THE PORT AUTHORITY OF NY & NJ

PROCUREMENT DEPARTMENT
2 MONTGOMERY STREET, 3RD FL.
JERSEY CITY, NJ 07302

INVITATION FOR BID/PUBLIC BID OPENING
BID INFORMATION

ISSUED DATE: February 11, 2014

TITLE: WORLD TRADE CENTER (WTC)
CCP LOCKER ROOM AND ELEVATOR REPAIRS

BID NO.: 36617

SUBMIT SEALED BIDS BEFORE THE DUE DATE AND TIME TO THE ABOVE ADDRESS WHERE THEY WILL BE PUBLICLY OPENED AND READ

SITE INSPECTION: February 18th, 2014 TIME: 10:00 AM

BID DUE DATE: March 3rd, 2014 TIME: 11:00 AM

BUYER NAME: Joann Spirito
PHONE NO.: 212 435 5640
FAX NO.: 212 435 5116
EMAIL: jspirito@panynj.gov

BIDDER INFORMATION
(TO BE COMPLETED BY THE BIDDER)
(PLEASE PRINT)

_____
(NAME OF BIDDING ENTITY)

_____
(ADDRESS)

_____
(CITY, STATE AND ZIP CODE)

_____
(REPRESENTATIVE TO CONTACT-NAME & TITLE (TELEPHONE)

_____
(FEDERAL TAX I.D. NO.) (FAX NO.)

_____ BUSINESS CORPORATION _____PARTNERSHIP _____INDIVIDUAL

_____ OTHER (SPECIFY): _____

INVITATION FOR BID

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PART I - STANDARD INFORMATION FOR BIDDERS

1. General Information: The Port Authority of New York and New Jersey

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

In addition, the Port Authority operates the Port Authority Bus Terminal in Manhattan, the largest facility of its kind in the world, and the George Washington Bridge and Journal Square Transportation Center bus stations. A key link in interstate commuter travel, the Port Authority also operates the Port Authority Trans-Hudson Corporation (PATH), a rapid rail transit system linking Newark, and the Jersey City and Hoboken waterfronts, with midtown and downtown Manhattan. A number of other key properties are managed by the agency including but not limited to a large satellite communications facility (the Teleport) in Staten Island, and a resource recovery co-generation plant in Newark. Prior to September 11, 2001, the Port Authority's headquarters were located in the World Trade Center, and that complex is still owned and being partially redeveloped by the Authority.

2. Federal Transit Administration Requirements

This Agreement may be funded in whole or in part by the Federal Transit Administration ("FTA") and/or the Federal Emergency Management Agency ("FEMA") and, accordingly, the successful Bidder will be required to comply with the "Federal Transit Administration Requirements" and/or the Federal Emergency Management Agency annexed hereto as Attachment A.

3. Form and Submission of Bid

The Bidder shall review carefully every provision of this document, provide all the information required, and sign and return one entire copy to the Port Authority in accordance with the instructions on the Cover Sheet and Part II – Contract Specific Information for Bidders. The Bidder should retain one complete duplicate copy for its own use. The "Signature Sheet" contained herein must be completed and signed by the Bidder. If applicable, the Pricing Sheet(s) contained herein must also be completed. The bid shall be sealed in the enclosed self-addressed envelope conspicuously marked with the Bidder's name, address, and Vendor Number, if

available. In addition, the outside of the package must clearly state the Bid Title, the Bid Number and the Bid Due Date.

Failure to properly label submissions may cause a delay in identification, misdirection or disqualification of the submissions. In submitting this bid, the Bidder offers to assume the obligations and liabilities imposed upon it herein and expressly makes the representations and warranties required in this document.

All Bids must be received by the bid custodian on or before the due date and time specified on the cover page, at which time they will be publicly opened and read. Bids are only accepted Monday through Friday, excluding Port Authority holidays, between the hours of 8:00 a.m. and 5:00 p.m., via (1) regular mail, (2) express delivery service (e.g. UPS), or (3) hand delivery. If your bid is to be hand-delivered by messenger or you are planning to attend the formal bid opening, please note that only individuals with valid photo identification will be permitted access to the Port Authority's offices. Individuals without valid identification shall be turned away and their packages not accepted. Bids that are not received by the bid custodian by the scheduled bid opening date will be considered late.

4. Vendor Profile

To ensure maximum opportunities, it is important that Bidders keep their vendor profiles up to date with an appropriate e-mail address, as this will enable their firm to receive timely notice of advertisements, reminders, solicitations and addenda. Bidders may update their vendor profile or register as a Port Authority Vendor by accessing the online registration system at https://panynjprocure.com/VenLogon.asp. Bidders that register, as a Port Authority Vendor by accessing the on-line registration system will be sent an acknowledgement with their assigned Vendor Number.

5. Acknowledgment of Addenda

If any Addenda are posted or sent as part of this Bid, the Bidder shall complete, sign and include with its Bid the addenda form(s). In the event any Bidder fails to conform to these instructions, its Bid will nevertheless be construed as though the Addenda had been acknowledged.

If the Bidder downloaded this solicitation document, it is the responsibility of the Bidder to periodically check the Port Authority website at http://www.panynj.gov/business-opportunities/bid-proposal-advertisements.html and download any addenda that might have been issued in connection with this solicitation.

6. Firm Offer

The Bidder offers to provide the Port Authority of New York and New Jersey ("Authority") the services and to perform all Work in connection therewith required under this Contract, all as specified by the terms and conditions of the Contract, based on the Pricing Sheets provided herein.

EXCEPTIONS TAKEN OR CONDITIONS IMPOSED BY A BIDDER TO ANY PORTION OF THE CONTRACT DOCUMENTS WILL RESULT IN REJECTION OF THE BID.

7. Acceptance or Rejection of Bids

The acceptance of a bid will be by a written notice signed by an authorized representative on behalf of the Authority. No other act of the Port Authority, its Commissioners, officers, agents or employees shall constitute acceptance of a bid. The Port Authority reserves the unqualified right, in its sole and absolute discretion, to reject any or all bids or to accept any bid, which in its judgment will best serve the public interest and to waive defects in any bid. No rights accrue to any Bidder unless and until its bid is accepted.

8. Bidder's Questions

Any questions by prospective Bidders concerning the Work to be performed or the terms and conditions of the Contract may be addressed to the Contracts Specialist listed on the Cover Sheet of this document. The Contracts Specialist is only authorized to direct the attention of prospective Bidders to the portions of the Contract. No employee of the Port Authority is authorized to interpret any portion of the Contract or to give information in addition to that contained in the Contract. When Contract interpretation or additional information as to the Contract requirements is deemed necessary by the Port Authority, it will be communicated to all Bidders by written addenda issued under the name of the Manager, Purchasing Services Division of the Port Authority and may be posted on the Port Authority website. Addenda shall be considered part of the Contract.

9. Additional Information To and From Bidders

Should the Authority require additional information from the Bidder in connection with its bid, such information shall be submitted within the time frame specified by the Port Authority.

If the Bidder is a corporation (including partnership and joint venture), a statement of the names and residences of its officers should be submitted on the Name and Residence of Principals Sheet, directly following the Signature Sheet.

10. Union Jurisdiction

All prospective Bidders are advised to ascertain whether any union now represented or not represented at the Facility will claim jurisdiction over any aspect of the operations to be performed hereunder and their attention is directed to the paragraph entitled "Harmony" in the Standard Contract Terms and Conditions.

11. Assessment of Bid Requirements

The Bidder should carefully examine and study the entire contents of these bid documents and shall make its own determinations as to the services and materials to be supplied and all other things required to be done by the Contractor.

12. Bidder's Prerequisites

When applicable, only Bidders who can comply with the prerequisites specified in Part II hereof at the time of the submission of its bid should submit bids, as only bids submitted by such Bidders will be considered. By furnishing this document to the Bidder, the Port Authority has not made a determination that the Bidder has met the prerequisites or has otherwise been deemed

qualified to perform the services. A determination that a Bidder has met the prerequisites is no assurance that it will be deemed qualified in connection with other bid requirements included herein.

13. Qualification Information

The Port Authority may give written notice to the apparent low Bidder to furnish the Port Authority with information and to meet with designated representatives of the Port Authority relating to the apparent low Bidder's qualifications and ability to fulfill the Contractor's obligations hereunder. The requested information shall be submitted no later than three (3) days after said notice unless otherwise indicated. Matters upon which the Port Authority may inquire may include, but not be limited to, the following:

a. The apparent low Bidder may be required to demonstrate that it is financially capable of performing this Contract, and the determination of the apparent low Bidder's financial qualifications will be made by the Port Authority in its sole discretion. The apparent low Bidder shall submit such financial and other relevant information as may be required by the Port Authority from time to time including, but not limited to, the following:

1. (i) Certified financial statements, including applicable notes, reflecting the apparent low Bidder's assets, liabilities, net worth, revenues, expenses, profit or loss and cash flow for the most recent calendar year or the Bidder's most recent fiscal year.

   (ii) Where the certified financial statements set forth in (i) above are not available, then either reviewed or compiled statements from an independent accountant setting forth the aforementioned information shall be provided.

   (iii) Where neither certified financial statements nor financial statements from an independent accountant are available, as set forth in (i) and (ii) above, then financial statements containing such information prepared directly by the apparent low Bidder may be submitted; such financial statements, however, must be accompanied by a signed copy of the apparent low Bidder's most recent Federal income tax return and a statement in writing from the apparent low Bidder, signed by an executive officer or their authorized designee, that such statements accurately reflect the present financial condition of the apparent low Bidder.

Where the statements submitted pursuant to subparagraphs (i), (ii) or (iii) are dated prior to forty-five (45) days before the bid opening, then the apparent low Bidder shall submit a statement in writing, signed by an executive officer of the apparent low Bidder or their designee, that the present financial condition of the apparent low Bidder is at least as good as that shown on the statements submitted.

2. Apparent low Bidder's statement of work on hand, including any work on which a bid has been submitted, containing a description of the work, the annual dollar value, the location by city and state, the current percentage of completion, the expected date for completion, and the name of an individual most familiar with the apparent low Bidder's work on these jobs.

3. The name and address of the apparent low Bidder's banking institution, chief banking representative handling the apparent low Bidder's account, the apparent low Bidder's Federal Employer Identification Number (i.e., the number assigned to firms by the

Federal Government for tax purposes), the apparent low Bidder's Dun and Bradstreet number, if any, the name of any other credit service to which the apparent low Bidder has furnished information, and the number, if any, assigned by such service to the apparent low Bidder's account.

b. Information relating to the apparent low Bidder's Prerequisites, if any, as set forth in this document.

c. If the Bidder is a corporation (including partnerships and joint ventures): (1) a copy of its Certificate of Incorporation and, if applicable, all Amendments thereto with a written declaration signed by the Secretary of the Corporation with the corporate seal affixed thereto, stating that the copy furnished is a true copy of the Certificate of Incorporation and any such Amendments as of the date of the opening of the bid and (2) if the Bidder is not incorporated under the laws of the state in which the service is to be performed, a certificate from the Secretary of State of said state evidencing the Bidder's legal qualification to do business in that state.

d. A statement setting forth the names of those personnel to be in overall charge of the service and those who would be exclusively assigned to supervise the service and their specific roles therein, setting forth as to each the number of years of experience and in which functions and capacities each would serve.

e. Information to supplement any statement submitted in accordance with the Standard Contract Terms and Conditions entitled "Contractor's Integrity Provisions."

f. In the event that the Bidder's performance on a current or past Port Authority or PATH contract or contracts has been rated less than satisfactory, the Manager, Purchasing Services Division, may give oral or written notice to the Bidder to furnish information demonstrating to the satisfaction of such Manager that, notwithstanding such rating, such performance was in fact satisfactory or that the circumstances which gave rise to such unsatisfactory rating have changed or will not apply to performance of this Contract, and that such performance will be satisfactory.

g. The Bidder recognizes that it may be required to demonstrate to the satisfaction of the Port Authority and PATH that it in fact can perform the services as called for in this Contract and that it may be required to substantiate the warranties and representations set forth herein and the statements and assurances it may be required to give.

Neither the giving of any of the aforesaid notices to a Bidder, the submission of materials by a Bidder, any meeting which the Bidder may have with the Port Authority, nor anything stated by the Port Authority and/or PATH in any such meeting shall be construed or alleged to be construed as an acceptance of said Bidder's bid. Nothing stated in any such meeting shall be deemed to release any Bidder from its offer as contained in the bid.

14. Facility Inspection

Details regarding the Facility inspection for all parties interested in submitting a bid are stipulated in Part II hereof. All Bidders must present company identification and photo identification for access to the Facility.

15. Available Documents - General

Certain documents, listed in Part II hereof, will be made available for reference and examination by Bidders either at the Facility Inspection, or during regular business hours. Arrangements to review these documents at a time other than the Facility Inspection may be made by contacting the person listed in Part II as the contact for the Facility Inspection.

These documents were not prepared for the purpose of providing information for Bidders upon this Contract but they were prepared for other purposes, such as for other contracts or for design purposes for this or other contracts, and they do not form a part of this Contract. The Authority makes no representation or guarantee as to, and shall not be responsible for, their accuracy, completeness or pertinence, and, in addition, shall not be responsible for the inferences or conclusions to be drawn therefrom.

16. Pre-award Meeting

The lowest qualified Bidder may be invited to a pre-award meeting prior to award of the Contract.

17. Disadvantaged Business Enterprises (DBE's)

This Solicitation is subject to the United States Department of Transportation regulations on Disadvantaged Business Enterprises (DBE's) contained in Part 26 of Title 49 of the Code of Federal Regulations. The requirements for the DBE Program are located in Part III of this Solicitation.

For more information on the Port Authority certification process, please refer to the following website: http://www.panynj.gov/business-opportunities/sd-become-certified.html.

18. 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”.

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 a 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.

19. City Payroll Tax

Bidders should be aware of the payroll tax imposed by the:

a. City of New York, New York for services performed in New York, New York.

These taxes, if applicable, are the sole responsibility of the Contractor. Bidders should consult their tax advisors as to the effect, if any, of these taxes. The Port Authority provides this notice for informational purposes only and is not responsible for either the imposition or administration of such taxes. The Port Authority exemption set forth in the Paragraph headed “Sales or Compensating Use Taxes”, in the Standard Contract Terms and Conditions included herein, does not apply to these taxes.

20. 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

21. ATTACHMENT I-A - Certified Environmentally Preferable Products/Practices

Bidder Name: _____Date: _____

In line with the Port Authority's efforts to promote products and practices which reduce our impact on the environment and human health, Bidders are encouraged to provide information regarding their environmentally preferable/sustainable business practices as they relate to this contract wherever possible. Bidders are requested to complete this form and submit it with their response, if appropriate. Bidders are requested to submit appropriate documentation to support the items for which the Bidder indicates a "Yes" and present this documentation, in the proper sequence of this Attachment.

1. Packaging

Has the Bidder implemented any of the following environmental initiatives? (A checkmark indicates "Yes")

____ Use of corrugated materials that exceed the required minimum EPA recommended post-consumer recycled content

____ Use of other packaging materials that contain recycled content and are recyclable in most local programs

____ Promotes waste prevention and source reduction by reducing the extent of the packaging and/or offering packaging take-back services, or shipping carton return

____ Reduces or eliminates materials which have been bleached with chlorine or chlorine derivatives

____ Eliminates any packaging that may contain polyvinyl chloride (PVC), or polystyrene or heavy metals.

If yes, a description of the practices being followed should be include with the submission.

2. Business Practices / Operations / Manufacturing

Does the Bidder engage in practices that serve to reduce or minimize an impact to the environment, including, but not necessarily limited to, the following items? (A checkmark indicates "Yes")

____ Recycles materials in the warehouse or other operations

____ Use of alternative fuel vehicles or vehicles equipped with diesel emission control devices for delivery or transportation purposes

____ Use of energy efficient office equipment or signage or the incorporation of green building design elements

____ Use of recycled paper (that meets federal specifications) in their marketing and/or resource materials

____ Other sustainable initiative

If yes, a description of the practices being followed should be included with the submission.

3. Training and Education

Does the Bidder conduct/offer a program to train or inform customers and employees of the environmental benefits of the products to be offered under this contract, and/or does the Bidder conduct environmental training of its own staff?

☐ Yes ☐ No If yes, Bidder shall attach a description of the training offered and the specific criteria targeted by the training.

4. Certifications

Has the Bidder or any of its manufacturers and/or subcontractors obtained any of the following product / industry certifications? (A checkmark indicates "Yes")

____ ISO 14000 or adopted some other equivalent environmental management system

____ Other industry environmental standards (where applicable), such as the CERES principles, LEED Certification, C2C Protocol, Responsible Care Codes of Practice or other similar standards

____ Third Party product certifications such as Green Seal, Scientific Certification Systems, Smartwood, etc.

If yes, Bidders should attach copies of the certificates obtained.

I hereby certify under penalty of law, the above statements are true and correct.

_____Name _____Date

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PART II - CONTRACT SPECIFIC INFORMATION FOR BIDDERS

The following information may be referred to in other parts hereof, or further detailed in other parts hereof, if applicable.

1. Service(s) Required

World Trade Center (WTC) Central Chiller Plant Locker Room and Elevator Repairs and Drywall Replacement due to damages caused by Hurricane Sandy as further described below:

a. Locker Room Repairs may consist of the following:

- Wall and Floor Tile
- Piping
- Lockers
- Framing and Drywall
- Insulation
- Doors and Frames
- Ceiling
- Receptacles and Switches
- Toilet Accessories
- AHU-242-1 and associated ductwork

b. Elevator Repairs may consist of the following:

Damaged parts to be removed and replaced include but are not limited to:

- Hydraulic tank, pipes, pumps and oil
- Controller
- Duct, pipe and Wiring
- Tape and Magnets
- Car Top Box
- Rear Door Operator
- Tape Reader
- Emergency Power Pack
- Warranty
- AHU-242-2 and associated ductwork

c. Drywall Replacement may consist of the following:

- Installation of removed drywall in Rooms 111 and 117

2. Delivery Location(s)

WTC Central Chiller Plant

3. Delivery Date:

The date of delivery shall be coordinated with the Engineer as more fully defined in Part III – "Contract Specific Terms and Conditions", hereof.

FOB Delivery Point.

4. Expected Contract Commencement Date:

On or about March 10th, 2014

5. Contract Type:

Lump Sum Not to Exceed

6. Duration of Contract:

The completion date for this Agreement is approximately 70 working days from Notice to Proceed.

7. Reference Documents

A. A complete set of the World Trade Center Central Chiller Plant & River Water System – CCP Package 1 (Conformed)
B. Specific Drawings that may aid in the understanding of the scope of work include:
    1. A101 – Floor Plan Level 242
    2. A401 – Reflected Ceiling Plan – Level 242
    3. A601 – Enlarged Locker Room Plans and Elevations
    4. A602 – Enlarged Locker Room Plans and Elevations
    5. M107 – Chiller Plant HVAC Plan – Level 242
    6. EP101 – Power Plan – Level 242
C. The rooms where the majority of the work will occur are:
    1. 109/109A – Female Locker Room & Vestibule
    2. 110/110A – Male Locker Room & Vestibule
    3. 111 – Storage
    4. 117 – Tool Storage
    5. 114--Machine Room
D. Exhibit C—CCP—SK-1—Photgraphic Views of Existing Conditions

8. Site/Facility Inspection

DATE AND TIME: February 18th, 2014 at 10:00 AM

MEETING LOCATION: 115 Broadway, New York, NY 10006.

Firms interested in attending the site inspection should contact Ms. Joann Spirito at (212) 435-5640 or jspirito@panynj.gov prior to 5:00 P.M., February 14, 2014 to RSVP. Attendance may be limited to a maximum number of individuals per firm, as deemed appropriate. Two valid forms of photo IDs are required to attend.

9. Specific Bidder's Prerequisites

In order for a firm to be considered for the award of this Contract, it shall provide written, documentary evidence, to the satisfaction of the Authority, that the firm meets the following requirements.

A. Minimum Experience of the Firm:

1. As a prime or general contractor, the firm shall have had at least seven (7) years of construction experience on projects of comparable type and complexity; and

2. As a prime or general contractor during the last five (5) years, the firm shall have successfully completed (or substantially completed) at least three (3) construction projects of comparable type and complexity, with each project valued at $1 million or more. The firm may also qualify if, during the time period stated above, it has (or persons or entities owning and controlling it have) owned and controlled another firm that has satisfactorily and successfully performed and completed services of similar scope to those required under this Contract.

B. Minimum Qualifications of the Project Manager or Superintendent

1. The firm's Project Manager, Superintendent, Chief Engineer(s) and Site Safety Manager(s), as applicable, shall each have a minimum of ten (10) years construction experience on contracts comparable to this Contract in size, type and complexity.

10. Contractor Staff Background Screening

The Contractor awarded this contract may be required to have its staff, and any subcontractor's staff working under this Contract, authorize the Authority or its designee to perform background checks. Such authorization shall be in a form acceptable to the Authority. The Contractor (and subcontractor) may also be required to use an organization designated by the Authority to perform the background checks. 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. Costs for background checks for staff that are rejected for a credential for any reason are not reimbursable.

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, except as otherwise required by federal law and/or regulation. 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.

Refer to Attachment D—Information Security Handbook for additional information.

11. Background Qualifications Questionnaire

The Bidder shall submit a completed Background Qualifications Questionnaire (BQQ), required for all contractors, subcontractors, consultants and vendors providing services for projects at the WTC Site. Said forms must also be submitted for all Subcontractors and suppliers identified at the time of bid submission and whose subcontracts will meet the dollar thresholds requiring the certifications. This document and instructions for submitting the completed BQQ to the Port Authority's Office of Inspector General can be obtained at the Port Authority's website through the following link:

http://www.panynj.gov/wtcprogress/pdf/PANYNJ_OIG_WTC_BQQP.zip

A BQQ is also to be submitted for any subcontractor, subconsultant or vendor known to the Bidder at the time of Bid submission.

12. Federal Bid Submission Requirements:

A. The following items are additional bid submittal requirements and are contained within the Federal Transit Administration (FTA) Requirements and/or Solicitation Document in Attachment A and shall accompany your bid submission:

1. Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352
2. Standard Form LLL - Disclosure of Lobbying Activities
3. Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion - Lower Tier Covered Transactions
4. Buy America – Certification Requirement For Procurement of Steel, Iron, or Manufactured Products (Non- Rolling Stock)
5. Buy America – Certification Requirement For Procurement of Buses, other Rolling Stock And Associated Equipment (Rolling Stock)
6. Certificate of Cost and Pricing Data contained in Part IV Pricing Sheet(s)
7. Appendix A1 DBE Goals Statement in accordance with Part III clause entitled "DBE Program"
8. Appendix A2 DBE Participation Plan and Affirmation Statement
9. Appendix A3 Information on Solicited Firms

B. Attachment B contains additional bid submittal requirements that are contained within the Federal Emergency Management Administration (FEMA) Requirements and/or Solicitation Document and shall accompany your bid submission.

13. Contract Submission Requirements

The following shall be submitted for approval within 5 **working days** after Contract Award:

A. Certificates of Insurance in accordance with the Contract provisions contained herein.
B. Certified Financial Statements in accordance with Section 13, Part I – Qualification Information.

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PART III – CONTRACT SPECIFIC TERMS AND CONDITIONS

1. General Agreement

Subject to all of the terms and conditions of this Contract, the undersigned (hereinafter called the "Contractor") hereby offers and agrees to provide all the necessary supervision, personnel, materials, and equipment necessary to perform the Work required by this Contract as specified in Part II, and as more fully set forth in Part V ("Specifications"), at the location(s) listed in Part II and as more fully set forth in the Specifications, and to do all other things necessary or proper therefor or incidental thereto, all in strict accordance with the provisions of the Contract Documents and any future changes therein; and the Contractor further agrees to assume and perform all other duties and obligations imposed upon it by this Contract.

In addition, all things not expressly mentioned in the Specifications but involved in the carrying out of their intent and in the complete and proper execution of the matters referred to in and required by this Contract are required by the Specifications, and the Contractor shall perform the same as though they were specifically delineated, described and mentioned therein.

2. Order of Precedence

Anything to the contrary herein notwithstanding, all Contract Specific Terms and Conditions shall be deemed to control in the event of a conflict with the Standard Terms and Conditions contained in this Contract. All terms mandated by the FTA shall be deemed to control in the event of a conflict with other provisions contained in this Contract.

3. Specific Definitions

To avoid undue repetition, the following terms, as used in this Contract, shall be construed as follows:

Government, United States Government, Federal or words of like import shall mean the United States of America.

UMTA or FTA - shall mean the United States Department of Transportation, Federal Transit Administration (formerly known as the Urban Mass Transportation Administration).

FTA/ FEMA and Federal Government shall be used interchangeably.

DOT - shall mean the United States Department of Transportation.

DCAA - shall mean the Defense Contract Audit Agency.

The Port Authority or "Authority" - shall mean The Port Authority of New York and New Jersey.

Engineer - means the Chief Engineer or the Engineer of Construction of the Authority acting either personally or through his duly authorized representatives acting within the scope of the particular authority vested in them.

Investigation - Any inquiries made by any federal, state or local criminal prosecuting agency and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, "investigation" does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or Federal, State, and local inquiries into tax returns.

Item(s) – shall mean the goods, merchandise, supplies, equipment, services or articles specified.

Manufacturer – shall mean the person or entity who will actually build the specific item to be provided as described herein.

4. Delivery and Daily Record Requirements

If applicable, delivery shall be FOB delivered, the Contractor shall bear all cost of freight and insurance for delivery to the Port Authority. Delivery locations shall be coordinated with the Engineer, located at 115 Broadway, New York, NY 10003. All work shall be performed between the hours of 6:00 am and 6:00 pm, Monday through Friday, unless otherwise noted in the Specifications. The Contractor shall follow the instructions for the proper method of making deliveries. Failure to do so may result in delayed payments.

A. Shipping cartons shall not contain loose and/or unmarked item(s). All deliveries must be accompanied by an original packing slip, which shall always contain:
   1. A description of each item.
   2. The quantity shipped of each item.
   3. The Contractor's packing slip/invoice number.
   4. The Port Authority Purchase Order and/Contract Number

B. All daily records must always contain:
   1. The Port Authority Purchase Order and/Contract Number.
   2. A description of the work performed.
   3. The quantity and/or description of the work performed.

5. Delivery Schedule

All deliveries shall be made as directed by the Engineer.

6. Progress Schedule

As directed by the Engineer, the Contractor shall prepare a detailed progress schedule for approval. The progress schedule shall show the date for the commencement and completion of the different portions of the Work. After the approval of the schedule, no changes shall be made therein without the written approval of the Engineer. Approval of any progress schedule shall not relieve the Contractor of his obligation to complete the Contract by the time required in the Contract, even though the schedule approved may be inconsistent with such completion, nor shall it constitute a representation by the Authority that the Contractor will be able to proceed or complete the Work in accordance with the schedule.

The Engineer shall have the right at any time when, in his judgment, the work is not proceeding in accordance with the approved progress schedule or is not proceeding at sufficient rate to ensure completion by the time required in the Contract (even though proceeding in accordance with approved progress schedule), to order the Contractor to increase the number of personnel employed, to use additional plant or equipment, and/or to take such other steps as may be necessary or required to ensure the completion of the various operations within the time allotted therefor in the approved schedule or by the aforesaid completion time without additional compensation to the Contractor.

7. Time is of the Essence

The Contractor's obligation for performance of the Work within the time provided for this Contract is of the essence of this Contract. The Contractor guarantees that it can and will complete such performance as required.

Performance times shall be extended (subject, however, to the provisions of this numbered clause) only if, in the opinion of the Engineer acting personally, the Contractor is necessarily delayed in performance solely by fault of The Port Authority. Further, the Contractor shall be entitled to an extension of time to the extent that delay in its performance results from floods, earthquakes, storms, lightning, fire, epidemic, strike, force majeure, civil disturbance or any other cause which is beyond the reasonable control of the Contractor as determined by the Engineer.

Any reference herein to the Contractor shall be deemed to include suppliers and others performing on behalf of the Contractor, whether or not in privity of contract with the Contractor, and employees and others will be considered as agents of the Contractor.

8. Bill of Sale

The Contractor warrants that all item(s) furnished are free of liens and other encumbrances. The Contractor shall promptly furnish to the Port Authority such bills of sale and other instruments as may be required by it, properly executed, acknowledged and delivered, assuring to it title to the item(s), free of liens and other encumbrances, upon delivery of such merchandise to the Port Authority.

9. Title to Materials

Not Applicable.

10. Invoices

An invoice with a unique invoice number and backup delivery receipts with Contract number shall be submitted to the Port Authority before payment can be made. The Contractor's invoice shall state:

a) The starting and ending dates of the work performed; and
b) The payment milestone for which the Contractor is billing.

All invoices shall be mailed to the address indicated on the Contract.

11. Payment

Subject to the provisions of this Contract, the Port Authority agrees to pay to the Contractor and the Contractor agrees to accept from the Port Authority as full and complete consideration for the performance of all its obligations under this Contract and as sole compensation for the items(s) and/or service(s) provided by the Contractor hereunder, a compensation calculated from the respective prices inserted by the Contractor in the Pricing Sheet(s) for actual services performed/provided, forming a part of this Contract. The manner of submission of all bills for payment to the Contractor for Service(s) and/or item(s) provided under this Contract shall be subject to the approval of the Port Authority in all respects, including, but not limited to, format, breakdown of items presented and verifying records. All computations made by the Contractor and all billing and billing procedures shall be done in conformance with the clause entitled "Invoices" and the following procedures:

a) Payment shall be made on a monthly basis, minus ten percent (10%) and/or minus any deductions and/or any liquidated damages to which the invoice may be subject and/or any adjustments as may be required pursuant to increases and decreases in area, quantity or frequencies, if applicable, or price adjustments, if set forth herein.

b) No certificate, payment, acceptance of any item(s) or any other act or omission of any representative of the Port Authority shall operate to release the Contractor from any obligation under or upon this Contract, or to estop the Port Authority from showing at any time that such certificate, payment, acceptance, act or omission was incorrect or to preclude the Port Authority from recovering any monies paid in excess of those lawfully due and any damage sustained by the Port Authority.

c) In the event an audit of received invoices should indicate that the correct sum due the Contractor for the relevant billing period is less than the amount actually paid by the Port Authority, the Contractor shall pay to the Port Authority the difference promptly upon receipt of the Port Authority's statement thereof. The Port Authority may, however, in its discretion elect to deduct said sum or sums from any subsequent payments payable to the Contractor hereunder.

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

"Final Payment", as the term is used throughout this Contract, shall mean the final payment made for the delivery and acceptance of all services required under this Contract. The Contractor's acceptance of Final Payment shall act as a full and complete release to the Port Authority of all claims of and of all liability to the Contractor for all item(s) furnished in connection with this Contract and for every act and neglect of the Port Authority and others relating to or arising out of this Contract, including claims arising out of breach of contract and claims based on claims of third persons. No payment, however, final or otherwise shall operate to release the Contractor from any obligations in connection with this Contract.

12. Default- Delays

If the Contractor fails to perform in accordance with the terms of this Contract, the Authority may obtain the goods or services from others and may charge the Contractor the difference in price and a reletting cost, if any, plus any other damages that the Port Authority may deem appropriate.

13. Liquidated Damages

Inasmuch as damages to the Port Authority resulting from the Contractor's failure to deliver the equipment, materials and other items required herein or to perform the services required herein in a timely manner are difficult or impossible of exact determination, the parties hereto agree that such damages shall be liquidated as follows:

a) If the Contractor fails to complete the work within the time specified in this Contract, the Contractor shall pay to the Port Authority liquidated damages of $500.00 per calendar day for each day by which the performance of any service required hereunder exceeds the date established for its performance.

The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control of and without the fault or negligence of the

Contractor, as defined in the Default Revocation or Suspension of Contract Clause in this contract.

The Authority shall determine whether the Contractor has performed in a satisfactory manner and its determination shall be final, binding and conclusive upon the Contractor.

Failure of the Authority to impose liquidated damages shall not be deemed acceptance of unsatisfactory performance or of a failure to perform on the part of the Contractor or a waiver of its remedies hereunder.

14. Equipment Warranty

Notwithstanding the Specifications forming a part of this Contract, any inspection or approval of the item(s) by the Port Authority or the existence of any patent or trade name, the Contractor nevertheless unconditionally warrants that every item specified herein shall be of the best quality and shall be fully fit for the purpose for which it is to be used. The Contractor unconditionally warrants all equipment furnished against defects or failures of any kind, including defects or failures in design, workmanship and materials, failure to operate satisfactorily for any reason, excepting such defects or failures which the Contractor demonstrates to the satisfaction of the Engineer have arisen solely from accident, abuse or fault of the Port Authority occurring after acceptance by the Port Authority and not due to fault on the Contractor's part for the warranty period(s) described below. In the event of defects or failures in said equipment, then upon receipt of notice thereof from the Engineer, the Contractor shall correct such defects or failures by immediately reconstructing, repairing or making such alterations or replacement of said item(s) as may be necessary or desirable in the sole opinion of the Engineer to comply with the above warranty at no cost to the Port Authority.

The foregoing warranty shall not, however, be a limitation on any rights which the Authority would have, either expressed or implied, in connection with this Contract in the absence of such warranty, said warranty being given only for the greater assurance of the Port Authority.

15. Insurance Procured by the Contractor

The Contractor 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 Contractor under this Contract and, if vehicles are to be used to carry out the performance of this Contract, then the Contractor shall also take out, maintain, and pay the premiums on Automobile Liability Insurance covering owned, non-owned, and hired autos in the following minimum limits:

Commercial General Liability Insurance - $5 million combined single limit per occurrence for bodily injury and property damage liability.

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

In addition, the liability policy (ies) shall name The Port Authority of NY and other entities as seen on Schedule 1 (Indemnittees and Additional Insured) as additional insured, including but not limited to premise-operations, products-completed operations on the Commercial General Liability Policy. 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 cross-liability language providing severability of interests so that coverage will respond as if separate policies were in force for each insured. 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 statues respecting suits against the Port Authority."

The Contractor 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.

In addition, the policy (ies) and its certificate must be specifically endorsed to contain a provision 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 Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor shall promptly obtain a new and satisfactory certificate and policy.

The requirements for insurance procured by the Contractor shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Contractor under this contract. The insurance requirements are not a representation by the Authority as to the adequacy of the insurance to protect the Contractor against the obligations imposed on them by law or by this or any other Contract.

Schedule 1 – Indemnitees and Additional Insureds:

a) The Port Authority of New York and New Jersey
b) WTC Retail LLC
c) 1 World Trade Center LLC
d) The Port Authority Trans-Hudson Corporation
e) STV Construction, Inc.
f) NYS Department of Transportation
g) Tishman Construction Corporation
h) Tishman Realty & Construction Co., Inc.
i) Tishman Construction Corporation of New York
j) Silverstein Freedom Tower Development LLC, and its Affiliates
k) 2 World Trade Center LLC
l) 3 World Trade Center LLC
m) 4 World Trade Center LLC
n) World Trade Center Properties LLC
o) 1 WTC Holdings LLC
p) 2 WTC Holdings LLC

q) 3 WTC Holdings LLC
r) 4 WTC Holdings LLC
s) Silverstein Properties, Inc.
t) Silverstein East WTC Facility Manager LLC
u) WTC Redevelopment LLC
v) Silverstein WTC Mgmt. Co. LLC
w) Silverstein WTC Mgmt. Co. II LLC
x) Silverstein WTC Properties LLC
y) Silverstein WTC LLC
z) Silverstein 2/3/4 WTC Redevelopment LLC
aa) Spring World Inc.
bb) Spring WTC Holdings Inc.
cc) WTC Investors LLC
dd) Net Lessees' Association of the World Trade Center
ee) WTC Management and Development LLC
ff) Silverstein WTC Management and Development LLC
gg) WTC Investors Management and Development LLC
hh) Larry A. Silverstein
ii) World Trade Center Hold Co. Ltd
jj) 3 WTC Mezz LLC.
kk) The City of New York
ll) The Lower Manhattan Development Corporation
mm) The World Trade Center Memorial Foundation
nn) Metropolitan Transportation Authority

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16. Materials and Workmanship

All Item(s) and/or Service(s) shall be manufactured and/or provided in accordance with the best current practice in the industry and free from defects. All Item(s) and/or Service(s) shall at all times and places be subject to the inspection of the Engineer. Should any Item or Service fail to meet the Engineer's approval, it shall be forthwith made good, replaced or corrected, as the case may be, by the Contractor, at its own expense. All items shall be new items.

17. Inspection and Acceptance

Inspection and acceptance will be conducted at the Site, unless otherwise provided and agreed upon by the Port Authority and the Contractor. Any risk of loss will be the Contractor's responsibility until such delivery, inspection and acceptance is made, unless loss results from negligence of the Port Authority.

