



# REQUEST FOR QUOTATION

<p><b>Contact person/Telephone</b></p>	<p><b>Collective#</b> 0000035865</p> <p><b>Bid Due Date</b> 12/27/2013</p> <p>Bids must be received no later than 11:00 AM on the above Bid Due Date.</p> <p><b>Deliver Goods/Services To:</b> Path Harrison Stockroom Foot of Cape May St. Harrison NJ 07029</p>
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Quantity	Description	Unit Price	Total
	<p>PATH RAIL CAR OIL TESTING ANALYSIS SERVICES. Path will provide gearbox and compressor Hydraulic oil samples from Path Rail Cars, GEAR units and compressorS.</p> <p>These services may be funded in whole or in part by the Federal Transit Administration (FTA). Accordingly, the FTA requirements will be required as part of the agreement and will be applicable to the performance of such services</p> <p>See attached specifications and terms and conditions</p> <p>ESTIMATED QUANTITY 1800 TESTS OVER A TWO YEAR PERIOD FROM ON OR ABOUT 1/15/2014 TO ON OR ABOUT 1/14/2016.</p>		
	<p><b>PLEASE QUOTE FULLY DELIVERED PRICES</b></p>	<p><b>PAYMENT TERMS</b></p>	<p><b>Total Delivered Price</b></p>

**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 TRANS-HUDSON CORPORATION opens this proposal.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
 Firm Name \_\_\_\_\_



# REQUEST FOR QUOTATION

Bid Due Date  
12/27/2013

Quantity	Description	Unit Price		Total	
	<p>This is a Formal Bid Invitation Mail Sealed Bids to:</p> <p>The Port Authority of NY &amp; 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. &amp; 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>				
1,800 EA	Test gearbox and compressor oil				
	<p style="text-align: center;"><b>PLEASE QUOTE FULLY DELIVERED PRICES</b></p>	<p><b>PAYMENT TERMS</b></p>		<p><b>Total Delivered Price</b></p>	

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 Signed \_\_\_\_\_ Date \_\_\_\_\_  
 Firm Name \_\_\_\_\_

**PATH STOCKROOM REQUIREMENT CONTRACT**

10089865  
BID #35865

**Information for Bidders**

**1. AWARD METHOD**

**AWARD TO SINGLE BIDDER:**

It is the intent of the Port Authority to award this Bid to one Bidder based on the total estimated delivered price for all items. However, the Port Authority shall have the absolute right to reject any or all bids or to accept any bid in whole or in part and to waive defects in bids.

**2. CORRECTION IN COMPUTATION**

Each Bidder shall insure that all information and figures are inserted as required and that all computations have been verified for accuracy. Bidders are advised that the Port Authority may verify only the quotation or quotations that it deems appropriate and may not check each bid for errors in computation. The Port Authority reserves the unqualified right to recalculate any and all extensions set forth by the Bidder. In the event there is a discrepancy between any unit price listed and the "Estimated Total Price" or the "Total Estimated Contract Price," the Bidder's unit price, shall prevail.

## STANDARD TERMS AND CONDITIONS

### 1. GENERAL AGREEMENT

The Vendor agrees to provide services on an "as needed" basis to the Port Authority's stockrooms as set forth herein, the Authority's stockroom requirements for the items set forth in the "Request for Quotation" form, within the calendar days indicated in paragraph 4 below. The services rendered shall be at the prices quoted in the Request for Quotation. The contract term is **2 years**. The dollar value of this requisition is for evaluation purposes only and there are no guarantees as to the actual amount, if any, that may be ordered. In full consideration for the performance of all duties and obligations hereunder, the Vendor agrees to accept from the Port Authority a compensation consisting of payment for the items or services supplied by the Vendor computed at the bid prices quoted in the Request for Quotation. The "Unit Prices" quoted **shall not** exceed two decimal places. The Port Authority Trans Hudson Corporation (PATH) is a third party beneficiary of this agreement and may order its requirements for services required upon the same terms and conditions by issuing a separate purchase order.

