviction, suspension, debarment, disqualification, prequalification denial or termination, etc; disclosure of other required information" and "non-collusive bidding and codes of ethics certification; certification of no solicitation based on commission, percentage, brokerage, contingent fee or other fee", 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 contract of specific rights and remedies of the authority shall not be deemed to limit any other rights or remedies which the authority would have in the absence of such enumeration 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.

18. 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.

19. 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 subVendor shall have any rights against the Port Authority and all subVendors 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.

20. Entire Agreement

The agreement between the Port Authority and the vendor consists of this document 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. This document includes the proposal, the information for bidders, the form of contract, the specifications, the vendor's detail sheets, any written addenda issued over the name of the Director, any terms and conditions and exhibits attached hereto, all other documents required to be submitted by the vendor with its proposal, and the Authority's acceptance of the vendor's proposal.

21. 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.

22. Applicable Law

This contract shall be construed in accordance with the law 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 jurisdiction in personam over it with respect to any matter arising out of or in connection with this contract 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.

23. No Personal Liability

No commissioner, officer, agent, or employee of the Port Authority shall be held personally liable under this agreement, or because of the execution or attempted execution hereof or because of any breach hereof or alleged breach hereof.

24. 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.

25. Compliance With Rules And Regulations

The units 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)
- 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 following location:
 Port Authority of NY & NJ
 Aviation Department
 Aviation Technical Services
 225 Park Ave. South, 9th floor
 New York, N.Y. 10003
- 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.

26. Errors And Omissions

If there is any discrepancy between these specifications and the request for quotation, these specifications shall prevail. If the vendor discovers any errors or omissions in the specifications, in the drawings, if any, or in the work undertaken and executed by it, the vendor 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, the vendor shall do so at its own risk, and the work done shall not be considered as work done under and in performance of these specifications unless and until approved and accepted.

27. Materials And Workmanship

All equipment furnished and the parts thereof shall be the manufacturer's latest listed and published stock models, except where modification is specifically permitted or required by the Engineer hereunder. The equipment and parts shall meet all the applicable requirements of the specifications.

Wherever a particular brand or make or model of material or equipment is shown or specified on the contract drawings or in the specifications (and whether or not the words "or approved equal", "similar", "equal to", or words of similar import are used), (except where specifically stated otherwise) any other brand or make and model may be substituted if, in the sole opinion of the Engineer, the equipment being substituted is equal to that shown or specified. The material or equipment may be substituted only after being submitted to and expressly approved by the Engineer. Such submission to the Engineer shall be made only by including the requested substitution in the vendor's detail sheet. Notwithstanding such approval, however, the vendor assumes the risk that the substitute brand or make or model is not equal to that shown or specified. If at any time the substitute shall not appear to be so equal, the vendor shall replace the substitute and reimburse the authority for any loss occurring on account of the substitute failing to be so equal. Any such submission shall not imply or impose on the Engineer any obligation whatsoever to discuss, disclose, or justify the reasons for his opinion, approval, acceptance, or rejection. Furthermore, the acceptance of any other brand or make or model shall not in any way entitle the vendor to additional compensation as may be equitably warranted because of such acceptance in lieu of the standard.

After acceptance of the vendor's proposal, no substitutions will be permitted, except that a brand or make or model named in the specifications may be submitted for approval in lieu of the brand or make or model listed on the vendor's detail sheet.

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.

28. 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 contract 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 contract, they shall mean approved or required by the Engineer and satisfactory, necessary, or equal in the opinion of the Engineer.

29. 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 the Port Authority facility, report his findings to the Engineer, and correct the defects as required and in agreement with the Engineer. All repairs shall be performed within 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 the 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.

30. Availability Of Spare Parts

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

The vendor shall itself, and not 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 thereunder for ten (10) years from the date of delivery of the last complete unit or cab-chassis. These parts shall be available within 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 72-hour delivery requirement.

31. Principles Of Design

This vehicle 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, and 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 USA.
- 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 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.
- E.** 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.
- F.** The use of pilot lights or indicators for all controls or switches.
- G.** Venting systems for vehicle fuel, coolant, hydraulics, etc., shall not discharge or vent over any equipment, but shall direct such overflows to clear areas.
- H.** All emergency shut-off valves handles, switches, or controls shall be of a "bright red" color and be properly identifiable, as to location and operation.
- I.** All controls shall be immediately identifiable as to the correct positioning by logic of operation or clear indications.
- J.** All gauges shall be suitably marked as to the intended purpose and shall be easily visible by the operator.
- K.** 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 temperature. Liquid filled pressure gauges shall be installed on accumulators, on all other components, or elsewhere as required with easily connectable service ports in close proximity.

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. Servicing Before Delivery (Make-Ready)

Prior to delivery, each vehicle shall be completely serviced by the vendor in the vendor's shop, including engine tune-ups, lubrication proper fluid levels, and wheel alignment. All vehicle and 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 final inspection form shall be forwarded to the Engineer with the invoice.

34. Certificate Of Origin / Certificate Of Ownership

The vendor shall submit to the Engineer (listed on the purchase) a minimum of seven (7) days before delivery of each unit the following documents:

- Manufacturer's Certificate Of Origin
- New York State Form MV-50
- Official Laden And Unladen Weight Certificate

The above documents shall be sent to the Engineer at the following address:

The Port Authority Of New York And New Jersey
Central Automotive Division
241 Erie Street, Room 307
Jersey City, New Jersey 07310-1397
Attention: Sal D'Angelo

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

The Port Authority Of New York And New Jersey
225 Park Avenue South
New York, New York 10003

35. Vehicle Registration, Inspection, And License Plates

Port Authority vehicles can be registered in either New York or New Jersey. The vendor shall conduct the required safety inspections in either state. As an option, the vendor will furnish the titles, registrations, and license plates in accordance with the requirements of either State, as determined by the Engineer, once the vendor receives delivery of the units. Documents must indicate ownership by:

Port Authority of NY & NJ
225 Park Avenue South
New York, NY 10003

36. Deviations

Minor deviations from the provisions of these specifications will be considered, to permit manufacturers to follow their standard manufacturing processes.