18. Errors and Omissions

If the Contractor discovers any errors or omissions in the Specifications or in the Work undertaken and executed by it, it shall immediately notify the Engineer and the Engineer shall promptly verify the same. If, with the knowledge of such error or omission and prior to the correction thereof, the Contractor proceeds with any work affected thereby, it shall do so at its own risk, and the work so done shall not be considered as work done under and in performance of this Contract.

19. Approval by the Engineer

The approval by the Engineer of any item(s) 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 Contractor from its full responsibility for the satisfactory performance of the Work. The decision of the Engineer shall be conclusive, final and binding on the parties as to all questions arising out of, under, or in connection with this Contract (including questions of breach of Contract).

20. Changes

Acceptance of Contractor's bid will be by Contract signed by the Port Authority. The Port Authority may at any time, by a written order, make changes within the general scope of this Contract 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 Contract, an equitable adjustment shall be made in the Contract price or delivery schedule, or both, and the Contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this section must be asserted within 30 days of a notification of change: provided, however, that nothing in this section, "Changes," shall excuse the Contractor from proceeding with the Contract as changed. Except as otherwise provided herein no payment for Changes shall be made unless the Changes have been authorized in writing by the Authority.

21. Variations in Quantity

The quantities set forth in the Price Schedule, if applicable, are estimates; actual total quantity may be greater or lower. The Port Authority reserves the right to increase or decrease the quantity of Items called for under this Contract at the Unit Prices specified. The Port Authority may exercise the option to vary the quantity by written notice to the Contractor. Delivery of the additional quantity of Items shall continue at the same rate as the like items called for under the Contract, unless the parties otherwise agree. All items to be added shall be set forth in a Change Order.

22. DBE Program

This Contract is subject to the United States Department of Transportation regulations on Disadvantaged Business Enterprises (DBEs) contained in Part 26 of Title 49 of the Code of Federal Regulations. The following goal for DBE participation has been set for this Contract:

Goal: **17 %** for firms owned and controlled by socially and economically disadvantaged individuals[1] and certified as DBE's by the Authority. Eligible DBE firms are listed on the following Uniform Certification Programs (UCPs) websites:

New York UCP – http://www.nysucp.net/

New Jersey UCP – http://www.njucp.net/

By bidding on this Contract, the bidder assures the Authority that it will meet the foregoing goal and shall submit the DBE Goals Statement form (Appendix A1) with its Bid. If the bidder determines it cannot make this assurance it may nevertheless submit a bid but in such event it shall note on the DBE Goals Statement form the percentage of DBE participation it anticipates, including documentation supporting the good faith efforts made to achieve the goals set forth in the Contract.

The bidder shall submit with his Proposal the DBE Participation Plan and Affirmation Statement (Appendix A2) for each DBE firm he intends to use on this Contract. The DBE Participation Plan and Affirmation Statement shall provide the name and address of each DBE firm, a description of the work to be performed, the dollar value of each DBE subcontract and the signature affirmation from each DBE firm participating in this Contract.

A bidder who fails to meet the DBE goal for this Contract and fails to demonstrate to the Port Authority that the bidder has made good faith efforts to meet same shall not be eligible to be awarded the Contract. The following are illustrative of good faith efforts:

A. Attendance at a pre-bid meeting, if any, scheduled by the Authority to inform DBEs of subcontracting opportunities under a given solicitation;
B. Advertisement in general circulation media, trade association publications, and minority-focused media for at least 20 days before bids or proposals are due. If 20 days are not available, publication for a shorter reasonable time is acceptable;
C. Written notification to DBEs that their interest in the Contract is solicited;
D. Efforts made to select portions of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the stated goal;
E. Efforts to negotiate with DBEs for specific sub-bids including at a minimum;
    1. The names, addresses, and telephone numbers of DBEs that were contacted;
    2. A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and
    3. A statement of why additional agreements with DBEs were not reached;
F. Information concerning each DBE the bidder contacted but rejected as unqualified, and the reasons for the bidder's rejection;
G. Efforts made to assist the DBEs contacted that need assistance in obtaining bonding or insurance required by the bidder or Authority.

[1] Individuals who are rebuttably presumed to be socially and economically disadvantaged include women, Blacks, Hispanics, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. A bidder may meet the DBE goal by using any combination of disadvantaged businesses.

The bidder shall submit with its Bid the completed Information on Solicited Firms form (Appendix A3) listing every firm that provided a quotation to the bidder for any subcontract to be performed under this Contract, whether or not the firms are DBE certified and whether or not the firms' quotes were included in the final Bid.

23. Federal Transit Administration Requirements

This Contract is subject to the provisions of the Federal Transit Administration as set forth in Attachment A, which is attached hereto and incorporated herein.

PART IV – SIGNATURE SHEET, NAME AND RESIDENCE OF PRINCIPALS SHEET AND PRICING SHEET(S), TABLE OF CONTENTS

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PART IV – SIGNATURE SHEET, NAME AND RESIDENCE OF PRINCIPALS SHEET AND PRICING SHEET(S)

1. SIGNATURE SHEET

OFFER: The undersigned offers and agrees to furnish to the Port Authority of New York and New Jersey the services and/or materials in compliance with all terms, conditions, specifications and addenda of the Contract. Signature also certifies understanding and compliance with the certification requirements of the standard terms and conditions as contained in the Standard Contract Terms and Conditions. This offer shall be irrevocable for 90 days after the date on which the Port Authority opens this bid.

ONLY THE COMPANY NAMED AS THE BIDDING ENTITY BELOW WILL RECEIVE PAYMENT. THIS MUST BE THE SAME NAMED COMPANY AS INDICATED ON THE COVER SHEET

Bidding Entity_____

Bidder's Address_____

City, State, Zip_____

Telephone No._____ FAX_____

Email_____ EIN# _____

SIGNATURE_____ Date_____

Print Name and Title_____

Note: This offer shall be irrevocable for 90 days after the date on which the Port Authority opens this bid.

_____

Signature of Person Signing Above

ACKNOWLEDGEMENT:

STATE OF: _____

COUNTY OF: _____

On this ___day *of*_____, 20 , personally came before me, _____,who, duly sworn by me, did depose that (s)he has knowledge of the matters herein stated, that they are in all respects true and that (s)he has been authorized to execute the foregoing offer and statement of irrevocability on behalf of said corporation, partnership or firm.

_____

Notary Public

NOTE: If a joint venture is allowed, duplicate this Signature Sheet and have each party to the joint venture sign separately and affix to the back of this Signature Sheet.

Bidder attention is called to the certification requirements contained in the Standard Contract Terms and Conditions, Part III. Indicate below if a signed, explanatory statement in connection with this section is attached hereto.

☐

If certified by the Port Authority as a DBE: _____ (indicate which one and date).

2. NAME AND RESIDENCE OF PRINCIPALS SHEET

Names and Residence of Principals of Bidder. If general or limited partner, or individual, so indicate.

NAME	TITLE	ADDRESS OF RESIDENCE (Do not give business address)

3. PRICING SHEET(S)

Entry of Prices

a. The prices quoted shall be written in figures, in ink, preferably black ink, where required in the spaces provided on the Pricing Sheet(s) attached hereto and made a part hereof.

b. All Bidders are asked to ensure that all charges quoted for similar items in the Contract are consistent.

c. Prices must be submitted for each Item required on the Pricing Sheet(s).

d. All Bidders are asked to ensure that all figures are inserted as required, and that all computations made have been verified for accuracy. The Bidder is advised that the Port Authority may verify only that Bid or those Bids that it deems appropriate and may not check each and every Bid submitted for computational errors. In the event that errors in computation are made by the Bidder, the Port Authority reserves the right to correct any error and to recompute the Estimated Total Delivered Contract Price, as required, based upon the applicable Unit Price inserted by the Bidder, which amount shall govern in all cases.

e. In the event that a Bidder quotes an amount in the Total Price column but omits to quote a Unit Price for that amount in the space provided, the Port Authority reserves the right to compute and insert the appropriate Unit Price.

f. The Estimated Total Delivered Contract Price is solely for the purpose of facilitating the comparisons of Bids. Compensation shall be in accordance with the section of this Contract entitled "Payment".

Pricing Sheet

Item No.	Description	Est. Qty	Unit	Unit Price	Total Price
1.	LOCKER ROOM REPAIRS	1	LS	$	$
2.	ELEVATOR REPAIRS	1	LS	$	$
	TOTAL LUMP SUM BID PRICE:				$

AWARD WILL BE MADE TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR THE TOTAL LUMP SUM BID PRICE.

CERTIFICATE OF CURRENT COST OR PRICING DATA:

This is to certify that, to the best of my knowledge and belief, the cost or pricing data submitted, either actually or by specific identification in writing, to The Port Authority of NY & NJ or to The Port Authority of NY & NJ's representative in support of:

Bid No. 36617 WTC CCP LOCKER ROOM AND ELEVATOR REPAIRS are accurate, complete, and current as of _____* [INSERT BID DUE DATE].

This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and The Port Authority of NY & NJ that are part of the bid.

Firm: _____

Name: _____

Title: _____

Date: _____

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PART V – SPECIFICATIONS—Detailed Scope of Work

1. Item(s) and/or Service(s) Required by the Specifications

WTC Central Chiller Plant Locker Room and Elevator Repairs due to damages caused by Hurricane Sandy as further described below:

a. Locker Room Repairs may consist of the following:

1. Wall and Floor Tile
2. Piping
3. Lockers
4. Framing and Drywall
5. Insulation
6. Doors and Frames
7. Ceiling
8. Receptacles and Switches
9. Toilet Accessories
10. AHU-242-1 and associated ductwork

b. Elevator Repairs may consist of the following:

Damaged parts to be removed and replaced include but are not limited to:

1. Hydraulic tank, pipes, pumps and oil
2. Controller
3. Duct, pipe and Wiring
4. Tape and Magnets
5. Car Top Box
6. Rear Door Operator
7. Tape Reader
8. Emergency Power Pack
9. Warranty
10. AHU-242-2 and associated ductwork

c. Drywall Replacement may consist of the following:

1. Installation of removed drywall in rooms 111 and 117

2. Detailed Specifications

A. As directed by the Director, Contractor is to fully restore both the women's and men's locker rooms (Rooms 109, 109A, 110 and 110A) as shown on Drawing A101, Elevation 242. Items include but are not limited to:

1. Wall and Floor Tile
2. Piping
3. Lockers

4. Framing and Drywall
5. Insulation
6. Doors and Frames
7. Ceiling
8. Receptacles and Switches
9. Toilet Accessories

B. As directed by the Director, Contractor is to replace the following doors as shown on Drawing A101, Elevation 242:

1. 104 – Locksmith
2. 105 – Storage Room
3. 106 – Parts Room
4. 107 – Electrical Shop
5. 108 – Mechanical Shop

C. As directed by the Director, Contractor is to install drywall for the following rooms, as shown on Drawing A101, Elevation 242:

1. 117 – Tool Storage
2. 111 – Storage

D. As directed by the Director, Contractor is to fully restore the Central Chiller Plant Elevator and Elevator Machine Room, as shown on Drawing A101, Elevation 242. The damaged parts to be removed and replaced include but are not limited to:

1. Hydraulic tank, pipes, pumps and oil
2. Controller
3. Duct, pipe and Wiring
4. Tape and Magnets
5. Car Top Box
6. Rear Door Operator
7. Tape Reader
8. Emergency Power Pack

E. General Notes

1. The hours of work are Monday through Saturday – 6 AM – 6 PM.
2. All deliveries shall be made through Gate 2A and coordinated with the exiting Memorial freight elevator located in the West Vent Structure (refer to attached Exhibit D--Location Plan.
3. All existing framing, doors, conduit, switches, piping and associated structural framing below the water line (approximately 6' - 6" above the concrete floor) shall be demolished and disposed of (see Exhibit C—CCP-SK-1—Photographic Views of Existing Conditions).
4. All existing equipment and material above the water line (ductwork, conduit, light fixtures, fire alarm devices, etc.) is to be retained, unless otherwise indicated.
5. The existing waste pipes, drains, toilets and sinks are to be retained.

6. All electrical outlets and switches that are being replaced shall be taken back to the nearest junction box not affected by the flood water
7. All piping that is being replaced shall be taken back to the nearest connection not affected by the flood water
8. Contractor shall perform all required tests to ensure a fully functioning bathroom/locker room as per the Contract Specifications.

3. Reference Documents

A. A complete set of the World Trade Center Central Chiller Plant & River Water System – CCP Package 1 (Conformed)
B. Specific drawings that will aid in the understanding of the scope include:
    1. A101 – Floor Plan Level 242
    2. A401 – Reflected Ceiling Plan – Level 242
    3. A601 – Enlarged Locker Room Plans and Elevations
    4. A602 – Enlarged Locker Room Plans and Elevations
    5. M107 – Chiller Plant HVAC Plan – Level 242
    6. EP101 – Power Plan – Level 242
C. The rooms where the majority of the work will occur are:
    1. 109/109A – Female Locker Room & Vestibule
    2. 110/110A – Male Locker Room & Vestibule
    3. 111 – Storage
    4. 117 – Tool Storage
    5. 114--Machine Room
D. Exhibit C—CCP-SK-1—Photographic Views of Existing Conditions.
E. Exhibit D—Location Plan

4. Project Schedule

The completion date for Contractor's performance of this Agreement is 70 working days from Notice to Proceed.

END SPECIFICATIONS

APPENDIX A1

DBE GOALS STATEMENT

The undersigned Bidder has satisfied the requirements of the Contract in the following manner (Complete the appropriate spaces):

The Bidder is committed to meeting the DBE utilization goal set forth in this Contract.

or

The Bidder is unable to meet the DBE utilization goal set forth in this Contract, but is committed to a minimum of _____% DBE utilization on this Contract and submits the attached narrative and documentation demonstrating good faith efforts consistent with Appendix A of 49 CFR 26 to meet the DBE utilization goal set forth in this Contract. (Attach as many pages as necessary to provide a full and complete narrative and supporting documentation of good faith efforts made. This narrative shall be submitted on company letterhead and signed.)

It is the present intent of the Bidder to utilize the specific DBE firms identified in Appendix A2 in the performance of the Work of this Contract. If for any reason, one or more of the DBE firms identified in Appendix A2 are unable or unwilling to participate, the Bidder will make good faith efforts to replace the DBE firm with another DBE firm in accordance with Part III clause entitled "DBE Program".

Bidder Name: _____

Federal Tax ID No.: _____

By: _____
Signature and Title

APPENDIX A2
DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT

Instructions: Submit one DBE PARTICIPATION PLAN AND AFFIRMATION STATEMENT form for each DBE firm used on this Contract.

CONTRACT NUMBER AND TITLE: _____

BIDDER:
Name of Firm: _____

Address: _____Telephone: _____

DBE:
Name of Firm: _____

Address: _____Telephone: _____

Description of work to be performed by DBE: _____

_____

The Bidder is committed to utilizing the above-named DBE for the work described above. The estimated dollar value of this work is $_____ or ____% of the total contract amount of $_____. The anticipated start date is _____and the anticipated completion date is _____.

AFFIRMATION

The above-named DBE affirms that it will perform the portion of the Contract for the estimated dollar value as stated above.

By: _____
Signature of DBE and Title

If the Bidder does not receive award of the Contract, any and all representations in this DBE Participation Plan and Affirmation Statement shall be null and void.

By: _____
Signature of Bidder and Title

FOR OBDCR USE ONLY

Contract Goals: ☐ Approved ☐ Waived ☐ Rejected
Reviewed By: _____
OBDCR Business Development Representative
Print Name: _____ Date:_____

Please Note: Supplies, equipment and material men are only credited 60% towards the DBE goal. Please adjust calculations accordingly.

APPENDIX A3

INFORMATION ON SOLICITED FIRMS

The bidder must complete this form for itself and for all firms which gave the bidder a quotation for any work planned to be subcontracted regardless of whether they are ultimately chosen to participate in the Contract. Provide the information required below for every firm that provided a bid or a quote for a subcontract – even if the bid or quote from the firm is not used in the preparation of the final Proposal.

Name of Firm	Address of Firm	Phone Number	Contact Person	Firm Age	Annual Gross Revenue Range NOTE: See Footnote Below	DBE Certified (Yes/No)

Footnote: Annual Gross Revenue Ranges: Less than $500,000; $500,000 - $1 Million; $1 - $2 Million; $2 - $5 Million; Over $5 Million - Select the category that best identifies the annual gross revenue of the solicited firm.

FEDERAL TRANSIT ADMINISTRATION
REQUIRED CONTRACT PROVISIONS

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1. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS

As used herein, the term "Agreement" shall mean "Contract". This Agreement is anticipated to be partially funded by United States Department of Transportation's Federal Transit Administration (FTA).

Anything to the contrary herein notwithstanding, all mandated terms by the FTA 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 FTAterms and conditions.

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

2. FEDERAL CHANGES

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference, 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 docuemnt are minimum requirements, unless modified by the FTA or subagency thereof.

3. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

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

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

4. ORGANIZATIONAL CONFLICT OF INTEREST

A. This Contract may give rise to a potential for an organizational conflict of interest. An organizational conflict of interest exists when the nature of the work

to be performed under the contract may, without some form of restriction on future activities; result in an unfair competitive advantage to the Contractor.

1.) The Contractor shall have access to confidential and/or sensitive Authority information in the course of contract performance. Additionally, the Contractor may be provided access to proprietary information obtained from other contracted entities during contract performance. The Contractor agrees to protect all such information from disclosure unless so authorized, in writing, by the Authority and to refrain from using such information for any purpose other than that for which it was furnished.

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

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

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

5. CERTIFICATION - DEBARMENT AND SUSPENSION

This Contract is a covered transaction for purposes of 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 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 CFR 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. FTA requires that each potential Contractor, for major third party contracts, complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion" for itself and its principals and requires each Subcontractor or Supplier (for Subcontracts and Supplier agreements expected to equal or exceed $25,000) to complete a certification entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tiered Covered Transactions" for itself and its principals. Copies of the required Certification forms and accompanying instructions are set forth following the clause herein entitled “Integrity Monitor”.

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

C. The Contractor shall obtain certifications from all known potential Subcontractors and Suppliers (for which payments are expected to equal or exceed $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 clause herein entitled "Integrity Monitor" which will be deemed a part of the resulting Subcontract and Supplier agreement.

E. The originals of any Certifications or correspondence relating hereto shall be sent by the Contractor to the Director of Procurement, 2 Montgommery 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. As required by FTA, the Contractor and its Subcontractors or Suppliers required to file the certification have a continuing duty to disclose, and shall provide immediate written notice to the Authority if, at any time, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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

A. Definitions as used in this Clause:

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

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

a. The awarding of any Federal contract;
b. The making of any Federal grant;
c. The making of any Federal loan;
d. The entering into of any cooperative agreement; and
e. The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. As used in the above referenced Certification, it includes the award of the contract with which it is associated.

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

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

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

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

a. An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment;
b. A member of the uniformed services as defined in section 101(3), title 37, United States Code;

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

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

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

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

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

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

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

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

B. Prohibition

1.) Section 1352 of Title 31, United States Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. For the purposes of the Certification included herein following the clause entitled “Integrity Monitor”, it includes the award of the associated contract.

2.) The prohibition does not apply as follows:

a. Agency and legislative liaison by own employees.

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

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

(iii) For purposes of subparagraph B. 2.) a.(i) of this Section, the following agency and legislative liaison activities are allowable at any time only where they are not related to specific solicitation for any covered Federal action.

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

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

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

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

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

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

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

b. Professional and Technical Services by Own Employees.

(i) The prohibition on the use of appropriated funds, in subparagraph B. of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract or the

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

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

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

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

c. Reporting for Own Employees.

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

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

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

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

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

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

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

C. Disclosure

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

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

a. A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
b. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
c. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

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

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

D. Agreement

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

E. Penalties

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

F. Cost Allowability

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

7. ACCESS TO RECORDS AND REPORTS

The Contractor agrees to provide the Authority, the [agency] 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 [agency] Administrator or authorized representatives thereto including any PMO Contractor access to the Contractor's records and construction sites pertaining to the project.

The Contractor agrees to provide the Authority, [agency] 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 [agency] Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

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

8. CIVIL RIGHTS

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

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

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

2.) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective

employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

9. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS

If this Contract involves equipment, materials, or commodities 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 [agency] Administrator and grantee (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20230.

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

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

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any construction contract over $2,000. 40

USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating." 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below and are applicable if this Contract is a construction contract (as delineated above) over $2000.

A. Minimum Wages

1.) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which, if applicable, is attached hereto and made a part hereof (the attachment is the most current determination), regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Determinations may change during the term of the Contract, and the wages and fringe benefits required by the most recent determination of the Secretary of Labor are those to be used.
Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (A)(4) of this Section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (A)(2) of this Section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

2.)

a. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting

officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination;
(ii) The classification is utilized in the area by the construction industry;
(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
(iv) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

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

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

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

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

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

5.)

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

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

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

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

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

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

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

B. Withholding

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

C. Payrolls and Basic Records

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

2.)

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

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

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

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

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

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

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

3.) The Contractor or subcontractor shall make the records required under paragraph C(1) of this Section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If

the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

D. Apprentices and Trainees

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

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

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

E. Compliance with Copeland Act Requirements

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

F. Subcontracts

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

any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

G. Contract Termination: Debarment

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

H. Compliance with Davis-Bacon and Related Act Requirements

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

I. Disputes Concerning Labor Standards

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

J. Certification of Eligibility –

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

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

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

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

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

A. Overtime Requirements

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

B. Violation; liability for unpaid wages; liquidated damages

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

C. Withholding for unpaid wages and liquidated damages

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph B of this Section.

D. Subcontracts

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

12. SEISMIC SAFETY

If this is a contract for the construction of new buildings or additions to existing buildings, the Contractor agrees that any new building or addition to an existing building will be constructed in accordance with standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a subcontractor is in compliance with the standards required by the

Seismic Safety Regulations and the certification of compliance. The completed certification of compliance is to be submitted to the Engineer. The seismic safety standards applicable to this Contract are contained in Section 2312 ICBO Uniform Building Code (UBC), as modified by the Appendix to Title 27, Chapter 1 (Volume 7), of the Administrative Code and Charter of the City of New York at RS 9-6 Earthquake Loads.

13. ENERGY CONSERVATION

The Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §6321 et seq and the National Environmental Policy Act, 42 U.S.C. §4321 et seq. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a Subcontractor is in compliance with the requirements of this Section.

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

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

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

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

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

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

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

16. FLY AMERICA

The Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for this Contract unless that air transportation is provided by U.S.-flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as

amended, 49 U.S.C. § 40118, and with U.S. GSA regulations, “Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

17. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

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

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

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

18. PREFERENCE FOR RECYCLED PRODUCTS

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

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

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

B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under this Contract, financed in whole or in part with

Federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

20. TRANSIT EMPLOYEE PROTECTIVE REQUIREMENTS

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

21. 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.

22. 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 general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States. 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.

If Port Authority issue a task order for final design work. The construction contract(s) prepared under that task order will be subject to either Buy America requirements of New York State or the FTA.

23. DISADVANTAGED BUSINESS ENTERPRISES (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%. For the contract goal please refer to the specific solicitation document.

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.

BUY AMERICA CERTIFICATIONS

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

CERTIFICATION REQUIREMENT FOR PROCUREMENT OF STEEL, IRON, OR MANUFACTURED PRODUCTS (NON- ROLLING STOCK)

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date _____

Signature_____

Company Name_____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

CERTIFICATION REQUIREMENT FOR PROCUREMENT OF BUSES, OTHER ROLLING STOCK AND ASSOCIATED EQUIPMENT (ROLLING STOCK)

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date _____

Signature _____

Company Name
_____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

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 _____, 2010

By:_____

Signature of Authorized Official

_____

Official Name and Title of Authorized Official

STANDARD FORM LLL - DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: X a. contract ____ b. grant ____ c. cooperative agreement ____ d. loan ____ e. loan guarantee ____ f. loan insurance	**2. Status of Federal Action:** X a. bid/offer/application ____ b. initial award ____ c. post award	**3. Report Type:** X a. initial filing ____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____

4. Name and Address of Reporting Entity: X Prime _____ Subawardee Tier_____, if Known: **Congressional District,** *if known*:	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District,** *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known:*	**9. Award Amount**, *if known:* **$**
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**

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.

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

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

1. The prospective lower tier participant,

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

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

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

Executed this day _____ of _____, 2011_____.

_____

BY SIGNATURE OF AUTHORIZED OFFICIAL

_____

NAME AND TITLE OF AUTHORIZED OFFICIAL

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

1. By signing and submitting this Proposal, the prospective lower tier participant is providing the signed certification set out on the previous page.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Authority may pursue available remedies, including suspension and/or debarment.

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

4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. The Proposer may contact the Procurement Representative for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Authority.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under sub-paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Authority may pursue available remedies including suspension and/or debarment.

END OF FTA CONTRACT PROVISIONS

ATTACHMENT B

FEDERAL EMERGENCY MANAGEMENT AGENCY REQUIREMENTS

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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.

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

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

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

a. An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment;
b. A member of the uniformed services as defined in section 101(3), title 37, United States Code;

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

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

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

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

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

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

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

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

B. Prohibition

1.) Section 1352 of Title 31, United States Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. For the purposes of the Certification included herein following the 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.

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

(iii) For purposes of subparagraph B. 2.) a.(i) of this Section, the following agency and legislative liaison activities are allowable at any time only where they are not related to specific solicitation for any covered Federal action.

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

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

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

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

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

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

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

b. Professional and Technical Services by Own Employees.

(i) The prohibition on the use of appropriated funds, in subparagraph B. of this Section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract or the contract associated with the certification if payment is for

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

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

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

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

c. Reporting for Own Employees.

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

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

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

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

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

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

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

C. Disclosure

1.) Each person who requests or receives from the Authority a Contract with Federal assistance shall file with the Authority a certification entitled "Certification Regarding Lobbying Pursuant to 31 U.S.C. 1352," as set forth 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

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.

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.

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

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

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

STANDARD FORM LLL - DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: X a. contract ____ b. grant ____ c. cooperative agreement ____ d. loan ____ e. loan guarantee ____ f. loan insurance	**2. Status of Federal Action:** X a. bid/offer/application ____ b. initial award ____ c. post award	**3. Report Type:** X a. initial filing ____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: X Prime _____ Subawardee Tier_____, if Known: **Congressional District,** *if known*:	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District,** *if known*:	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount**, *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

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.

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

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

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.

ATTACHMENT C
STANDARD CONTRACT TERMS AND CONDITIONS

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STANDARD CONTRACT TERMS AND CONDITIONS

PART I GENERAL DEFINITIONS

To avoid undue repetition, the following terms, as used in this Agreement, shall be construed as follows:

Authority or Port Authority - shall mean the Port Authority of New York and New Jersey.

Contract, Document or Agreement - shall mean the writings setting forth the scope, terms, conditions and Specifications for the procurement of Goods and/or Services, as defined hereunder and shall include, but not be limited to: Invitation for Bid (IFB), Request for Quotation (RFQ), Request for Proposal (RFP), Purchase Order (PO), Cover Sheet, executed Signature Sheet, AND PRICING SHEETS with Contract prices inserted," "STANDARD CONTRACT TERMS AND CONDITIONS," and, if included, attachments, endorsements, schedules, exhibits, or drawings, the Authority's acceptance and any written addenda issued over the name of the Authority's Manager, Purchasing Services Division.

Days or Calendar Days - shall mean consecutive calendar days, Saturdays, Sundays, and holidays, included.

Week - unless otherwise specified, shall mean seven (7) consecutive calendar days, Saturdays, Sundays, and holidays.

Month – unless otherwise specified, shall mean a calendar month.

"Construction Manager" shall mean, notwithstanding anything to the contrary herein, the entity acting as agent for the Director hereunder, which entity shall be generally responsible for the managing, supervision, coordination, and direction of all Contractors in regards to the Work. All communications between the Contractor and the Engineer and such other Port Authority parties identified in the Specifications shall be submitted by the Contractor to the Construction Manager on behalf of the Port Authority.

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

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

"Director" shall mean the Director of World Trade Center Construction for the time being, or his successor in duties for the purpose of this Contract, acting personally or through his authorized representative for the purpose of this Contract.

"Engineer" shall mean the Chief Engineer, acting either personally or through his duly authorized representatives acting within the scope of the particular authority vested in them.

"Assistant Chief Engineer for Construction" shall mean the Assistant Chief Engineer for Construction of the Authority for the time being, or his successor in duties, acting personally.

"Engineer of Construction" shall mean the designated Engineer of Construction for the site/facility at which the Work is being performed or his successor in duties, acting personally.

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

"Site" or "Site of the Work" - or words of similar import shall mean the World Trade Center Site and all buildings and properties associated therewith as described in this Contract.

Small Business Enterprise (SBE) - The criteria for a Small Business Enterprise are:

- The principal place of business must be located in New York or New Jersey;
- The firm must have been in business for at least three years with activity;
- Average gross income limitations by industry as established by the Port Authority.

Subcontractor - shall mean anyone who performs work (other than or in addition to the furnishing of materials, plant or equipment) in connection with the services to be provided hereunder, directly or indirectly for or on behalf of the Contractor (and whether or not in privity of contract with the Contractor), but shall not include any person who furnished merely his own personal labor or his own personal services. "Subcontractor", however, shall exclude the Contractor or any subsidiary or parent of the Contractor or any person, firm or corporation which has a substantial interest in the Contractor or in which the Contractor or the parent or the subsidiary of the Contractor, or an officer or principal of the Contractor or of the parent of the subsidiary of the Contractor has a substantial interest, provided, however, that for the purpose of the clause hereof entitled "Assignments and Subcontracts" the exclusion in this paragraph shall not apply to anyone but the Contractor itself.

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

"Work" shall mean all structures, equipment, plant, labor, materials (including materials and equipment, if any, furnished by the Authority) and other facilities and all other things necessary or proper for or incidental to performing repairs to the locker rooms and elevator at the Central Chiller Plant and related other Work, at the World Trade Center and the vicinity thereof in New York, New York, all as directed by the Engineer; and "performance of Work" and words of similar import shall mean the furnishing of such facilities and the doing of such things.

"WTC Site" shall mean the World Trade Center Site.

PART II GENERAL PROVISIONS

1. World Trade Center (WTC) Site Security Requirements

a. The Contractor shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the WTC Site Security Requirements now in effect, and such further reasonable Requirements which may from time to time during the term of this Agreement be promulgated by WTC for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance and efficient operation of the WTC Site. The Authority agrees that, except in case of emergency, it shall give notice to the Contractor of every Requirement hereafter adopted by it at least five (5) days before the Contractor shall be required to comply therewith.

b. A copy of the WTC Site Security Requirements is attached hereto and made a part of this Agreement.

See Exhibit B_WTC - Site Security Requirements.

2. Contractor Not An Agent

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

3. Contractor's Warranties

The Contractor 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 the solicitation are true, and, if the Contractor 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 Director, officer, agent or employee of the Authority is personally interested directly or indirectly in this Contract or the compensation to be paid hereunder and that no Commissioner, officer, agent or employee of the Port Authority is personally interested directly or indirectly in this Contract or the compensation to be paid hereunder;
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 Port Authority, their Directors, Commissioners, officers, agents, employees or consultants has induced the Contractor to enter into this Contract or has been relied upon by the Contractor, including any with reference to: (1) the meaning, correctness, suitability, or completeness of any provisions or requirements of this Contract; (2) the nature, 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.

Moreover, the Contractor accepts the conditions at the Site of the Work as they may eventually be found to exist and warrants and represents that it can and will perform the Contract under such conditions and that all materials, equipment, labor and other facilities required because of any unforeseen conditions (physical or otherwise) shall be wholly at its own cost and expense, anything in this Contract to the contrary notwithstanding.

Nothing in the Specifications or any other part of the Contract is intended as or shall constitute a representation by the Authority as to the feasibility of performance of this Contract or any part thereof.

The Contractor further represents and warrants that it was given ample opportunity and time and by means of this paragraph was requested by the Port Authority to review thoroughly all documents forming this Contract prior to opening of Bids on this Contract in order that it might request inclusion in this Contract of any statement, representation, promise or provision which it desired or on which it wished to place reliance; that it did so review said documents, that either every such statement, representation, promise or provision has been included in this Contract or else, if omitted, that it expressly relinquishes the benefit of any such

omitted statement, representation, promise or provision and is willing to perform this Contract without claiming reliance thereon or making any other claim on account of such omission.

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

4. Personal Non-Liability

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

5. Equal Employment Opportunity, Affirmative Action, Non-Discrimination

a. The Contractor is advised to ascertain and comply with all applicable federal, State and local statutes, ordinances, rules and regulations and, federal Executive Orders, pertaining to equal employment opportunity, affirmative action, and non-discrimination in employment.
b. Without limiting the generality of any other term or provision of this Contract, in the event of the Contractor's non-compliance with the equal opportunity and non-discrimination clause of this Contract, or with any of such statutes, ordinances, rules, regulations or Orders, this Contract may be cancelled, terminated or suspended in whole or in part.

6. Rights and Remedies of the Authority

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

a. The right to take over and complete the Work or any part thereof as agent for and at the expense of the Contractor, either directly or through others.
b. The right to cancel this Contract as to any or all of the Work yet to be performed.
c. The right to specific performance, an injunction or any appropriate equitable remedy.
d. The right to money damages.

For the purpose of this Contract, breach shall include but 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 Contractor to any representative of the Authority indicating that the Contractor cannot or will not perform any one or more of its obligations under this Contract; any act or omission of the Contractor or any other occurrence which makes it improbable at the time that it will be able to perform any one or more of its obligations under this Contract; any suspension of or failure to proceed with any part of the Work by the Contractor which makes it improbable at the time that it will be able to perform any one or more of its obligations under this Contract.

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

7. Rights and Remedies of the Contractor

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

8. Submission To Jurisdiction

The Contractor hereby irrevocably submits itself to the jurisdiction of the Courts of the State of New York and New Jersey, in regard to any controversy arising out of, connected with, or in any way concerning this Contract.

The Contractor agrees that the service of process on the Contractor in relation to such jurisdiction may be made, at the option of the Authority, either by registered or certified mail addressed to it at the address of the Contractor indicated on the signature sheet, or by actual personal delivery to the Contractor, if the Contractor is an individual, to any partner if the Contractor be a partnership or to any officer, director or managing or general agent if the Contractor be a corporation.

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

9. Harmony

a. The Contractor shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Site which interfere or are likely to interfere with the operation of the worksite or with the operations of lessees, licensees or other users of the Site or with the operations of the Contractor under this Contract.

b. During the time that the Contractor is performing the Work, other persons will be engaged in other operations on or about the construction site, including, without limitation, the World Trade Center Transportation Hub construction, the construction on One World Trade Center, Towers Two, Three and Four, the Memorial, West Street (NYSDOT), Vehicular Security Center (VSC) construction, Greenwich Street Corridor construction, and West Street construction, all of which shall remain uninterrupted. The Contractor shall so plan and conduct its operations as to work in harmony with others engaged at the construction site and not to delay, endanger or interfere with the operations of others (whether or not specifically mentioned above), all to the best interests of the Port Authority and the public and as may be directed by the Engineer.

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

10. Claims of Third Persons

The Contractor undertakes to pay all claims lawfully made against it by subcontractors, suppliers and workers, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of this Contract and to cause all subcontractors to pay all such claims lawfully made against them.

11. No Third Party Rights

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

12. Provisions of Law Deemed Inserted

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

13. Costs Assumed By The Contractor

It is expressly understood and agreed that all costs of the Contractor of whatever kind or nature and whether imposed directly upon the Contractor under the terms and provisions hereof or in any other manner whatsoever because of the requirements of the operation of the service or otherwise under this Agreement shall be borne by the Contractor or without compensation or reimbursement from the Authority, except as specifically set forth in this Agreement. The entire and complete cost and expense of the Contractor's services and operations hereunder shall be borne solely by the Contractor and under no circumstances shall the Authority be liable to any third party (including the Contractor's employees) for any such costs and expenses incurred by the Contractor and under no circumstances shall the Authority be liable to the Contractor for the same, except as specifically set forth in this Section.