### 2. SCOPE OF SERVICES REQUIRED

PATH (Port Authority Trans Hudson) Corporation, Car Equipment Division intends to establish an Oil Analysis Program to monitor the efficiency and performance of newly overhauled equipment. PATH will provide Gear Unit Oil, MOBIL DELVAC Synthetic Gear Oil 75W90 or equivalent and Compressor Oil, Exxon NUTO H-68 Hydraulic Fluid or equivalent to the enlisted laboratory to undergo ICP (Inductively Coupled Plasma) Mass Spectrometry Testing in accordance with ASTM D5185. Up to 1,800 samples will be provided over a 2-year period in accordance with the schedule below. The samples will be provided in quantities of five 4 Oz. approved containers per each rolling stock equipment and will be labeled accordingly. The testing should capture the presence of contaminants, specifically wear metals and sodium content. Results must be provided by both hard copy for record keeping purposes as well as Excel Spreadsheet format for compilation and comparison of results. The hard copy should contain a recommended course of action based on the results identified. Testing results must be provided within 5-7 business days.

Proposed Schedule for each Railcar:

Initial Testing 5 Samples, 92 Day recurring Sample (5 Samples Ea.) 2 times, 3 sets (5 Samples Ea.) at a 6 month interval for the remainder of the 2 year testing cycle. A total of 30 samples per car over the 2 Year period. This will be accomplished for 57 Cars, an actual total of 1,710 samples will be provided. The prescribed testing interval may be modified for certain samples if anomalies are discovered.

### **3. EXTENSION PERIOD**

The Port Authority shall have the absolute right to extend the Base Term for an additional period of up to one hundred and twenty (120) days subsequent to the Expiration Date of the Base Term, or the Expiration Date of the final exercised Option Period (hereinafter called the "Extension Period"), subject to the same terms and conditions as the previous contract period. The prices quoted by the Contractor for the previous contract period shall remain in effect during this Extension Period without adjustment. If it so elects to extend this Contract, the Port Authority will advise the Contractor, in writing that the term is so extended, and stipulate the length of the extended term, at least thirty (30) days prior to the expiration date of the previous contract period.

### **4. FACSIMILE EQUIPMENT**

The Vendor shall have available a facsimile machine for receipt of releases via facsimile message from the Port Authority.

### **5. PURCHASE ORDERS**

Releases against the Contract for the Port Authority/PATH stockroom(s) will be coordinated using Purchase Orders issued by Port Authority/PATH. Purchase Orders may be verbal or in writing. If verbal, the Port Authority will confirm all orders by a facsimile hard copy transmission bearing the stock number, quantity, delivery location and Purchase Order number. The Vendor shall accept Purchase Orders only from the Material Control Group or PATH. The Vendor shall deliver within 7 business days, from receipt of Purchase Order. There shall be no minimum quantities or dollars per order.

### **6. SHIPPING/DELIVERY TRANSACTIONS**

All shipping costs must be included within contract pricing provided by the vendor. PATH Stockroom will ship samples to the enlisted laboratory in approved, labeled containers with all requested paperwork. The paperwork provided by the laboratory will be an easily completed template. All results provided must be delivered as a batch identical to the set provided by PATH (i.e. 10 samples, 5 per each rolling stock equipment received). The results must also include the invoice for the services rendered as outlined in Paragraph 10.

### **7. DELIVERY LOCATIONS**

All results will be sent to the following:

ATTN: Ferdinand Frollani, CED  
PATH **HARRISON** Stockroom  
Foot of Cape May Street  
Harrison, NJ 07029  
(973) 350-3944/3945

## **8. LEGAL HOLIDAYS**

Except where otherwise specified, all of the following holidays will be observed at the Facility. Where specified, these holidays shall mean and include:

New Year's Day	Labor Day
Martin Luther King's Birthday	Columbus Day
Lincoln's Birthday	Veterans Day
President's Day	Thanksgiving Day
Memorial Day	The day after Thanksgiving Day
Independence Day	Christmas

## **9. MATERIAL SAFETY DATA SHEETS**

If requested by the enlisted laboratory, PATH Corp. will provide the required MSDS Sheets for all substances requiring analysis.

## **10. BILLING**

An invoice with a unique invoice number must be issued for all deliveries. The vendor must attach backup delivery receipts with Purchase Order number. The invoice must be addressed to the Contract Administrator as outlined in Paragraph 7.