Such deviations will be approved, however, only in the sole discretion of the Engineer and only if in his opinion they do not adversely affect the operation, maintenance, strength, efficiency, effectiveness, or life of the unit or any of its parts. All proposed deviations, with full details, must be listed on the attached vendor's detail sheet, which is part of the bid.

There shall be no deviations from the specifications, except those which are listed as deviations and which are expressly approved as part of the Port Authority's acceptance of the agreement. See the clause hereof entitled "Materials and Workmanship".

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 his 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 herein. 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

The vendor assumes the following distinct and several risks, whether they arise from acts or omissions (whether negligent or not) of the vendor, of the Authority, or of third persons, or from any other cause, and whether such risks are within or beyond the control of the vendor, excepting only risks which arise solely from affirmative acts done by the Authority subsequent to the opening of proposals on this contract with actual and willful intent to cause the loss, damage and injuries described below:

- A.** The risk of loss or damage to each unit and all its component parts (including parts furnished by the Authority, from the time the vendor takes possession of such parts), occurring prior to the time the Authority takes title to such unit or occurring subsequent to the transfer of title if such unit is in the possession of the vendor for the performance of services required hereunder.
- B.** The risk of claims, fines or penalties, just or unjust, made by third persons or assessed by courts or governmental agencies or entities against the vendor or the Authority on account of injuries (including wrongful death), loss, damage or liability of any kind whatsoever arising or alleged to arise out of or in connection with the performance of this contract (whether or not actually caused by or resulting from the performance of this contract) or out of or in connection with the vendor operations or presence at or in the vicinity of any Authority premises, including claims against the

vendor or the Authority for the payment of workers' compensation, whether such claims, fines or penalties are made or assessed and whether such injuries, damage, loss or liability are sustained at any time both before and after final payment.

The vendor shall indemnify the Authority against all claims described in subparagraphs (A) and (B) above and for all expenses incurred by it in the defense, settlement or satisfaction thereof, including expenses of attorneys, except where indemnity would be precluded by applicable law. If so directed, the vendor shall defend against any claim described in subparagraphs (A) and (B) above, in which event he shall not without obtaining express advance permission from the General Counsel of the Authority raise any defense involving in any way jurisdiction of the tribunal, immunity of the Authority, governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority, such defense shall be at the vendor's cost.

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

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. Designated Secure Areas

Services under the Contract may be required in designated secure areas, as the same may be designated by the Manager 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 Contractor shall notify the Manager. The Contractor shall conform to the procedures as may be established by the Manager 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 Contractor shall request a description from the Manager 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 Manager 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 poses 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:

- 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 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 Confidential Information ("CI") as defined in the Port Authority Information Security Handbook ("Handbook"), dated October, 2008, corrected as of February, 2009, 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 CI if at any point during the lifecycle of the project or solicitation it becomes necessary for the Contractor to have access to CI. 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 Agreements (NDAs), or an Acknowledgment of an existing NDA, provided by the Authority as a condition of being granted access to Confidential Information categorized and protected as per the Handbook;
- (2) require that individuals needing access to CI 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 CI to ensure that the storage and protection of CI;
- (5) restrictions on the transfer, shipping, and mailing of CI information;
- (6) prohibitions on the publication, posting, modifying, copying, reproducing, republishing, uploading, transmitting, or distributing CI 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 CI, from viewing such information;
- (7) require that CI 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 CI developed from the project or contained in reports, except between Contractors and subcontractors, without prior approval of the Port Authority;
- (10) require that CI 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. 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.

43. No Third Party Rights

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

44. Production Plan

After the opening of proposals and within ten working days of receipt of request, the bidder shall submit to the Engineer:

- A. Drawings and schematics of a manufacturer's production model similar to the vehicle described in the specifications.
- B. A spreadsheet listing vehicle completion, delivery, and in-service schedule.

45. Delivery

The vendor shall deliver all vehicle(s) to the delivery location(s) indicated in the table at the end of this contract (See Appendix C). 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(s) complete and ready for service, within 150 calendar days commencing from the Port Authority Purchase Order Date after receipt, by it, of the acceptance of its proposal.

The vehicles shall be shipped for sidewalk delivery to the location(s) indicated in the table at the end of this appendix. Sidewalk delivery is defined as the vendor's responsibility for removing the vehicles from the truck and placement onto the location designated by receiving personnel.

Vehicle(s) 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 contract. 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 contract 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:

- C. The delivery is actually and necessarily delayed.
- D. 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 subcontractor 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 contract 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. 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. All manuals shall be bound and assembled. Manuals not available as bound "hard" copies shall be provided on cd-roms, and if cd-roms are not available, on microfiche. Manuals are to be shipped per delivery instructions (see attached Appendix B). Do not ship the manuals with the unit.

The shops do not have microfiche readers. 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. One (1) set for the first vehicle ordered.
- B. One (1) additional set for each subsequent vehicle ordered up to a maximum of 10 sets total (total includes A + 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 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.

47. Preventive Maintenance Instructions

In addition to the manuals specified above, the vendor shall furnish an equal number of condensed preventive maintenance instructions for all parts of the unit. These 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.

48. 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 manufacturer's recommended preventative maintenance for at least six (6) months, 200 engine hours, or 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 will 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.

49. Training

The vendor shall provide two (2) separate four (4) hour operational training sessions on the operation of the unit(s) at each of the delivery location(s) indicated in the table at the end of this contract.

The vendor shall also provide two (2) separate four (4) hour maintenance training sessions on the maintenance, repair, troubleshooting, and inspection of the unit(s) at each of the delivery location(s) indicated in the table at the end of this contract.

Prior to performing the training, the vendor shall prepare the complete training curriculum for both the operational and maintenance training and send it to the Engineer for approval, ten (10) days prior to the delivery of the units.

The vendor and the Engineer will mutually agree on the final dates that the training will take place. The time of the training shall be selected shall be selected by the Engineer and may take place at anytime during day(s) or night(s). Final payment will not be released prior to receipt of training.

The instructor must speak and write in English

APPENDIX B

DELIVERY INSTRUCTIONS FOR MANUALS

The vendor shall send parts & service manuals directly to the Port Authority Automotive Shops, as designated below. Vendors shall send to the Engineer receipts of delivery from each shop, to expedite payment release.