14. Default, Revocation or Suspension of Contract

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

1. If fire or other cause shall destroy all or a substantial part of the Site.

2. If any governmental agency shall condemn or take a temporary or permanent interest in all or a substantial part of the Site, or all of a part of the Authority's interest herein;

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

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

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

1. The Contractor shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property; or
2. By order or decree of a court the Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors, or, if the Contractor is a corporation, by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or

3. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Contractor and shall not be dismissed within thirty (30) days after the filing thereof; or
4. The interest of the Contractor under this Contract shall be transferred to, passed to or devolve upon, by operation of law or otherwise, any other person, firm or corporation, or
5. The Contractor, if a corporation, shall, without the prior written approval of the Port Authority, become a surviving or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or
6. If the Contractor is a partnership, and the said partnership shall be dissolved as the result of any act or omission of its copartners or any of them, or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or
7. By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Contractor and such possession or control of all or substantially all of the property of the Contractor and shall continue in effect for a period of fifteen (15) days;

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

c. If any of the following shall occur:

1. The Contractor shall cease, abandon any part of the service, desert, stop or discontinue its services in the premises for any reason whatsoever and regardless of the fault of the Contractor; or

2. The Contractor shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Contract on its part to be kept, performed or observed, within five (5) days after receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligations requires activity over a greater period of time, and the Contractor shall have commenced to perform whatever may be required for fulfillment within five (5) days after receipt of notice and continues such performance without interruption except for causes beyond its control);

then upon the occurrence of any such event or during the continuance thereof, the Authority shall have the right on twenty four (24) hours notice to the Contractor to terminate this Contract and the rights of the Contractor hereunder, termination to be effective upon the date and time specified in such notice. Termination shall not relieve the Contractor of any liabilities which shall have accrued on or prior to the effective date of termination.

d. If any of the events enumerated in this Section shall occur prior to commencement date of this Contract, the Authority upon the occurrence of any such event or any time thereafter during the continuance thereof by twenty-four (24) hours notice may terminate or suspend this Contract and the rights of the Contractor hereunder, such termination or suspension to be effective upon the date specified in such notice.

e. No payment by the Authority of any monies to the Contractor for any period or periods after default of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Contractor and no act or thing done or omitted to be done by the Authority shall be deemed to be a

waiver of the right of the Authority to terminate this Contract or of any other right or remedies to which the Authority may be entitled because of any breach thereof. No waiver by the Authority of any default on the part of the Contractor in the performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Contractor shall be or be construed to be a waiver by the Authority of any other subsequent default in the performance of any of the said terms, covenants and conditions.

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

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

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

i. If the Authority has paid any sum or has incurred any obligation or expense which the Contractor has agreed to pay or reimburse the Authority, or if the Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of the

Contractor to perform or fulfill any one or more of the conditions, covenants, or agreements contained in this Contract, or as a result of an act of omission of the Contractor contrary to the said conditions, covenants and agreements, the Contractor shall pay to the Authority the sum or sums so paid or expense so incurred, including all interests, costs and damages, promptly upon the receipt of the Authority's statement therefore. The Authority may, however, in its discretion, elect to deduct said sum or sums from any payment payable by it to the Contractor.

j. If the Authority pays any installment to the Contractor without reducing said installment as provided in this Contract, it may reduce any succeeding installment by the proper amount, or it may bill the Contractor for the amount by which the installment paid should have been reduced and the Contractor shall pay to the Authority any such amount promptly upon receipt of the Authority's statement therefore.

k. The Authority shall also have the rights set forth above in the event the Contractor shall become insolvent or bankrupt or if his affairs are placed in the hands of a receiver, trustee or assignee for the benefit of creditors.

15. Sales or Compensating Use Taxes

Purchases of services and tangible personal property by the Authority in the States of New York and New Jersey are generally exempt from state and local sales and compensating use taxes, and from most federal excises (Taxes). Therefore, the Authority's purchase of the Contractor's services under this Contract is exempt from Taxes. Accordingly, the Contractor must not include Taxes in the price charged to the Authority for the Contractor's services under this Contract**.** The Contractor certifies that there are no such taxes included in the prices for this Contract. The Contractor shall retain a copy of this Contract to substantiate the exempt sale.

The compensation set forth in this Agreement is the complete compensation to the Contractor, and the Authority will not separately reimburse the Contractor for any taxes unless specifically set forth in this Agreement.

16. No Estoppel or Waiver

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

No cancellation, rescission or annulment hereof, in whole or as to any part of the services to be provided hereunder, or 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.

17. Records and Reports

The Contractor shall set up, keep and maintain (and shall cause its subcontractors to set up, keep and maintain) in accordance with generally accepted accounting practice during the term of this Agreement and any extensions thereof and for three years after the expiration, termination or revocation thereof, records, payroll records and books of account (including, but not limited to, records of original entry and daily forms, payroll runs, cancelled checks, time records, union agreements, contracts with health, pension and other third party benefit providers) recording all transactions of the Contractor(and its subcontractors), at, through or in any way connected with or related to the operations of the Contractor (and its subcontractors) hereunder, including but not limited to all matters relating to the charges payable to the Contractor

hereunder, all wages and supplemental benefits paid or provided to or for its employees (and its subcontractors' employees) and such additional information as the Authority may from time to time and at any time require, and also including, if appropriate, recording the actual number of hours of service provided under the Contract, and keeping separate records thereof which records and books of account shall be kept at all times within the Port District. The Contractor shall permit (and cause its subcontractors to permit) in ordinary business hours during the term of this Agreement including any extensions thereof and for three years thereafter the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any records and books of account of any company which is owned or controlled by the Contractor, or which owns or controls the Contractor if said company performs services similar to those performed by the Contractor anywhere in the Port District. However, if within the aforesaid three year period the Authority has notified the Contractor in writing of a pending claim by the Authority under or in connection with this Contract to which any of the aforesaid records and documents of the Contractor or of its subcontractors relate either directly or indirectly, then the period of such right of access shall be extended to the expiration of six years from the date of final payment with respect to the records and documents involved.

Upon request of the Authority, the Contractor shall furnish or provide access to the federal Form I-9 (Employment Eligibility Verification) for each individual performing work under this Contract. This includes citizens and noncitizens.

The Contractor (and its subcontractors) shall, at its own expense, install, maintain and use such equipment and devices for recording the labor hours of the service as shall be appropriate to its business and necessary or desirable to keep accurate records of the same and as the general manager or the Site/Facility Superintendent/Manager may from time to time require, and the Contractor (and its subcontractors) shall at all reasonable times allow inspection by the agents and employees of the Authority of all such equipment or devices.

a. The Contractor hereby further agrees to furnish to the Authority from time to time such written reports in connection with its operations hereunder as the Authority may deem necessary or desirable. The format of all forms, schedules and reports furnished by the Contractor to the Authority shall be subject to the continuing approval of the Authority.
b. No provision in this Contract giving the Authority a right of access to records and documents is intended to impair or affect any right of access to records and documents which they would have in the absence of such provision. Additional record keeping may be required under other sections of this Contract.

18. General Obligations

a. Except where expressly required or permitted herein to be oral, all notices, requests, consents and approvals required to be given to or by either party shall be in writing and all such notices, requests, consents and approvals shall be personally delivered to the other party during regular business hours or forwarded to such party by United States certified mail, return receipt requested, addressed to the other party at its address hereinbefore or hereafter provided. Until further notice the Contractor hereby designates the address shown on the bottom of the Contractors Signature Sheet as their address to which such notices, requests, consents, or approvals may be forwarded. All notices, requests, consents, or approvals of the Contractor shall be forwarded to the Engineer.
b. The Contractor shall comply with the provisions of all present and future federal, state and municipal laws, rules, regulations, requirements, ordinances, orders and directions which pertain to its operations under this Contract and which affect the Contract or the performance thereof and those engaged therein as if the said Contract were being performed for a private corporation, except where stricter requirements are contained in the Contract in which case the Contract shall control. The Contractor shall procure for itself all licenses, certificates, permits or other authorization from all governmental

authorities, if any, having jurisdiction over the Contractor's operations hereunder which may be necessary for the Contractor's operations. The Contractor's obligation to comply with governmental requirements are not to be construed as a submission by the Authority to the application to itself of such requirements.

c. The Contractor shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed on its property or operations hereunder or income therefrom, and shall make all applications, reports and returns required in connection therewith.

d. The Contractor shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, standard orders and directions of the American Insurance Association, the Insurance Services Office, National Fire Protection Association, and any other body or organization exercising similar functions which may pertain or apply to the Contractor's operations hereunder.

The Contractor shall not do or permit to be done any act which:

1. will invalidate or be in conflict with any fire insurance policies covering the Site/Facility or any part thereof or upon the contents of any building thereon; or
2. will increase the rate of any fire insurance, extended coverage or rental insurance on the Site/Facility or any part thereof or upon the contents of any building thereon; or
3. in the opinion of the Authority will constitute a hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Contract; or
4. may cause or produce in the premises, or upon the Site any unusual, noxious or objectionable smoke, gases, vapors, odors; or
5. may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Site; or
6. shall constitute a nuisance in or on the Site or which may result in the creation, commission or maintenance of a nuisance in or on the Site.

f. If by reason of the Contractor's failure to comply with the provisions of this Section and provided the Authority has given the Contractor five (5) days written notice of its failure and the Contractor shall not have cured said failure within said five (5) days, any fire insurance, extended coverage or rental insurance rate on the Site/Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Contractor shall on demand pay the Authority that part of all fire insurance, extended coverage or rental insurance premiums paid or payable by the Authority which shall have been charged because of such violations by the Contractor.

g. The Contractor shall conduct its Work so as not to endanger, unreasonably interfere with, or delay the operations or activities of any tenants or occupants on the premises or the Site and, moreover, shall use the same degree of care in performance on the premises as would be required by law of the Authority and shall conduct all Work in a courteous, efficient and safe manner.

19. Assignments and Subcontracting

a. The Contractor shall not sell, transfer, mortgage, pledge, subcontract or assign this Contract or any part thereof or any of the rights granted hereunder or any moneys due or to become due to it hereunder or enter into any contract requiring or permitting the doing of anything hereunder by an independent Contractor, without the prior written approval of the Authority, and any such sale, transfer, mortgage, pledge, subcontract, assignment or contract without such prior written approval shall be void as to the Authority.

b. All subcontractors who provide permanent personnel to the Contractor for work under this Contract shall be given written notice to comply with all requirements of the Contract. The Contractor shall be responsible and liable for the performance and acts of each subcontractor.

c. All persons to whom the Contractor sublets services shall be deemed to be its agents and no subletting or approval thereof shall be deemed to release this Contractor from its obligations under this Contract or

to impose any obligations on the Authority to such subcontractor or to give the subcontractor any rights against the Authority.

20. Indemnification and Risks Assumed By The Contractor

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

The Contractor assumes the following risks, whether such risks arise from acts or omissions (negligent or not) of the Contractor, PATH, the Port Authority, or third persons (including Contractor's employees, employees, officers, and agents of PATH and the Port Authority) or from any other cause, excepting only risks occasioned solely by affirmative willful acts of PATH or the Port Authority, as applicable, done subsequent to the opening of proposals on this Contract, and shall to the extent permitted by law indemnify PATH and the Port Authority for all loss or damage incurred in connection with such risks:

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

b. The risk of any and all loss or damage of the Contractor's property, equipment (including but not limited to automotive and/or mobile equipment) materials and possessions on the Facility.

c. The risk of claim, whether made against the Contractor, the Port Authority or PATH, for any and all loss or damages occurring to any property, equipment (including but not limited to automotive and/or mobile equipment), materials and possessions of the Contractor's agents, employees, materialmen and others performing work hereunder.

d. The risk of claims for injuries, damage or loss of any kind just or unjust of third persons arising or alleged to arise out of the performance of work hereunder, whether such claims are made against the Contractor, the Port Authority or PATH.

If so directed, the Contractor shall at its own expense defend any suit based upon any such claim or demand, even if such suit, claim or demand is groundless, false or fraudulent, and in handling such shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority or PATH, the immunity of the Port Authority or PATH, their Directors, Commissioners, officers, agents or employees, the governmental nature of the Port Authority or PATH or the provision of any statutes respecting suits against PATH or the Port Authority.

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

21. Approval of Methods

Neither the approval of the Authority of the methods of furnishing services hereunder nor the failure of the Authority to call attention to improper or inadequate methods or to require a change in the method of furnishing services hereunder, nor the failure of the Authority to direct the Contractor to take any particular precautions or to refrain from doing any particular thing shall relieve the Contractor of its liability for injuries to persons or damage to property or environmental impairment arising out of its operations.

22. Safety and Cleanliness

a. The Contractor shall, in the furnishing of services hereunder, exercise every precaution to prevent injury to person or damage to property or environmental impairment and avoid inconvenience to the occupants of or any visitors to the Site/Facility. The Contractor shall, without limiting the generality hereof, place such personnel, erect such barricades and railings, give such warnings, display such lights, signals or signs, place such cones and exercise precautions as may be necessary, proper or desirable.

b. The Contractor shall in case of unsafe floor conditions due to construction, wetness, spillage, sickness and all other types of hazardous conditions proceed to rope off the unsafe area and place appropriate warnings signs to prevent accidents from occurring. The Contractor shall clean said area to the satisfaction of the Superintendent/Manager.

c. The Contractor shall at all times maintain in a clean and orderly condition and appearance any and all facilities provided by the Authority for the Contractor's operations, and all fixtures, sink closets, equipment, and other personal property of the Authority which are located in said facilities.

23. Safety, Health and Environmental Provisions

1. Requirements included in this section are the minimum acceptable site requirements as referenced in the current version of the Port Authority World Trade Center Site Safety, Health and Environmental Program (herein referred to as “SHEP Program”), revisions to the SHEP Program, as well as all local, state and federal requirements. Where conflicts or discrepancies exist between requirements, the most stringent requirement shall govern. All required plans identified in the above program shall be submitted to the Engineer and others as identified in the SHEP Program for approval prior to the performance of the Work. The Contractor ’s safety program (“Safety Program”) shall address all the safety requirements for performing Work at or about the construction site as completely defined in the Port Authority’s WTC Site Safety Program entitled “WTC Transportation Hub Site Safety Program”, Downtown Restoration Program – The World Trade Center Site – Safety, Health and Environmental Program, which may be downloaded at:

http://newpa1.panynj.gov/wtcprogress/procurement.html

2. The Contractor shall comply with all current and revised Legal Requirements with regard to all matters relating to the safety and health of workers, the general public, and environmental protection. Compliance with government requirements is mandated by law and considered only a minimum level of safety performance. All Work shall therefore be performed in accordance with

best safe work practices recognized by the construction industry.

3. The Contractor shall be fully responsible for maintaining a safe, secure, and hygienic work place and for assuring that all Work is performed in a manner that will not be injurious to safety or health, endangering to the public, or deleterious to the environment.
4. In the performance of the Work, the Contractor shall exercise every precaution to prevent safety health and environmental hazards and incidents to site workers, the public, adjoining properties and utilities, and to secure against environmental releases. Fifteen (15) days prior to the commencement of Work, the Contractor shall submit to the Engineer, for his review and approval, the Contractor 's Safety Program, which shall comply with all applicable federal, state, municipal and local and departmental laws and shall include, among other things, the designation by the Contractor of a qualified individual to administer such Safety Program.
5. The Contractor whose scope of work is, or will be covered under New York City Department of Building's ("NYC DOB") Chapter 33: Safeguards During Construction and Demolition, shall monitor and enforce job site safety through daily documented inspections by a NYC DOB Certified Site Safety Manager. A Certified Site Safety Manager shall be present at the worksite during all working hours, and shall have no other responsibilities other than the implementation and management of the Contractor 's Safety Program. The candidate shall have first-aid/CPR certification. The Contractor shall provide a copy of the proposed candidate's resume and credentials for review and approval by the Port Authority as the Certificate Site Safety Manager prior to the individual being hired.
6. The Contractor shall have present at the Project Site during all working hours a dedicated safety supervisor possessing at a minimum, a current and valid OSHA 30-Hour Construction Industry Training Card, First-Aid/CPR certification, and have at least five (5) years of documented experience as a safety professional with experience in the type of work to be performed. This safety supervisor shall be responsible for safety, health, and environmental compliance and shall have no other responsibilities other than safety management. The Contractor shall provide a copy of the proposed candidate's resume and credentials for review and approval by the Port Authority.
7. The Contractor shall designate, and shall have present on the Project Site with each work crew for the duration of that work shift, at least one (1) competent person as defined by the OSHA standard 29 CFR Part 1926.32, and as elsewhere referenced in other 29 CFR Part 1926 standards, and shall at a minimum perform the duties as described in 29 CFR 1926.20(b) (2). The designated competent person shall be responsible, and have the authority from his or her employer to take prompt corrective action to eliminate the hazard(s). At a minimum, each competent person shall posses a current and valid OSHA 30-Hour Construction Industry Training card and First-Aid/CPR certification. The Contractor shall assign, when required by a specific 29 CFR Part 1926 standard, a qualified or authorized person as defined in OSHA standard 29 CFR Part 1926.32.
8. The Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and the Contractor has removed all workers, remaining materials and equipment from the construction site, or upon the issuance of the Port Authority Certificate of Final Completion, whichever shall occur last.
9. The Contractor shall promote to its employees a drug, alcohol and smoke-free workplace and shall communicate what constitutes prohibited activities while performing Work or providing services on the construction site during their safety orientation. Workers that are found to be under the influence of or in possession of alcohol and/or illegal drugs, in possession of weapons, or smoking anywhere on construction site shall be immediately removed and/or dismissed from the construction site with their construction site access credentials revoked, and/or subject to criminal prosecution as warranted by their action(s). As per the NYC Fire Code, section 1404.1 and NYC Building Code, sections 3301.1.2 and 3303.7, smoking on any construction site, inclusive of the WTC Site, is strictly prohibited and violations may be issued to the Contractor and/or other relevant parties.
10. The Contractor shall have a progressive disciplinary action program for all personnel who fail to enforce, follow or comply with established policies and procedures. Disciplinary action shall be

handled through a 3-Strike Policy (i.e., 1-verbal, 2-written and/or limited removal from the construction site, 3-limited to permanent removal from the construction site); however, depending on the seriousness of the violation, immediate revocation of the employee's WTC Identification Badge can occur, as referenced in Section 9. Records shall be available for review by the Port Authority.

11. For work performed under OSHA 29 CFR 1926 Subpart M: Fall Protection, the Contractor shall submit to Engineer prior to the start of work a comprehensive and enforceable 100% Fall Protection and Prevention Program consistent with Subpart M as well as the requirements outlined in the SHEP Program. This program shall be followed by all employees, vendors, and consultants when working or walking on all unprotected vertical or horizontal side and edge, scaffold, and locations as identified in Subpart M, at a height equal to or greater than six (6) feet above a lower level, or at any height above a dangerous process, operation, or piece of equipment. Fall protection systems shall be designed by a qualified person, and shall be installed and maintained by a competent person.
12. For any applicable Work performed under OSHA 29 CFR 1926 Subpart R: Steel Erection, each Contractor shall submit to the Engineer prior to the start of Work a comprehensive and enforceable fall protection plan.
13. If applicable, the Contractor shall submit to the Engineer prior to the start of Work a comprehensive and enforceable plan outlining the securing and anchorage of all materials and equipment to resist uplift attributable to high wind hazards.
14. The Contractor shall provide a site safety orientation training session to their workers upon initial assignment. All site workers shall attend weekly "tool-box" training sessions held by the Contractor, who shall distribute meeting information to all Project workers.
15. The Contractor shall ensure workers, and all Subcontractors and their workers, are properly trained and as required have in their possession while on-site valid and appropriate license(s), and/or certificate(s) consistent with regulations, laws, and best industry practices specific to their work activities and the tools/equipment being used as per manufacturer specifications. At a minimum, employees working at the construction site shall have a valid OSHA 10-Hour, 30-Hour Construction Safety and Health Certification card or be an authorized OSHA trainer for the construction industry. This certification must be renewed every five (5) years. A training matrix shall be readily available for review and audit on the construction site.
16. Depending upon the severity of a site condition or circumstances surrounding an accident or incident, the Port Authority may require the Contractor to order a "Safety Stand-down." Examples of conditions and circumstances that may prompt a Safety Stand-down include, but are not limited to:
    a. Failure to maintain a safe and healthy work environment that could potentially result in danger to workers or the general public;
    b. Recurring deficiencies;
    c. Willful disregard of safety requirements;
    d. Fatality, fire, explosion, significant injury, accident, or incident;
    e. Chemical Release or Spill;
    f. Failure to comply with Environmental Performance Commitments.

    The length of the Safety Stand-down shall be determined by the extent and severity of the incident, and condition of the work area to safely allow the Work to resume. During the Safety Stand-down, the Contractor shall:
    a. Inform the work crew as to the circumstances and reasons requiring the Stand-down;
    b. Identify the type of training / re-training required;
    c. Determine the type and extent of equipment / tool / machine inspection, perform the inspection, report findings, and correct.

    A safety stand down is not a reimbursable event, and the Contractor responsible shall bear

full financial responsibility for the event.

17. The Contractor shall obtain and submit to the Engineer, Material Safety Data Sheets (MSDS) for all materials to be stored and used in the work. The MSDS shall be readily available whenever required, in a convenient location, in close proximity to where the materials are used on the project. All workers shall have ready access to the MSDS. The Contractor is responsible for full compliance with OSHA Hazard Communication Standard, 29 CFR 1910.1200.
18. The Contractor shall establish a housekeeping program to ensure that debris, trash, slippery items, standing water, spills, and combustible materials are removed off floors and other surfaces daily. At no time may access and egress ways be obstructed, indistinguishable or maintained in disrepair.
19. The Contractor shall establish the required programs, practices, means and methods to address and control the hazards associated with the Work. Examples of such plans include, but are not limited to, fall protection, fire protection and prevention, scaffold use, material handling and sling use, and hand/power tool safety.
20. The Contractor shall prepare an Emergency Action Plan as described in OSHA 29 CFR 1926.35, establish and maintain at all times at least two (2) access and egress ways on the Project, participate in construction site wide incident planning meeting, response and evacuation drills, and identify key support personnel.
21. In the event of an emergency impacting the construction site, the public, adjoining property and utilities, or the environment, the Engineer may order continuous Work with an increased work force for such time necessary to eliminate the emergency.
22. As required by the WTC SHEP, or when directed by the Engineer, a Job Hazard/Safety Analysis ("JHA") shall be prepared. For example, a JHA shall be required, at a minimum, for Confined Space Entry Operations, Excavations requiring shoring or bracing, Critical Lifts or any non-routine hazardous operation. Prior to an activity for which a JHA Analysis was prepared, a pre-work job briefing shall be held with the work crew, foremen, competent person, safety supervisor, and site safety manager and a record of this document shall be on site for review.
23. The Contractor shall in accordance with and all terms and conditions of applicable insurance policies, promptly report in writing to the Engineer and to the Port Authority all accidents whatsoever arising out of or in connection with the performance of the Work, whether on or adjacent to the construction site, which result in death, injuries, property damage, and/or exposure of people to chemicals or hazardous materials, giving full details and statements of witnesses. In addition, if death, serious injuries or serious damage is caused, the accident shall be reported immediately by telephone to the Port Authority.
24. The Contractor shall provide at the Project Site such equipment and medical facilities as are necessary to supply first aid service, in case of accident, to anyone who may be injured in the progress of the Work. The Contractor shall have standing arrangements for the removal from the construction site and hospital treatment of any person who may be injured while engaged in the performance of the Work. The Contractor shall provide two (2) First Aid/CPR trained individuals at the construction site to administer first aid, if required.
25. If any claim is made by any third person against the Contractor or any Subcontractor on account of any accident, the Contractor shall promptly report the fact in writing to the aforementioned representatives of the Port Authority, giving full details of the claim, and shall cooperate throughout the disposition of the claim in accordance with the instructions and requests of all claim investigators.
26. Each Contractor shall utilize the Port Authority Safety Management System Tracking Tool to document and track safety, health and environmental performance.
27. As required, each Contractor shall complete and submit for approval Personnel Platform Lift Plans, Hot Work Program, Lifting Plans and similar documentation prior to the performance of such operations to the Engineer as identified in the Program or as required by the Engineer.
28. Each Contractor shall on a daily basis inspect its motor vehicles, and mechanized equipment used at the construction site. At a minimum, the requirements of 29 CFR 1926, Subpart O shall be followed. Any vehicle or mechanized piece of equipment not in acceptable working condition shall

be immediately removed from service. A log shall be maintained on the Project Site for review and audit.

29. Each Contractor shall submit to the Engineer prior to the start of Work a comprehensive and enforceable plan addressing the performance of any abrasive blasting, surface scarification, steam or water blasting, or high pressure water cutting.
30. Each Contractor shall submit to the Engineer prior to the start of Work a comprehensive and enforceable plan identifying all proposed access routes, staging areas, crane locations, temporary traffic signal controls, worker and pedestrian crossings, vehicular and pedestrian gates for exit and entry, barriers, barricades, lighting and fencing. The construction of temporary structures, other than those noted on Contract Drawings, shall require approval from the Engineer.
31. Prior to an activity which will impede, alter, impair, block, or in any way deactivate an active standpipe, sprinkler system, smoke detection system, hydrant, or existing fire protection or prevention system the Contractor shall notify the Engineer. Prior to performing an activity described above, the Contractor shall submit to the Engineer for approval the following:
    a. Date and duration of the impairment
    b. Location and Scope of Work
    c. Area(s) impacted
    d. Name of Contractor performing the Work
    e. Type of interim fire protection system that will in-place during impairment
    f. Method of communicating emergencies
    g. Name of person performing final inspection to verify work is complete and normal fire protection/prevention is active
    h. Method of notifying the Engineer of completion

32. The Contractor shall comply with the Rules of the City of New York (3RCNY §11-01) whereby all buildings under construction are subject to regular inspections conducted by the NYC Fire Department, Administrative Fire Company and the Bureau of Fire Prevention Construction, Demolition and Alteration (CDA) Civilian group.
33. A minimum of two (2) business days prior to any excavating, the Contractor shall notify the Engineer. The Contractor shall also notify the NYC One Call Center to allow member agencies to mark locations of underground utilities prior to any excavating and shall confirm such notifications with the Engineer.
34. Any hazardous waste shall be disposed of in accordance with applicable law and implementing regulations.
35. In case of emergency involving danger to life, person or property, the Engineer may order continuous Work with an increased force for such time as he may deem necessary to eliminate the emergency.
36. The Contractor is responsible to guard, maintain and protect the wires, cables, ducts, manholes, posts and poles, signals, fire hydrants, and alarm boxes of the NYC Fire Department and not cause any interruption of the Fire Department Fire Alarm Telegraph Service. In case any such wires, cables, ducts, manholes, posts and poles, signals, fire hydrants or alarm boxes shall be disturbed, they shall be restored to their original condition.

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

24. Accident Reports

The Contractor shall promptly report in writing to the Engineer and to the Port Authority Manager, Claims Administration, all accidents whatsoever arising out of or in connection with its operations hereunder and

which result in death or injury to persons or damage to property, setting forth such details thereof as the Port Authority may desire. In addition, if death or serious injury or serious damage is caused, such accidents shall be immediately reported by telephone to the aforesaid representatives of the Port Authority.

25. Trash Removal

The Contractor shall remove daily from the Site/Facility by means provided by the Contractor all garbage, debris and other waste material (solid or liquid) arising out of or in connection with its operations hereunder, and any such garbage, debris and other waste material not immediately removed shall be temporarily stored in a clear and sanitary condition, approved by the Superintendent/Manager and shall be kept covered except when filling or emptying them. The Contractor shall exercise care in removing such garbage, debris and other waste materials from the Site/Facility. The manner of such storage and removal shall always be subject in all respects to the continual approval of the Port Authority. No equipment or facilities of the Port Authority shall be used in such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Site/Facility.

26. Lost and Found Property

The Contractor shall instruct its personnel that all items of personal property found by the Contractor's employees at the Site must be turned in to the Port Authority and a receipt will be issued therefor.

27. Property of the Contractor

a. All property of the Contractor at the Site by virtue of this Contract shall be removed on or before the expiration or sooner termination or revocation of this Contract.
b. If the Contractor shall fail to remove its property upon the expiration, termination or revocation of this Contract the Port Authority may, at its option, dispose of such property as waste or as agent for the Contractor and at the risk and expense of the Contractor, remove such property to a public warehouse, or may retain the same in its own possession, and in either event after the expiration of thirty (30) days may sell the same in accordance with any method deemed appropriate; the proceeds of any such sale shall be applied first, to the expenses of sale and second, to any sums owed by the Contractor to the Port Authority; any balance remaining shall be paid to the Contractor. Any excess of the total cost of removal, storage and sale and other costs incurred by the Port Authority as a result of such failure of performance by the Contractor over the proceeds of sale shall be paid by the Contractor to the Port Authority upon demand.

28. Modification of Contract

This Contract may not be changed except in writing signed by the Port Authority and the Contractor. The Contractor agrees that no representation or warranties shall be binding upon the Port Authority unless expressed in writing in this Contract.

29. Invalid Clauses

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

30. Approval of Materials, Supplies and Equipment

Only Port Authority/PATH approved materials, supplies, and equipment are to be used by the Contractor in performing the Work hereunder. Inclusion of chemical containing materials or supplies on the Port Authority/ PATH Approved Products List – Environmental Protection Supplies constitutes approval. The list may be revised from time to time and at any time by the Port Authority/PATH and it shall be incumbent upon the Contractor to obtain the most current list from the Superintendent/Manager of the Site/Facility.

At anytime during the Solicitation, pre-performance or performance periods, the Contractor may propose the use of an alternate product or products to those on the Approved Products List – Environmental Protection Supplies, which product(s) shall be subject to review and approval by the Port Authority. Any alternate product so approved by the Port Authority/PATH may be used by the Contractor in performing the Services hereunder. Until such approval is given, only products on the Approved Products List – Environmental Protection Supplies may be used.

31. Intellectual Property

The right to use all patented materials, appliances, processes of manufacture or types of construction, trade and service marks, copyrights and trade secrets, collectively hereinafter referred to as "Intellectual Property Rights", in the performance of the work, shall be obtained by the Contractor without separate or additional compensation. Where the services under this Agreement require the Contractor to provide materials, equipment or software for the use of PATH/the Port Authority or its employees or agents, PATH/the Port Authority shall be provided with the Intellectual Property Rights required for such use without further compensation than is provided for under this Agreement.

The Contractor 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 Contractor's or PATH or the Port Authority's use, in accordance with the above immediately preceding paragraph, of any Intellectual Property. The Contractor, if requested, shall conduct all negotiations with respect to and defend such claims. If the Contractor, the Port Authority or PATH, its employees or agents be enjoined either temporarily or permanently from the use of any subject matter as to which the Contractor is to indemnify PATH, or the Port Authority as applicable, against infringement, then PATH, or the Port Authority as applicable, may, without limiting any other rights it may have, require the Contractor to supply temporary or permanent replacement facilities approved by the Superintendent/Manager, and if the Contractor fails to do so the Contractor shall, at its expense, remove all such enjoined facilities and refund the cost thereof to PATH or the Port Authority, as applicable, or take such steps as may be necessary to insure compliance by the Contractor, and PATH (or the Port Authority, as applicable) with said injunction, to the satisfaction of PATH or the Port Authority as applicable.

In addition, the Contractor shall promptly and fully inform the Director/General Manager in writing of any intellectual property rights disputes, whether existing or potential, of which it has knowledge, relating to any idea, design, method, material, equipment or any other matter related to the subject matter of this Agreement or coming to its attention in connection with this Agreement.

32. Contract Records and Documents – Passwords and Codes

When the performance of the contract services requires the Contractor to produce, compile or maintain records, data, drawings, or documents of any kind, regardless of the media utilized, then all such records, drawings, data and documents which are produced, prepared or compiled in connection with this contract, shall become the property of the Port Authority, and the Port Authority shall have the right to use or permit the use of them and any ideas or methods represented by them for any purpose and at any time without other compensation than that specifically provided herein.

When in the performance of the contract services the Contractor utilizes passwords or codes for any purpose, at any time during or after the performance of such services, upon written request by

the Port Authority, the Contractor shall make available to the designated the Port Authority representative all such passwords and codes.

33. Designated Secure Areas

Services under the Contract may be required in designated secure areas, as the same may be designated by the Superintendent/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 Superintendent/Manager. The Contractor shall conform to the procedures as may be established by the Superintendent/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 Superintendent/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 Superintendant/Manager during the term of the Contract.

34. Notification of Security Requirements

The Port Authority operates facilities and systems at which terrorism or other criminal acts may have a significant impact on life safety and key infrastructures. The Port Authority reserves the right to impose multiple layers of security requirements on the performance of the Work, including on the Contractor, its staff and Subcontractors and their staffs depending upon the level of security required, as determined by the Port Authority. The Contractor shall, and shall instruct its Subcontractors to, cooperate with Port Authority staff in adopting security requirements. These security requirements may include, but are not limited to, the following.

a) Identity Checks and Background Screening:

Contractor/Subcontractor identity checks and background screening shall include but shall not be limited to: (1) inspection of not less than two forms of valid and current government issued identification (at least one having an official photograph) to verify staff's name and residence; (2) screening federal, state and local criminal justice agency information databases and files; (3) screening of any terrorist identification files; (4) multi-year check of personal, employment and/or credit history; (5) access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning or the like.

The Contractor shall be required to have its staff, and any Subcontractor's staff, authorize the Port Authority or its designee to perform additional background checks. Such authorization shall be in a form acceptable to the Port Authority. 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 Contractor may be required to have its staff, and any Subcontractor's staff, authorize the Port Authority or its designee to perform additional background checks. Such authorization shall be in a form acceptable to the Port Authority. The Contractor and Subcontractors may also be required to use an organization designated by the Port Authority to perform the background checks. If the Engineer directs the Contractor to have identity checks and background screening performed by a particular firm designated by the Engineer, the Port Authority will compensate the Contractor for the cost of such additional screening at the direct cost of such screening. The direct cost shall be computed in the same manner as is compensation for Extra Work, including any percentage addition to cost, as set forth in the clause hereof titled "Compensation for Extra Work" (numbered clause 31). Performance of such additional direct cost work shall be as directed by the Engineer and shall be subject to all provisions of the Work relating to performance of Extra Work. Compensation for said direct cost work shall not be charged against the total amount of compensation authorized for Extra Work.

b) Issuance of Photo Identification Badges:

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

c) Construction Site Access Control, Inspection, and Monitoring by Security Guards:

1.) The Port Authority may provide for construction site or facility (including rental spaces) access control, inspection and monitoring by Port Authority retained security guards. However, this provision shall not relieve the Contractor of its responsibility to secure its equipment and Work and that of its subconsultants/subcontractors and service suppliers at the WTC Site at Contractor's own expense.

2.) 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 Port Authority construction sites or facilities (including rental spaces), except when necessary to perform the Work under the Contract, without prior written permission from the Port Authority. Upon request, any photograph, digital images, video recording or sketches made of any Port Authority construction site or facility shall be submitted to the Port Authority to determine compliance with this paragraph, which submission shall be conclusive and binding on the submitting entity.

3.) At the beginning of each work period the Contractor shall furnish to the security guards, if any, or to the Engineer a memorandum showing for that work period:

a. The name and company affiliation of each employee of the Contractor or of a Subcontractor who is expected to enter the site and,

b. The name of any firm anticipated to be delivering materials or servicing equipment that day and a description of such materials or services.

d) 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 Port Authority as a condition of being granted access to Confidential Information categorized and protected as per The Port Authority of New York & New Jersey Information Security Handbook (October 15, 2008, corrected as of February 9, 2009).

(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.

e) Audits for Compliance with Security Requirements

The Port Authority may conduct random or scheduled examinations of business practices under this clause titled "Port Authority 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.

The Port Authority, at its sole discretion, may impose, increase, and/or upgrade security requirements for the Contractor, Subcontractors, and their respective staffs during the term of this contract to address changing security conditions and/or new governmental regulations.

35. Construction In Progress

The Contractor recognizes that construction may be in progress at the Site/Facility and may continue throughout the term of this Contract. Notwithstanding, the Contractor shall at all times during the term

hereof maintain the same standards of performance and cleanliness as prevails in non-affected areas as required by the standards hereunder.

36. Permit-Required Confined Space Work

Prior to commencement of any work, the Contractor shall request and obtain from the Port Authority a description of all spaces at the site/facility which are permit-required confined spaces requiring issuance of an OSHA permit.

Prior to the commencement of any work in a permit-required confined space at a Port Authority site/facility requiring issuance of an OSHA permit, the Contractor shall contact the Superintendent/Manager to obtain a Port Authority Contractor Permit-Required Confined Space Notification form. The notification form must be filled out and submitted prior to commencing permit-required confined space work. All confined space work shall be performed in accordance with all applicable OSHA requirements. The Contractor shall provide its employees with a copy of its own company permit and shall furnish the Port Authority with a copy of the permit upon completion of the work. The Contractor must supply all equipment required for working in a confined space.

37. Signs

Except with the prior written approval of the Port Authority, the Contractor shall not erect, maintain or display any signs or posters or any advertising on or about the Site/Facility.