## **11. NON-PERFORMANCE OF VENDORS DUTIES RELETING CHARGES**

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

## **12. TERMINATION**

The Port Authority may terminate this Contract with cause or without cause at any time upon five (5) days written notice to the Vendor and in such an event this Contract shall cease and expire on the date set forth in the notice of termination as fully and completely as though such date was the original expiration date. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions of this agreement already performed but no allowance shall be made for anticipated profits. The Vendor shall complete delivery of all items ordered before receipt of the notice of termination.

## **13. CONFLICT OF TERMS AND CONDITIONS**

In the event of any conflict between these "stockroom requirement contract terms and conditions" and the terms and conditions on the "Request for Quotation" form, these standard terms and conditions shall prevail.

#### **14. PURCHASE BY OTHER GOVERNMENT AGENCIES**

Upon such request, vendors who are awarded contracts are encouraged to extend the terms and conditions of these contracts under separate agreement, to other government and quasi-governmental entities.

PURCHASE ORDER TERMS AND CONDITIONS

PA FTA ●

100 89865  
Bid # 35886

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 PA. 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 buyer may procure, upon such terms and in such manner as the buyer 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 buyer 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 PA 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 PA 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 PA 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 PA.

## PORT AUTHORITY OF NY & NJ

13. Upon request, sellers are encouraged to extend the terms and conditions of any terms agreement with the PA 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 PA Code of Ethics; and the existence of investigations, indictments, convictions, suspensions, terminations, debarments and other stated occurrences to assist the PA in determining whether there are integrity issues which would prevent award of the contract to the seller. The PA 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. ADDITIONAL BIDDER INFORMATION

Prospective Bidders are advised that additional vendor information, including but not limited to, forms, documents and other information, including protest procedures, may be found on the Port Authority website at: <http://www.panynj.gov/business-opportunities/become-vendor.html>

18. FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS (for purchase orders in excess of \$2,500) – The attached cited Federal Acquisition Regulation clauses shall be incorporated herein.

FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS

1. INCORPORATION OF FEDERAL TERMS – As used herein, the term “Agreement” shall mean “Purchase Order”. This Agreement is anticipated to be partially funded by the Federal Transit Administration.

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

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

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

3. NO FEDERAL OBLIGATIONS TO THIRD PARTY – The Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

4. ORGANIZATIONAL CONFLICT OF INTEREST

A. This Contract may give rise to a potential for an organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under the contract may, without some form of restriction on future activities; result in an unfair competitive advantage to the Contractor.

(i) 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.

(ii) 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.

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

## PORT AUTHORITY OF NY & NJ

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

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

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

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

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

### 5. CIVIL RIGHTS

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

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

1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor

agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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

6. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS - If this Contract involves equipment, materials, or commodities that may be transported by ocean vessels, the Contractor herein agrees:

a. To utilize privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

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

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

7. 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

## PORT AUTHORITY OF NY & NJ

performed by a Subcontractor is in compliance with the requirements of this Section.

8. 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.

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

### 10. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

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

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

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

11. CERTIFICATION, DEBARMENT AND SUSPENSION – This contract is a covered transaction for purposes of 2 cfr parts 180 and 1200. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 2 cfr 180.995, or affiliates, as defined at 2 cfr 180.905, are excluded or disqualified as defined at 2 cfr 180.935 and 180.940. The Contractor is required to comply with 2 CFR 180, Subpart C and must include the requirement to comply with 2 CFR 180, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid, the bidder 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 bidder 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 bidder agrees to comply with the requirements of 2 CFR 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

12. ADA ACCESS REQUIREMENTS - Facilities to be used in public transportation service must comply with 42 U.S.C. Sections 12101 *et seq.* and DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37; and Joint ATBCB/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38.

13. DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
A. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%.

B. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Port Authority deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

C. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Port Authority. In addition, is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the Port Authority and contractor's receipt of the partial retainage payment related to the subcontractor's work.

D. The contractor must promptly notify Port Authority, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Port Authority.

### 14. BUY AMERICA

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a

## PORT AUTHORITY OF NY & NJ

general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.