<u>Number of Sets of Manuals Required</u>	<u>Delivery Address</u>
<u> 2 </u> Set(s)	Port Authority of NY & NJ Newark Liberty International Airport Building 11, Automotive Shop Newark, NJ 07114 Attn: Greg Falco Tel: 973-961-6042 Fax: 973-961-6530

APPENDIX C

DELIVERY LOCATION FOR VEHICLE

The vendor shall deliver vehicle(s) directly to the Port Authority Automotive Shops, as designated below.

<u>Designated Location</u>	<u>Delivery Address</u>
Newark Liberty International Airport Auto Shop	Port Authority of NY & NJ Newark Liberty International Airport Building 11, Automotive Shop Newark, NJ 07114 Attn: Greg Falco Tel: 973-961-6042 Fax: 973-961-6530

APPENDIX D

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: JULY 2013
CODE: 019-4773-013

SPECIFICATIONS FOR:

THERMOPLASTIC PAVEMENT MARKING 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 _____

CAB-CHASSIS

MAKE _____
MODEL _____
GVWR _____
WHEELBASE _____

ENGINE

MAKE _____
MODEL _____
TYPE _____
CYLINDERS _____
HORSEPOWER @ RPM _____
CUBIC INCHES _____
TORQUE _____

COOLING SYSTEM

TYPE _____

BLOCK HEATER

MAKE _____

MODEL _____

TRANSMISSION

MAKE _____

MODEL _____

STEERING

TYPE _____

BRAKES

TYPE _____

AIR COMPRESSOR: (IF APPLICABLE)

MAKE _____

MODEL _____

CAPACITY _____

AIR TANK CAPACITY _____

PRESSURE PROTECTION VALVE _____

IN-LINE CHECK VALVE _____

AIR DRYER:

MAKE _____

MODEL _____

FRONT AXLE

MAKE _____

MODEL _____

GAWR _____

SUSPENSION:

TYPE _____

CAPACITY _____

WHEELS _____

TIRE SIZE _____

PLY RATING _____

RECOMMENDED TIRE PRESSURE _____

SPARE TIRE _____

REAR AXLE

MAKE _____
MODEL _____
GAWR _____
TYPE _____
SUSPENSION:
 TYPE _____
 CAPACITY _____
WHEELS _____
TIRE SIZE _____
PLY RATING _____
RECOMMENDED TIRE PRESSURE _____

FRAME

YIELD STRENGTH _____
SECTION MODULUS _____
RESISTING BENDING MOMENT _____

CHASSIS CAB

TYPE _____
SUN VISOR _____
POWER SIDE VIEW MIRRORS
 MAKE _____
 MODEL _____
SEATING
 MAKE _____
 MODEL _____
 TYPE _____
SEAT BELTS _____
ELECTRIC HORNS _____
WINDSHIELD WIPERS/WASHERS _____
TINTED WINDOWS _____
HEATER/DEFROSTER _____
AIR CONDITIONING _____
GAUGES AND INDICATOR LIGHTS _____

AM/FM RADIO _____

BACKUP ALARM
 MAKE _____
 MODEL _____

CHASSIS ELECTRICAL SYSTEM

VOLTAGE _____

ALTERNATOR
 MAKE _____
 MODEL _____
 CAPACITY @ IDLE _____

BATTERY

MAKE _____
MODEL _____
COLD CRANKING AMPS _____
QUANTITY _____

FUEL TANK

CAPACITY _____
MATERIAL _____

PLATFORM BODY

MAKE _____
MODEL _____
CONSTRUCTION _____
LENGTH _____
WIDTH _____
RAILING TYPE _____
PLATFORM FLOORING _____
ACCESS LADDERS _____

THERMOPLASTIC MELTING KETTLES & COMPONENTS

KETTLE MATERIAL _____
KETTLE CAPACITY _____
BURNER CAPACITY _____
AGITATOR TYPE _____
THERMOMETER _____
BURNER SAFETY SHUT-OFF _____
MATERIAL DISCHARGE SIZE _____
SHUT-OFF VALVE _____

HYDRAULIC SYSTEM

AUXILIARY ENGINE
MAKE _____
MODEL _____
SIZE _____

HYDRAULIC PUMP
MAKE _____
MODEL _____
CAPACITY _____

RESERVOIR CAPACITY _____
STRAINER _____
OIL COOLER _____
LINE FILTER _____
RESERVOIR DRAIN _____

EXTERIOR LIGHTS

LED TAIL/STOP LIGHTS
MAKE _____
MODEL _____

BACKUP LIGHTS

MAKE _____
MODEL _____

LED DIRECTIONAL LIGHTS

MAKE _____
MODEL _____

LICENSE PLATE HOLDER _____

REAR WARNING LIGHTS

MAKE _____
MODEL _____

AUTO-EJECT SHORELINE CONNECTOR

MAKE _____
MODEL _____
INDICATOR LIGHT _____

BATTERY CONDITIONER

MAKE _____
MODEL _____

MISCELLANEOUS EQUIPMENT

TOOL BOXES

QUANTITY _____
MATERIAL _____
SIZE _____

LIFTGATE

MAKE _____
MODEL _____
CAPACITY _____

HIGH TEMPERATURE GLOVES _____

FACE SHIELD _____

HEAT RESISTANT APRON _____

TWO (2) FIRE EXTINGUISHERS _____

ONE 5-POUND FIRE EXTINGUISHER _____

FIRST AID KIT _____

TRIANGLE KIT _____

FINISHING AND PAINTING

COLOR _____ PAINT # _____

CAB-CHASSIS 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.

WARRANTY COVERAGE	COST
1.	\$
2.	\$
3.	\$
4.	\$

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

DEVIATIONS FROM SPECIFICATIONS: _____

VENDOR SHALL COMPLETE ALL APPLICABLE AREAS ON THE FOLLOWING PAGE FOR ALL EQUIPMENT DATA AND COMPONENT PART NUMBERS. COMPLETED FORM SHALL BE DELIVERED TO THE ENGINEER WITH THE NECESSARY REGISTRATION PAPERWORK, PRIOR TO DELIVERY OF THE VEHICLE.