38. Vending Machines, Food Preparation

The Contractor shall not install, maintain or operate on the Site/Facility, or on any other Port Authority property, any vending machines without the prior written approval of the Port Authority. No foods or beverages shall be prepared or consumed at the Site/Facility by any of the Contractor's employees except in areas as may be specifically designated by the Port Authority for such purpose.

39. Confidential Information/Non-Publication

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

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

The Contractor, each Subcontractor and others requiring access to C&P security information and SSI, shall

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

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

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

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

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

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

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

The Contractor shall include and require the inclusion of this clause titled "Protection of Security Information" in all subcontracts and contracts for Work, services or supplying materials required for this Contract of every tier.

40. Time is of the Essence

Time is of the essence in the Contractor's performance of this Contract inasmuch as the Work to be performed will affect the operation of public facilities.

41. Holidays

The following holidays will be observed at the Site:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Columbus Day
Presidents' Day	Election Day
Memorial Day	Veterans Day
Independence Day	Thanksgiving Day
	Christmas Day

This list is subject to periodic revision and the Contractor shall be responsible for obtaining all updated lists from the office of the Superintendent/Manager. If any such holiday falls on a Sunday then the next day shall be considered the holiday and/or if any such holiday falls on a Saturday then the preceding day shall be considered the holiday.

42. Personnel Standards

In addition to any specific personnel requirements that may be required under the clause entitled "Personnel Requirements" in the Specifications, the Contractor (and any Subcontractor) shall furnish competent and adequately trained personnel to perform the Work hereunder. If, in the opinion of the Superintendent/Manager, any employee so assigned is performing their functions unsatisfactorily, they shall be replaced by the Contractor within twenty-four (24) hours following the Contractor's receipt of the Superintendent/Manager's request for such replacement.

All Contractor's employees performing Work hereunder shall have the ability to communicate in the English language to the extent necessary to comprehend directions given by either the Contractor's supervisory staff or by the Superintendent/Manager's staff. Any employee operating a motor vehicle must have a valid driver's license.

The Contractor shall verify that employees working under this Contract in the United States are legally present in the United States and authorized to work by means of the federally required I-9 program

43. General Uniform Requirements for Contractor's Personnel

In addition to any specific uniform requirements that may be required by the Specifications, uniforms must be worn at all times during which the Services are being performed hereunder. The Contractor agrees that his/her employees will present a neat, clean and orderly appearance at all times. Uniforms shall include the Contractor's identification badge with picture ID bearing the employee's name. All uniforms, colors, types and styles shall be subject to the prior approval of the Superintendent/Manager. The Contractor will also be responsible for ensuring that its employees are wearing shoes appropriate for the tasks performed. The Superintendent/Manager shall have the right to require removal of any employee who shall fail to wear the proper uniform and shoes, and the exercise of this right shall not limit the obligation of the Contractor to perform the Services or to furnish any required number of employees at a specific location at the Site as specified.

44. Labor, Equipment and Materials Supplied by the Contractor

The Contractor shall, at all times during the performance of this Contract, furnish all necessary labor, supervision, equipment and materials necessary for the prompt and efficient performance of the Work, whether such materials and equipment are actually employed in the furnishing of the Work or whether incidental thereto.

All materials used by the Contractor in furnishing Work hereunder shall be of such quality as to accomplish the purposes of this Contract and the Services to be furnished hereunder in such manner so as not to damage any part of the Site.

The Port Authority by its officers, employees and representatives shall have the right at all times to examine the supplies, materials and equipment used by the Contractor, to observe the operations of the Contractor, its agents, servants and employees and to do any act or thing which the Port Authority may be obligated or have the right to do under this Contract or otherwise.

All equipment, materials and supplies used in the performance of this Contract required hereunder shall be used in accordance with their manufacturer's instructions.

Materials and supplies to be provided by the Contractor hereunder shall comply with OSHA and all applicable regulations.

45. Contractor's Vehicles – Parking - Licenses

At the discretion of the Superintendent/Manager, the Port Authority may permit the Contractor during the effective period of this Contract to park vehicle(s) used by it in its operations hereunder in such location as may from time to time or at any time be designated by the Superintendent/Manager. The Contractor shall comply with such existing rules, regulations and procedures as are now in force and such reasonable future rules, regulations and procedures as may hereafter be adopted by the Port Authority for the safety and convenience of persons who park automotive vehicles in any parking area at the Site or for the safety and proper persons who park automotive vehicles in any parking area at the Site or for the safety and proper identification of such vehicles, and the Contractor shall also comply with any and all directions pertaining to such parking which may be given from time to time and at any time by the Superintendent/Manager. Any vehicle used by the Contractor hereunder shall be marked or placarded, identifying it as the Contractor's vehicle.

46. Superintendent/Manager's Authority

In the performance of the Work hereunder, the Contractor shall conform to all orders, directions and requirements of the Superintendent/Manager and shall perform the Work hereunder to the satisfaction of the Superintendent/Manager 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 Superintendent/Manager 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 Contractor shall employ no equipment, materials, methods or staff or personnel to which the Superintendent/Manager objects. Upon request, the Superintendent/Manager shall confirm in writing any oral order, direction, requirement or determination.

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

47. Price Preference

THIS SECTION IS NOT APPLICABLE. PLEASE REFER TO APPENDIX A-1 – DBE GOALS STATEMENT

48. M/WBE Good Faith Participation

THIS SECTION IS NOT APPLICABLE. PLEASE REFER TO APPENDIX A-1 – DBE GOALS STATEMENT

PART III CONTRACTOR'S INTEGRITY PROVISIONS

1. Certification of No Investigation (criminal or civil anti-trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure of Other Information

By bidding on this Contract, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that the Bidder and each parent and/or affiliate of the Bidder has not

a. been indicted or convicted in any jurisdiction;
b. been suspended, debarred, found not responsible or otherwise disqualified from entering into any contract with any governmental agency or been denied a government contract for failure to meet standards related to the integrity of the Bidder;
c. had a contract terminated by any governmental agency for breach of contract or for any cause based in whole or in part on an indictment or conviction;

d. ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Bid;
e. had any business or professional license suspended or revoked or, within the five years prior to bid opening, had any sanction imposed in excess of fifty thousand dollars ($50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;
f. had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust regardless of the dollar amount of the sanctions or the date of their imposition; and
g. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

2. Non-Collusive Bidding, and Code of Ethics Certification, Certification of No Solicitation Based On Commission, Percentage, Brokerage, Contingent or Other Fees

By bidding on this Contract, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, that

a. the prices in its bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
b. the prices quoted in its bid have not been and will not be knowingly disclosed directly or indirectly by the Bidder prior to the official opening of such bid to any other bidder or to any competitor;
c. no attempt has been made and none will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
d. this organization has not made any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996, (a copy of which is available upon request) nor does this organization have any knowledge of any act on the part of an Authority employee or former Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;
e. no person or selling agency other than a bona fide employee or bona fide established commercial or selling agency maintained by the Bidder for the purpose of securing business, has been employed or retained by the Bidder to solicit or secure this Contract on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency; and
f. the Bidder has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Contract.
g. no person or organization has been retained, employed or designated on behalf of the Bidder to impact any Port Authority determination, where the solicitation is a Request for Proposals, with respect to (i) the solicitation, evaluation or award of this Contract, or (ii) the preparation of specifications or request for submissions in connection with this Contract.

The foregoing certifications shall be deemed to be made by the Bidder as follows:

* if the Bidder is a corporation, such certification shall be deemed to have been made not only with respect to the Bidder itself, but also with respect to each parent, affiliate, director, and officer of the Bidder, as well as, to the best of the certifier's knowledge and belief, each stockholder of the Bidder with an ownership interest in excess of 10%;
* if the Bidder is a partnership, such certification shall be deemed to have been made not only with respect to the Bidder itself, but also with respect to each partner.

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

In any case where the Bidder cannot make the foregoing certifications, the Bidder shall so state and shall furnish with the signed bid a signed statement which sets forth in detail the reasons therefor. If the Bidder is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its bid, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph "2g", if the Bidder cannot make the certification, it shall provide, in writing, with the signed bid: (i) a list of the name(s), address(es), telephone number(s), and place(s) of principal employment of each such individual or organization; and (ii) a statement as to whether such individual or organization has a "financial interest" in this Contract, as described in the Procurement Disclosure policy of the Authority (a copy of which is available upon request to the Director of the Procurement Department of the Authority). Such disclosure is to be updated, as necessary, up to the time of award of this Contract. As a result of such disclosure, the Port Authority shall take appropriate action up to and including a finding of non-responsibility.

Failure to make the required disclosures shall lead to administrative actions up to and including a finding of non-responsiveness or non-responsibility.
Notwithstanding that the Bidder may be able to make the foregoing certifications at the time the bid is submitted, the Bidder shall immediately notify the Authority in writing during the period of irrevocability of bids and the term of the Contract, if Bidder is awarded the Contract, of any change of circumstances which might under this clause make it unable to make the foregoing certifications, might render any portion of the certifications previously made invalid, or require disclosure. The foregoing certifications or signed statement shall be deemed to have been made by the Bidder with full knowledge that they would become a part of the records of the Authority and that the Authority will rely on their truth and accuracy in awarding and continuing this Contract. In the event that the Authority should determine at any time prior or subsequent to the award of this Contract that the Bidder has falsely certified as to any material item in the foregoing certifications, has failed to immediately notify the Port Authority of any change in circumstances which might make it unable to make the foregoing certifications, might render any portion of the certifications previously made invalid, or require disclosure, or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Authority may determine that the Bidder is not a responsible Bidder with respect to its bid on the Contract or with respect to future bids on Authority contracts and may exercise such other remedies as are provided to it by the Contract with respect to these matters. In addition, Bidders are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g. New York Penal Law, Section 175.30 et seq.). Bidders are also advised that the inability to make such certification will not in and of itself disqualify a Bidder, and that in each instance the Authority will evaluate the reasons therefor provided by the Bidder. Under certain circumstances the Bidder may be required as a condition of Contract award to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent Monitor to be selected by the Port Authority, said Monitor to be charged with, among other things, auditing the actions of the Bidder to determine whether its business practices and relationships indicate a level of integrity sufficient to permit it to continue business with the Port Authority.

3. Bidder Eligibility for Award of Contracts - Determination by an Agency of the State of New York or New Jersey Concerning Eligibility to Receive Public Contracts

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

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

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

4. Contractor Responsibility, Suspension of Work and Termination

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

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

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

5. No Gifts, Gratuities, Offers of Employment, Etc.

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

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

employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Contract or any other Port Authority contract. Where used herein, the term "Port Authority" shall be deemed to include all subsidiaries of the Port Authority.

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

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

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

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

6. Conflict of Interest

During the term of this Contract, the Contractor shall not participate in any way in the preparation, negotiation or award of any contract (other than a contract for its own services to the Authority) to which it is contemplated the Port Authority may become a party, or participate in any way in the review or resolution of a claim in connection with such a contract if the Contractor has a substantial financial interest in the contractor or potential contractor of the Port Authority or if the Contractor has an arrangement for future employment or for any other business relationship with said contractor or potential contractor, nor shall the Contractor at any time take any other action which might be viewed as or give the appearance of conflict of interest on its part. If the possibility of such an arrangement for future employment or for another business arrangement has been or is the subject of a previous or current discussion, or if the Contractor has reason to believe such an arrangement may be the subject of future discussion, or if the Contractor has any financial interest, substantial or not, in a contractor or potential contractor of the Authority, and the Contractor's participation in the preparation, negotiation or award of any contract with such a contractor or the review or resolution of a claim in connection with such a contract is contemplated or if the Contractor has reason to believe that any other situation exists which might be viewed as or give the appearance of a conflict of interest, the Contractor shall immediately inform the Director in writing of such situation giving the full details thereof. Unless the Contractor receives the specific written approval of the Director, the Contractor shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. The Director may require the Contractor to submit a mitigation plan addressing and mitigating any disclosed or undisclosed conflict, which is subject to the approval of the Director and shall become a requirement, as though fully set forth in this Contract. In the event the Director shall determine that the performance by the Contractor of a portion of its Services under this Agreement is precluded by the provisions of this numbered paragraph, or a portion of the Contractor's said Services is determined by the Director to be no longer appropriate because of such preclusion, then the Director shall have full authority on behalf of both parties to order that such portion of the Contractor's Services not be performed by the Contractor, reserving the right, however, to have the Services performed by others and any lump sum compensation payable hereunder which is applicable to the deleted work shall be equitably adjusted by the parties. The Contractor's execution of this document shall constitute a representation by the Contractor that at the time of such execution the Contractor knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Contractor's part. The Contractor acknowledges that the Authority may preclude it from involvement in certain disposition/privatization initiatives or transactions that result from the findings of its evaluations hereunder or from participation in any contract, which results, directly or indirectly, from the Services provided by the

Contractor hereunder. The Port Authority's determination regarding any questions of conflict of interest shall be final.

7. Definitions

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

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

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

Investigation - Any inquiries made by any federal, state or local criminal prosecuting and/or law enforcement agency and any inquiries concerning civil anti-trust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal penalties, nor does it include any background investigations for employment, or Federal, State, and local inquiries into tax returns.

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

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

If the solicitation is a Request for Proposal:

Bid - shall mean Proposal;
Bidder - shall mean Proposer;
Bidding - shall mean submitting a Proposal.

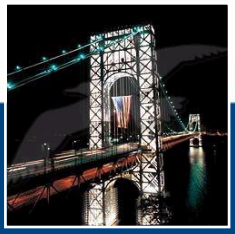
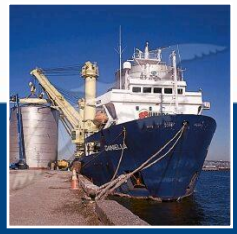
In a Contract resulting from the taking of bids:

Bid - shall mean bid;
Bidder - shall mean Bidder; except and until the Contract has been awarded, then it shall mean Contractor
Bidding - shall mean executing this Contract.

In a Contract resulting from the taking of Proposals:

Bid - shall mean Proposal;
Bidder - shall mean Proposer;
Bidding - shall mean executing this Contract.

END STANDARD TERMS AND CONDITIONS

The Port Authority of New York & New Jersey

Information Security Handbook

October 15, 2008, corrected as of November 14, 2013

The Port Authority of New York and New Jersey

Information Security Handbook

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INTRODUCTION

This *Port Authority of N.Y. & N.J. Information Security Handbook* ("Handbook") establishes guidelines and uniform processes and procedures for the identification, handling, receipt, tracking, care, storage and destruction of Protected Information (as hereinafter defined) pursuant to The Port Authority of New York and New Jersey Information Security Policy (the "Policy"). This Handbook is intended to be the implementation guideline for that policy. It is also intended to complement the Port Authority Freedom of Information Code (Code), inasmuch as it further defines certain information that may be exempt from release under the Code. The guidelines contained in this Handbook are not intended to, in any way, be in derogation of the FOI Code adopted by the Board in March 2012. The Code continues to provide open, timely and uninhibited access to the Port Authority's (and its subsidiary corporations') public records and reflects the New York Freedom of Information Law ("FOIL") and New Jersey's Open Public Records Act ("OPRA"). . This Handbook prescribes requirements and other safeguards that are needed in order to prevent unauthorized disclosure of Protected Information and to control authorized disclosure and distribution of designated sensitive information, when it is released by The Port Authority of New York and New Jersey (the "Port Authority") either internally or externally. A major underlying principle, on which the Handbook is premised, is that there is a limited universe of sensitive information to which it applies. There is the expectation that prudent, informed and circumscribed judgments will be made by those staff members charged with the responsibility of identifying and properly designating sensitive information, as is provided for in this Handbook. In this regard, adherence to the Handbook's requirements will help ensure that the necessary care will be constantly and consistently undertaken in order to ensure that mis-designation, or "over marking", of information will be avoided. Another important principle of the Handbook is that access to properly designated sensitive information is premised on a strict "need to know" basis. It is the establishment of this "need to know" that is the essential prerequisite for being granted access privileges. It must be emphasized that possession of a federal security clearance or other access rights and/or privileges to sensitive information does not *per se* establish a "need to know" for purposes of obtaining access to discrete sensitive Port Authority information. This principle is equally applicable to the Port Authority and its internal staff as it is to third party individuals and entities, which are given access privileges to sensitive Port Authority information.

This Handbook will be amended and updated from time to time as may be appropriate. When appropriate, each Port Authority department, office and/or business unit, as well as contractors/consultants, should create a "Confidential Information Practices and Procedures" ("CIPP") document with additional guidelines for their respective businesses. This will assist staff, and third parties working with the Port Authority, in carrying out the requirements of this Handbook. A CIPP should augment, but may not deviate from, the requirements of this Handbook. The procedures, safeguards and requirements of this Handbook fully apply to all subsidiaries of the Port Authority that deal with, or create, Protected Information. Whenever the term Port Authority is referenced in this Handbook, it should be understood to include and/or cover its subsidiary entities.

<u>The Port Authority expressly reserves the right to reject any information designation and/or to remove/add any and all markings on information that is not consistent with this Handbook.</u>

CHAPTER 1 - PORT AUTHORITY INFORMATION SECURITY ORGANIZATIONAL STRUCTURE

The Port Authority organizational structure for information security is as follows:

Chief Security Officer (CSO) – is responsible for the implementation of Port Authority policy on security matters, both physical and informational, and for the coordination of security initiatives throughout the agency in order to assure consistency in practices, procedures and processes. In particular, the CSO works in close collaboration with the Director of Technology Services Department and the Corporate Information Security Officer with regard to their respective areas of security responsibilities. The CSO acts as the Port Authority's principal liaison on security related matters with governmental, public and private entities. The CSO works closely with the Law Department, Public Safety Department and the Office of Inspector General on security initiatives, on compliance with governmental requirements on security matters, and on issues relating to compliance with the Port Authority's security policy.

Corporate Information Security Officer (CISO) – the CISO reports directly to the CSO in order to assure agency wide consistency on policy implementation. The CISO is responsible for the management, oversight and guidance of the Policy. The CISO works in conjunction with all appropriate Port Authority departments and subsidiaries to: (i) formulate practices and procedures concerning information security management issues affecting the Port Authority, its operations and facilities; (ii) review, categorize and manage all Port Authority information consistent with the Port Authority's policy and procedures under its Freedom of Information Code; and (iii) establish procedures and handling requirements for Port Authority information based upon its sensitivity designation in order to ensure that the information is used solely for authorized purposes. The CISO will report to the Secretary who in turn reports to the Executive Director.

Departmental Information Security Officer (DISO) - each department head, and, where appropriate, office head, will designate a staff member to act as DISO in order to ensure compliance with the Policy. The DISO is responsible for management and oversight of information security issues for departmental operations and reports to the CISO on information security practices and procedures, or issues relating thereto. Additionally, the DISO may perform the Security Information Manager (SIM) functions, if a SIM has not been designated for a department, division, office, unit or project. Each DISO is also responsible for compiling an inventory of all Confidential Privileged Information and Confidential Information in their department's possession and/or providing updated listings to the CISO on a monthly basis, or on such other periodic basis as may be established by the CISO. Additionally, the DISO is responsible for approving the departmental Confidential Information Practices and Procedures ("CIPP") document and, before authorizing its use, for submitting the CIPP to the CISO for final approval and providing periodic reports to the CISO, as the CISO may require.

Security Information Manager (SIM) – Port Authority departments, offices or other business units, as well as contractors, vendors, and consultants, individuals and/or entities, where appropriate, who are involved with, or who could have exposure to, Confidential Information shall designate a SIM who is responsible for coordinating the implementation and daily oversight of the Policy for the particular Port Authority department, office, business unit, or third-party contractor, vendor, or other party. The SIM reports to the DISO and/or the Security Project Manager (SPM) for a project, where applicable. If a Port Authority department

determines that the SIM function may be carried out by the DISO, then the SIM designation may not be required, unless or until the DISO, in consultation with the CISO, determines otherwise. The functions of the SIM are further described throughout this Handbook.

Director of Technology Services Department– is the head of the Technology Services Department (TSD). The Director of TSD, or the Director's designee, works with the CSO and the CISO to coordinate the Policy efforts and to provide the Port Authority with the most current resources needed to comply with legislative and regulatory requirements, to adhere to industry standards and best business practices and procedures, and to identify and address technology issues that may affect the current and future policy. The Director of Technology Services Department is also responsible for providing technical support and training to assist staff and to meet information security management goals.

Office of Inspector General (OIG) – The OIG's responsibilities include: conducting criminal and administrative investigations of possible misconduct by Port Authority officers and employees, as well as third parties doing business with the Port Authority; reviewing agency internal controls and management practices for weaknesses that could allow losses from corruption, incompetence and/or bad decision making; making recommendations for cost effective improvements; serving as the confidential investigative arm for the Port Authority's Ethics Board; conducting educational awareness programs for all Port Authority employees pertaining to integrity and ethics; and, where appropriate, conducting background investigations of certain contractors proposing to do business with the Port Authority. The OIG's Security Inspection Division is responsible for conducting investigations, inspections, reviews, and audits pertaining to all Port Authority security programs in all departments. It should be noted that cases involving investigations are exempt from CISO approval.

Information Security Subcommittee (ISSC), chaired by the CISO, includes departmental representatives from line departments (who might also be functioning as a DISO), the Law and Public Safety Departments, the Office of Inspector General and the Director of Technology Services Department. The ISSC assesses the Policy needs and the effectiveness of the policy's implementation, as well as evaluating initiatives for its further development and refinement.

CHAPTER 2 - CATEGORIZATION OF INFORMATION

2.1 Definitions

For purposes of this Handbook the following definitions shall apply:

(a) "**Information**" means, collectively, all documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

(b) "**Protected Information**" means and includes collectively, Confidential Information, Confidential Privileged Information, Sensitive Security Information (SSI), Critical Infrastructure Information (CII) or Health Insurance Portability and Accountability Act (HIPPA) and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. The term Protected Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Port Authority or a third-party, or when the Port Authority receives such information from others and agrees to treat such information as Protected.

(c) "**Confidential Privileged Information**" means and includes collectively Information that reveals security risks, threats, vulnerabilities, documentation that identifies specific physical security vulnerabilities or revealing specific security vulnerabilities details related to emergency response protocols, egress plans, flow paths, egress capacities, (diagrams, codes, standards) etc., which is not publicly available." and any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws.

(d) "**Confidential Information**" means and includes collectively, any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws. It also includes Information that contains sensitive financial, commercial or other proprietary business information concerning or relating to the Port Authority, its projects, operations or facilities that would be exempt from release under the Port Authority Freedom of Information Code. It also includes sensitive financial, commercial and other business information received from third parties under Non-Disclosure and Confidential Agreements.

(e) "**Health Insurance Portability and Accountability Act (HIPAA)"** Employees, associates or other contract personnel who have access to Protected Health Information (PHI) must refer to, and comply with, the Privacy Policies and Procedures to Protect Personal Health Information. Privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA" or "Privacy Laws") place restrictions on the Group Health Plans of the Port Authority and PATH (the "Plans") ability to use and disclose Protected Health Information ("PHI").

(f) "**Attorney Work Product"** Attorney work product and other privileged information should be protected and treated in accordance with the established rules of the legal profession and may carry the label "Privileged & Confidential" or "Attorney Work Product". Certain attorney work product information may also fall within the definitions of Confidential Privileged and/or Confidential Information as established by the Handbook, and as such, should be marked and treated in accordance with the Handbook and the Law Department CIPP.

(g) "**Critical Infrastructure Information"** (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII," as provided for in the referenced rules and regulations and any amendments thereto.

(h) **"Sensitive Security Information"** (SSI) has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119) and any amendments thereto.

(i) "**Non-Disclosure and Confidentiality Agreement**" (NDA) refers to the Agreements attached hereto as Appendix "B" (which include Appendices B-1 through B-3). When approved by the Law Department, other forms of a NDA may be used for special situations or specific projects, however, a general NDA may be used in retaining consultants and contractors where the retainer involves work on various projects.

(j) "**Non-Disclosure Instructions**" (NDI) refers to the instructions attached hereto as Appendix "C." A NDI is used when represented staff are given or have responsibilities, which involve working on sensitive and/or security related matters, and/or when such staff is being given access to Confidential Information. The NDI is given to each individual before starting such work or on being given such access. The CISO, in consultation with the Law Department, may allow the use of NDI's in other circumstances, as may be appropriate.

2.2 General Process for Categorization

As defined hereinabove, the term Protected Information includes all Port Authority Information protected pursuant to this Handbook or as governed by statutory regulations. Any sensitive Information not specifically deemed Confidential Privileged Information should be categorized as Confidential Information. In addition, certain other types of Protected Information, such as HIPAA, SSI and CII, are treated separately and distinctly because they are governed by specific federal designations and must be marked and handled in accordance with federal regulations or requirements. The requirements in this Handbook apply to all Protected Information, unless otherwise specified. Where a different or additional requirement applies to a specific sub-category of Protected Information, it will be noted.

Each DISO, in consultation with the CISO, shall create a list of examples of Confidential and Confidential Privileged Information to be used as a guide by the departmental staff. This list may be included in the department's CIPP. Any employee, consultant, third-party contractor or other agency personnel may nominate Information for categorization in either of the two categories. The DISO, SIM, supervisors, managers or the CISO, as may be appropriate, should take the action needed to process the Protected Information under their control and to review it as soon as possible. It is important to understand that not every piece of material currently held should be reviewed. The review should only be of Information that is considered potential Protected Information. If management, employees, consultants, third-party contractors, or other agency personnel determine that Information under review contains Protected Information, the Protected Information should be designated with the appropriate categorization.

In order to categorize Information as Confidential Privileged Information or Confidential Information the following steps must take place:

1. Inform the DISO or SIM, where applicable, and the unit supervisor of the group/entity proposing the categorization.
2. Obtain DISO concurrence and approval.
3. Obtain CISO approval (except in the case of the PA OIG).
4. If approved, mark and label the information, and, if appropriate, apply a cover sheet (See Appendix F).

If Information has been nominated for Confidential or Confidential Privileged categorization, a final decision on the nomination shall be made within one week of its submission. During the time period between the submission and a determination regarding the categorization, the nominated Information should not be reviewed, released or distributed to any individuals, other than those individuals who possess a need to know and are currently familiar with the Information, or were previously provided access to other Confidential or Confidential Privileged Information for the same project or task.

2.3 Training and Information Review

Port Authority managers, including, but not limited to, the DISO, SPM and the SIM will complete training. This enables them to conduct a continuing review of Protected Information under their control in order to identify and categorize it as Confidential or Confidential Privileged Information. Employees, consultants, third-party contractors or other agency personnel must participate in and complete the Policy training, which enables them to continue the process of review, identification, and categorization of Protected Information.

Each Department Director will determine which staff members in the respective department require Policy training and will do so on an ongoing basis. When access to Protected Information is given to third parties, a training requirement may also be a condition for granting access privileges.

2.4 Removal of Category Designation

At some point, Protected Information may no longer be considered Confidential or Confidential Privileged, and should therefore have its designation removed or eliminated. This may occur as a result of any number of circumstances, including changes within the Policy, the changing nature of information security, a better understanding of particular material, and/or changes in public policy or law, among others. In order to determine whether category designations should be removed from particular materials, the CISO may establish criteria for the periodic review of all sensitive material. In any case, the category designation of any particular Protected Information may not be removed without the approval of the CISO. A record of any removal of categorization for particular information must be kept by the DISO, with a copy provided to the CISO.

CHAPTER 3 – INFORMATION ACCESS

3.1 Applicability

Each employee, consultant, third-party contractor, tenant, individual and/or entity requiring, or requesting, access to Port Authority Protected Information must adhere to the requirements set forth in this Handbook.[1] Protected Information is intended for official business use only. Failure to abide by the procedures set forth in the Handbook can lead to a denial of access privileges to Protected Information and/or other contractual, civil, administrative or criminal action.

All employees, consultants, third-party contractors, individuals and/or entities given access privileges to Protected Information are responsible for overseeing the safeguarding and protection of Protected Information in their possession or under their control as per this Handbook's requirements. Questions concerning the safeguarding, protection, release, and/or access to Protected Information should immediately be brought to the attention of the CISO, DISO, SPM, or SIM, as may be appropriate, in the particular circumstance.

3.2 General Criteria

In order for access to certain Protected Information to be considered for approval, all individuals including PA staff, must meet and complete the following criteria, unless otherwise required under federal or state regulations:

- Be a citizen of the United States of America, or be an alien who has been lawfully admitted for permanent residency or employment (indicated by immigration status), as evidenced by Immigration and Naturalization Service documentation, or be a national of the United States as defined by the Immigration and Nationality Act. This requirement may be waived by the CISO with the concurrence of the OIG and/or the CSO where and when circumstances so require.
- Obtain sponsorship for a request to be given access to Protected Information through the individual's assigned chief, director, manager, or supervisor. The written request must include justification for access, level of access required, and indicate the duration for which access privileges are required. (OIG is exempt from this)
- Forward the request through the individual's supervisory chain to the CISO, "(except in the case of the PA OIG) , via the appropriate DISO, SPM, or SIM, requesting that a specific background check be undertaken, where appropriate and/or required.
- Background check required to access CP information and/or accessing a PA Facility that requires background screening."
- Complete the Port Authority Information Security Education and Awareness Training.

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[1] The CSO and/or the OIG in consultation with the Law Department may modify and/or waive the condition of complying with the requirements of the Handbook where such compliance is impractical, such as in the case of a governmental entity having its own information security procedures and/or protocols governing the handling and protection of sensitive information. In addition, certain sensitive information is required to be submitted to other governmental entities under applicable laws, rules or regulations, or the Port Authority may elect to submit Confidential Information to a governmental entity, such as in the case of the CII process, wherein it may elect to submit Confidential Information to the Department of Homeland Security in order to secure the protection of the CII regulatory scheme.

- Execute a Port Authority NDA (See Appendix B), or an Acknowledgement of an existing executed NDA, and, if the individual is Port Authority represented staff, have been provided with the NDI. Consultants or third party need's to designate a Security Information Manager (SIM)
- Be granted final approval of the security clearance level, in writing, by the CISO who verifies that all requirements have been met.

The individual's name must be entered on the appropriate department, or Port Authority Authorized Personnel Clearance List for access to Confidential and/or Confidential Privileged Information. See Sec. 3.9 for more information regarding this List (Note: If an individual's name does not appear on the appropriate Authorized Personnel Clearance List, access must be denied).

Individuals who meet and complete the criteria listed above are neither guaranteed, nor automatically granted, access to Protected Information, since access is conditioned on need to know criteria. The OIG may access, without approval of the CISO, DISO, SPM or SIM, all Protected Information when it is needed in connection with an OIG investigation, audit or inspection work, or any other Port Authority related work, subject to the handling requirements set forth in this Handbook.

3.3 Information Access Controls

Access to all Protected Information falling within any of the Port Authority Information categories shall be undertaken in a manner that complies with and maintains all applicable state, federal and common law protections. Access to particular Information must be conditioned upon a strict need to know basis with regard to the particular, discrete Information, regardless of any federal security clearance, or other Port Authority or other organizational information access authorization. An individual's need to know is not established simply by reason of the individual possessing a recognized federal security clearance, including one that allows for access to a higher level of classified information than is otherwise required for the discrete Port Authority Information to which access is sought. All requests for access to SSI by anyone who does not possess the requisite "need to know" under SSI regulations must be reported to the Transportation Security Administration ("TSA") or, if applicable, the United States Coast Guard ("USCG") and, in certain instances, the Department of Transportation ("DOT").

(a) Protected Information

Access to Protected Information shall be on a need to know basis only, as determined by the DISO. In certain limited instance's access, privileges may be conditioned on the satisfactory completion of a background investigation(s). The background investigation, if warranted, should utilize the least stringent criminal history access disqualification criteria that is appropriate for granting access to the particular information for both Port Authority and non-Port Authority employees. Where a background investigation is a condition to granting access, a DISO may determine that periodic updates of such investigations are required as a condition to maintaining continued access privileges. Access by third parties to certain Protected Information, such as Confidential Privileged, and/or Confidential Information, requires that the parties execute a NDA or an Acknowledgment of an existing NDA if the CISO or OIG determines that a NDA and/or Acknowledgment is required.

(i) Confidential Information

Access to Confidential Information shall be on a need to know basis only, as determined by the DISO. In certain instances, access privileges may be conditioned on the satisfactory completion of a background investigation(s). The background investigation should utilize the least stringent criminal history access disqualification criteria that is appropriate for granting access to the particular information for both Port Authority and non-Port Authority employees. Where a background investigation is a condition to granting access, a DISO may determine that periodic updates of such investigations are required as a condition to maintaining continued access privileges. Access by third parties to Confidential Information may require that the parties execute a NDA or an Acknowledgment of an existing NDA if the CISO or OIG determines that a NDA and/or Acknowledgment is required.

(ii) Confidential Privileged Information

Individuals requiring access to Confidential Privileged Information must have a need to know consistent with the creation and preservation of the privilege attaching to the particular Information. An individual will be given access privileges to the Confidential Privileged information only to the extent that it is necessary and/or is required by the individual in order to fulfill and/or carry out his/her duties, obligations and responsibilities to the Port Authority. Access to Confidential Privileged information is subject to the satisfactory completion of a background investigation for non-Port Authority individuals and to continuing periodic checks. A list of disqualifying crimes for the different levels of background screening is attached as Appendix "D." A more stringent background investigation may be required of the individual for access to certain Confidential Privileged Information if determined by the DISO. All access to such Information must be granted and received in a manner that does not compromise or abrogate the particular privilege attaching to the Information.

Confidential Privileged Information may not be disclosed to any individual without appropriate prior approvals. Approval for disclosure of Confidential Privileged Information to third parties must be obtained from the DISO. A Port Authority employee or other individual may not waive any privilege attaching to Port Authority Information without the Port Authority's express permission as granted by the CISO, unless the Information to which the Port Authority asserts a privilege is personal to a particular employee or individual and the privilege is directly derived by reason of that circumstance. Access by third parties to Confidential Privileged Information will be conditioned on the parties' execution of a NDA or an Acknowledgment of an existing executed NDA, as may be appropriate and determined by the CISO. In the case of certain represented employees/individuals, and in some cases NDIs may be utilized in lieu of NDAs upon the approval of the CISO.

3.4 Access Disqualification

Any employee, consultant, third-party contractor, or other individual and/or entity, who has been granted access to Protected Information, may be temporarily denied access while an investigation is conducted regarding any report to the CISO, OIG and the DISO that such individual misused, mishandled, or lost Protected Information, or disclosed, disseminated, or released Protected Information to an unauthorized individual or entity. Further, access to Protected Information can be denied when improper or incomplete verification checks of employees, entities, or individuals are discovered. In addition, if an individuals' SWAC has expired, or access level has changed that individual may no longer have access to Protected Information.

Where it is determined that an individual has misused, mishandled or otherwise improperly disclosed, released or disseminated Protected Information without authorization, that individual may be subject to disqualification of access privileges and may also be subject to sanctions, including formal disciplinary actions where the individual is a PA employee, with possible penalties up to and including termination of employment. The foregoing action shall be documented and provided to the individual's employer, SPM, DISO, or departmental manager, OIG, and the CISO, as may be appropriate. In the case of third parties, remedial action may include, but is not limited to, imposition of a monitor to oversee compliance with information security and general security requirements, or possible disqualification, and/or termination of present and/or future business relationships. Individuals and entities may also be subject to criminal or civil legal action, as may be appropriate. Additionally, see Chapter 6 regarding the possible consequences of violations of this Policy.

3.5 Non-Disclosure and Confidentiality Agreements (NDAs)

Employees, consultants, third-party contractors, tenants, or other individual or entities, including governmental agencies where appropriate, will be required to sign NDAs or an Acknowledgment of an existing NDA, or be subject to an NDI, as a condition of being granted access to Confidential Privileged Information and, where appropriate, Confidential Information. Employees, consultants, third-party contractors, or other agency personnel who refuse to sign a NDA, in situations where it is required, will be denied access to Confidential and/or Confidential Privileged Information, except in the case of certain Port Authority employees and third parties where a NDI may be utilized in instructing and advising the Port Authority employee and/or third party of the obligations and the requirements for handling Confidential Information. In certain circumstances, a Memorandum of Understanding or Memorandum of Agreement containing approved non-disclosure and confidentiality requirements may be utilized, in which cases approvals are required from the CISO and the General Counsel, or their respective designees. The DISO is responsible for determining whether a NDA/NDI is required as a condition to being granted access privileges to certain Protected Information, other than Confidential Privileged Information. If an individual refuses to execute an individual Acknowledgment, PA Employee NDA or to receive the NDI, if it is deem required by the DISO, CISO or OIG, access to the certain Protected Information must be denied. The SIM is also responsible for keeping proper documentation for employees and individuals subject to NDIs, including the date when the individual was given the NDI and by whom. A copy of all executed agreements and acknowledgements are to be provided to the PA DISO and Third Party SIM. Original executed NDAs shall be forwarded to the CISO, by the DISO, for filing in the official Port Authority records repository, with a copy to Law Department DISO.