APPENDIX E

BIDDER'S PRICING SHEET

THERMOPLASTIC PAVEMENT MARKING TRUCK \$ _____

FOR BID EVALUATION PURPOSES

	<u># of Units</u>		<u>Unit Price</u>	=	<u>Total</u>
THERMOPLASTIC PAVEMENT MARKING TRUCK	1	X	\$ _____		\$ _____
TOTAL BID PRICE					\$ _____

ALL BIDDERS NOTE

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.

PORT AUTHORITY OF NY & NJ

PURCHASE ORDER TERMS AND CONDITIONS

1. The Port Authority (Authority) reserves the right to request information relating to seller's responsibility, experience and capability to perform the work.

2. **WARRANTY** – The Seller warrants that the supplies or equipment delivered hereunder shall be free from all defects in material and workmanship and shall comply with all the requirements of this Order for a period of one (1) year from date such supplies or equipment are placed in use.

3. **PAYMENT** – The Total Delivered price shall include the separate unit and total FOB delivered prices. Payment terms are net 30 days. Cash discounts for prompt payment of invoices may be taken but will not be considered in determining award, except in the case of tie bids.

Unless otherwise provided, complete shipment of all items must be in one delivery FOB delivery point. Payment will not be made on partial deliveries unless authorized in advance by the party to be charged and the discount, if any, will be taken on the total order.

4. **CHANGES** – Acceptance of seller's offer will be only by Purchase Order Form signed by the Authority. The Authority may at any time, by a written order, make changes within the general scope of this Purchase Order, in any one or more of the following: (a) drawings, designs, or specifications; (b) method of shipment or packing; and (c) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Purchase Order, an equitable adjustment shall be made in the Purchase Order price or delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim by the Seller for adjustment under this section must be asserted within 30 days from the date of receipt by the Seller of a notification of change: provided, however, that nothing in this section, "CHANGES," shall excuse the Seller from proceeding with the Purchase Order as changed. Except as otherwise provided herein no payment for CHANGES shall be made, unless the Changes and adjustments in price, if any, have been authorized in writing by the Authority.

5. **INSPECTION AND ACCEPTANCE** – Inspection and acceptance will be conducted at the destination, unless otherwise provided. Any risk of loss will be the Seller's responsibility until such delivery and acceptance made, unless loss results from negligence of the Authority.

6. **VARIATION IN QUANTITY** – No variation in the quantity of any item called for by this Purchase Order will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances

in manufacturing processes, and then only to the extent, if any, specified elsewhere in this Purchase Order.

7. **DEFAULT-DELAYS** – The Authority may cancel this Purchase Order in whole or in part in the event that Seller fails or refuses to deliver any of the items purchased, within the time provided or otherwise violates any of the conditions of this Purchase Order, or if it becomes evident that the Seller is not conducting the work in accordance with the specifications or with such diligence as to permit delivery on or before the delivery date.

In the event the Authority cancels this Purchase Order in whole or in part as herein provided, the Authority may procure, upon such terms and in such manner as the Authority may deem appropriate, materials or services similar to those so cancelled and the Seller shall be liable to the Authority for any excess costs for such similar materials or services; provided, that the Seller shall continue the performance of this Purchase Order to the extent not terminated under the provisions of this article. The rights and remedies of the Authority provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.

8. **TERMINATION** – The Authority may terminate this Purchase Order, in whole or in part, at any time by written notice to the Seller when it is in the Authority's best interest. The Seller shall be paid for items received and accepted, including shipping costs, if applicable, up to the time of termination. The Seller shall promptly submit its termination claim to the Authority to be paid to the seller.

9. **FEDERAL, STATE & LOCAL TAXES** – Sales to the Authority and to PATH are currently exempt from New York and New Jersey State and local taxes and generally from federal taxation. The Seller certifies that there is no federal, state, municipal or any other taxes included in the prices shown hereon.

10. The Authority shall have the absolute right to reject any or all proposals or to accept any proposal in whole or part and to waive defects in proposals.

11. Bidder may offer alternate manufacturer / brands, which shall be subject to Port Authority approval. Please indicate details of product being offered with bid.

12. If the Seller fails to perform in accordance with the terms of this Purchase Order, the Authority may obtain the goods or services from another contractor and charge the Seller the difference in price, if any, a reletting cost of \$100, plus any other damages to the Authority.

PORT AUTHORITY OF NY & NJ

13. Upon request, Sellers are encouraged to extend the terms and conditions of any terms agreement with the Authority to other government and quasi-government entities by separate agreement.

14. By signing this quotation or bid, the Seller certifies to all statements on Form PA 3764A regarding non-collusive bidding; compliance with the Authority Code of Ethics; and the existence of investigations, indictments, convictions, suspensions, terminations, debarments and other stated occurrences to assist the Authority in determining whether there are integrity issues which would prevent award of the contract to the Seller.

The Authority has adopted a policy set forth in full on PA 3764, that it will honor a 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 wage legislation. The Terms and Conditions of PA 3764A apply to this order. A copy can be obtained by calling (201) 395-3405 or at <http://www.panynj.gov/business-opportunities/pdf/PA3764A.pdf>

15. The vendor may subcontract the services or use a supplier for the furnishing of materials required hereunder to such persons or entities as the Manager, Purchasing Services may from time to time expressly approve in writing. All further subcontracting shall also be subject to such approval.

16. The successful bidder (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 that goods will be, are being or have been provided to it and/or that services will be, are being or have been 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.

17. **PERSONAL NON LIABILITY** – Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by Contractor with any liability, or held personally liable to Contractor 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.

18. **M/WBE GOOD FAITH PARTICIPATION**– The Contractor shall use every good-faith effort to provide for

participation by certified Minority Business Enterprises (MBEs) and certified Women-owned Business Enterprises (WBEs) as herein defined, in all purchasing and subcontracting opportunities associated with this Contract, including purchase of equipment, supplies and labor services.

Good Faith efforts to include participation by MBEs/WBEs shall include the following:

- a. Dividing the services and materials to be procured into small portions, where feasible.
- b. Giving reasonable advance notice of specific contracting, subcontracting and purchasing opportunities to such MBEs/WBEs as may be appropriate.
- c. Soliciting services and materials from a Port Authority certified MBE/WBE or seeking MBEs/WBEs from other sources. To access the Port Authority's Directory of MBE/WBE Certified Firms go to www.panynj.gov/supplierdiversty
- d. Ensuring that provision is made to provide progress payments to MBEs/WBEs on a timely basis.
- e. Observance of reasonable commercial standards of fair dealing in the respective trade or business.

Bidders are directed to use form PA3749B as the recording mechanism for the M/WBE participation Plan, which may be downloaded at <http://www.panynj.gov/business-opportunities/become-vendor.html>

Subsequent to Contract award, all changes to the M/WBE Participation Plan must be submitted via a modified M/WBE Participation Plan to the Manager for review and approval by the Authority's Office of Business Diversity and Civil Rights. For submittal of modifications to the M/WBE Plan, Contractors are directed to use form PA3749C, which may be downloaded at <http://www.panynj.gov/business-opportunities/become-vendor.html>.

The Contractor shall not make changes to its approved M/WBE Participation Plan or substitute M/WBE subcontractors or suppliers for those named in their approved plan without the Manager's prior written approval. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the Contractor's own forces, shall be a violation of this section. Progress toward attainment of M/WBE participation goals set forth herein will be monitored throughout the duration of this Contract.

PORT AUTHORITY OF NY & NJ

The Contractor shall also submit to the Manager, along with invoices, the Statement of Subcontractor Payments as the M/WBE Participation Report, which may be downloaded at <http://www.panynj.gov/business-opportunities/become-vendor.html>. The Statement must include the name and business address of each M/WBE subcontractor and supplier actually involved in the Contract, a description of the work performed and/or product or service supplied by each such subcontractor or supplier, the date and amount of each expenditure, and such other information that may assist the Manager in determining the Contractor's compliance with the foregoing provisions.

If, during the performance of this Contract, the Contractor fails to demonstrate good faith efforts in carrying out its M/WBE Participation Plan and the Contractor has not requested and been granted a full or partial waiver of the M/WBE participation goals set forth in this Contract, the Authority will take into consideration the Contractor's failure to carry out its M/WBE Participation Plan in its evaluation for award of future Authority contracts. The M/WBE Plan submitted by the Contractor to the Port Authority shall contain, at a minimum, the following:

- Identification of M/WBE's: Provide the names and addresses of all M/WBEs included in the Plan. If none are identified, describe the process for selecting participant firms in order to achieve the good faith goals under this Contract.
- Level of Participation: Indicate the percentage of M/WBE participation expected to be achieved with the arrangement described in the Plan.
- Scope of Work: Describe the specific scope of work the M/WBE's will perform.
- Previous M/WBE Participation: Describe any previous or current M/WBE participation, which the Bidder has utilized in the performance of its contracts.

All M/WBE subcontractors listed on the M/WBE Participation Plan must be certified by the Port Authority in order for the Contractor to receive credit toward the M/WBE goals set forth in this Contract. Please go to www.panynj.gov/supplierdiversity to search for M/WBEs by a particular commodity or service. The Port Authority makes no representation as to the financial responsibility of such firms or their ability to perform Work under this Contract.

Bidders shall include their M/WBE Participation Plan with their Bids, to be reviewed and approved by the Authority's

Office of Business Diversity and Civil Rights (OBDCR).

If the Contractor wishes to subcontract a portion of the Work through a firm not listed in the Directory, but which the Contractor believes should be eligible because it is (1) an M/WBE, as defined above and (2) competent to perform portions of the Work, the Contractor shall submit an M/WBE Uniform Certification Application to the Port Authority of New York and New Jersey, Office of Business Diversity and Civil Rights (OBDCR), 233 Park Avenue South, 4th Floor, New York, NY 10003. The application is available online at www.panynj.gov/supplierdiversity. In addition, to update your certification file and to advise OBDCR of changes to any information, please email these changes to OBJOcert@panynj.gov. Credit toward applicable goals will be granted only to Port Authority certified vendors. For more information about M/WBE Programs, call (212) 435-7819.

19. CERTIFICATION OF RECYCLED MATERIALS-Bidders are requested to submit, with their bid, a written certification entitled "Certified Environmentally Preferable Products / Practices" attached hereto as "Attachment I-A", attesting that the products or items offered by the Bidder contain the minimum percentage of post-consumer recovered material in accordance with the most recent guidelines issued by the United States Environmental Protection Agency (EPA), or, for commodities not so covered, the minimum percentage of post-consumer recovered materials established by other applicable regulatory agencies. The data submitted by the Bidder in Attachment I-A is being solicited for informational purposes only.

Recycling Definitions:

For purposes of this solicitation, the following definitions shall apply:

- a. "Recovered Material" shall be defined as any waste material or by-product that has been recovered or diverted from solid waste, excluding those materials and by-products generated from, and commonly reused within, an original manufacturing process.
- b. "Post-consumer Material" shall be defined as any material or finished product that has served its intended use and has been discarded for disposal or recovery having completed its life as a consumer item. "Post-consumer material" is included in the broader category of "Recovered Material".

PORT AUTHORITY OF NY & NJ

- c. "Pre-consumer Material" shall be defined as any material or by-product generated after the manufacture of a product but before the product reaches the consumer, such as damaged or obsolete products. Pre-consumer Material does not include mill and manufacturing trim, scrap, or broken material that is generated at a manufacturing site and commonly reused on-site in the same or another manufacturing process.
- d. "Recycled Product" shall be defined as a product that contains the highest amount of post-consumer material practicable, or when post-consumer material is impracticable for a specific type of product, contains substantial amounts of Pre-consumer Material.
- e. "Recyclable Product" shall be defined as the ability of a product and its packaging to be

reused, reconditioned for use, or recycled through existing recycling collection programs.

- f. "Waste Reducing Product" shall be defined as any product that will result in less waste generated due to its use rather than another product designed to serve the same function with an greater waste generation rate. This shall include, but not be limited to, those products that can be reused, refilled or have a longer life expectancy and contain a lesser amount of toxic constituents.

20. FEDERAL REQUIREMENTS (for Purchase Orders in excess of \$2,500) – The attached cited Agency clauses shall be incorporated herein. In the event of conflict, the Agency clauses shall take precedence.

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1. INCORPORATION OF FEDERAL EMERGENCY MANAGEMENT AGENCY TERMS

As used herein, the term "Agreement" shall mean "Contract." This Agreement is anticipated to be partially funded by the Federal Emergency Management Agency ("FEMA").