3.6 Unauthorized Disclosure of Information

If employees, consultants, third-party contractors, or other individuals and/or entities with authorized access to Protected Information become aware that Protected Information has been released to unauthorized persons, lost, stolen or compromised, they are required to immediately notify the DISO, CISO, the Office of Inspector General, and any other appropriate information security officer and report the discovery. In the case of SSI, the CISO must inform the TSA, DOT, or USCG and, in the case of CII, the Department of Homeland Security ("DHS"), of the breach of security. DOT, DHS, TSA and USCG rules govern the reporting of any unauthorized disclosure of SSI or CII.

3.7 Security Clearance and Access Prohibitions

Access to Protected Information is not a right, privilege, or benefit of contracting with or employment by the Port Authority, rather it is based on pre-established guidance. Protected Information should not be divulged, released, turned over, or provided to any individual in any organization who does not meet the established criteria or conditions set forth herein, or who has not been approved for a security clearance issued by the Port Authority DISO, CISO or OIG. The following security clearance and access guidelines and/or prohibitions are in effect to protect Protected Information:

- Protected Information shall only be used in the performance of required job responsibilities, or in order to complete assigned tasks as determined by the SIM and DISO, with the concurrence of the CISO or OIG. No other disclosure or use of Protected Information is authorized.
- Individual access to Protected Information will be rescinded when an employee, consultant, third-party contractor, individual or entity, who had been granted access to Protected Information, is no longer employed by the Port Authority, or is no longer under contract with, or no longer has a relationship with the Port Authority, or is no longer in a position that requires access to Protected Information in order for the individual or entity to perform duties or complete tasks/projects.
    - Employees may not unilaterally sponsor themselves for background verification or enter their name on an Authorized Personnel Clearance List.
    - Group access of organizations to Protected Information should be prohibited. Each individual in a group must have security clearance to access Protected Information.
    - Persons who rarely, if ever, require access to Protected Information, (i.e., maintenance, food service, cleaning personnel, vendors and other commercial sales, or service personnel, who perform non-sensitive duties), should not be approved for a security clearance.

3.8 Background Screening

In order to determine if any individual poses a potential security threat to the Port Authority or its Facilities, the Port Authority requires background screening to verify the personal identity of, and determine the criminal history of, all contactors and consultants working in secure areas at Port Authority facilities or handling security related Protected Information. As such, employees of third party contractors/consultants requiring access to certain Protected Information relating to security on a specific project must obtain clearance through a background check prior to being provided access to information unless otherwise waived in writing by the CISO or OIG. This

includes all individuals working on the project, including administrative and back-up staff that have access to and/or are handling Confidential or Confidential Privileged Information.

All background checks for third parties required under the Policy should normally be conducted through the "Secure Worker Access Consortium" (SWAC), which is presently the only Port Authority approved service provider of a background screening checks, except as otherwise required by federal law and or regulation. The Office of Emergency Management administers this provider. S.W.A.C. is accessed by an online application (http://www.secureworker.com) that enables the secure collection, processing, maintenance and real-time positive identity verification (PIV) of individuals. The S.W.A.C. background check is not a replacement for any federal agency (DHS, TSA, etc.) required background screening. S.W.A.C. membership is valid for three years, at the end of which the member must renew the online application. In addition, certain employees, such as those in the Public Safety Department, will have their criminal history background checked through the electronic databases maintained by federal and/or state law enforcement agencies when required as a condition of employment, or when required by federal or state laws, rules, and/or regulations, or, in certain cases, where it is legally permitted and is deemed appropriate by the CSO or OIG.

The DISO/SIM has authority to obtain the background check information from S.W.A.C. Additional information about S.W.A.C., corporate enrollment and online applications can be found at http://www.secureworker.com, or it may be contacted at (877) 522-7922. The S.W.A.C. application process is described in Appendix "E."

In some cases TSA's Transportation Workers Identifications Credentials (TWIC) or Security Identification Display Area (SIDA) background screening and credential may be used in lieu of the SWAC process with approval by the DISO.

3.9 Authorized Personnel Clearance List

The DISO and SIM are responsible for compiling, maintaining, and updating their respective list databases on an ongoing basis and forwarding the information to the CISO for compilation into a master listing. Each DISO shall periodically review its department's/business unit's list with its SIM to ensure that the list is current and that each individual's access to Protected Information is still required. The CISO will maintain a master list database containing the names of all employees, consultants, third-party contractors, and other individuals and/or entities that have been granted a Port Authority security clearance and the specific category for which the security clearance was received, including, but limited to, for a particular project, or for specific Protected Information.

3.10 Development of a Confidential Information Practices and Procedures (CIPP)

Departments, offices and/or business units may adopt an individualized, discrete CIPP tailored to their respective particular business practices for handling Protected Information. The CIPP is meant to augment the Handbook and must be consistent with it. Each CIPP must be approved by the CISO before being implemented.

3.11 Procurement Strategies

(a) General

As a public agency, the Port Authority has an established procurement process based on openness, integrity, and fairness to the vendor community. The security of Protected Information must be incorporated at the beginning of the procurement process in order to establish a security benchmark that may be applied throughout the procurement process, as well as during the term of the award/contract.

(b) Lifecycle Phases and Procurements

A project may contain Protected Information in one or more of its lifecycle phases (pre-award, award, design, construction, close-out, or maintenance/service operation contracts, etc.).

Procurement and lifecycle information should be thoroughly reviewed by the originator before being submitted to the Procurement Department for processing. If Protected Information is discovered thereafter by Procurement, or any reviewing department, the originator's department manager or designee should be contacted immediately to retrieve the Protected Information and process it in accordance with the Policy and this Handbook.

(c) Risk Exposure and Business Risk Strategy

Procurement shall develop and retain, by project, a current listing of pre-screened persons or pre-qualified firms to bid on sensitive projects who agree to abide by the Policy requirements. Requirements must be included in procurement documents in order to help reduce potential disclosure of Protected Information and to provide bidders with certain security requirements in advance. They must also be included in contract awards to ensure information protection practices, procedures, and protocols are included in each project's lifecycle phase. The typical requirements are:

(i) Non-Disclosure and Confidentiality Agreements (NDA). Require prospective consultants, prime vendors, general contractors, or commercial enterprises to enter into a NDA with the Port Authority before obtaining a copy of a RFP. NDAs should be project and procurement specific and should be completed in a timely manner for specific types of procurements or projects. A broad or generic NDA should not normally be utilized to cover all procurements and projects under contract to a particular consultant, prime vendor, general contractor or commercial enterprise over a long period of time, however, it may be appropriate in certain situations to utilize such a NDA, if approved by the DISO with the concurrence of the CISO. Consultants, Prime Vendors, General Contractors, or Commercial Enterprises should contact the Port Authority to request authority prior to releasing RFP Protected Information to a sub-contractor. The sub-contractor may have to execute an Acknowledgement that it will comply with the terms of any NDA that the successful bidder has executed.

(ii) Background Screening. Require potential users seeking access to certain Protected Information to undergo background pre-screening. The pre-screening may parallel the screening requirement used by the Port Authority to grant access to Protected Information under Section 3.3. S.W.A.C.'s background screening is usually finalized within five to ten business days.

(iii) Designation of a Security Information Manager (SIM). Require companies involved in Protected Information procurements or projects to designate a SIM to ensure information security and Protected Information requirements are followed. A second employee may be designated as an alternate SIM. All SIM"s will be required to get SWAC'd.

(iv) Information Security Education and Awareness Training. Require consultants, vendors, contractors and commercial enterprises to attend training to ensure security awareness regarding Port Authority information.

(v) Physical Security. Outline the specific guidelines and requirements for the handling of Protected Information to ensure that the storage and protection of Protected Information is consistent with the requirements of Chapter 4 of this Handbook.

(vi) Transfer or Shipping Sensitive Information. Prohibit or place restrictions on the transfer, shipping, and mailing of Protected Information consistent with the handling procedures set forth in Chapter 4 of this Handbook.

(vii) Website Restrictions. Prohibit posting, modifying, copying, reproducing, republishing, uploading, downloading, transmitting, or distributing Protected Information on unauthorized websites or web pages. This may also include restricting persons, who either have not passed a pre-screening background check, or who have not been granted access to Confidential Information, from viewing such information.

(viii) Destruction of Documents. Require Protected Information to be destroyed using certain methods, measures or technology consistent with the requirements set forth in Chapter 4 of this Handbook.

(ix) Use of Similar Agreements Between Prime Vendor and Subcontractors/Subconsultants. Require the prime vendor, general contractor, or consultant to mandate that each of its subcontractors/sub consultants maintain the same levels of security required of the prime vendor, general contractor, or consultant under any Port Authority awarded contract.

(x) Publication Exchanges. Prohibit the publication, exchange or dissemination of Protected Information developed from the project or contained in reports, except between authorized vendors, subcontractors and subconsultants, without prior approval of the Port Authority. Requests for approval should be routed to and reviewed by the CISO in conjunction with the Law Department and, where appropriate, Public Affairs.

(xi) Information Technology. Matters involving information technology policy, or use of particular hardware or software, should require the application of specific protocols and/or software tools to support Port Authority projects. Coordination of information technology and consultation with the Director of Technology Services Department and the CISO may be required for the success of particular projects.

(xii) Audit. Include provisions to allow the Port Authority to conduct audits for compliance with Protected Information procedures, protocols and practices, which may include, but not be limited to, verification of background check status, confirmation of completion of specified training, and/or a site visit to view material storage locations and protocols.

(xiii) Notification of Security Requirements. Advise all consultants, third-party contractors, and other individuals and/or entities, as may be appropriate, that Port Authority security procedure requirements may be imposed throughout the duration of the project.

(xiv) Reproduction/Copies. Reproductions of Protected Information shall be consistent with the requirements of Chapter 4 of this Handbook.

CHAPTER 4 – MARKING, HANDLING, STORAGE, TRANSMITTAL AND DESTRUCTION REQUIREMENTS

4.1 Marking of Certain Protected Information

(a) Confidential Privileged and Confidential Information

All documents, drawings, and all other Information that contain Confidential Privileged, or Confidential Information must be marked with the appropriate respective protective marking: "CONFIDENTIAL PRIVILEGED" (alternatively "CONFIDENTIAL AND PRIVILEGED") or "CONFIDENTIAL" (alternatively, where appropriate, Confidential Proprietary Information). The markings must be conspicuous and in bolded Arial with a 16 point font size or equally visible typeface.

The front page (or front and back cover, if appropriate) shall be marked at the top and bottom of the page. In addition, all interior pages within the document must also be marked at the top and the bottom of the page. Sets of documents large enough to be folded or rolled must be marked or stamped so that the marking is visible on the outside of the set when it is rolled or folded. The marking must be visible from the exterior container of the material, e.g., the spine of a binder, or compact disc container or cover.

All Confidential Privileged Information must bear the following warning sign on its front cover, back cover, and title sheet or first page. For compact discs, DVDs or other smaller materials, the warning sign may be printed on an adhesive label and affixed to the material. It should be in visible typeface and state:

> "WARNING": The attached is the property of The Port Authority of New York and New Jersey (PANYNJ). It contains information requiring protection against unauthorized disclosure. The information contained in the attached document cannot be released to the public or other personnel who do not have a valid need to know without prior written approval of an authorized PANYNJ official. The attached document must be controlled, stored, handled, transmitted, distributed and disposed of according to PANYNJ Information Security Policy. Further reproduction and/or distribution outside of the PANYNJ are prohibited without the express written approval of the PANYNJ.
>
> At a minimum, the attached will be disseminated only on a need to know basis and, when unattended, will be stored in a locked cabinet or area offering sufficient protection against theft, compromise, inadvertent access and unauthorized disclosure.

(b) Sensitive Security Information Requirements

Pursuant to the federal regulations governing SSI, Port Authority Protected Information that has been designated SSI by the Federal government must be conspicuously marked with its respective protective marking "SENSITIVE SECURITY INFORMATION" on the top and the distribution limitation statement on the bottom of each page of the document including, if applicable, the front and back covers, the title page, and on any binder cover or folder. The

protective marking must be in bolded Arial 16-point font size and the distribution limitation statement must be in an 8-point font size. All copies of SSI documents must also bear the required markings.

The distribution limitation statement is:

> WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the TSA or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

(c) Critical Infrastructure Information

Pursuant to the federal regulations governing CII, Port Authority Protected Information that has been marked PCII by the Department of Homeland Security PCII Program Manager or the manager's designee will be marked as follows:

> This document contains PCII. In accordance with the provisions of 6 CFR Part 29, this document is exempt from release under the Freedom of Information Act (5 U.S.C. 552 (b)(3)) and similar laws requiring public disclosure. Unauthorized release may result in criminal and administrative penalties. This document is to be safeguarded and disseminated in accordance with the CII Act and the PCII Program requirements.

(d) Document Control Number for Confidential Privileged Information

Documents that have been identified as Confidential Privileged Information will be given a control number, which shall consist of the category of information followed by an acronym for the transmitting department, followed by the last 2 digits of the year, followed by a number that is sequential and, finally, followed by the copy number.

Examples:

CP – LAW – 13 – 1 – 1

CP – PMD – 07 – 10 – 2

The front page (or front and back cover, if appropriate) and all pages of Confidential Privileged Information shall be marked with the control number. The control number must also be visible from the exterior container of the material, e.g., the spine of a binder, or compact disc container or cover. If deemed necessary by the DISO or CISO, certain Confidential Information or other Protected Information may be given a control number.

4.2 Handling Protected Information

Handling refers to the physical possession of, and includes working on or with, Protected Information to perform job duties or complete tasks or projects. This includes, but is not limited to, reading, copying, editing, creating, or correcting the material. Protected Information in any form, including physical or electronic, must be under constant surveillance by an authorized individual to prevent it from being viewed by, or being obtained by, unauthorized persons. Protected Information is considered to be in use when it is not stored in an approved security container.

The following is a chart of the minimum-security requirements for handling Protected Information, and certain requirements that apply only to Confidential Privileged and Confidential Information:

Minimum Security Requirements for Handling	Confidential Privileged Information	Confidential Information
Must never be left unattended outside of storage location.	X	
Must be under the direct and constant supervision of an authorized person who is responsible for protecting the information from unauthorized disclosure.	X	
Must be turned face down or covered when an unauthorized person is in the vicinity. Be cognizant of others in area that can view your computer screen.	X	X
When leaving a computer unattended ensure that the screen is locked.	X	
Attach an information cover sheet when removing materials from their place of storage.	X	
Use all means to prevent unauthorized public disclosure of information.	X	X

4.3 Transmittal of Protected Information

Transmission refers to the sharing among individuals and/or entities, and/or the transfer or movement of Protected Information from one location to another using either physical or electronic means. The following chart sets forth the methods by which Protected Information should be transmitted. In all instances, Protected Information must at all times be safeguarded and transmitted in a manner and method designed to insure that it is not disclosed, or otherwise compromised, and it should be appropriately marked with the proper identifying marking.

In general, all Confidential Privileged Information must be signed in and out, and, in certain situations as determined by the DISO or SIM, Confidential Information may be signed in and out as well. A cover sheet must be attached to the Confidential Privileged or, in certain situations as determined by the SIM, to Confidential Information and it should be marked appropriately. With respect to Confidential Privileged Information, the coversheet attached as Appendix "F" is to be utilized to draw emphasis to the fact that a document contains Confidential Privileged Information and to limit visual exposure to unauthorized individuals in near proximity. Confidential Privileged Information and, where appropriate, Confidential Information, must be wrapped and sealed. The exterior of the wrapping should not indicate that it is sensitive material, or its category, or level.

Confidential Privileged Information may be transported using public modes of transportation, and a courier service may also be utilized; provided, however, that the sign in and sign out procedures will apply, as well as wrapping and sealing procedures. All packages must be sealed in a manner that easily identifies whether the package has been opened prior to delivery to the intended recipient. The use of a double wrapped/enveloped package or a tamper resistant envelope must be used to fulfill this requirement. Protective markings are not to be placed on the outer visible envelope. If using a double wrapped package or two envelopes, the inner wrapping or envelope should be marked in accordance with appropriate category designation. The package must be addressed to an individual who is authorized to receive it or, preferably, to the SIM. All packages must contain a specific individual's name on the shipping label. Where appropriate any of the foregoing requirements may also be required in handling Protected Information and can be provided for generally in the department's CIPP, or as required by the DISO and/or SIM with respect to handling such information in specific instances.

Minimum Security Requirements for Transmission	**Confidential Privileged Information**	**Confidential Information**
Verbally at a meeting, conference or briefing where all attendees have the appropriate security clearance	X	X
Electronic Systems: restrict to Livelink[2] or a similar approved secure repository	X	
Electronic Mail: restricted from using e-mail accounts to transmit. NOTE: Confidential Information may be transmitted using encryption with express permission by the DISO/SIM, in writing	X	
Hand Carried or delivered in the personal custody of Authorized Individual: (a) request return receipt (b) place in sealed envelope, and (c) name of recipient, department, address and phone number must be written on face of envelope	X	X (b and c only)
Approved Commercial Delivery Service (e.g., DHL, FedEx, UPS): (a) request return receipt, (b) verify recipient name and mailing address, (c) place in a sealed envelope, and (d) the		

[2] Livelink is a secure collaborative repository for the documents of a project.

exterior of a mailing document shall not indicate the security category of the material contained therein	X	X
Use of USPS Certified Mail: (a) request return receipt, (b) verify recipient name and mailing address, and (c) the exterior of a mailing document shall not indicate the security category of the material contained therein	X	X
Intra-agency Mail System (a) request return receipt (b) place in sealed envelope, (c) name of recipient, department, address and phone number must be written on face of envelope, and (d) the exterior of a mailing document shall not indicate the security category of the material contained therein	X	X (b, c, d only)
Telephone: restricted from using a non-land line telephone to transmit, unless expressly permitted by SIM in writing. If approved: (a) use all means to prevent unauthorized public disclosure, and (b) may not use mobile or internet devices.	X	
Fax Machine: restricted from using fax machine to transmit unless expressly permitted by the SIM in writing. If approved: (a) prior coordination with recipient required, (b) verify recipient fax number, (c) receipt of successful transmission, and (d) follow-up contact required	X	X (a,b,c only)

Steps for transmittal of a "hard copy" of all Confidential Privileged Information and, when required, for Confidential Information:

Step 1. Make certain that documents are properly marked: "CONFIDENTIAL PRIVILEGED," or "CONFIDENTIAL," according to its designated category.

Step 2. Prepare Transmittal Receipt (Appendix "F").

Step 3. Place document in envelope with the Transmittal Receipt, seal envelope, mark the inner envelope CONFIDENTIAL PRIVILEGED or CONFIDENTIAL, place envelope in second envelope (outer), this envelope shall not contain any protective markings.

Step 4. Address envelope to an individual who is authorized to receive it.

Step 5. Mail document.

Step 6. The Transmittal Receipt shall be returned to the party who initially sent the item.

When hard copies of 8 1/2 " X 11" multi-page documents include threat scenarios, asset criticality information, identification of security vulnerability details, risk assessments, design basis threats and concepts of operations are distributed, this information is to be bound using secure binding to prevent individual sheets from being removed from a set.

4.4 Storage of Protected Information

Steps should be taken to prevent unauthorized access to Protected Information. Certain Protected Information should be kept in a locked storage room or a locked security container, such as a drawer, cabinet or safe-type file that has a locking mechanism, and must be vandalism resistant. The DISO will periodically review the departmental storage vehicles and mechanisms and determine their appropriateness for the information being stored. Protected Information should be gathered and stored in a minimum number of office locations. Confidential Privileged Information must never be left unattended outside its storage location for long durations. A storage space or security container/receptacle may not be left open and unattended at any time. At no time should Confidential Privileged or Confidential Information be stored, except for short periods during work, in unauthorized desk drawers, file cabinets, or other unsecured locations. The CISO may require that certain information be kept in a safe in a designated central location(s).

Combinations or locks for each security container must be changed or replaced when a person having knowledge of the combination or possession of a lock key no longer requires it, leaves the project or there is reason to suspect that the combination has been tampered with, or that an unauthorized person may have acquired knowledge of the combination, or that a lock key is in the possession of an unauthorized person. Keys and combinations of locks utilized to secure certain Protected Information must be safeguarded at the same level of protection as paper documents. The "Guidelines for the Storage of Confidential Privileged, Confidential and Law Enforcement Confidential Information" attached as Appendix "H" provides further detailed information and instructions.

Confidential Privileged Information and, where appropriate Confidential Information, may not be stored at any individual's home overnight for a meeting the following day without prior written authorization of the SIM or DISO.

Downloading of any Confidential Privileged Information and Confidential Information carries with it the responsibility to protect that information in accordance with the procedures identified in this Handbook. The possessor of the electronic file assumes full responsibility for the proper handling, storage, transmittal and disposal of this Confidential Privileged and Confidential Information.

4.5 Document Accountability Log

All entities, Port Authority Departments and third-parties having Protected Information in their possession will have a system in place that will account for the material in such a manner that retrieval is easily accomplished for inspection. The accountability log with respect to Confidential Privileged and Confidential Information shall be maintained by the DISO, or the SPM, or SIM, where applicable, and include:

- The date that a document was received or created
- The identity of the sender or creator
- A brief description of the document
- The Control Number, if Confidential Privileged Information
- Number of copies

- Transmission history (sent to whom, when)
- If applicable at the time of the inspection, a Port Authority Document Destruction Certification, stating that the document has been destroyed (including, when, by whom and the method), or a Certification that the document has been returned to the Port Authority.

4.6 Reproduction

Protected Information should only be reproduced to the minimum extent necessary to carry out an individual or entity's responsibilities. However, the reproduced material must be marked and protected in the same manner and to the same extent as the original material. Authorized individuals must perform all reproduction work. Print and reproduction locations are limited to Port Authority sites, or, when appropriate, to authorized consultant and/or third-party contractor work site equipment. The CISO may require that the work site should limit reproduction of Protected Information to a particular copying machine with technological capabilities limited to copying (not scanning or storing etc.). Service providers, authorized by the responsible SIM or DISO where appropriate, may be used for this task if the information remains safeguarded throughout the process. Each reproduction of Protected Information shall contain all security markings, instructions, etc., as set forth in Section 4.1. All scraps, over-runs, and waste products resulting from reproduction shall be collected and processed for proper disposal.

4.7 Destruction of Protected Information

All Protected Information that is no longer needed shall be disposed of as soon as possible, consistent with the Port Authority's Record Retention Policy, by any method that prevents its unauthorized retrieval or reconstruction. Authorized service providers may be used for this task provided that the information remains safeguarded until the destruction is completed. Paper products must be destroyed using a cross cut shredder located in the office. As previously noted in Section 4.5, a Port Authority Document Destruction Certificate must be provided to the DISO or SIM for any document being destroyed, including original or copies thereof. In addition to the requirements in this Handbook, all Departments shall continue to comply with the Port Authority Records Program (A.P. 15-2.02). Where Protected Information is no longer needed, but the Port Authority Records Program requires retention of the original, the original Protected document shall be retained by the Departmental Records Coordinator and all copies are to be destroyed in accordance with this section. The "Guidelines for the Disposal and Destruction of Confidential Privileged Information" attached as Appendix "I" provides further detailed information and instruction.

Since deleted electronic files can be recoverable by utilizing software tools, certain Protected Information stored in electronic form needs to be erased and destroyed with methods that comply with the US Department of Defense standards for file secure erasure (DoD 5220.22). Therefore, CyberScrub or a similar software shall be used to prevent discovery by a computer technician or other unauthorized person. With respect to Port Authority staff, individual staff shall contact the Technology Services Department ("TSD") to make a request that Protected Information be permanently removed from a computer. This request shall be made by providing relevant information on a TSD Service Request (TSR), found on eNet on the TSDpage.

4.8 Information Technology Systems – Handling of Electronic Information/Data

All transmission, storage and destruction of all electronic information and data must be in compliance with the Technology Services Department's (TSD) "Cyber Security Guidelines for the Port Authority of New York and New Jersey"

Information Technology (IT) Systems that are used to electronically capture, create, store, process or distribute Protected Information must be appropriately managed to protect against unauthorized disclosure of the contents. The main objectives of these electronic handling guidelines are to:

- Provide access exclusively to the authorized individuals.
- Compartmentalize Protected Information as required by a Department's CIPP.
- Complete removal of Protected Information from the system when it is no longer needed.

This section is intended to describe the processes used to control secure electronic data, and is to be implemented for the control, processing, handling, storage, and destruction of all "Protected" electronic data as generated, received, or distributed by Authority staff, consultants, contractors or third parties.

4.9 Transmission/Exchange of Electronic Information

The Authority uses Livelink (moving toward PACS) as its project and program website solution to collaborate with team members (i.e., authorized individuals) both inside and outside the Agency's firewall. Additionally, the Authority also uses secure internet websites with secure transmission to collaborate with team members outside the Agency. The use of a web-based collaboration tool has numerous benefits that result s in time and cost savings, accountability, security, and disaster recovery. For example, within the Authority, the Downtown Restoration Program (DRP), the Security Capital Program, Office of Emergency Management, and the Goethals Bridge Program, utilize Livelink website collaboration.

Access to these password-protected websites is controlled by permissions that apply to each individual user account. In this manner, users are allowed to access folders and files only when approved by the SIM, Project Manager or Program Manager directly responsible for the information.

With these measures in place, the Authority has deemed that all electronic exchange of Protected Information must be accomplished using a secure project website solution with centrally managed access control on a per individual basis and with encrypted transfer.

Although the entire Port Authority Website is secure, in order to provide better organization and auditing of files that contain Confidential Privileged or Confidential Information, special secure folders must be created and maintained specifically to house this information. Information that has been designated as Confidential Privileged Information may only reside in these secure folders in order to further compartmentalize it from other types of information.

Additional secure Protected Information folders will allow other files such as reports, presentations, etc., to be stored.

In addition to the Livelink website, certain electronic Protected Information may also be shared via secure Local Area Networks (LAN). Protected Information should be removed from the LAN as soon as the recipient has acknowledged receipt of the information. As with the website, these LANs are password protected, and access to them is only for those individuals who have signed the NDA and are provided with permission by the SIM or DISO, if required.

E-mailing of Confidential Privileged Information is not permitted, E-mailing of any other Protected Information must be encrypted as per TSD standards.

4.10 Electronic Storage

Technology advances allow increasingly larger amounts of information to be stored on increasingly smaller devices. This creates a greater risk of information security breaches due to the size and portability of these devices, which can be lost or misplaced more easily when taken outside of the office. If a situation arises whereby electronic files must be exchanged by electronic media such as flash drives, CD or DVD, all provisions within this manual for handling physical documents must be satisfied.

Possession of Protected Information in any format (hardcopy, electronic, photo, video, etc.) carries with it the responsibility to protect that information in accordance with the requirements of the Handbook. Authorized individuals in possession of electronic files containing Protected Information assume full responsibility for the proper handling, storage, transmittal, and destruction of this type of information in the same or comparable manner as hard copy requirements.

Users who possess electronic files containing Protected Information shall adhere to the following guidelines to maintain the proper protection of this material:

Desktops/Laptops/CAD Machine Users

Individuals granted access to The Port Authority Network or information systems shall secure computers from unauthorized access.

- When leaving a computer unattended, users shall apply the “Lock Workstation” feature (ctrl/alt/delete, enter).
- Unattended computers shall be secured from viewing by password protected screen savers.
- Computers shall activate the automatic screensaver feature after a period of non-use. The period of non-use is fifteen (15) minutes, or a shorter time period if required by a DISO.
- Desktop computer users shall only store Confidential Privileged and Confidential Information on a secure password protected network drive (directory on The Port Authority Network) and not the computer’s local hard drive.
- Laptop computer users shall store Confidential Information locally, when necessary, with encryption software. Users shall contact their respective DISO to request or confirm that Port Authority standard encryption technology is installed on their assigned laptop computer.
- Computer users shall not disable or alter security safeguards, such as virus detection or encryption software, installed on Port Authority computers.

Portable Media

- Confidential Privileged Information shall be encrypted on portable devices, including handheld devices, if they are carried outside secure worksites.
- All Protected Information stored on portable devices shall be password protected at the document level.
- Mobile laptop computers, computer media and any other forms of removable storage (e.g., diskettes, CD ROMs, flash drives) shall be stored in a secure location or locked cabinet when not in use.

4.11 User Access Deactivations

In addition to accessing the IT Systems, Port Authority, through the appropriate Systems Administrator, may deactivate a User's IT privileges, whether or not the user is suspected of any violation of this Policy, when necessary to preserve the integrity of facilities, user services, or data.

CHAPTER 5 – AUDITING AND MONITORING

5.1 Purpose

The ISSC, Audit and/or OIG may conduct random or scheduled examinations of business practices under the Policy in order to assess the extent of compliance with the Policy. The Policy's self-assessment and audit processes enable management to evaluate the Policy's uniformity throughout the Port Authority and of third parties' practices, in order to identify its strengths and potential exposures, and to help guide evolving policy objectives.

5.2 Audits and Investigations

Audits conducted by the ISSC, Audit, and/or OIG may be scheduled in advance. The chief, department director, project manager, company liaison or contract representative of the organization being assessed should receive prior notice of the date of the assessment and also be advised as to what the assessment will consist of. A copy of the current version of the Audit Procedures guidelines, attached as Appendix "J", should be provided to the particular entity(ies) in order to allow adequate time to undertake appropriate pre-review and preparation action. The Audit Procedures guidelines should guide the ISSC and/or Audit through the assessment process. This Guideline is not all-inclusive and may be amended, as necessary. Organizations, departments, units, or third parties, preparing for an ISSC and/or Audit visit are encouraged to contact the CISO prior to the scheduled visit date in order to inquire and obtain additional information about the process.

The ISSC and/or Audit may also conduct information security assessments without prior notice and/or unannounced investigations coordinated through the Office of the General Counsel and the Office of Inspector General, as it may deem necessary and appropriate. Where appropriate, the CISO should be advised of the existence of such an investigation and, if appropriate, its nature.

The ISSC and/or Audit approach to conducting an assessment should consist of three phases (i) personnel interviews, (ii) site assistance visits, and (iii) corrective action follow-up.

(i) Personnel Interviews

The interview(s) should focus on the department, business unit, organization or third party's compliance with the Policy, how engaged the interviewee is with the Policy, and the level of education and awareness the interviewee has about the Policy. Employees, consultants, third-party contractors, and other individuals and/or entities should be included as potential interviewees. Personnel interviews should encompass a wide range of individuals who are regularly engaged with the Policy, as well as those having less involvement in it. This allows the ISSC to develop a balanced understanding regarding Policy compliance and effectiveness, as well as its impact on the organization and enable it both to identify concerns and issues regarding the Policy, and to solicit recommendations for possible improvements to the Policy.

(ii) Site Assistance Visits

The ISSC and/or Audit site visit should focus on a hands-on review of the following processes and procedures: document safeguards, handling protocols, transmission practices, control number usage, document marking, receipt and copying practices, and disposal of Protected Information procedures. The visit should also include compliance reviews of the security clearance access criteria, document accountability audits, conditions regarding information access, background check processes, Authorized Personnel Clearance Lists updates, Protected Information material sign out and sign in records, where appropriate, and the information security education awareness training program.

(iii) Follow-up

Policy compliance deficiencies noted during the assessments should be provided by the ISSC and/or Audit through the CISO to the department head, chief, project manager, consultant, third-party contractor liaison/representative, other agency staff, and the respective DISO or SIM for corrective action. The ISSC, through the CISO, may also follow-up on investigation results to determine corrective actions and Policy compliance. The ISSC may also recommend the imposition of any penalties or disciplinary action that are described in Chapter 6.

With the assistance of the respective DISO or SIM, a plan with milestones should be developed with the intention of correcting any identified deficiencies. A return site assistance visit may be scheduled in order to re-assess earlier identified deficiencies. The respective DISO, SPM, or SIM should forward a periodic corrective action progress report to the CISO as part of the milestone monitoring.

5.3 Self-Assessment

Department heads, chiefs, managers, supervisors, DISOs or SIMs should conduct an annual self-assessment of their unit's Policy compliance using the Audit Procedures Guidelines. The results will not be forwarded to the CISO, Audit or ISSC, but should be used as a tool to gauge compliance before regular assessments are conducted. The results should be available for inspection and any serious findings should be forwarded to the CISO.

CHAPTER 6 – POLICY VIOLATIONS AND CONSEQUENCES

6.1 Responsibilities

Anyone having knowledge of any infraction, violation or breach of the Policy is required to report it to the CISO, OIG, their DISO, and third party SIM, who shall in turn report the same to their supervisor/manager. The CISO shall have the final decision with respect to the violation determinations and/or the recommended course of action to be taken, consistent with Port Authority policy, practices and legal requirements referenced in this section.

All individuals who have been reported as having violated the Policy may be temporarily denied access to Protected Information and/or have their security clearance suspended until an investigation is completed.

6.2 Violations, Infractions, or Breach of Information Security Protocols

Due to any number of unintended circumstances or, other conditions beyond the control of an individual, Protected Information could be subject to compromise or loss. For example, an individual may unintentionally discard Protected Information, mislabel Protected Information, sent through the internal mail routing system, or drop or inadvertently leave Protected Information in a public place. Intentional disclosure of Protected Information to unauthorized individuals for personal gain, or to otherwise make available for unauthorized public release, may also occur. Violations, infractions and breaches of the Policy will be reviewed on a case-by-case basis to determine the facts and circumstances surrounding each incident.

6.3 Violation Reporting, Investigation and Fact Finding

Individuals must report alleged or suspected violations, infractions or breaches of the Policy to the DISO, CISO, OIG and to their supervisor or manager. The DISO, in consultation with the CISO and OIG, will determine whether an investigation into the allegations or other appropriate action is warranted. The CISO will consult with the OIG on these matters and the OIG will determine whether to undertake its own separate investigation into the matter. Individuals and/or entities must cooperate with all authorized investigations of any act, omission or occurrence relating to Port Authority property, information, materials, and, in the case of Port Authority employees, and if applicable, must comply with the Agency General Rules and Regulations. (See *"General Rules and Regulations for all Port Authority Employees."* Port Authority of New York and New Jersey. April 1990.)

6.4 Disciplinary Action

The following is a list of Policy violations and the possible respective disciplinary actions that may be taken against any individual and/or entity, having authorized access to Protected Information, who violates their responsibilities in handling such information:

a) Non-deliberate violations involving negligence and/or carelessness, such as leaving Protected Information unattended.

First Offense: Verbal reprimand and security briefing.

Second Offense: Written reprimand and/or a security briefing and possible suspension or termination of access privileges, depending on the circumstances.

Third Offense - Termination of access and possible imposition of civil penalties. Where the offense involves a Port Authority employee, disciplinary action may also be taken.

b) Non-deliberate violation involving negligence and/or carelessness such as misplacing or losing a document.

First Offense - Written reprimand and/or a security briefing, and possible suspension or termination of access privileges, depending on the circumstances, and possible imposition of a civil penalty. Where the offense involves a Port Authority employee, disciplinary action may also be taken.

Second Offense - Dismissal or termination of access privileges, and, depending on the circumstances, the imposition of a civil penalty, and possible legal action against the violator. Where the offense involves a Port Authority employee, disciplinary action may also be taken including suspension with forfeiture of up to one year's personal and vacation time allocation.

c) For cases of deliberate disregard of security procedures or gross negligence in handling Confidential Privileged and Confidential Information.

First Offense – Suspension or termination of access privileges, termination of an agreement or contract, written reprimand, imposition of a civil penalty depending on the circumstances, and possible legal civil and/or criminal action against the violator. Where the offense involves a Port Authority employee, disciplinary action may be taken up to and including termination of employment. Termination of access privileges will be for a period of one year at minimum and may be permanent, subject to review by the CISO.

The Port Authority may also impose investigation costs and/or a monitor to oversee future compliance with its security policies and practices at the violator's expense, when the violation is by a consultant, vendor contractor or other third party. Nothing herein is construed to limit the Port Authority's right to exercise or take other legal rights and remedies including terminating agreements with a third party violator and/or refusing to enter into future business relationships with the violator and/or seeking such legal action, as it may deem appropriate, including injunctive, civil actions for monetary damages and/or seeking criminal prosecution of the violator(s).

In addition, any violation relating to SSI or CII will be reported to the TSA, the OIG, and/or, if applicable, DOT, USCG or DHS. Penalties and other enforcement or corrective action may be taken as set forth in relevant statutes, rules and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and directions to cease future unauthorized disclosure. Applicable Federal Regulations, including, without limitation, 49 C.F.R. § 15.17 and 1520.17 and 6 CFR Part 29, provide that any such violation thereof or mishandling of information therein defined may constitute grounds for a civil penalty and other enforcement or corrective action being taken by the DOT, TSA and/or DHS.