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

All federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to those remedies set forth in Title 44 of the Code of Federal Regulations, Part 13 ("44 C.F.R. 13") shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If any provision of this Contract shall be such as to effect non-compliance with any FEMA requirement, such provision shall not be deemed to form part hereof, but the balance of this Contract shall remain in full force and effect.

2. FEDERAL CHANGES

The Contractor shall at all times comply with all applicable FEMA regulations, policies, procedures and directives, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract. The most recent Federal laws, regulations, policies, and administrative practices apply to this Contract at any particular time, unless FEMA issues a written determination otherwise. All standards or limits are minimum requirements, unless modified by the FEMA.

3. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

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

The Contractor agrees to include the above clause in each subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

4. ORGANIZATIONAL CONFLICT OF INTEREST

- A. This Contract may give rise to a potential for an organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under the contract may, without some form of restriction on future activities; result in an unfair competitive advantage to the Contractor.
- 1.) The Contractor shall have access to confidential and/or sensitive Authority information in the course of contract performance. Additionally, the Contractor may be provided access to proprietary information obtained from other contracted entities during contract performance. The Contractor agrees to protect all such information from disclosure unless so authorized, in writing, by the Authority and to refrain from using such information for any purpose other than that for which it was furnished.
 - 2.) To the extent that the Contractor either (a) uses confidential and/or sensitive Authority information or proprietary information obtained from other Authority contractors to develop any form of document, report, or plan that is determined by the Authority to be the basis, in whole or in part, of any subsequent solicitation issued by the Authority or (b) develops written specifications that are used in any subsequent solicitation issued by the Authority, the Contractor agrees that it shall not be eligible to compete for such subsequent solicitation(s) as a prime or principal contractor or as part of any teaming arrangement unless the Authority provides, in writing, a specific waiver of this restriction. The duration of any restriction imposed under this subparagraph shall not exceed the length of the initial performance period of any subsequently awarded contract for which the Contractor was ineligible to compete.
- B. The Contractor, by submitting its bid or proposal, agrees to the above stated conditions and terms and further agrees to perform all duties under the contract and, in doing so, not to enter into contractual agreements with Authority prime contractors and first-tier subcontractors in such a way as to create an organizational conflict of interest.
- C. If the Authority determines that the Contractor has violated any term of this numbered clause, the Authority may take any appropriate action available under the law or regulations to obtain redress to include, but not be limited to, requiring the Contractor to terminate any affiliation or contractual arrangement with an Authority prime contractor or first-tier subcontractor at no cost to the Authority; determining the Contractor ineligible to compete for or be awarded any subsequent or "follow-on" contracts that may be based upon the Contractor's actions under this Contract or violations of this numbered clause, or terminating this Contract, in whole or in part.

5. CERTIFICATION - DEBARMENT AND SUSPENSION

This Contract is a covered transaction for purposes of 2 C.F.R. Parts 180 and 3000. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 2 C.F.R. 180.995, or affiliates, as defined at 2 C.F.R. 180.905, are excluded or disqualified as defined at 2 C.F.R. 180.935 and 180.940.

The Contractor is required to comply with 2 C.F.R. 180, Subpart C and must include the requirement to comply with 2 C.F.R. 180, Subpart C in any lower tier covered transaction it enters into.

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

The certification in this clause is a material representation of fact relied upon by the Port Authority of New York and New Jersey. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to the Port Authority of New York and New Jersey, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to comply with the requirements of 2 C.F.R. 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- A. Each potential Contractor, for major third party contracts, is required to complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion" for itself and its principals and requires each Subcontractor or Supplier (for Subcontracts and Supplier agreements expected to equal or exceed \$25,000) to complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tiered Covered Transactions" for itself and its principals. Copies of the required Certification forms and accompanying instructions are set forth following the last paragraph of these requirements.
- B. In the event that the Contractor has certified prior to award that it is not proposed for debarment, debarred, suspended, or voluntarily excluded from covered transactions by any Federal Department or agency and such certification is found to be false, this Contract may be canceled, terminated or suspended by the Authority and the Contractor will be liable for any and all damages incurred by the Authority because of such cancellation, termination or suspension because of such false certification.
- C. The Contractor shall obtain certifications from all known potential Subcontractors and Suppliers (for which payments are expected to equal or exceed \$25,000) and submit such certifications to the address set forth in E below.
- D. Prior to the award of any Subcontracts or Supplier agreements expected to equal or exceed \$25,000, regardless of tier, any prospective Subcontractor or Supplier who has not previously submitted a certification for this Contract must execute and submit to the Contractor a certification in the form set forth following the last

paragraph of these requirements which will be deemed a part of the resulting Subcontract and Supplier agreement.

- E. The originals of any Certifications or correspondence relating hereto shall be sent by the Contractor to the Director of Procurement, Two Montgomery Street, 3rd Floor, Jersey City, NJ, 07302.
- F. The Contractor shall not knowingly enter into any Subcontracts or Supplier agreements with a person that is proposed for debarment, debarred, suspended, declared ineligible or voluntarily excluded from covered transactions.
- G. The Contractor and its Subcontractors or Suppliers required to file the certification have a continuing duty to disclose, and shall provide immediate written notice to the Authority if, at any time, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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

A. Definitions as used in this Clause:

- 1.) "Agency," as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1). As used in the Certification set forth following the last paragraph of these requirements, it also includes any other public agency.
- 2.) "Covered Federal action" means any of the following Federal actions:
 - a. The awarding of any Federal contract;
 - b. The making of any Federal grant;
 - c. The making of any Federal loan;
 - d. The entering into of any cooperative agreement; and
 - e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. As used in the above referenced Certification, it includes the award of the contract with which it is associated.
- 3.) "Indian tribe" and "tribal organization" have the meaning provided in Section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan natives are included under the definitions of Indian tribes in that Act.