CHAPTER 7 – INFORMATION SECURITY EDUCATION AND AWARENESS TRAINING

7.1 Purpose

Information Security Education and Awareness training ensures that all personnel requiring access to Protected Information, regardless of position or grade level, have an appropriate understanding of the need to adhere to security procedures in order to secure Protected Information. The goal of the training program is basically to provide that all such employees, consultants, third-party contractors, other individuals, entities and/or, where appropriate, third parties develop essential security habits and thereby ensure that all personnel accessing Protected Information understand and carry out the proper handling protocols for those materials.

7.2 Overview

The CISO is responsible for implementing the Information Security Education and Awareness Training Program (the "Training Program"). The Training Program, with assistance from the Office of Inspector General, DISO and SIM, should be provided to all employees, consultants, third-party contractors, and other agency personnel requiring access to Protected Information. These individuals, regardless of rank or position in a particular organization, must complete initial indoctrination and refresher training. The CISO, with the concurrence of the Law Department, may waive this requirement for certain individuals. A current list containing the names of all persons who completed training will be developed and retained by the CISO. The CISO shall ensure that all employees have complied with the requisite Training Program.

7.3 Training Program Elements

The Training Program consists of three interconnected elements: (a) indoctrination training, (b) orientation training, and (c) refresher training, recommended every three years. Each element provides employees, consultants, third-party contractors, and other agency personnel with a baseline of knowledge, as well as periodic updates, about the existing and current Policy. Each element of the Training Program contributes another level of information to the individual. At a minimum, all individuals must receive the indoctrination training, and the refresher training, if warranted.

(a) Indoctrination Training

Indoctrination Training provides personnel with the fundamentals of the Training Program. It should be completed when beginning employment or assignment to a project for the Port Authority, but no later than sixty (60) days after initial hire, or after commencing work on a project. It may be combined with other types of new employee indoctrination programs. Individuals completing this level of training should understand the basic organization of the Policy, the Policy definitions, what materials are defined as Protected Information under the Policy, how to identify Protected Information (security category levels and markings), the general criteria and conditions required in order to be granted a security clearance, procedures for categorizing documents, the obligation to report suspected and alleged policy violations, and the penalties for non-compliance with the policy and for unauthorized disclosure of Protected Information.

(b) Orientation Training

Orientation Training focuses on the more specific protocols, practices and procedures for individuals whose roles and responsibilities involve reading, using, safeguarding, handling, and disposing of Protected Information. Individuals assigned such responsibilities should complete this level of training. Orientation training should be conducted prior to assignment to a department, project, task, or other special assignment, where the individual is expected to become involved with receiving and handling Protected Information. Individuals completing this level of training should be introduced to the DISO or SIM, understand the organizational elements of the Policy, know how to process Protected Information, know the different security categories under their control or within their assigned work environment, know how to identify proper safeguarding protocols, including hardware needs, and understand the differences between general access privileges and the need to know requirement for access to particular information. Individuals should also read and acknowledge their understanding of the requirements.

(c) Refresher Training

Within a three (3) year time period during the anniversary month of the individual's start date on a project, or initial access to Protected Information, all employees, consultants, third-party contractors, and other individuals and/or entities, who continue to have access to sensitive materials, should receive an information security education and awareness training refresher briefing to enhance their information security awareness. At a minimum, the refresher training should include indoctrination and orientation topic training, as well as key training on recent Policy changes or other appropriate information. Also, this milestone may be used to reaffirm the individual's need for a security clearance or to determine whether the individual requires a periodic update of their background check.

(d) Other Circumstances and Special Briefings

If a Port Authority employee, consultant, third-party contractor, or other individual and/or entity transfers to another department, is promoted within his or her department, or changes employers on the same project without a break in service, and can provide a record of completion of indoctrination training within the previous twelve months, only annual refresher training may be required. All other situations demand that an individual requiring access to Protected Information fulfill the conditions for information security education and awareness training under this Policy.

In addition to reading and signing a NDA or an Acknowledgment of an existing NDA, or, alternatively, being subject to a NDI, temporary or one-time access individuals should be fully briefed on the limitations on access to Protected Information and the penalties associated with the unauthorized disclosure, before being granted access to such information.

Special briefings may be provided on a case-by-case basis, as circumstances may require.

APPENDIX A
PROTECTED INFORMATION

Confidential Privileged Information

- Information that reveals security risks, threats, vulnerabilities, built –in or potential to Port Authority facilities and/or assets
- Documentation that identifies specific physical or system security vulnerabilities, when referring to specific security or terrorist threats and/or the specific capabilities in-place to counter a threat
- Documentation revealing specific security vulnerabilities at a new or existing PANYNJ facility, if specific weaknesses are reflected or maximum tolerances are provided
- Information revealing details of defeating a security system(s) or revealing the system in its entirety
- Drawings or documents that reveal specific security design criteria or ratings with regard to security performance
- Information identifying the basis for implementing an operational or technical security solution
- Details related to emergency response protocols, egress plans, flow paths, egress capacities, security systems, etc., not publicly available (diagrams, codes, standards)

Information includes, but is not limited to:

1. Security Risk and Threat Assessments (SRA);
2. Design Basis Threat Analysis (DBT);
3. Facility Security Programs/Plans (to the extent such Programs/Plans are not designated as SSI or CII);
4. Continuity of Operations Plans;
5. Security White Papers;
6. Blast Protection Design Requirements; Blast Analysis; Vector Analysis (Security Barriers, Bollards, etc.);
7. Structural plans, details and specifications if site specific information involves details regarding the capability or vulnerability of security system(s) or additional protection to a critical structure(s);
8. Drawings and/or documents with specific forced entry ratings;
9. Security System(s) designs when high technology data, which was developed by or for the Port Authority, is site specific or concerns core area system;
10. Critical element of security or life safety system; such as master controls, overrides, backup power sources when such elements would not be readily observable by the public;
11. Security system(s) command and control operating instructions and supporting countermeasures when referring to a specific site or project location;
12. Design data revealing engineering, construction of a Communication or Data Center electrical system, network connections, or facility support system with signal cable (e.g., intercom, telephone);

Confidential Information

- Specific security system/hardware model number installed at specific locations
- Details concerning overall security system(s) or individual sub systems(s), including design engineering, construction, fabrication and rollout schedule when data is site specific or concerns core area systems
- Structural plans and details if site-specific information involves details of security system(s) of protection
- Design data revealing engineering, construction, or fabrication details of primary and emergency electrical power systems supporting security, communications or life safety systems
- Documents identifying protective measures around Operations & Control Centers
- Documents identifying the location of Police and Emergency Communication Lines
- Security budget information
- Security Capital Plan
- Security personnel information

Information includes, but is not limited to:

1. Methods utilized to mitigate vulnerabilities and threats, such as identity, location, design, construction, schedule, and fabrication of security systems;
2. Details concerning overall security system(s) or individual subsystem(s), including design, engineering, construction, fabrication and rollout schedule when data is site specific or concerns core area systems;
3. Concept of Operations (CONOPS) documents;
4. Structural plans and details if site-specific information involves details of security system(s) or protection;
5. Documents identifying protective measures around Operation Control and Data Centers;
6. Documents identifying the location of Police, Emergency Communication and Network Lines;
7. Security White Papers
8. Secure Identification Display Area (SIDA) Badge Application (Aviation)
9. Selected Environmental Documents – Condition Surveys containing information on contaminated sites;
10. Emergency Operations Plan (to be shared with other Agencies);
11. Guidance for Managing Multi-Agency Response to WMD/CBREN Incidents;
12. Security system logs and reports, system operators and users including all related personal and company data;
13. System information used to construct and protect security systems;
14. Information/documents complied for law enforcement or official investigatory purposes;
15. Sensitive financial, commercial and other business information received from third parties under Non-Disclosure and Confidentiality Agreements:
16. Security Project Management budget Information;
17. Security Project Management Capital Plan;
18. Property Lease Agreements (Negotiations);
19. Legal Settlement agreements (when specified in the final settlement agreement);
20. Financial Analysis relating to ongoing litigation;
21. 5-year Capital Security Plan.
22. Law Enforcement investigatory material based upon the sensitive or confidential nature of the information

Health Insurance Portability and Accountability Act (HIPAA)

Employees, associates or other contract personnel who have access to Protected Health Information (PHI) must also refer to, and comply with, the Privacy Policies and Procedures to Protect Personal Health Information. Privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA" or "Privacy Laws") place restrictions on the Group Health Plans of the Port Authority and PATH (the "Plans") ability to use and disclose Protected Health Information ("PHI").

To protect the privacy and confidentiality of PHI and to comply with HIPAA, all members of Employee Benefits, including the Customer Service Representatives, and any others who have access to PHI, must comply with the policies and procedures set forth in this manual (the "Policies and Procedures"). The purpose of this manual is to establish how the Privacy Laws are to be implemented by the Plans and Employee Benefits in particular. This document maintained by the Employee Benefits Division of HRD, addresses Privacy Law Concerns related to the Health Insurance Portability and Accountability Act (HIPAA).

HIPAA defines **Protected Health Information (PHI)** as all individually identifiable health information that is transmitted or maintained by the benefit plans in any medium – electronic, oral or written. The Port Authority receives this information in its employer capacity and, therefore, it is not considered to be PHI:

- An individual's name, address, birth date, marital status, dependent information and Social Security number;
- An individual's choice of health plan;

Attorney Work Product

Attorney work product and other privileged information should be protected and treated in accordance with the established rules of the profession and may carry the marking "Privileged & Confidential". Certain work product information may also fall within the definitions of Confidential Privileged and/or Confidential Information as established by the Handbook, and as such, should be marked and treated in accordance with the Handbook and the Law Department CIPP.

Federal Designations:

Security Sensitive Information (SSI): has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119) and any amendments thereto.

1. Facility Security Programs/Plans (Aviation and Port Facilities fall under SSI);
2. Exclusive Area Agreements (Aviation and Ports – An agreement between PA and tenant that has a security program, which permits the tenant to assume responsibility for security within the affected area(s). SSI);
3. TAS Security Directives (SSI);
4. SEA LINK Database and corresponding applications (Ports - SSI/Privacy Act Information).
5. Security Directives issued by the TSA

Critical Infrastructure Information (CII); has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII," as provided for in the referenced rules and regulations and any amendments thereto.

PROTECTED INFORMATION (CONFIDENTIAL INFORMATION)	
Handbook Marking • **Confidential Privileged** • **Confidential** • **CII & SSI**	**Outside Handbook Marking Protocols** • **HIPAA** • **Litigation/Law** • **Law Enforcement Investigatory Material** • **Active Negotiations** • **RFP Proposals under evaluation**

APPENDIX B

Non-Disclosure and Confidentiality Agreements

B-1
Non-Disclosure and Confidentiality Agreement with reference to Handbook

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN

_____

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this _____ day of _____, _____, by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (the "**Port Authority**") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and _____ having an office and place of business at _____ ("**Recipient**").

WHEREAS, the Port Authority desires, subject to the terms and conditions set forth below, to disclose to Recipient Protected Information (as defined below) in connection with _____ (collectively, the "Project(s)", or "Proposed Project(s)"); and

WHEREAS, the Recipient acknowledges that the Port Authority, in furtherance of its performance of essential and critical governmental functions relating to the Project, has existing and significant interests and obligations in establishing, maintaining and protecting the security and safety of the Project site and surrounding areas and related public welfare matters; and

WHEREAS, in furtherance of critical governmental interests regarding public welfare, safety and security at the Project site, the Port Authority has collected information and undertaken the development of certain plans and recommendations regarding the security, safety and protection of the Project site, including the physical construction and current and future operations; and

WHEREAS, the Port Authority and Recipient (collectively, the "**Parties**") acknowledge that in order for Recipient to undertake its duties and/or obligations with regard to its involvement in the Project, the Port Authority may provide Recipient or certain of its Related Parties (as defined below) certain information in the possession of the Port Authority, which may contain or include protected, confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, relating to the Project or its occupants or other matters, the unauthorized disclosure of which could result in significant public safety, financial and other damage to the Port Authority, the Project, its occupants, and the surrounding communities; and

WHEREAS, Recipient recognizes and acknowledges that providing unauthorized access to, or disclosing such information to third parties in violation of the terms of this Agreement could compromise or undermine the existing or future guidelines, techniques and procedures implemented for the protection against terrorist acts or for law enforcement, investigation and

prosecutorial purposes, and accordingly could result in significant irreparable harm and injury; and

WHEREAS, in order to protect and preserve the privilege attaching to and the confidentiality of the aforementioned information as well as to limit access to such information to a strict need to know basis, the Port Authority requires, as a condition of its sharing or providing access to such protected, confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, that the Recipient enter into this Agreement and that its Related Parties thereafter acknowledge and agree that they will be required to treat as strictly confidential and/or privileged any of such information so provided, as well as the work product and conclusions of any assessments and evaluations or any recommendations relating thereto, and to also fully comply with applicable federal rules and regulations with respect thereto; and

WHEREAS, as a condition to the provision of such information to Recipient and certain Related Parties, the Recipient has agreed to enter into this Agreement with respect to the handling and use of such information and to cause Related Parties to join in and be bound by the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the provision by Port Authority of Information for Project Purposes (as each such term is defined below) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Recipient and each Related Party that receives such Information, the Recipient and each such Related Party agrees, as follows:

1. **Defined Terms**. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

(a) "**Authorized Disclosure**" means the disclosure of Protected Information strictly in accordance with the Confidentiality Control Procedures applicable thereto: (i) as to all Protected Information, only to a Related Party that has a need to know such Protected Information strictly for Project Purposes and that has agreed in writing to be bound by the terms of this Agreement by executing a form of Acknowledgment as set forth in Exhibit A or Exhibit B, as applicable; and (ii) as to Confidential Privileged Information, only to the extent expressly approved in writing and in advance by the Port Authority, and then only the particular Confidential Privileged Information that is required to accomplish an essential element of the Project.

(b) "**Information**" means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

(c) "**Protected Information**" means and includes collectively, Confidential Information, Confidential Privileged Information, Sensitive Security Information (SSI), Critical Infrastructure Information (CII) or Health Insurance Portability and Accountability Act (HIPPA) Information and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. The term Protected Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Recipient, the Port Authority or others, or when the Port Authority receives such information from others and agrees to treat such information as Protected. The following Information shall not constitute Protected Information for the purpose of this Agreement:

(i) Particular Information, other than Confidential Privileged Information, that is provided to the Recipient by a source other than the Port Authority, provided that such source is not subject to a confidentiality agreement, or similar obligation, or understanding with or for the benefit of the Port Authority, with respect to such Information and that the identity of such source is not itself part of such Protected Information.

(ii) Information that is or becomes generally available to the public other than as a result of a disclosure by the Recipient or a Related Party in violation of this Agreement.

(iii) Information that is known to or was in the possession of the Recipient or a Related Party on a non-confidential basis prior to the disclosure of such Information by the Port Authority.

(d) "**Confidential Information**" means and includes collectively, any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws. It also includes information that contains sensitive financial, commercial or other proprietary business information concerning or relating to the Port Authority, its projects, operations or facilities that would be exempt from release under the Port Authority Freedom of Information Code.

(e) "**Confidential Privileged Information**" means and includes collectively, (i) Information that reveals security risks, threats, vulnerabilities, documentation that identifies specific physical security vulnerabilities or revealing specific security vulnerabilities details related to emergency response protocols, egress plans, flow paths, egress capacities, (diagrams, codes, standards) etc., which is not publicly available." and any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws, and (ii) certain Critical Infrastructure Information.

(f) "**Confidentiality Control Procedures**" means procedures, safeguards and requirements for the identification, processing, protection, handling, care, tracking and storage of

Protected Information that are required under applicable federal or state law, the Port Authority Handbook, or by the terms of this Agreement.

(g) "**Critical Infrastructure Information**" (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII", as provided for in the referenced rules and regulations and any amendments thereto.

(h) "**Sensitive Security Information**" (SSI) has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119).

(i) "**Health Insurance Portability and Accountability Act**" (HIPAA) Information Employees, associates or other contract personnel who have access to Protected Health Information (PHI) must refer to, and comply with, the Privacy Policies and Procedures to Protect Personal Health Information. Privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA" or "Privacy Laws") place restrictions on the Group Health Plans of the Port Authority and PATH (the "Plans") ability to use and disclose Protected Health Information ("PHI").

(j) "**Port Authority Handbook**" means The Port Authority of New York and New Jersey. Information Security Handbook, as may be amended by the Port Authority, from time to time.

(k) **"Project Purposes**" means the use of Protected Information strictly and only for purposes related to Recipient's and its Related Parties' participation and involvement in the Project, and only for such period of time during which Recipient and its Related Parties are involved in Project related activities.

(l) "**Related Party**" and "**Related Parties**" means the directors, employees, officers, partners or members of the Recipient, as applicable, and the Recipient's outside consultants, attorneys, advisors, accountants, architects, engineers or subcontractors or sub-consultants (and their respective directors, employees, officers, partners or members) to whom any Protected Information is disclosed or made available.

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

(a) All Protected Information shall be held in confidence and shall be processed, treated, disclosed and used by the Recipient and its Related Parties only for Project Purposes and in accordance with the Confidentiality Control Procedures established pursuant to Paragraph 2(c), below, including, without limitation, the Port Authority Handbook, receipt of which is acknowledged by Recipient and shall be acknowledged in writing by each Related Party by signing the Acknowledgment attached hereto as Exhibit A or Exhibit B, as applicable, and

applicable legal requirements. Protected Information may be disclosed, only if and to the extent that such disclosure is an Authorized Disclosure.

(b) Recipient and each Related Party acknowledges and agrees that (i) any violation by the Recipient or any of its Related Parties of the terms, conditions or restrictions of this Agreement relating to Protected Information may result in penalties and other enforcement or corrective action as set forth in such statutes and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and to cease future unauthorized disclosure and (ii) pursuant to the aforementioned Federal Regulations, including, without limitation, 49 C.F.R. §§ 15.17 and 1520.17, any such violation thereof or mishandling of information therein defined may constitute grounds for a civil penalty and other enforcement or corrective action by the United States Department of Transportation and the United States Department of Homeland Security, and appropriate personnel actions for Federal employees.

(c) Recipient and each Related Party covenants to the Port Authority that it has established, promulgated and implemented Confidentiality Control Procedures for identification, handling, receipt, care, and storage of Protected Information to control and safeguard against any violation of the requirements of this Agreement and against any unauthorized access, disclosure, modification, loss or misuse of Protected Information. Recipient and each Related Party shall undertake reasonable steps consistent with such Confidentiality Control Procedures to assure that disclosure of Protected Information is compartmentalized, such that all Protected Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Agreement and applicable Confidentiality Control Procedures. The Confidentiality Control Procedures shall, at a minimum, adhere to, and shall not be inconsistent with, the procedures and practices established in the Port Authority Handbook.

(d) The Port Authority reserves the right to audit Recipient's Confidentiality Control Procedures, and those of each Related Party, as applicable, to ensure that it is in compliance with the terms of this Agreement.

(e) The Port Authority may request in writing that the Recipient or any Related Parties apply different or more stringent controls on the handling, care, storage and disclosure of particular items of Protected Information as a precondition for its disclosure. The Port Authority may decline any request by the Recipient or any of its Related Parties to provide such item of Protected Information if the Recipient or any of the Related Parties do not agree in writing to apply such controls.

(f) Nothing in this Agreement shall require the Port Authority to tender or provide access to or possession of any Protected Information to the Recipient or its Related Parties, whether or not the requirements of this Agreement are otherwise satisfied. However, if such Protected Information is provided and accepted, the Recipient and its Related Parties shall abide by the terms, conditions and requirements of this Agreement.

(g) The Recipient and each Related Party agrees to be responsible for enforcing the provisions of this Agreement with respect to its Related Parties, in accordance with the Confidentiality Control Procedures. Except as required by law pursuant to written advice of

competent legal counsel, or with the Port Authority's prior written consent, neither the Recipient, nor any of the Related Parties shall disclose to any third party, person or entity: (i) any Protected Information under circumstances where the Recipient is not fully satisfied that the person or entity to whom such disclosure is about to be made shall act in accordance with the Confidentiality Control Procedures whether or not such person or entity has agreed in writing to be bound by the terms of this Agreement or any "Acknowledgement" of its terms or (ii) the fact that Protected Information has been made available to the Recipient or such Related Parties, or the content or import of such Protected Information. The Recipient is responsible for collecting and managing the Acknowledgments signed by Related Parties pursuant to this Agreement. Recipient shall, at the Port Authority's request, provide the Port Authority a list of all Related Parties who have signed an Acknowledgment, and copies of such Acknowledgments.

(h) As to all Protected Information provided by or on behalf of the Port Authority, nothing in this Agreement shall constitute or be construed as a waiver of any public interest privilege or other protections established under applicable state or federal law.

3. **Disclosures and Discovery Requests**. If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law seeking disclosure of the Protected Information is received by the Recipient or any Related Party, Recipient shall notify the Port Authority thereof, to the extent permitted by law, with sufficient promptness so as to enable the Port Authority to investigate the circumstances, prepare any appropriate documentation and seek to quash the subpoena, to seek a protective order, or to take such other action regarding the request as it deems appropriate. In the absence of a protective order, disclosure shall be made, in consultation with the Port Authority, of only that part of the Protected Information as is legally required to be disclosed. If at any time Protected Information is disclosed in violation of this Agreement, the Recipient shall immediately give the Port Authority written notice of that fact and a detailed account of the circumstances regarding such disclosure to the Port Authority.

4. **Retention Limitations; Return of Protected Information**. Upon the earlier occurrence of either the Port Authority's written request or completion of Recipient's need for any or all Protected Information, such Protected Information, all writings and material describing, analyzing or containing any part of such Protected Information, including any and all portions of Protected Information that may be stored, depicted or contained in electronic or other media and all copies of the foregoing shall be promptly delivered to the Port Authority at Recipient's expense. In addition, as to Protected Information that may be stored in electronic or similar form, such Protected Information shall be deleted and completely removed so that such Protected Information is incapable of being recovered from all computer databases of the Recipient and all Related Parties. The Recipient may request in writing that the Port Authority consent to destruction of Protected Information, writings and materials in lieu of delivery thereof to the Port Authority. The Port Authority shall not unreasonably withhold its consent to such request. If the Port Authority consents to such destruction, the Recipient and each Related Party shall deliver to the Port Authority a written certification by Recipient and such Related Party that such Protected Information, writings and materials have been so destroyed within such period as may be imposed by the Port Authority. Notwithstanding the foregoing, to the extent required for legal or compliance purposes, the Recipient may retain copies of Protected Information (in any format), provided that (a) the Port Authority is notified in writing of such retention, and (b) Recipient

continues to abide by the requirements of this Agreement with respect to the protection of such Protected Information.

5. **Duration and Survival of Confidentiality Obligations**. The obligations under this Agreement shall be perpetual (unless otherwise provided in this Agreement) or until such time as the Protected Information is no longer considered protected, confidential and/or privileged by the Port Authority.

6. **Severability**. Each provision of this Agreement is severable and if a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

7. **Injunctive and Other Relief**. Recipient and each Related Party acknowledges that the unauthorized disclosure and handling of Protected Information is likely to have a material adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its facilities (including, without limitation, the Project site), its patrons and the general public and that damages at law are an inadequate remedy for any breach, or threatened breach, of this Agreement by Recipient or its Related Parties. The Port Authority shall be entitled, in addition to all other rights or remedies, to seek such restraining orders and injunctions as it may deem appropriate for any breach of this Agreement, without being required to show any actual damage or to post any bond or other security.

8. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws principles. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient specifically and irrevocably consent to the exclusive jurisdiction of any federal or state court in the County of New York and State of New York with respect to all matters concerning this Agreement and its enforcement. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient agree that the execution and performance of this Agreement shall have a New York situs and, accordingly, they each consent (and solely with respect to the Port Authority, subject to the terms of the Port Authority Legislation (as defined below)) to personal jurisdiction in the State of New York for all purposes and proceedings arising from this Agreement. "**Port Authority Legislation**" shall mean the concurrent legislation of the State of New York and State of New Jersey set forth at Chapter 301 of the Laws of New York of 1950, as amended by Chapter 938 of the Laws of New York of 1974 (McKinney's Unconsolidated Laws §§7101-7112) and Chapter 204 of the Laws of New Jersey of 1951 (N.J.S.A. 32:1-157 to 32:1-168).

9. **Notices**. Any notice, demand or other communication (each, a "**notice**") that is given or rendered pursuant to this Agreement by either party to the other party, shall be: (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered by either (x) hand delivery, or (y) nationally recognized courier service (e.g., Federal Express, Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given by its counsel.

The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it, provided that such designation must be made by notice given in accordance with this Paragraph 9.

Original to the Port Authority:	The Port Authority of New York and New Jersey _____ _____
with a copy to:	The Port Authority of New York and New Jersey 225 Park Avenue South - 14th Floor New York, NY 10003 Attn: General Counsel's Office c/o Caroline Ioannou, Law DISO
If to the Recipient:	_____ _____ _____
with a copy to:	_____ _____ _____

10. **Entire Agreement**. This Agreement contains the complete statement of all the agreements among the parties hereto with respect to the subject matter thereof, and all prior agreements among the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect. This Agreement may not be changed, modified, discharged, or terminated, except by an instrument in writing signed by all of the parties hereto.

11. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be one and the same document.

12. **Parties Bound**. This Agreement shall be binding upon the Recipient and its respective successors. The foregoing shall not be affected by the failure of any Related Party to join in this Agreement or to execute and deliver an Acknowledgement hereof.

13. **Authority**. The undersigned individual(s) executing this Agreement on behalf of the Recipient below represent(s) that they are authorized to execute this Agreement on behalf of the Recipient and to legally bind such party.

14. **Disclosure of Ownership Rights or License**. Nothing contained herein shall be construed as the granting or conferring by the Port Authority of any rights by ownership, license or otherwise in any Information.

15. **No Liability**. Neither the Commissioners of the Port Authority, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Recipient with any

liability, or held liable to the Recipient under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach, or attempted or alleged breach thereof.

16. **Construction**. This Agreement is the joint product of the parties hereto and each provision of this Agreement has been subject to the mutual consultation, negotiation, and agreement of the parties hereto, and shall not be construed for or against any party hereto. The captions of the various sections in this Agreement are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such Sections.

RECIPIENT:

Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY INDIVIDUAL

I, _____ ("**Related Party**"), am employed as a(n) _____ by _____. I have been provided with and have read the Non Disclosure and Confidentiality Agreement between _____ (the "**Recipient**") and The Port Authority of New York and New Jersey (the "**Port Authority**") dated _____ _____, _____ (hereinafter the "**Agreement**"), and the Port Authority Handbook attached to the Agreement. I understand that because of my employer's relationship with _____, both my employer and I may be provided with access to, and/or copies of, sensitive security materials, protected or confidential information. If it is required for me to review or receive Protected Information, as it is defined in the aforementioned Agreement, I acknowledge that I will be bound by each and every term and provision contained therein, and that failure to do so may include, but is not limited to, the imposition of disciplinary action and sanctions, and/or the institution of legal action seeking injunctive relief, monetary and/or criminal penalties for violation of law and/or Port Authority policies and procedures, as well as for violation of federal and/or state regulations.

To the extent that I am currently in the possession of, or have previously come into contact with, marked information as it relates to the aforementioned Agreement, I agree to conform my handling procedures for Protected Information to the practices and procedures set forth and defined herein, or risk loss of access to said Information, removal from said Project and/or subjecting myself to the aforementioned disciplinary actions and/or civil and criminal penalties.

Signature: _____

Print Name: _____

Date: _____

EXHIBIT B

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, _____, is the _____ of _____, a _____ ("**Related Party**"), located at _____, and is duly authorized to execute this Acknowledgment on behalf of the above Related Party. The above Related Party is involved with the functions of _____ in connection with _____ for The Port Authority of New York and New Jersey (the "**Port Authority**"). I acknowledge and confirm that the above named Related Party has been provided with a copy of and shall be bound and shall abide by all of the terms, requirements and conditions set forth in the Non Disclosure and Confidentiality Agreement dated _____ _____, _____, between _____ (the "**Recipient**") and the Port Authority (hereinafter the "**Agreement**"), and by the Port Authority Handbook described in the Agreement. Appropriate and responsible officers and employees of the Related Party have carefully read and understand the terms and conditions of the Agreement. The Related Party has notice and acknowledges that any breach or violation of such terms, requirements and conditions may result in the imposition of remedies or sanctions as set forth or otherwise described therein against such Related Party.

Signature: _____

Print Name: _____

Date: _____

B-2
Non-Disclosure and Confidentiality Agreement without reference to Handbook

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
BETWEEN

_____

AND

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this ____ day of _____, _____, by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (the "**Port Authority**") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and _____ having an office and place of business at _____ ("**Recipient**").

WHEREAS, the Port Authority desires, subject to the terms and conditions set forth below, to disclose to Recipient Protected Information (as defined below) in connection with _____ (collectively, the "Project(s)", or "Proposed Project(s)"); and

WHEREAS, the Recipient acknowledges that the Port Authority, in furtherance of its performance of essential and critical governmental functions relating to the Project, has existing and significant interests and obligations in establishing, maintaining and protecting the security and safety of the Project site and surrounding areas and related public welfare matters; and

WHEREAS, in furtherance of critical governmental interests regarding public welfare, safety and security at the Project site, the Port Authority has collected information and undertaken the development of certain plans and recommendations regarding the security, safety and protection of the Project site, including the physical construction and current and future operations; and

WHEREAS, the Port Authority and Recipient (collectively, the "**Parties**") acknowledge that in order for Recipient to undertake its duties and/or obligations with regard to its involvement in the Project, the Port Authority may provide Recipient or certain of its Related Parties (as defined below) certain information in the possession of the Port Authority, which may contain or include protected, confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, relating to the Project or its occupants or other matters, the unauthorized disclosure of which could result in significant public safety, financial and other damage to the Port Authority, the Project, its occupants, and the surrounding communities; and

WHEREAS, Recipient recognizes and acknowledges that providing unauthorized access to, or disclosing such information to third parties in violation of the terms of this Agreement

could compromise or undermine the existing or future guidelines, techniques and procedures implemented for the protection against terrorist acts or for law enforcement, investigation and prosecutorial purposes, and accordingly could result in significant irreparable harm and injury; and

WHEREAS, in order to protect and preserve the privilege attaching to and the confidentiality of the aforementioned information as well as to limit access to such information to a strict need to know basis, the Port Authority requires, as a condition of its sharing or providing access to such protected, confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, that the Recipient enter into this Agreement and that its Related Parties thereafter acknowledge and agree that they will be required to treat as strictly confidential and/or privileged any of such information so provided, as well as the work product and conclusions of any assessments and evaluations or any recommendations relating thereto, and to also fully comply with applicable federal rules and regulations with respect thereto; and

WHEREAS, as a condition to the provision of such information to Recipient and certain Related Parties, the Recipient has agreed to enter into this Agreement with respect to the handling and use of such information and to cause Related Parties to join in and be bound by the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the provision by Port Authority of Information for Project Purposes (as each such term is defined below) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Recipient and each Related Party that receives such Information, the Recipient and each such Related Party agrees, as follows:

1. **Defined Terms**. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

(a) "**Authorized Disclosure**" means the disclosure of Protected Information strictly in accordance with the Confidentiality Control Procedures applicable thereto: (i) as to all Protected Information, only to a Related Party that has a need to know such Protected Information strictly for Project Purposes and that has agreed in writing to be bound by the terms of this Agreement by executing a form of Acknowledgment as set forth in Exhibit A or Exhibit B, as applicable; and (ii) as to Confidential Privileged Information, only to the extent expressly approved in writing and in advance by the Port Authority, and then only the particular Confidential Privileged Information that is required to accomplish an essential element of the Project.

(b) "**Information**" means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

(c) "**Protected Information**" means and includes collectively, Confidential Information, Confidential Privileged Information, Sensitive Security Information (SSI), Critical Infrastructure Information (CII) or Health Insurance Portability and Accountability Act (HIPPA) Information and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. The term Protected Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Recipient, the Port Authority or others, or when the Port Authority receives such information from others and agrees to treat such information as Protected. The following Information shall not constitute Protected Information for the purpose of this Agreement:

(i) Particular Information, other than Confidential Privileged Information, that is provided to the Recipient by a source other than the Port Authority, provided that such source is not subject to a confidentiality agreement, or similar obligation, or understanding with or for the benefit of the Port Authority, with respect to such Information and that the identity of such source is not itself part of such Protected Information.

(ii) Information that is or becomes generally available to the public other than as a result of a disclosure by the Recipient or a Related Party in violation of this Agreement.

(iii) Information that is known to or was in the possession of the Recipient or a Related Party on a non-confidential basis prior to the disclosure of such Information by the Port Authority.

(d) "**Confidential Information**" means and includes collectively, any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws. It also includes information that contains sensitive financial, commercial or other proprietary business information concerning or relating to the Port Authority, its projects, operations or facilities that would be exempt from release under the Port Authority Freedom of Information Code.

(e) "**Confidential Privileged Information**" means and includes collectively, (i) Information that reveals security risks, threats, vulnerabilities, documentation that identifies specific physical security vulnerabilities or revealing specific security vulnerabilities details related to emergency response protocols, egress plans, flow paths, egress capacities, (diagrams, codes, standards) etc., which is not publicly available." and any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws, and (ii) certain Critical Infrastructure Information.

(f) "**Confidentiality Control Procedures**" means procedures, safeguards and requirements for the identification, processing, protection, handling, care, tracking and storage of Protected Information that are required under applicable federal or state law or by the terms of this Agreement.

(g) **"Critical Infrastructure Information"** (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII", as provided for in the referenced rules and regulations and any amendments thereto.

(h) **"Sensitive Security Information"** (SSI) has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119).

(i) "**Health Insurance Portability and Accountability Act**" (HIPAA) Information Employees, associates or other contract personnel who have access to Protected Health Information (PHI) must refer to, and comply with, the Privacy Policies and Procedures to Protect Personal Health Information. Privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA" or "Privacy Laws") place restrictions on the Group Health Plans of the Port Authority and PATH (the "Plans") ability to use and disclose Protected Health Information ("PHI").

(j) **"Project Purposes"** means the use of Protected Information strictly and only for purposes related to Recipient's and its Related Parties' participation and involvement in the Project, and only for such period of time during which Recipient and its Related Parties are involved in Project related activities.

(k) "**Related Party**" and "**Related Parties**" means the directors, employees, officers, partners or members of the Recipient, as applicable, and the Recipient's outside consultants, attorneys, advisors, accountants, architects, engineers or subcontractors or sub-consultants (and their respective directors, employees, officers, partners or members) to whom any Protected Information is disclosed or made available.

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

(a) All Protected Information shall be held in confidence and shall be processed, treated, disclosed and used by the Recipient and its Related Parties only for Project Purposes and in accordance with the Confidentiality Control Procedures established pursuant to Paragraph 2(c), below, and applicable legal requirements. Protected Information may be disclosed, only if and to the extent that such disclosure is an Authorized Disclosure.

(b) Recipient and each Related Party acknowledges and agrees that (i) any violation by the Recipient or any of its Related Parties of the terms, conditions or restrictions of this Agreement relating to Protected Information may result in penalties and other enforcement or corrective action as set forth in such statutes and regulations, including, without limitation, the issuance of orders requiring retrieval of Sensitive Security Information and Critical Infrastructure Information to remedy unauthorized disclosure and to cease future unauthorized disclosure and (ii) pursuant to the aforementioned Federal Regulations, including, without limitation, 49 C.F.R. §§ 15.17 and 1520.17, any such violation thereof or mishandling of information therein defined

may constitute grounds for a civil penalty and other enforcement or corrective action by the United States Department of Transportation and the United States Department of Homeland Security, and appropriate personnel actions for Federal employees.

(c) Recipient and each Related Party covenants to the Port Authority that it has established, promulgated and implemented Confidentiality Control Procedures for identification, handling, receipt, care, and storage of Protected Information to control and safeguard against any violation of the requirements of this Agreement and against any unauthorized access, disclosure, modification, loss or misuse of Protected Information. Recipient and each Related Party shall undertake reasonable steps consistent with such Confidentiality Control Procedures to assure that disclosure of Protected Information is compartmentalized, such that all Protected Information shall be disclosed only to those persons and entities authorized to receive such Information as an Authorized Disclosure under this Agreement and applicable Confidentiality Control Procedures. To assist Recipient in its determination of the adequacy of its Confidentiality Control Procedures, Recipient has been provided with a copy of the Port Authority's Information Security Handbook.