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- 4.) "Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employees of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.
- 5.) "Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government. It also includes a bi-state agency.
- 6.) "Officer or employee of an agency" includes the following individuals who are employed by an agency:
 - a. An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment;
 - b. A member of the uniformed services as defined in section 101(3), title 37, United States Code;
- 7.) A special government employee as defined in Section 202, title 18, United States Code;
 - a. An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code Appendix 2; and
 - b. An employee of a bi-state agency.
- 8.) "Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian Organization with respect to expenditures specifically permitted by other Federal law.
- 9.) "Reasonable Compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.
- 10.) "Reasonable Payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

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- 11.) "Recipient" includes all contractors and subcontractors at any tier in connection with a Federal Contract. The term excludes an Indian Tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
- 12.) "Regularly Employed" means, with respect to an officer or employee of a person requesting or receiving a Federal Contract, an officer or employee who is employed by such person for at least one hundred and thirty (130) working days within one (1) year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than one hundred and thirty (130) working days within one (1) year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for one hundred and thirty (130) working days.
- 13.) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-state, regional, or interstate entity having governmental duties and powers.

B. Prohibition

- 1.) Section 1352 of Title 31, United States Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. For the purposes of the Certification included herein following the last paragraph of these requirements, it includes the award of the associated contract.
- 2.) The prohibition does not apply as follows:
 - a. Agency and legislative liaison by own employees.
 - (i) The prohibition on the use of appropriated funds, in subparagraph B.1.) of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or the contract associated with the certification if the payment is for agency and legislative liaison activities not directly related to a covered Federal Action.

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- (ii) For purposes of subparagraph B. 2.) a.(i) of this Section, providing any information specifically requested by an agency or Congress is allowable at any time.
 - (iii) For purposes of subparagraph B. 2.) a.(i) of this Section, the following agency and legislative liaison activities are allowable at any time only where they are not related to specific solicitation for any covered Federal action.
 - (a.) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sales and service capabilities; and,
 - (b.) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
 - (iv) For purposes of paragraph B. 2)a.(i) of this Section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:
 - (a.) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
 - (b.) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
 - (c.) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
 - (v) Only those activities expressly authorized by subparagraph B. 2)a. of this Section are allowable under subparagraph B. 2)a.
- b. Professional and Technical Services by Own Employees.
- (i) The prohibition on the use of appropriated funds, in subparagraph B. of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract or the contract associated with the certification if payment is for

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professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that contract.

- (ii) For purposes of subparagraph B. 2.) b. (i) of this Section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this Section unless they provided advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this Section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this Section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.
 - (iii) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
 - (iv) Only those services expressly authorized by subparagraph B. 2.) b. this Section are allowable under subparagraph B. 2.) b.
- c. Reporting for Own Employees.
- No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.
- d. Professional and Technical Services by Other than Own Employees.

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- (i) The prohibition on the use of appropriated funds, in subparagraph B. 1.) of this Section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.
- (ii) For purposes of subparagraph B. 2.) d. (i) of this Section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this Section unless they provided advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this Section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this Section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.
- (iii) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (iv) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (v) Only those services expressly authorized by subparagraph B. 2.) d. of this Section are allowable under subparagraph B. 2.) d.

C. Disclosure

- 1.) Each person who requests or receives from the Authority a Contract with Federal assistance shall file with the Authority a certification entitled "Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352," as set forth in the form that follows these requirements, that the person has not made, and will not make, any payment prohibited by subparagraph B. of this Clause. Each person who requests or receives from the Authority a Contract with Federal assistance shall file with the Authority a disclosure form entitled "Disclosure of Lobbying Activities Pursuant to 31 U.S.C. 1352" (Standard Form-LLL), as set forth in the form that follows these requirements, if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B. of this Clause if paid for with appropriated funds.
- 2.) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph C.2) of this Section. An event that materially affects the accuracy of the information reported includes:
 - a. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - b. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
 - c. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- 3.) Any person who requests or receives from a person referred to in subparagraph C.1) of this Section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.
- 4.) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in subparagraph C.1) of this Section. That person shall forward all disclosure forms to the Authority.

D. Agreement

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

E. Penalties

- 1.) Any person who makes an expenditure prohibited under subparagraph A of this Clause shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- 2.) Any person who fails to file or amend the disclosure form to be filed or amended if required by the Clause, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- 3.) Contractors may rely without liability on the representations made by their Subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this Clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this Clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

7. ACCESS TO RECORDS AND REPORTS

Pursuant to 44 C.F.R. 13.42 and 2 C.F.R. 215.53, the Contractor agrees to provide the Authority, the FEMA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees to provide the FEMA Administrator or his authorized representatives access to the Contractor's records and construction sites pertaining to the project.

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

The Contractor shall make available records related to the contract to the Authority, the FEMA Administrator and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

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

authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

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

8. CIVIL RIGHTS

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

- B. Equal Employment Opportunity - The following equal employment opportunity requirements may apply to the underlying contract and subsequent subcontracts:
 - 1.) Race, Color, Creed, National Origin, Sex - (Construction contracts awarded in excess of \$10,000) - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Department of Homeland Security regulations 6 C.F.R. § 21 and 44 C.F.R § 7, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FEMA may issue.

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

- 3.) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FEMA may issue.
- C. The Contractor also agrees to include these requirements in each subcontract related to this project, modified only if necessary to identify the affected parties.

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

The Davis-Bacon and Copeland Acts are codified at 40 U.S.C 3141, *et seq.*(as supplemented by Department of Labor Regulations (29 C.F.R Part 5)) and 18 U.S.C 874. The Acts apply to grantee construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government." 40 U.S.C 3145(a), 29 C.F.R. 5.2(h), 44 C.F.R. 13.36(i)(5). The Acts apply to any construction contract over \$2,000. 40 U.S.C 3142(a), 29 C.F.R. 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating." 29 C.F.R. 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 C.F.R. 3.11) enumerated at 29 C.F.R. 5.5(a) and reproduced below and are applicable if this Contract is a construction contract (as delineated above) over \$2000, or over \$2500 if this Contract involves the employment of mechanics or laborers.

A. Minimum Wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers

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

- 2.)
- a. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (i) Except with respect to helpers as defined as 29 C.F.R. 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination;
 - (ii) The classification is utilized in the area by the construction industry;
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - (iv) With respect to helpers as defined in 29 C.F.R. 5.2(n)(4), such a classification prevails in the area in which the work is performed.
 - b. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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- c. In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - d. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs A (2) (b) or (c) of this Section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.
- 3.) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- 4.) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- 5.)
- a. The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:
 - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination;
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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- b. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- c. In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- d. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs A(2) (b) or (c) of this Section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

B. Withholding

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

C. Payrolls and Basic Records

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

- 2.)
 - a. The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Authority for transmission to the Federal Emergency Management Agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 C.F.R. part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

 - b. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - (i) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 C.F.R. part 5 and that such information is correct and complete;
 - (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has

FEMA Requirements

- been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 C.F.R. part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- c. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph C(2)(b) of this Section.
 - d. The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- 3.) The Contractor or subcontractor shall make the records required under paragraph C(1) of this Section available for inspection, copying, or transcription by authorized representatives of the Federal Emergency Management Authority or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 C.F.R. 5.12.
- D. Apprentices and Trainees
- 1.) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated

above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- 2.) Trainees - Except as provided in 29 C.F.R. 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize

FEMA Requirements

trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

E. Compliance with Copeland Act Requirements

The Contractor shall comply with the requirements of 29 C.F.R. Part 3, which are incorporated by reference in this Contract.

F. Subcontracts

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

G. Contract Termination: Debarment

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

H. Compliance with Davis-Bacon and Related Act Requirements

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

I. Disputes Concerning Labor Standards

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

J. Certification of Eligibility –

- 1.) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is

a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 C.F.R. 5.12(a)(1).

- 2.) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 C.F.R. 5.12(a)(1).
- 3.) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

10. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 C.F.R Part 5). The Contract Work Hours and Safety Standards Act applies to certain grantee contracts and subcontracts under 40 U.S.C 3701(b)(1)(B)(iii) and (b)(2), 44 C.F.R. 13.36(i)(6) for prime contracts for construction, and non-construction projects that employ "laborers or mechanics on a public work."

A. Overtime Requirements

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

B. Violation; liability for unpaid wages; liquidated damages

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

C. Withholding for unpaid wages and liquidated damages

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime

contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph B of this Section.

D. Subcontracts

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

11. ENERGY CONSERVATION

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

12. CLEAN WATER REQUIREMENTS – CONTRACTS EXCEEDING \$100,000

- A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C §1251 et seq.
- B. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FEMA and the appropriate EPA Regional Office.
- C. The Contractor also agrees to include the requirements of this Article in all subcontracts exceeding \$100,000 issued pursuant to this Contract.

13. CLEAN AIR REQUIREMENTS – CONTRACTS EXCEEDING \$100,000

- A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C §7401 et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FEMA and the appropriate EPA Regional Office.
- B. The Contractor also agrees to include the requirements of this Clause in all subcontracts exceeding \$100,000 issued pursuant to this Contract.

14. FLY AMERICA

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

15. PREFERENCE FOR RECYCLED PRODUCTS

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

16. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- A. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 6 C.F.R. Part 13, apply to its actions pertaining to this Project. The Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the contract or project. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under this Contract, financed in whole or in part with Federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 in addition to any other remedies available under law on the Contractor, to the extent the Federal Government deems appropriate.
- C. The Contractor agrees to include the above two clauses in each subcontract related to this Contract. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

17. ADA ACCESS REQUIREMENTS

Facilities must comply with 42 U.S.C. Sections 12101 *et seq.*

18. TERMINATION FOR CAUSE OR CONVENIENCE – CONTRACTS EXCEEDING \$10,000

Notwithstanding anything to the contrary elsewhere within this Contract, the 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, pursuant to 44 C.F.R. 13.36 (i)(2). In the event of termination for convenience, the Contractor shall be paid its costs, including contract close-out costs, as so provided for in the Contract, on work performed up to the time of termination for convenience.

19. CHANGES TO THE CONTRACT

The Authority reserves the right to make changes to this Contract that are within the general scope of this Contract. Any such changes shall be subject to the "Extra Work" provisions of the Contract.

20. FEDERAL COST PRINCIPLES

All costs under this Contract are subject to audit pursuant to Federal cost principles set forth in OMB Circular A-87 (or as may be revised).

21. REPORTING

Contractor shall comply with the FEMA requirements and regulations pertaining to reporting, particularly those contained in 44 CFR parts 13.40 and 13.41.

22. PATENTS

The Contractor agrees, pursuant to 44 C.F.R. 13.36 (i)(8), that all rights to inventions and/or discoveries that arise or are developed, in the course of or under this Agreement, shall belong to the Port Authority and be disposed of in accordance with the Port Authority policy. The Port Authority, at its own discretion, may file for patents in connection with all rights to any such inventions and/or discoveries.

23. COPYRIGHTS

The Contractor agrees, pursuant to 44 C.F.R. 13.36 (i)(9), that if this Agreement results in any copyrightable material or inventions, in accordance with 44 C.F.R. 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, for Federal Government purposes: (1) the copyright in any work developed under a grant or contract; and (2) any rights of copyright to which a grantee or a contractor purchases ownership with grant support.

24. BUY AMERICAN REQUIREMENTS (IF APPLICABLE)

Contractor is required to comply with the Buy American Act (41 U.S.C. 10a et seq.).

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

The undersigned

(name of authorized officer)

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

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

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

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

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

Executed this day _____ of _____, 2013

By: _____
Signature of Authorized Official

Official Name and Title of Authorized Official

FEMA REQUIREMENTS

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
 2. Identify the status of the covered Federal action.
 3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
 4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
 5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
 6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
 7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
 8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
 9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
 10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
 11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.
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FEMA REQUIREMENTS

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

FEMA REQUIREMENTS

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS**

1. The prospective lower tier participant,

_____, certifies by submission of this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. The prospective lower tier participant shall provide immediate written notice to the Authority (and the Contractor, if applicable) if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Executed this day _____ of _____, 2013.

BY SIGNATURE OF AUTHORIZED OFFICIAL

NAME AND TITLE OF AUTHORIZED OFFICIAL

FEMA REQUIREMENTS

INSTRUCTIONS FOR COMPLETION OF CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION -LOWER TIER COVERED TRANSACTIONS

1. By signing and submitting this Proposal, the prospective lower tier participant is providing the signed certification set out on the previous page.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Authority may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the Authority if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [2 C.F.R. Part 3000]. The Proposer may contact the Procurement Representative for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Authority.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under sub-paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Authority may pursue available remedies including suspension and/or debarment.