(d) The Port Authority reserves the right to audit Recipient's Confidentiality Control Procedures, and those of each Related Party, as applicable, to ensure that it is in compliance with the terms of this Agreement.

(e) The Port Authority may request in writing that the Recipient or any Related Parties apply different or more stringent controls on the handling, care, storage and disclosure of particular items of Protected Information as a precondition for its disclosure. The Port Authority may decline any request by the Recipient or any of its Related Parties to provide such item of Protected Information if the Recipient or any of the Related Parties do not agree in writing to apply such controls.

(f) Nothing in this Agreement shall require the Port Authority to tender or provide access to or possession of any Protected Information to the Recipient or its Related Parties, whether or not the requirements of this Agreement are otherwise satisfied. However, if such Protected Information is provided and accepted, the Recipient and its Related Parties shall abide by the terms, conditions and requirements of this Agreement.

(g) The Recipient and each Related Party agrees to be responsible for enforcing the provisions of this Agreement with respect to its Related Parties, in accordance with the Confidentiality Control Procedures. Except as required by law pursuant to written advice of competent legal counsel, or with the Port Authority's prior written consent, neither the Recipient, nor any of the Related Parties shall disclose to any third party, person or entity: (i) any Protected Information under circumstances where the Recipient is not fully satisfied that the person or entity to whom such disclosure is about to be made shall act in accordance with the Confidentiality Control Procedures whether or not such person or entity has agreed in writing to be bound by the terms of this Agreement or any "Acknowledgement" of its terms or (ii) the fact that Protected Information has been made available to the Recipient or such Related Parties, or the content or import of such Protected Information. The Recipient is responsible for collecting and managing the Acknowledgments signed by Related Parties pursuant to this Agreement. Recipient shall, at the Port Authority's request, provide the Port Authority a list of all Related Parties who have signed an Acknowledgment, and copies of such Acknowledgments.

(h) As to all Protected Information provided by or on behalf of the Port Authority, nothing in this Agreement shall constitute or be construed as a waiver of any public interest privilege or other protections established under applicable state or federal law.

3. **Disclosures and Discovery Requests**. If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law seeking disclosure of the Protected Information is received by the Recipient or any Related Party, Recipient shall notify the Port Authority thereof, to the extent permitted by law, with sufficient promptness so as to enable the Port Authority to investigate the circumstances, prepare any appropriate documentation and seek to quash the subpoena, to seek a protective order, or to take such other action regarding the request as it deems appropriate. In the absence of a protective order, disclosure shall be made, in consultation with the Port Authority, of only that part of the Protected Information as is legally required to be disclosed. If at any time Protected Information is disclosed in violation of this Agreement, the Recipient shall immediately give the Port Authority written notice of that fact and a detailed account of the circumstances regarding such disclosure to the Port Authority.

4. **Retention Limitations; Return of Protected Information**. Upon the earlier occurrence of either the Port Authority's written request or completion of Recipient's need for any or all Protected Information, such Protected Information, all writings and material describing, analyzing or containing any part of such Protected Information, including any and all portions of Protected Information that may be stored, depicted or contained in electronic or other media and all copies of the foregoing shall be promptly delivered to the Port Authority at Recipient's expense. In addition, as to Protected Information that may be stored in electronic or similar form, such Protected Information shall be deleted and completely removed so that such Protected Information is incapable of being recovered from all computer databases of the Recipient and all Related Parties. The Recipient may request in writing that the Port Authority consent to destruction of Protected Information, writings and materials in lieu of delivery thereof to the Port Authority. The Port Authority shall not unreasonably withhold its consent to such request. If the Port Authority consents to such destruction, the Recipient and each Related Party shall deliver to the Port Authority a written certification by Recipient and such Related Party that such Protected Information, writings and materials have been so destroyed within such period as may be imposed by the Port Authority. Notwithstanding the foregoing, to the extent required for legal or compliance purposes, the Recipient may retain copies of Protected Information (in any format), provided that (a) the Port Authority is notified in writing of such retention, and (b) Recipient continues to abide by the requirements of this Agreement with respect to the protection of such Protected Information.

5. **Duration and Survival of Confidentiality Obligations**. The obligations under this Agreement shall be perpetual (unless otherwise provided in this Agreement) or until such time as the Protected Information is no longer considered protected, confidential and/or privileged by the Port Authority.

6. **Severability**. Each provision of this Agreement is severable and if a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

7. **Injunctive and Other Relief**. Recipient and each Related Party acknowledges that the unauthorized disclosure and handling of Protected Information is likely to have a material adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its facilities (including, without limitation, the Project site), its patrons and the general public and that damages at law are an inadequate remedy for any breach, or threatened breach, of this Agreement by Recipient or its Related Parties. The Port Authority shall be entitled, in addition to all other rights or remedies, to seek such restraining orders and injunctions as it may deem appropriate for any breach of this Agreement, without being required to show any actual damage or to post any bond or other security.

8. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws principles. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient specifically and irrevocably consent to the exclusive jurisdiction of any federal or state court in the County of New York and State of New York with respect to all matters concerning this Agreement and its enforcement. The Port Authority (subject to the terms of the Port Authority Legislation (as defined below)) and the Recipient agree that the execution and performance of this Agreement shall have a New York situs and, accordingly, they each consent (and solely with respect to the Port Authority, subject to the terms of the Port Authority Legislation (as defined below)) to personal jurisdiction in the State of New York for all purposes and proceedings arising from this Agreement. "**Port Authority Legislation**" shall mean the concurrent legislation of the State of New York and State of New Jersey set forth at Chapter 301 of the Laws of New York of 1950, as amended by Chapter 938 of the Laws of New York of 1974 (McKinney's Unconsolidated Laws §§7101-7112) and Chapter 204 of the Laws of New Jersey of 1951 (N.J.S.A. 32:1-157 to 32:1-168).

9. **Notices**. Any notice, demand or other communication (each, a "**notice**") that is given or rendered pursuant to this Agreement by either party to the other party, shall be: (i) given or rendered, in writing, (ii) addressed to the other party at its required address(es) for notices delivered to it as set forth below, and (iii) delivered by either (x) hand delivery, or (y) nationally recognized courier service (e.g., Federal Express, Express Mail). Any such notice shall be deemed given or rendered, and effective for purposes of this Agreement, as of the date actually delivered to the other party at such address(es) (whether or not the same is then received by other party due to a change of address of which no notice was given, or any rejection or refusal to accept delivery). Notices from either party (to the other) may be given by its counsel.

The required address(es) of each party for notices delivered to it is (are) as set forth below. Each party, however, may, from time to time, designate an additional or substitute required address(es) for notices delivered to it, provided that such designation must be made by notice given in accordance with this Paragraph 9.

Original to the Port Authority:

The Port Authority of New York and New Jersey

_____

with a copy to:

The Port Authority of New York and New Jersey
225 Park Avenue South - 14th Floor
New York, NY 10003
Attn: General Counsel's Office c/o Caroline Ioannou, Law DISO

If to the Recipient:

_____
_____
_____

with a copy to:

_____
_____
_____

10. **Entire Agreement**. This Agreement contains the complete statement of all the agreements among the parties hereto with respect to the subject matter thereof, and all prior agreements among the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect. This Agreement may not be changed, modified, discharged, or terminated, except by an instrument in writing signed by all of the parties hereto.

11. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be one and the same document.

12. **Parties Bound**. This Agreement shall be binding upon the Recipient and its respective successors. The foregoing shall not be affected by the failure of any Related Party to join in this Agreement or to execute and deliver an Acknowledgement hereof.

13. **Authority**. The undersigned individual(s) executing this Agreement on behalf of the Recipient below represent(s) that they are authorized to execute this Agreement on behalf of the Recipient and to legally bind such party.

14. **Disclosure of Ownership Rights or License**. Nothing contained herein shall be construed as the granting or conferring by the Port Authority of any rights by ownership, license or otherwise in any Information.

15. **No Liability**. Neither the Commissioners of the Port Authority, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Recipient with any liability, or held liable to the Recipient under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach, or attempted or alleged breach thereof.

16. **Construction**. This Agreement is the joint product of the parties hereto and each provision of this Agreement has been subject to the mutual consultation, negotiation, and agreement of the parties hereto, and shall not be construed for or against any party hereto. The captions of the various sections in this Agreement are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such Sections.

RECIPIENT:

Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

ACKNOWLEDGMENT BY RELATED PARTY INDIVIDUAL

I, _____ ("**Related Party**"), am employed as a(n) _____ by _____. I have been provided with and have read the Non Disclosure and Confidentiality Agreement between _____ (the "**Recipient**") and The Port Authority of New York and New Jersey (the "**Port Authority**") dated _____ ____, _____ (hereinafter the "**Agreement**".) I understand that because of my employer's relationship with _____, both my employer and I may be provided with access to, and/or copies of, sensitive security materials, protected or confidential information. If it is required for me to review or receive Protected Information, as it is defined in the aforementioned Agreement, I acknowledge that I will be bound by each and every term and provision contained therein, and that failure to do so may include, but is not limited to, the imposition of disciplinary action and sanctions, and/or the institution of legal action seeking injunctive relief, monetary and/or criminal penalties for violation of law and/or Port Authority policies and procedures, as well as for violation of federal and/or state regulations.

To the extent that I am currently in the possession of, or have previously come into contact with, marked information as it relates to the aforementioned Agreement, I agree to conform my handling procedures for Protected Information to the practices and procedures set forth and defined herein, or risk loss of access to said Information, removal from said Project and/or subjecting myself to the aforementioned disciplinary actions and/or civil and criminal penalties.

Signature: _____

Print Name: _____

Date: _____

EXHIBIT B

ACKNOWLEDGMENT BY RELATED PARTY ENTITY

The undersigned, _____, is the _____ of _____, a _____ ("**Related Party**"), located at _____, and is duly authorized to execute this Acknowledgment on behalf of the above Related Party. The above Related Party is involved with the functions of _____ in connection with for The Port Authority of New York and New Jersey (the "**Port Authority**"). I acknowledge and confirm that the above named Related Party has been provided with a copy of and shall be bound and shall abide by all of the terms, requirements and conditions set forth in the Non Disclosure and Confidentiality Agreement dated _____ ____, _____, between _____ (the "**Recipient**") and the Port Authority (hereinafter the "**Agreement**"). Appropriate and responsible officers and employees of the Related Party have carefully read and understand the terms and conditions of the Agreement. The Related Party has notice and acknowledges that any breach or violation of such terms, requirements and conditions may result in the imposition of remedies or sanctions as set forth or otherwise described therein against such Related Party.

Signature: _____

Print Name: _____

Date: _____

B-3
PA/PATH Non-Disclosure and Confidentiality Agreement

PA EMPLOYEE NON-DISCLOSURE
AND CONFIDENTIALITY AGREEMENT

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of this _____ day of _____, _____, by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY,** a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States, and its related entities, including, but not limited to, Port Authority Trans-Hudson Corporation (collectively referred to as the "**Port Authority**") and having an office and place of business at 225 Park Avenue South, New York, New York, 10003, and _____, of _____ Department, an employee of the Port Authority ("**Employee**"), having the Port Authority Employee Number: _____.

WHEREAS, security is of critical importance to the Port Authority in carrying out its mission and in providing a safe and secure environment for its patrons and employees, as well as properly protecting its properties, facilities and operations; and

WHEREAS, the safeguarding of protected, confidential and sensitive information is an essential factor in the Port Authority's ability to carry out its responsibilities; and

WHEREAS, the Port Authority recognizes the need for providing its employees with access to certain information which may contain or include protected, confidential, privileged, classified, commercial, proprietary or sensitive information, documents and plans, on a need to know and/or an as-needed basis; and

WHEREAS, every employee having access to Protected Information (as hereinafter defined) has the obligation and the responsibility to properly safeguard such information and prevent its unauthorized disclosure or release.

NOW THEREFORE, Employee hereby agrees, as follows:

1. **Defined Terms.** In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

    a. "**Protected Information**" means and includes collectively, Confidential Information, Confidential Privileged Information, Critical Infrastructure Information (CII), Sensitive Security Information (SSI), or Health Insurance Portability and Accountability Act (HIPPA) Information and Information that is labeled, marked or otherwise identified by or on behalf of the Port Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. The term Protected Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Recipient, the Port Authority or others, or when the Port Authority receives such information from others and agrees to treat such information as Protected.

b. "**Confidential Information**" means and includes collectively, any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws. It also includes information that contains sensitive financial, commercial or other proprietary business information concerning or relating to the Port Authority, its projects, operations or facilities that would be exempt from release under the Port Authority Freedom of Information Code.

c. "**Confidential Privileged Information**" means and includes collectively, (i) Information that reveals security risks, threats, vulnerabilities, documentation that identifies specific physical security vulnerabilities or revealing specific security vulnerabilities details related to emergency response protocols, egress plans, flow paths, egress capacities, (diagrams, codes, standards) etc., which is not publicly available." and any and all Information, documents and materials entitled to protection as a public interest privilege under New York State law and as may be deemed to be afforded or entitled to the protection of any other privilege recognized under New York and/or New Jersey state laws or Federal laws, and (ii) certain Critical Infrastructure Information.

d. "**Information**" means, collectively, all information, documents, data, reports, notes, studies, projections, records, manuals, graphs, electronic files, computer generated data or information, drawings, charts, tables, diagrams, photographs, and other media or renderings containing or otherwise incorporating information that may be provided or made accessible at any time, whether in writing, orally, visually, photographically, electronically or in any other form or medium, including, without limitation, any and all copies, duplicates or extracts of the foregoing.

e. "**Critical Infrastructure Information**" (CII) has the meaning set forth in the Homeland Security Act of 2002, under the subtitle Critical Infrastructure Information Act of 2002 (6 U.S.C. §131-134), and any rules or regulations enacted pursuant thereto, including, without limitation, the Office of the Secretary, Department of Homeland Security Rules and Regulations, 6 C.F.R. Part 29 and any amendments thereto. CII may also be referred to as "Protected Critical Infrastructure Information" or "PCII", as provided for in the referenced rules and regulations.

f. "**Sensitive Security Information**" (SSI) has the definition and requirements set forth in the Transportation Security Administrative Rules & Regulations, 49 CFR 1520, (49 U.S.C. §114) and in the Office of the Secretary of Transportation Rules & Regulations, 49 CFR 15, (49 U.S.C. §40119).

g. "**Health Insurance Portability and Accountability Act**" (HIPAA) Information Employees, associates or other contract personnel who have access to Protected Health Information (PHI) must refer to, and comply with, the Privacy Policies and Procedures to Protect Personal Health Information. Privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA" or

"Privacy Laws") place restrictions on the Group Health Plans of the Port Authority and PATH (the "Plans") ability to use and disclose Protected Health Information ("PHI").

h. **"Port Authority Handbook"** means The Port Authority of New York and New Jersey Information Security Handbook, as may be amended by the Port Authority, from time to time.

2. **Compliance with the Port Authority Handbook.** All Protected Information is to be handled by the Employee with the utmost care and in a manner designed to prevent its disclosure to unauthorized third parties consistent with Port Authority security policy, practices and procedures, as set forth in the Port Authority Handbook. Employee must maintain and dispose of Protected Information in a manner consistent with this Agreement and in conformity with the Port Authority Handbook.

3. **Use of Protected Information.** Protected Information provided to or obtained by Employee may only be used in the performance of duly authorized activities relating to the Employee's job duties, and may not be used for any other purpose, unless expressly authorized by this Agreement, or as expressly directed in writing by the Port Authority.

4. **Disclosure of Information.** Until such time as the Information is no longer considered Protected by the Port Authority, and that fact is communicated to the Employee in writing, the Information must be held and treated in the strictest confidence and may not, except in accordance with Paragraph 5, below, be disclosed to any person who has not agreed to be bound by a Non-Disclosure and Confidentiality Agreement. When disclosure of such Information is permitted under these circumstances, it will only be provided to such individuals to the extent that it is necessary for that person to perform his/her duly authorized activities at or in connection with their job responsibilities and may only be provided on a need-to-know-basis. Copies of documents or materials in any form, format or medium, which contain disclosures of such Information, may only be made pursuant to the procedures established in the Port Authority Handbook.

5. **Disclosures and Discovery Requests.** If a subpoena, discovery request, Court Order, Freedom of Information Request, or any other request or demand authorized by law is received by the Employee seeking disclosure of Protected Information, the Employee must immediately notify his/her Supervisor and Departmental Information Security Officer in order to permit the Port Authority to seek to quash the subpoena, seek a protective order, or take such other action regarding the request as it deems appropriate, and the Employee will fully cooperate in the Port Authority's efforts in this regard. If at any time Protected Information is disclosed in violation of this Agreement, the employee will immediately report that fact and the circumstances regarding such disclosure to his/her Supervisor and Departmental Information Security Officer.

6. **Unauthorized Disclosure and Disciplinary Actions.** The unauthorized disclosure or improper handling of Protected Information could have an adverse and detrimental impact on public safety and security and could significantly endanger the Port Authority, its operations,

its facilities, its patrons and the general public. Because of this, the obligations of confidence required hereunder are extraordinary and unique, and are vital to the security and well being of the Port Authority. Any failure to comply with, or any violation of, this Agreement, may result in legal action and/or disciplinary action against Employee.

7. **Duration and Survival of Confidentiality Obligations.** The obligations under this Agreement shall be perpetual, or until such time as the Protected Information is no longer considered protected, confidential and/or privileged by the Port Authority, and that fact is communicated in writing to Employee.

EMPLOYEE:

Signature: _____

Print Name: _____

Date: _____

APPENDIX C

Background Screening Criteria

S.W.A.C.™
Secure Worker Access Consortium

CONTENTS:

- Background Screening Specifications
- High Access Level Criteria
- Medium Access Level Criteria
- Standard Access Level Criteria

Criminal History
Background Screening Specifications

Social Security Number — Positive Identity Verification (PIV)
Federal District Court Search (each district of residence and employment)*
National Criminal Search*
Statewide Criminal Check (each state of residence and employment)*
County Criminal Search (each county of residence and employment)*
Sexual Offender Search (each resident state)*
Alien Immigrant Search
Immigration Violation Check
Fake Identification Convictions
State Driving Record
Check for material false statement or omission on application form
National Terrorist Watch List Search (OFAC-SDN)

Note* Within ten (10), seven (7), or five (5) years preceding date of application as noted on the HIGH, MEDIUM, and STANDARD Level of Clearance forms.

Level of Clearance

HIGH Secure Access Control Areas
and CONFIDENTIAL PRIVILEGED INFORMATION

I. No convictions ever in your lifetime: an individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following criminal offenses:

(1) Terrorism—A crime listed in 18 U.S.C. Chapter 113B—or a State law that is comparable.
(2) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable.
(3) A crime involving a severe transportation security incident.
(4) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a state or government facility, a public transportations system, or an infrastructure facility.
(5) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a state law that is comparable;
(6) Murder.
(7) Espionage.
(8) Sedition.
(9) Treason.
(10) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device.
(11) Conspiracy or attempt to commit any of the criminal acts listed in paragraph I.

II. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction, within the **past ten (10) years** from completion of sentence preceding the date of the application, of the following offenses:

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation;
(2) Interference with air navigation;
(3) Aircraft piracy;
(4) Interference with flight crewmembers or flight attendants;
(5) Commission of certain crimes aboard aircraft in flight;
(6) Carrying a weapon or explosive aboard aircraft;
(7) Conveying false information and threats; (e.g., bomb threats, explosives in briefcase, etc. in security areas)
(8) Aircraft piracy outside the special aircraft jurisdiction of the United States;
(9) Lighting violations involving transporting controlled substances;
(10) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;
(11) Destruction of an aircraft or aircraft facility;
(12) Assault with intent to murder.
(13) Kidnapping or hostage taking.
(14) Rape or aggravated sexual abuse.
(15) Extortion.
(16) Armed or felony unarmed robbery.

(17) Distribution of, possession with intent to distribute, or importation of a controlled substance.
(18) Felony arson.
(19) Felony involving a threat.
(20) Felony involving—
  (i) Willful destruction of property;
  (ii) Importation or manufacture of a controlled substance;
  (iii) Burglary or Robbery
  (iv) Theft;
  (v) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering;
  (vi) Possession or distribution of stolen property;
  (vii) Aggravated assault;
  (viii) Bribery; or
  (ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year;
  (x) Smuggling;
  (xi) Immigration violations; or
(21) Violence at international airports;
(22) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. A firearm or other weapon includes, but is not limited to, firearms as defined in 18 U.S.C. 921(a)(3) or 26 U.S.C.5 845(a), or items contained on the U.S. Munitions Import List at 27 CFR 447.21.
(23) Conspiracy or attempt to commit any of the criminal acts listed in paragraph II.

Under want, warrant, or indictment. An applicant who is wanted, or under indictment in any civilian or military jurisdiction for a felony listed in section II, is disqualified until the want or warrant is released or the indictment is dismissed.

Level of Clearance

Up To MEDIUM Secure Access Control Areas and CONFIDENTIAL INFORMATION

I. No convictions ever in your lifetime: an individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following criminal offenses:

(1) Terrorism—A crime listed in 18 U.S.C. Chapter 113B—or a State law that is comparable.

(2) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable.

(3) A crime involving a severe transportation security incident.

(4) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a state or government facility, a public transportations system, or an infrastructure facility. (3) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a state law that is comparable;

(5) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a state law that is comparable;

(6) Murder.

(7) Espionage.

(8) Sedition.

(9) Treason.

(10) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device.

(11) Conspiracy or attempt to commit any of the criminal acts listed in paragraph I.

II. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past ten (10) years** from completion of sentence for the offense preceding the date of the application:

(1) Extortion.

(2) Armed or felony unarmed robbery.

(3) Felony involving—

(i) Importation or manufacture of a controlled substance;

(ii) Burglary or Robbery;

(iii) Theft;

(iv) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering;

(v) Possession or distribution of stolen property;

(vi) Bribery; or

(4) Conspiracy or attempt to commit any of the criminal acts listed in paragraph II.

Under want, warrant, or indictment. An applicant who is wanted, or under indictment in any

civilian or military jurisdiction for a felony listed in section II, is disqualified until the want or warrant is released or the indictment is dismissed.

III. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past seven (7) years** from completion of sentence for the offense preceding the date of the application:

(1) Assault with intent to murder.

(2) Kidnapping or hostage taking.

(3) Rape or aggravated sexual abuse.

(4) Distribution of, possession with intent to distribute, or importation of a controlled substance.

(5) Felony arson.

(6) Felony involving a threat.

(7) Felony involving—

(i) Willful destruction of property;

(ii) Aggravated assault;

(iii) Smuggling;

(iv) Immigration violations;

(8) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable, other than the violations listed in paragraph (b) of Section I.

(9) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. A firearm or other weapon includes, but is not limited to, firearms as defined in 18 U.S.C. 921(a)(3) or 26 U.S.C.5 845(a), or items contained on the U.S. Munitions Import List at 27 CFR 447.21.

(10) Conspiracy or attempt to commit any of the criminal acts listed in paragraph III.

Under want, warrant, or indictment. An applicant who is wanted, or under indictment in any civilian or military jurisdiction for a felony listed in section III, is disqualified until the want or warrant is released or the indictment is dismissed.

Level of Clearance

Up To STANDARD
Secure Access Control Areas

I. No convictions ever in your lifetime: an individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following criminal offences:

(1) Terrorism —A crime listed in 18 U.S.C. Chapter 113B—or a State law that is comparable.

(2) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et. seq., or a State law that is comparable.

(3) Espionage.

(4) Sedition.

(5) Treason.

(6) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device.

(7) Conspiracy or attempt to commit any of the criminal acts listed in paragraph I.

II. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past ten (10) years** from completion of sentence for the offense preceding the date of the application:

(1) Extortion.

(2) Felony involving—

(i) Theft;
(ii) Dishonesty, fraud or misrepresentation, including identity fraud and money laundering;
(iii) Unlawful sale, distribution, manufacture, import or export of a controlled substance that resulted in the conviction of an A Felony in the New York State Penal Law, or any comparable law in any State, or comparable Federal law.

(3) Conspiracy or attempt to commit any of the criminal acts listed in paragraph II.

III. An individual has a disqualifying criminal offense if the individual was convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction for the following offenses, within the **past five (5) years** from completion of sentence for the offense preceding the date of the application:

(1) Violent Felony Offenses (as defined in the New York State Penal Law §70.02) or any comparable law in any State.

(2) Conspiracy or attempt to commit any criminal act listed in paragraph III.

APPENDIX D

Secure Worker Access Consortium (SWAC)

Secure Worker Access Consortium (SWAC is accessed by an online application that enables the secure collection, processing, maintenance and real-time positive identity verification (PIV) of individuals. As of January 29, 2007, SWAC is the only Port Authority approved provider to be used to conduct background screening, except as otherwise required by federal law and or regulation. Additional information about S.W.A.C., corporate enrollment, online applications, and location of processing centers can be found at http://www.secureworker.com, or SWAC Customer Service may be contacted at (212) 608-0855.

o Consultants / Contractors

- Step 1: - A firm representative completes the Corporate Membership Application Form online at www.secureworker.com. Firms are encouraged to establish a Corporate Membership Account through which their workers will be processed.
- Step 1a: Employees & Workers of Contractors — Individual completes the Individual Membership Application Form online. (A company administrator may complete this form on someone's behalf.)
- Step 2: The applicant is photographed, provides a digital signature and presents the required identification documents at an operational SWAC Processing Center.
- Step 3: SWAC ID Card is available for pickup. The typical length of the process is one week. To verify that an ID Card is ready for pickup, call (212) 608-0855.

o Individuals

- Step 1: Individual completes the Individual Membership Application Form online. http://www.secureworker.com
- Step 2: Individual immediately takes the required government issued identity documents to a SWAC Processing Center to complete the second and final step of the SWAC application process. **NOTE**: This step is required before your background screening is initiated.

- **SWAC Processing Centers -** check the SWAC website to verify the locations, and days and times of operation of the Processing Centers.

George Washington Bridge Port Authority Administration Building, Main Lobby
220 Bruce Reynolds Boulevard
Bridge Plaza South
Fort Lee, NJ 07024
Tuesdays, 6:00 AM to 12:00PM

John F. Kennedy International Airport
Building #14
RE's Office Conference Room
Jamaica, NY
Fridays, 6:00AM to 12:00PM

Port Authority Bus Terminal
625 Eighth Avenue (at 40th Street)
South Wing, 2nd Floor
New York, NY 10018
Tuesdays & Fridays, 6:30AM to 12:30PM

LaGuardia Airport (LGA)
Port Authority Administration Building
Hanger #7S, 2nd Floor
Flushing, NY 11371
Wednesdays, 6:00AM to 12:00PM

Newark Liberty International Airport (EWR)
70 Brewster Road
Building #70 Lobby
Newark, NJ 07114
Mondays & Thursdays, 7:30AM to 3:30PM

World Trade Center
65 Trinity Place
(corner of Exchange Alley, across from SYMS clothing store)
New York, NY 10006
Monday through Friday, 6:00 AM to 12:00 PM

APPENDIX E

[insert department name] DEPARTMENT

PORT AUTHORITY OF NY & NJ

CONFIDENTIAL PRIVILEGED INFORMATION

"WARNING": The attached is the property of The Port Authority of New York and New Jersey (PANYNJ). It contains information requiring protection against unauthorized disclosure. The information contained in the attached document cannot be released to the public or other personnel who do not have a valid need to know without prior written approval of an authorized PANYNJ official. The attached document must be controlled, stored, handled, transmitted, distributed and disposed of according to PANYNJ Information Security Policy. Further reproduction and/or distribution outside of the PANYNJ are prohibited without the express written approval of the PANYNJ.

At a minimum, the attached will be disseminated only on a need to know basis and when unattended, will be stored in a locked cabinet or area offering sufficient protection against theft, compromise, inadvertent access and unauthorized disclosure.

Document Control Number: CP-[insert dept acronym]- [insert year]-[insert sequential number] – [insert copy number]

APPENDIX F

[Insert address of Recipient]

Date:

From:

The [insert department, division or project name] is providing a copy of the following items to (insert recipient's name and address).

Description	Date	Copy Number
Describe item	00/00/00	CP-[dept abbreviation]-XX-XX-XX

Upon receipt, the items listed above must be safeguarded in accordance with the procedures identified in the "The Port Authority of New York & New Jersey Information Security Handbook " dated October 15, 2008.

PLEASE SIGN AND RETURN TO:

Document Control
[insert Port Authority department, division or unit]
Attn: [SIM or SPM}
[Address]

I acknowledge receipt of the above items listed above and accept full responsibility for the safe handling, storage and transmittal elsewhere of these items.

Name (PRINT): _____

Organization: _____

Signature: _____

Date: _____

Title: _____

APPENDIX G

GUIDELINES FOR THE STORAGE OF PROTECTED INFORMATION

I. GENERAL

This section describes the **preferred methods** for the physical protection of Protected Information in the custody of PANYNJ personnel and their contractors, consultants, architects, engineers, et al. Where these requirements are not appropriate for protecting specific types or forms of such material, compensatory provisions shall be developed and approved by the Chief Information Security Officer (CISO). Nothing in this guideline shall be construed to contradict or inhibit compliance with any applicable law, statute or code. Cognizant Security Information Managers (SIM) shall work to meet appropriate security needs according to the intent of this guideline and at acceptable cost.

II. PROTECTED INFORMATION STORAGE

A. Approved Containers

The following storage containers are approved for storage of PANYNJ Protected Information:

1. A safe or safe-type steel file container that has a built-in three- position dial combination lock or electronic combination lock.

2. Any steel file cabinet that has four sides and a top and bottom (all permanently attached by welding, rivets or peened bolts so the contents cannot be removed without leaving visible evidence of entry) and is secured by a rigid metal lock bar and an approved key operated or combination padlock. The keepers of the rigid metal lock bar shall be secured to the cabinet by welding, rivets, or bolts so they cannot be removed and replaced without leaving evidence of the entry. The drawers of the container shall be held securely so their contents cannot be removed without forcing open the drawer.

B. Approved Locks and Locking Devices

The following locks and locking devices are examples of types approved for storage of PANYNJ Protected Information, but not limited to these locks:

1. Any restricted keyway 7-pin tumbler lock or equivalent pick resistant lock.

2. A combination padlock such as a Sesame four-position dial padlock. See photo at right.

For Port Authority facilities, locks and locking devices available from Port Authority stock room or approved vendor will meet this requirement.

C. Combinations to Security Containers, Cabinets, and Vaults

If required, only a minimum number of authorized persons shall have knowledge of combinations to authorized storage containers. Containers shall bear no external markings indicating the level of material authorized for storage therein.

1. A record of the names of persons having knowledge of the combination shall be maintained.

2. Security containers, vaults, cabinets, and other authorized storage containers shall be kept locked when not under the direct supervision of an authorized person entrusted with the contents.

3. The combination shall be safeguarded in accordance with the same protection requirements as the Confidential Information contained within.

4. If a record is made of a combination, the record shall be marked with the category of material authorized for storage in the container, i.e. CP or SSI.

D. Changing Combinations

Combinations shall be changed by a person authorized access to the contents of the container, or by the SIM or his or her designee. Combinations shall be changed as follows:

1. The initial use of an approved container or lock for the protection of Confidential Information.

2. The termination of employment of any person having knowledge of the combination, or when the Protected Information access granted to any such person has been withdrawn, suspended, or revoked.

3. The compromise or suspected compromise of a container or its combination, or discovery of a container left unlocked and unattended.

4. At other times when considered necessary by the SIM or CISO.

E. Supervision of Keys and Padlocks

Use of key-operated padlocks are subject to the following requirements:

1. A key and lock custodian shall be appointed to ensure proper custody and handling of keys and locks used for protection of Protected Information.

2. A key and lock control register shall be maintained to identify keys for each lock and their current location and custody.

3. Keys shall be inventoried with each change of custody.

4. Keys and spare locks shall be protected equivalent to the level of classified material involved.

5. Locks shall be replaced after loss or compromise of their operable keys.

6. Making master keys is prohibited.

F. Document Retention Areas

Due to the volume of the Protected Information in possession, or for operational necessity, it may be necessary to construct Document Retention Areas for storage because approved containers or safes are unsuitable or impractical. Access to Document Retention Areas must be controlled to preclude unauthorized access. During hours of operation this may be accomplished through the use of a cleared person or by an approved access

control device or system. Access shall be limited to authorized persons who have an NDA on file, received appropriate training on the protection of information and have a bonafide need-to-know for the Protected Information material/information within the area. All other persons (i.e. visitors, maintenance, janitorial, etc.) requiring access shall be escorted at all times by an authorized person where inadvertent or unauthorized exposure to Protected Information cannot otherwise be effectively prevented. During non-working hours and during working hours when the area is unattended, admittance to the area shall be controlled by locked entrances and exits secured by either an approved built-in combination lock, an automated access control system or an approved key-operated lock. Doors secured from the inside with an emergency panic bar will not require additional locking devices.

G. Construction Requirements for Document Retention Areas

This paragraph specifies the minimum safeguards and standards required for the construction of Document Retention Areas that are approved for use for safeguarding Protected Information. These criteria and standards apply to all new construction and reconstruction, alterations, modifications, and repairs of existing areas. They will also be used for evaluating the adequacy of existing areas.

1. **Hardware:** Only heavy-gauge hardware shall be used in construction. Hardware accessible from outside the area shall be peened, pinned, brazed, or spot welded to preclude removal.

2. **Walls:** Construction may be of material offering resistance to, and evidence of, unauthorized entry into the area. If insert-type panels are used, a method shall be devised to prevent the removal of such panels without leaving visual evidence of tampering.

3. **Windows:** During nonworking hours, the windows shall be closed and securely fastened to preclude surreptitious entry.

4. **Doors:** Doors shall be constructed of material offering resistance to and detection of unauthorized entry. When doors are used in pairs, an astragal (overlapping molding) shall be installed where the doors meet.

5. **Ceilings:** Where surrounding walls do not extend to the true ceiling, the ceiling shall either be hard capped with the same construction materials as the surrounding walls or removable tiles shall be clipped in place such that they cannot be removed without destroying tiles and providing evidence of intrusion.

APPENDIX H

GUIDELINES FOR THE DISPOSAL AND DESTRUCTION OF PROTECTED INFORMATION.

I. GENERAL

This section describes the preferred methods for the disposal and destruction of Protected Information in the custody of PANYNJ personnel and their contractors, consultants, architects, engineers, et al. Where these requirements are not appropriate for disposal or destruction of specific types or forms of such material, compensatory provisions shall be developed and approved by the Chief Information Security Officer (CISO). Cognizant Security Information Managers (SIM) shall work to meet appropriate security needs according to the intent of this guideline and at acceptable cost.

Protected Information no longer needed shall be processed for appropriate archiving or disposal. Protected Information approved for destruction shall be destroyed in accordance with this section. The method of destruction must preclude recognition or reconstruction of the Protected Information or material.

All persons in possession of Protected materials shall establish procedures for review of their Protected holdings on a recurring basis to reduce these inventories to the minimum necessary for effective and efficient operations. Multiple copies, obsolete material, and Protected waste shall be destroyed as soon as practical after it has served its purpose. Any appropriate downgrading actions shall be taken on a timely basis to reduce the volume and to lower the level of Protected material being retained.

Original records must be retained in accordance with the Agency's Records Management Policy and Retention Schedules.

II. DISPOSAL AND DESTRUCTION

A. Destruction Requirements

All persons in possession of Protected materials shall destroy this material in their possession as soon as possible after it has served the purpose for which it was released, developed or prepared, or as soon as possible after its designated retention period has expired.

B. Methods of Destruction

1. Generally, Protected material shall be destroyed by commercial grade cross cut shredders located conveniently throughout the workplace for use by authorized individuals.

2. Additionally, Confidential material may be destroyed by burning, pulping, melting, mutilation, chemical decomposition, or pulverizing (for example, hammer mills, choppers, and hybridized disintegration equipment) where shredding may not be appropriate. Whatever method is employed must preclude recognition or reconstruction of the Confidential Information or material.

3. Confidential material in microform, that is: microfilm, microfiche, or similar high data density material, may be destroyed by burning or chemical decomposition, or other methods as approved by the CISO.

4. Commercial destruction facilities may be used only with the approval of, and under conditions prescribed by, the SIM. When commercial destruction facilities are utilized, they shall conform to all appropriate sub-contracting requirements to include appointment of a SIM, adherence to the requirements of the PANYNJ Information Security Handbook, receiving required security training and properly executing a Non-Disclosure and Confidentiality Agreement (NDA).

5. Electronically Stored Protected Information must be deleted from all computer hard drives, tapes, CD's, DVD's, memory, and/or magnetic, analog, or digital media used to store or transport digital files. The device used to store or transport any Protected file will require a bit-by-bit overwrite of the storage area used by the file. This will protect against having the deleted file recovered using data recovery tools. Commercial tools are available to automate this process.

C. Witness to Destruction

Protected material shall only be destroyed by authorized personnel, whether in-house or contracted, who meet all of the PANYNJ criteria for awarding access authorization, have met all training requirements, have a properly executed NDA on file and have a full understanding of their responsibilities to ensure proper control of the materials while in their possession and complete destruction thereof.

D. Destruction Records

Protected Information is accountable and therefore any disposal in approved waste containers or destruction via convenience shredders must be reported to the issuing SIM, or his/her document control representative, indicating which documents were disposed/destroyed and the date of such action.

Protected waste shall be destroyed as soon as practical. This applies to all waste material containing Protected Information. Pending destruction, Protected waste shall be appropriately safeguarded. (See also Appendix G - Guidelines for the Storage of Protected Information.)

III. PROTECTED WASTE

A. Approved Receptacles

1. Receptacles utilized to accumulate Protected waste shall be constructed of substantial materials that would provide evidence of tampering. Hinges and lids shall not be removable while the container is secured without leaving evidence thereof.

2. All such receptacles shall be clearly identified as containing Protected material.

3. Slots shall be provided in such receptacles that allow for easy deposit of materials for destruction but preclude removal of deposited waste by insertion of a person's hand or tool.

4. Locks, and the control thereof, on all Protected waste receptacles shall meet or exceed the requirements of the PANYNJ Guideline for Storage of Confidential Information.

B. Oversize Waste Materials

PANYNJ projects often involve large drawings and other materials associated with construction projects, which cannot be conveniently disposed of via office shredders or placed in typical slots on secure trash receptacles. In no cases shall such material be permitted to be placed or accumulate adjacent to secure receptacles while awaiting destruction. Oversize materials awaiting destruction may be stored as follows:

1. Within an approved Document Retention Area.

2. Within a specially constructed secure waste receptacle where disposal slots have been specifically designed for accepting rolled drawings or other oversize materials and preclude the removal there from.

3. Within a standard secure waste receptacle where the receptacle has been opened by an authorized individual to allow placement of the oversized item(s) into the container and it has been secured thereafter.

APPENDIX I

Audit Procedures

COMPANY / ORGANIZATION

- Is the Company Non-Disclosure and Confidentiality Agreement properly executed and maintained in current status?
- Has a senior management official been designated as Security Information Manager (SIM), as required by the Handbook for Protecting Security Information? Has a deputy SIM been identified?

ACCESS AUTHORIZATIONS

- Has a Non-Disclosure Agreement been executed by each employee who has been afforded access?
- Is a current record maintained of all employees authorized access to Confidential Information at the firm?
- Does the contractor provide a roster of all cleared employees to the PA as required? Is it current?

SECURITY EDUCATION

- Does the contractor provide that all employees who have access to Protected Information with security training and briefings commensurate with their involvement with the information?
- Are contractors who employ persons at other locations ensuring the required security training?
- Are the Non-Disclosure Agreements executed by employees prior to accessing the sensitive information?
- Do initial security briefings contain the minimum required information?
- Does the contractor's security education program include refresher security briefings?
- Are employees debriefed at the time of a termination, reassignment or project's completion regarding the requirements for continued safeguarding of Protected

Information?

- Has the contractor established internal procedures that ensure authorized awareness of their responsibilities for reporting pertinent information to the SIM?
- Has the contractor established a graduated scale of administrative disciplinary action to be applied against employees who violate the Handbook?
- Are employees aware of Emergency Procedures?
- Does management support the program for safeguarding Port Authority Confidential and Privileged Security Information?

STANDARD PRACTICE PROCEDURES

- Is the Confidential Information Practice and Procedures ("CIPP") document current and does it adequately implement the requirements of the Handbook?
- A CIPP only needs to be prepared when the Departmental Information Security Officer ("DISO") believes it necessary for the proper safeguarding of Confidential Information.

SUBCONTRACTING

- Have all Subcontractors properly executed the Non-Disclosure and Confidentiality Agreement?
- Has a Non-Disclosure Agreement been executed by each of the Subcontractor's employees who has been afforded access?
- Is a current roster maintained of all Subcontractor employees authorized access to Confidential Information at the firm?
- Does the Subcontractor provide this roster to the Prime Contractor's SIM as required? Is it current? Does it include the date that the agreement was signed? Is it included in the Prime Contractor's Team Roster?
- Does the contractor complete all actions required in the Handbook prior to release or disclosure of Port Authority Protected Information to subcontractors? Has the Subcontractor been provided a Handbook?
- Has a senior management official of the Subcontractor been designated as the Security Information Manager (SIM), if required by a CIPP?

- Has a deputy SIM been identified?
- Is the safeguarding capability of all subcontractors determined as required?
- Is the requirement to abide by security procedures identified in the Handbook incorporated into each subcontract?
- Does the Subcontractor have an adequate understanding of the Handbook's requirements and the types of information that require safeguarding?

VISIT CONTROL

- Are procedures established to ensure positive identification of visitors prior to disclosure of Protected Information?

CLASSIFICATION

- Does the contractor have adequate procedures for evaluating Protected material being created, extracted, or summarized?
- Is contractor-developed Protected Information appropriately marked, and protected?

PUBLIC RELEASE

- Does the contractor obtain the approval of the Port Authority prior to public disclosure of *ANY* information pertaining to a security program contract?

STORAGE

- Has the contractor established a system of security checks at the close of each working day to ensure that sensitive material is secured?
- How would the Protected material be safeguarding during an emergency?
- Is a record of the names of persons having knowledge of the combinations to security containers maintained?
- When combinations to containers are placed in written form, are they stored appropriately?
- Do authorized persons, when required, change combinations to security

containers?

MARKINGS

- Is all Protected material, regardless of its physical form, marked properly?
- Is all Protected material marked to show the name and address of the facility responsible for its preparation and the date of preparation?
- Are overall markings marked conspicuously as required?
- Are protective markings applied to Protected compilations if required?

TRANSMISSION

- Is Protected Information properly prepared for transmission outside the facility?
- Are Transmittal Receipts included with Protected Information if required?
- Is a suspense system established to track transmitted documents until the signed receipt is returned?
- Are authorized methods used to transmit Protected material outside the facility?
- Is the NDA of the receiving facility determined prior to transmission of Protected Information?

PROTECTED INFORMATION CONTROLS

- Do contractor employees understand their safeguarding responsibilities?
- Is the contractor's accountability system capable of facilitating the retrieval and disposition of Protected material as required?
- Are external receipts and dispatch records maintained as required?
- Is all Protected material received at the contractor facility and delivered directly to designated personnel?
- Do contractor employees promptly report the loss, compromise, or suspected

compromise of Protected Information to the SIM?

DISPOSITION

- Is a program established to review Protected retention on a recurring basis for the purpose of reduction?
- Is Protected material destroyed as soon as possible after it has served its purpose?
- Does the contractor employ an effective method of destruction?
- Is Protected material destroyed by the appropriate employees?
- Is Protected waste properly safeguarded until its timely destruction?

REPRODUCTION

- Does the facility's reproduction control system keep reproduction of Protected material to a minimum?
- Is the reproduction of Protected Information accomplished only by properly authorized, and knowledgeable employees?
- Is reproduction authorization obtained as required?
- Are reproductions of Protected material reviewed to ensure that the markings are proper and legible?

AUTOMATED INFORMATION SYSTEMS (AIS)

- Are appropriate physical controls being exercised over approved AIS?
- Are AIS media containing Protected Information handled in a manner consistent with the handling of Confidential documents?
- Are all AIS storage media, internal memory, and equipment, that contain Protected Information, properly sanitized prior to removal from protection?

Suggested Questions When Interviewing Employees NOT Authorized Access to Confidential Information:

- What is Protected Information?
- Have you ever seen Protected Information?
- If you found Protected Information unprotected, what would you do?

Suggested Questions When Interviewing Employees Authorized Access to Protected Information:

- What is your job title/responsibility?
- Which contract or program requires you to access this information?
- How do you access the information?
- How long have you been authorized access?
- When was your last access to Protected Information?
- Have you ever had access to Protected Information outside of this facility?
- Did anyone else from the facility accompany you?
- Did you take any Confidential notes or Protected Information back to the facility?
- What procedures were followed to protect this information?
- Where is this information now?
- Have you ever provided access to Protected Information to visitors?
- How did you determine their need-to-know?
- Have you ever been approached by anyone requesting Protected Information?
- Do you ever work overtime and access Protected Information?
- When was the last time that you had a security briefing?
- What can you recall from this briefing?
- Have you ever been cited for a security violation?
- What would YOU do if YOU committed a security violation or discovered one?
- Do you have the combination to any storage containers?
- Who other than yourself has access to these containers?

- Is a record maintained of the safe combination? If so, where?
- Do you reproduce or generate Protected Information?
- Where do you typically work when you generate Protected Information?
- What procedures do you follow to protect Protected Information while working on it?
- Do you ever use a computer to generate Protected Information? How do you mark this Information?
- Please produce the guidance that you used. Is it accurate?
- What procedures do you employ when hand carrying Protected material?
- Have you reproduced Protected Information? Describe the procedures.
- Have you destroyed Protected Information? What procedures were used?
- Do you have any questions regarding security?

EXHIBIT A

CONTRACTOR QUALITY PROGRAM REQUIREMENTS

March 11, 2010

CONTRACTOR'S QUALITY PROGRAM REQUIREMENTS

A. General

The Contractor shall submit a description of its Quality Assurance/Quality Control (QA/QC) Plan addressing the QA/QC organization; how the Plan extends to its subcontractors and others in the supply chain; resources and procedures that the Contractor will use for evaluating construction activities, products and related activities, which shall conform to the Authority's WTC Project Quality Assurance Plan and the FTA QA/QC System requirements (FTA-IT-90-5001-02.1), attached as an Appendix hereto.

B. Scope

This section defines the responsibilities of the Contractor in the management of quality in the construction of the Project to achieve an end product conforming to the level of quality required by the Contract Documents.

C. Contractor's Quality Program

The Contractor shall establish, implement and maintain an effective Contractor Quality Control Program (CQCP) to manage, control, document and assure that the work complies with the requirements of the Contract Documents. The quality assurance/quality control program shall describe all of the means, methods, plans, procedures, processes and the organization proposed by the Contractor to assure that the level of quality specified in the Contract Documents for all materials, equipment, and workmanship incorporated in the temporary or permanent construction is appropriately satisfied whether constructed, fabricated or manufactured onsite or offsite by the Contractor or his subcontractors, suppliers and vendors, the quality assurance/quality control program shall also address the training and certification of personnel tasked with the implementation and maintenance of the program in the techniques necessary to ensure quality, including but not limited to, testing and inspection.

At a minimum, the quality assurance/quality control program developed and submitted to the Engineer for review and approval must satisfy the requirements of the "Quality Assurance & Quality Control Guidelines" of the Federal Transit Administration / U.S. Department of Transportation (FTA-IT-90-5001-02.1), dated February 2002.

D. Submittal of Quality Program

1) Within 15 days after the acceptance of the Contractor's Proposal, the Contractor shall furnish for the approval of the Authority (the Manager-WTCC QA), the QA/QC Program. The QA/QC Program shall be signed by a principal of the firm and his designated Quality Control Manager ("QCM"). If the Contractor fails to submit an acceptable QA/QC Program within the prescribed time, the Manager, WTCC Quality Assurance (MWTCCQA) may not allow the work to continue unless an acceptable interim plan which addresses all of the requirements of the QA/QC Program is provided. The interim plan will only be acceptable for 30 days.

2) Failure to comply with either of these submittal requirements within the prescribed times may result in the Authority issuance of an order to the Contractor to stop all work on this Project.

E. Changes To The CQP

The Contractor shall notify the Manager, WTCC QA in writing of any proposed change to the CQP. All proposed changes are subject to the approval of the Manager, WTCC QA. The Contractor shall review the approved CQP on a quarterly basis for continued adequacy to meet the requirements of the Contract Documents and shall incorporate changes to overcome the deficiencies in the program that affect quality. Use shall be made of feedback data generated by the Contractor, subcontractors, suppliers and the Manager, WTCC QA.

F. Elements Of Contractor's Quality Program

The CQP shall include the following elements: (Required FTA Elements Added)

ELEMENT PARAGRAPH	PARAGRAPH SPECS
Management Organization, Staffing and Responsibilities	G
Documented Quality Management System	H
Submittal Management, Document Control and Document Changes	I
Receiving, Handling, Storage and Control of Materials and Equipment	J

Subcontractor and Supplier Control – Purchasing	K
Inspection and Testing Plan	L
Control of Construction Processes	M
Control of Measuring and Testing Equipment	N
Control of Nonconforming Conditions	O
Documentation by Quality Records	P
Contractor Internal Audit	Q
Training	R
Statistical Analysis	S
Design Process Control	T

G. Management Organization, Staffing And Responsibilities

The CQP shall describe the Contractor's project organization (including major subcontractors and suppliers) and include an organization chart showing names, titles and lines of authority, and the

Interrelationship of those involved in managing and directing the Project. The qualifications, duties, responsibilities and functions of the Construction Management Team shall be provided.

The Contractor shall be fully responsible for effectively managing all aspects of the CQP and shall present the management strategy for approval at the pre-award qualification hearing, as part of the validation of qualifications for this Project. This strategy shall identify the organization, staffing and responsibilities as a minimum. The person designated to be responsible for overall Quality Management may be the Project Manager or the Corporate Quality Officer.

Both shall participate in developing the CQP for this project and shall sign it prior to submittal.

Adequate staff and resources shall be provided to perform all quality control activities to assure contract compliance whether the work is performed by the Contractor's own forces or by subcontractors. The personnel comprising this staff shall be fully qualified by experience and technical training to perform their assigned responsibilities. The Engineer may direct the Contractor to provide additional staff and resources to the Project Manager or Corporate Quality Officer if, in the sole opinion of the Engineer, there are significant deficiencies in implementing the CQP requirements.

The size and composition of the Contractor's quality organization may vary as the project progresses, however, at all times it must be compatible with the level of effort and capability required by the Contract Documents.

The Project Manager or Corporate Quality Officer shall maintain a legible, hand-written daily diary or activity log indicating all major activities related to the management of quality on this Project that were personally performed by him, and each entry in the diary or log shall be signed and dated by him.

The Project Manager or Corporate Quality Officer shall prepare and submit a 6-week look-ahead schedule forecasting her/his quality activities associated with the Contract's progression.

The Project Manager or Corporate Quality Officer's office shall be based near the worksite. The Project Manager or Corporate Quality Officer shall report to the work-site on daily basis.

If the Contractor's QC Program is not being performed to the satisfaction of the Engineer, the Engineer may direct the Contractor to assign one or more full-time additional Quality Project Manager(s) dedicated solely to this project at no additional cost or expense to the Engineer, as required to successfully implement the approved CQP.

The Quality Manager (QM) shall be a full time person assigned exclusively to this Project Final Completion. The Quality Manager's sole function shall be to manage all quality matters for the Project and have the Authority to act in all quality matters for the Contractor. The QM shall not be subordinate to the Contractor's personnel that directly perform, supervise or progress the work. The QM shall have direct access to the upper management of the Contractor. The QM shall possess at least five (5) years of Quality related experience. . The resume of the QM shall include a description of the duties, responsibilities and the QA/QC record of assignments for the preceding five-year period which establishes the candidate's experience as a Quality Manager. The QM's qualifications shall be submitted to the Manager, WTCC QA for approval. The QM shall review and revise the CQP for this Project and shall sign it prior to resubmittal.

H. Documented Quality Management System

The Contractor shall establish and maintain a documented quality management system to ensure project quality objectives are satisfied. The quality management system requirements shall extend to the any suppliers and contractors, as appropriate.

Written procedures and instructions shall be developed for activities affecting quality in design, purchasing, manufacturing and construction, as applicable to the work performed. Procedures and instructions shall also be developed for control of inspection, testing, nondestructive examination, control of non-conformances, corrective action, maintenance of quality records, quality audits and training.

The procedures shall contain a statement of purpose and scope and referenced to Codes, standards or specifications. In developing the procedures, consideration shell be given to identifying and acquiring any inspection equipment, skills or special processes needed to ensure quality performance. Inspection and testing techniques should be kept up-to-date. The procedures and instructions should contain formats for the quality records needed to ensure that the procedures and instructions are followed and documentation requirements are understood.

I. Submittal Management, a Document Control and Document Changes

The CQP shall provide for establishing and maintaining a submittal management system which schedules, manages and tracks all submittals required by the Contract Documents including those of subcontractors and suppliers. The submittal schedule shall indicate all submittals due far enough in advance of the scheduled dates for installation to allow for the time required for reviews, for securing necessary approvals, for possible revisions and resubmittals and for placing orders and securing delivery. The submittal schedule shall be updated as required and submitted. Before the planned start of work on a system, a listing of all submittals planned for the system and its subsystems shall be submitted. Submittals for a portion of a system will not be accepted for review until the complete list of submittals for the system has been submitted. The Contractor shall review submittals prepared by its subcontractors and suppliers for compliance with the Contract Documents, before submitting it to the Engineer.

Shop drawings shall be prepared by the Contractor, subcontractors or suppliers and shall be reviewed by the Contractor to verify all materials and field measurements and checked and coordinated to assure that the information contained on the shop drawings, product data and samples conforms with the requirements of the Contract Documents as required. No portion of the work requiring these shop drawings shall be commenced until this review and coordination has been performed by the Contractor. These shop drawings and any other documentation which demonstrates the Contractor's compliance with the Contract Documents shall be kept at

the Contractor's office and are available for inspection and audit of the Engineer. Where the Engineer requires certain shop drawings and other documents required by the specifications are made available to him but which do not require his approval they will be listed in the specifications and noted that they are for information only.

The CQP shall also provide for establishing and maintaining a document control system for control of project documents and data such as drawings, specifications, calculations, calibration records, inspection procedures, test procedures, test results, special work instructions, operational procedures and QA Program and related procedures. The document control system shall provide assurance that the work is performed to the latest approved drawings and specifications and that these documents are made available at each work location, prior to the start of the work, to all users who require them. Obsolete documents shall be promptly eliminated from each work location. Any superseded documents retained for the record shall be clearly identified as such.

All changes to documents shall be processed in writing and records maintained of changes as they are made. The Project Drawing List shall identify the revision number and the revised date for each drawing that is revised.

J. Receiving, Handling, Storage And Control Of Materials And Equipment

The CQP shall contain provisions for verification that material and equipment meet specified quality and contractual requirements and that they are properly received and handled to ensure that the quality is not degraded. The Contractor shall establish and maintain documented procedures that ensure that all materials and equipment are positively identifiable and traceable to a specified origin point. Purchased items entering the construction site/warehouse shall be inspected/tested, including their supporting documentation, for verification that subcontractors and suppliers have met the appropriate quality requirements of the Contract Documents. Purchased items shall bear a suitable control device as evidence of subject inspection/test. An identifier containing the inspection/test date, name of inspector and inspection/test status (Pass/Fail) shall be attached to each inspected/tested item.

Nonconforming purchased items shall immediately be tagged, removed and segregated to a controlled area.

Certificates of compliance and/or conformance shall be submitted for materials and equipment.

The Contractor shall provide written requirements to assure that the desired quality of an item is not compromised or degraded as a consequence of inappropriate handling, lifting and rigging methods.

The Contractor shall provide written requirements for the cleaning, preservation and storage of materials and equipment. Proper records shall be maintained of all required maintenance activities during storage.

Purchased material and equipment shall be clearly marked so that it can easily be identified without excessive handling or opening of crates and boxes.

The materials storage area(s) shall be arranged for ease of retrieval and to prevent damage, deterioration or loss. In general, materials received first shall be used first.

Positive material identification (PMI) shall be implemented so that each item has a unique identifier (PMI serial number) to distinguish apparently identical items made in separate fabrication processes and confirm that the material of construction is indeed the grade of material specified. PMI numbers must appear on all inspection and construction records.

K. Sub-Contractor and Supplier Control. - Purchasing

The QC program shall assure that items and services are procured from subcontractors and suppliers capable of meeting all requirements of the Contract Documents. The Contractor shall review his agreements with subcontractors and suppliers to insure inclusion of all applicable quality requirements. All subcontractors and suppliers shall comply with the Contractor's Quality Control Program or their own program. If the subcontractors and suppliers elect to submit their own quality control programs, it must

be approved as meeting the requirements of this section by the Prime Contractor’s Quality Personnel. The Contractor shall review the subcontractor’s/supplier's agreements to ensure the inclusion of applicable quality requirements.

Source inspection shall be performed at the subcontractors’/suppliers’ plants. Those quality characteristics, which cannot or will not be verified during subsequent processing, shall be

subject to source inspection. Source inspection may not be necessary when the quality of the item can be fully and adequately verified by review of inspection and test reports, inspection on receipt or other means.

The Contractor shall perform external audits of his suppliers and subcontractors to assess compliance with the requirements of the approved QA/QC Program and Contract Documents. Factors such as the work schedule, volume, complexity, relative importance, past experience, dollar amount, etc. shall be taken into account for the selection of the suppliers and subcontractors for such audits and determining the scope, frequency and schedule of these audits. The scope frequency and schedule of these audits shall be as approved by the Manager, WTCC QA. The Contractor shall submit an audit schedule to the Manager, WTCC QA within 15 days after award. The Contractor shall make appropriate changes to the audit schedule when warranted due to changed conditions or when directed by the Manager, WTCC QA. The Contractor shall submit the revised schedule to the Manager, WTCC QA within 30 days of the change. The Manager, WTCC QA must be notified in writing 6-weeks days in advance of the date, time and location of each audit. The Manager, WTCC QA may witness any or all such audits. The audit results shall be documented and used to correct deficiencies and prevent their recurrence. Copies of the audits shall be made available to the Manager, WTCC QA, as required.

L. Inspection And Testing Plan

The Contractor’s CQP shall include an inspection and testing plan subject to approval by the Authority to verify that items conform to the requirements of the Contract Documents. The Contractor's plan shall contain a list of tests, which the Contractor is to perform. The list shall give the test name, specification paragraph containing the test requirements and identify if the Contractor, subcontractor or supplier is responsible for each type of test. During the life of the contract, the Contractor shall update the plan to

reflect changes in inspection and testing procedures. The Contractor's inspection and testing procedures shall be approved by the Engineer prior to any such inspection or test and shall include test requirements, acceptance criteria and test conditions. Procedures should, as a minimum:

1) Identify the characteristics to be inspected, examined, and tested at each activity point;
2) Specify inspection and test procedures and acceptance criteria to be used;

a. include inspection checklists
b. identify hold points as described below.

The detailed inspection or test procedures shall, as applicable, include items such as who is responsible for what, how, when, and where for all steps to be performed; what materials, equipment, and documentation are to be used; and how it is controlled. The procedures must be included in the CQP.
The Contractor shall use competent inspection personnel and shall not depend exclusively upon inspections performed by persons performing or directly supervising the work being inspected. Inspection personnel shall not report directly to the immediate foreman or supervisors responsible for constructing or installing the work being inspected. Inspection personnel shall be given the necessary authority and independence to perform their roles effectively.

Personnel performing inspections and tests shall possess a demonstrated competence in the specific area of interest and have an adequate understanding of the requirements. Written guidelines shall be established to assure that suitable education, experience and technical qualifications are maintained for such personnel.

The Contractor shall establish a listing of hold points as part of the inspection and testing plan for the approval of the Authority. Hold points are pre-determined inspection points for work in progress, which may become inaccessible as the work progresses, where the Contractor shall "hold" until the Authority verifies that the inspection and testing has been performed. In-process inspection activities shall be planned and performed to ensure the quality of the finished work. Any non-conforming conditions shall be tagged, documented, physically segregated to prevent inadvertent use and corrected before continuing.

The Contractor shall demonstrate the acceptability of the construction activities with objective evidence through suitable inspections and testing records. Inspection and testing records shall be prepared, reviewed, safely stored and maintained by the Contractor.

The Contractor shall distinguish between inspected and uninspected items by using suitable control devices. Inspection and test status identification of structures, systems or components should be maintained and controlled from initial receipt through installation to operation of the constructed work.

M. Control Of Construction Processes

1) The Contractor shall assure that the work complies with the Contract Documents. Controls shall be adequate to cover all construction operations, including both onsite and offsite fabrication, shall be integrated with the provisions of the clause entitled "Progress Schedule" and shall provide written records indicating that the results obtained for the various phases described below are documented and maintained. The controls shall include at least three phases of control for all definable features of work as follows:

PREPARATORY PHASE - This phase occurs prior to beginning any work on any definable feature of work.

A definable feature of work is a task which is separate and distinct from other tasks and has separate control requirements.

It shall include the following:

a. review of the contract requirements;
b. check to assure that all materials and/or equipment have been tested, submitted and approved;

2) A check to assure that provisions have been made to provide required control inspection and testing; examination of the work areas to ascertain that all preliminary work has been completed; a physical examination of materials, equipment and sample work to assure that they conform to approved shop drawings or submitted data and that all materials and/or equipment are on hand.

INITIAL PHASE - This phase must be accomplished at the beginning of a definable feature of work and shall include the following:

a) check of preliminary work (first item inspection) to: verify full compliance establish acceptable levels of workmanship resolve all discrepancies

IN-PROCESS PHASE

a) Daily checks shall be performed to assure continuing compliance with contract requirements and shall include the following: Control testing until the completion of the

particular feature of work Suitable maintenance of equipment used in construction to ensure continuing process capability.

b) The Contractor shall ensure that the work is performed in accordance with codes and standards that would apply if the Authority were a private corporation and with specifications and other special contractual requirements using qualified personnel and/or equipment. The procedure shall identify equipment to be used as well as any special requirements to be observed.

N. Control Of Measuring And Testing Equipment

1) The CQP shall describe the methods for ensuring that equipment used for measuring and testing is in calibration or condition to provide accurate test or inspection results. At intervals established to ensure continued validity, measuring devices shall be verified or calibrated against certified standards that are traceable to national standards or naturally occurring physical constants.

2) The Contractor shall use methods to assure proper handling, storage, care and control of measuring and testing equipment in order to maintain the required accuracy of such equipment. Material and testing equipment that are consistently found to be out-of calibration or have been subjected to possible damage shall be identified as nonconforming and be removed from service, repaired or replaced. The CQP shall also contain a contingency plan in the event inaccurate measurement may have occurred as evidenced by measuring and testing equipment found to be out of calibration at specified interval.

3) The Contractor shall also assure that all measuring and testing equipment selected for measurements, tests, or calibration is of the proper range, type, and is controlled, adjusted, and maintained at specified intervals identified in the CQP or prior to use to assure conformance to the established requirements or predetermined accuracy. The equipment shall have some indication attesting to the current calibration status and show date (or other basis) on which inspection or recalibration is next required and by whom it was last calibrated.

4) The Contractor’s measuring and testing equipment shall be made available for use by the Authority. The Contractor shall make personnel available for operation of the equipment if requested by the Authority.

O. Preventive Action and Control Of Nonconforming Conditions

1) The CQP shall contain provisions for implementing preventive and corrective actions and identifying, recording, controlling and correcting nonconforming items, including provisions for the reinspection and retesting of repaired and reworked items to the original requirements. Any "Use-As-Is' determinations shall require approval by an Engineer who represents the Authority. It is the Contractor's responsibility to promptly identify, tag and segregate items detrimental to quality to prevent inadvertent use.

2) The Contractor shall investigate the cause of the nonconformance and take appropriate corrective actions to prevent recurrence. The identification, determination, justification for planned actions and actions taken shall be documented on a nonconformance report. At a minimum, dispositions for non-conformances shall include 'Rework', 'Repair', 'Use-As-Is', 'Scrap' or 'Reject'. 'Reworked' and 'repaired' items shall be re-inspected using a documented procedure to ensure the item meets requirements. All 'Repair' and 'Use-As-Is' dispositions shall be reviewed and approved by an Engineer representing the Authority prior to any corrective action. Personnel performing evaluations to determine conformance shall have demonstrated competence in the specific area of interest have an adequate understanding of the requirements and have access to pertinent background information.

3) A procedure to describe the process for corrective actions to address issues identified during audits or other activities shall be included in the CQP. The procedure must include the analysis of any process/actions to help identify the cause of the condition, identify the corrective actions needed and specific actions needed to prevent recurrence. Actions to ensure that corrective actions are taken and are effective must also be described.

P. Documentation OF Quality Records

1) The CQP shall contain provisions for identification of types of quality records to be maintained, their retrievability and retention periods and shall include a sample or blank copy of all quality records and checklists to be utilized on this Project. The Contractor shall maintain quality records as evidence that all of its activities and those of its subcontractors and suppliers comply with the requirements of the CQP. Additionally, the Contractor shall maintain records as evidence that: The item meets the requirements of the Contract Documents; Personnel, procedures and equipment for special construction processes are qualified; Selection and

surveillance of subcontractors and suppliers are performed; Corrective action and action taken to prevent recurrence is being taken for nonconforming conditions.

2) Additional Types of Records to be Maintained:

a) Contractor Internal and External Audit records which: Provide a schedule of Contractor and subcontractor/supplier audits Document quality programs, plans and procedures audited. Identify items and services for which audit was performed Reveal results obtained. Demonstrate analyses of audit data for use in corrective action

b) Inspection and Test records which: Include completed inspection checklists signed by the QCM; Include nonconformance reports and logs; Identify inspector or data recorder;

Identify date of inspection or test; Reference drawing number and specification reference; Define applicable requirements; Identify specific inspections or tests performed and results

c) Daily Reports Under the provisions of the Contract, the Contractor shall prepare reports on a daily basis for the Work Site. This report shall also include a brief description of any inspections of the work performed. If an inspection or test was performed a copy of the inspection or test record must accompany the report. The report with the attachment must be forwarded to the Engineer's office by the end of the next business day. The report must be filed for each site including days in which no work was performed. The report must be signed and dated by the QCM or the Contractor's designated representative.

d) Inspection and test records shall be maintained for both conforming and nonconforming work. Unless otherwise required by the Authority the Contractor shall retain all quality records for a minimum period of three years after substantial completion and make them available to the Authority upon request.

Q. Contractor Internal Audit

The Contractor shall perform internal audits of his own Quality Management System to assess compliance with the requirements of the approved QC Program and the Contract Documents. The scope of such audits shall be commensurate with factors such as the work schedule, volume, complexity, relative importance of work activities, etc. The audits shall be performed

on a quarterly basis and shall begin within 6 months of the acceptance of the Proposal. An audit schedule shall be submitted to the Authority within 45 days after the acceptance of the Proposal. The Contractor shall change the schedule when warranted due to changed conditions or when directed by the Authority. The Contractor shall submit the revised schedule to the Authority's Manager, WTCC QA within 30 days of the change. The Authority's Manager, WTCC QA must be notified in writing 10 days in advance of the date, time and location of each audit. The Authority's Manager, WTCC QA may witness any or all such audits. The audit results shall be documented and used to correct deficiencies and prevent their recurrence.

R. Training

1) The Contractor shall provide all required training. Such training shall occur within 30 days after acceptance of the Proposal.

2) The Contractor shall notify the Authority at least one week in advance of the date, time and location of the above training. The Authority shall have the option of attending the training. Records shall be kept of the above training documenting the date, time, duration, location, attendees, trainer's name and qualifications, and the items discussed. Copies of these records shall be forwarded to the Authority not later than one week after such training occurs.

3) This requirement for training is in addition to other training requirements contained in this Contract.

S. Statistical Analysis

1) The Contractor shall identify, where appropriate, the need for statistical techniques to verify the acceptability of construction process capabilities and work characteristics. These include, but are not limited to: control charts, sampling plans and trend analyses of non-conformances.

2) The Contractor may employ, subject to approval of the Authority, sampling inspection in accordance with applicable nationally recognized standards or other statistically valid plans.

T. Design Process Control

1) Procedures shall be established, documented, implemented and maintained to control the preparation, review and approval of design work required by this Contract. Design work includes, but is not limited to, the preparation of Shop Drawings, Record Drawings ("As-Built" drawings), working drawings, design details and engineering analyses/calculations as well as software development.

2) Persons performing design work shall be identified, their responsibilities defined, their qualifications stated and a description of the resources assigned for their use shall be given within the procedures.

3) The procedures shall include methods to identify and document input requirements relating to the scope of design work so as to reflect applicable statutory, regulatory and contract requirements as well as industrial codes or Authority standards, if any.

4) The procedures shall state how design work outputs shall be documented, verified against the design input requirements and validated as part of the approval process. The procedures shall contain a formal program of in-process design work review(s) that shall identify: the stages of design at which work review(s) shall occur, the representatives of all concerned functions that shall participate in the review(s) and the documentation of the review(s) results.

5) The procedures shall include methods to identify, document and review any and all changes, revisions or modifications to the original design work prior to resubmittal for approval.

EXHIBIT B

WTC – SITE SECURITY REQUIREMENTS

Site Security Requirements
World Trade Center Site
New York City, NY

Access to the WTC Site

All personnel, vehicles, and materials entering the site shall comply with the requirements described herein. The word "vehicle" as used herein shall be construed to include all self-propelled or towable vehicles or equipment whatsoever.

The requirements described herein apply to all contractors, subcontractors, vendors, suppliers and all others performing work or providing services or materials or equipment within the site. All such entities are required to coordinate and cooperate with each other and with the Authority in planning and performing the required activities. The facilities and services provided by the Authority are to be shared in common by all parties requiring access to the site. The direct costs to perform the screening and credentialing described herein shall be reimbursed by the Authority. All other costs, including but not limited to compensation for time spent by the contractors or their employees in performing any of the activities described herein, shall be borne by the contractors.

A) Personnel Access

All persons accessing the site shall have been background screened so as to ascertain that they satisfy the requirements set forth in the "WTC ID Process-Disqualifying Crimes" document which is attached hereto as Exhibit A. The Authority will conduct such background screening upon written request of the contractor on behalf of the individual, or an individual himself/herself. The background screening is contingent upon the following:

- Every individual requesting access to the site must agree to have a background screening.
- Every individual shall be required to fill out and sign a background screening application and consent form.
- Individuals must be citizens of the U.S., Lawful Resident Aliens, or otherwise lawfully permitted to work in the U.S.
- Every individual shall be required to complete the Secure Worker Access Consortium Application (www.secureworker.com)

The Authority shall conduct the background screening and shall report its findings in a timely manner. Successful screenings are expected to be completed within 3 business days. Individuals found to have received a "fail" classification due to any reason shall be prohibited from entering the site.

After successful background screening individuals will be required to complete a one-hour training period and to pass a test regarding the WTC Site rules and regulations. Upon successful completion a personal identification card shall be issued by the Authority to the individual. The individual's access to the site shall be limited to the level deemed appropriate by the Authority.

As part of the individual credentialing and identification process each individual may be required to provide biometric data, which may include finger-printing, hand geometry, and/or iris mapping. Such data shall be developed and recorded by the Authority for its sole use on this particular WTC Project, and shall be invalidated when no longer needed. The individual is prohibited from the site once the data has been invalidated.

Personnel entry to and exit from the site shall be through a number of Personnel Screening Portals provided, installed, maintained, and operated by the Authority. It is expected but not guaranteed that

there shall be at least two such portals distributed around the perimeter of the site. The Authority shall operate, relocate, and if necessary reconfigure, the portals to accommodate the work to the greatest degree feasible.

Personnel entering the site will be required to present their individual identification cards for entry. The ID cards may contain the personal biometric data that will be used to process individuals thru a turnstile. In all cases packages and tools are subject to inspection at all times. Individuals may be randomly screened.

Personnel who have not been background screened and approved to enter the site as described above, either because the background screening process has not yet been completed or because a permanent ID card is not being sought due to the infrequency of use, may nevertheless be allowed onto the site. For this purpose the Authority will provide, install, maintain, and operate credentialing stations at or near the WTC Site. The Authority will issue a Temporary ID card to the individual upon the following conditions:

- The contractor requests the Temporary ID card on behalf of the individual. This request must be made by a permanently credentialed representative of the contractor who must accompany and vouch for the individual requiring the Temporary ID card.
- The individual presents two (2) forms of personal identification. One (1) such ID must be a government issued Photo ID such as a current driver's license or US Passport.
- The individual must be a citizen of the U.S., a lawful Resident Alien, or otherwise lawfully permitted to work in the U.S.

The Temporary ID cards will allow access to the site for a period not to exceed five (5) business days. Every Temporary ID cardholder's person shall be inspected, together with any packages, tools or equipment he/she intends to bring onto the site.

The contractor shall notify the Authority of personnel terminations or reassignments so that access credentials can be invalidated as soon as no longer needed. The Authority may, at any time for any reason, invalidate credentials allowing individuals access to the site. In all instances, where the Authority issued credentials are no longer valid, the Contractor is responsible for ensuring that they are returned to the Authority in a timely manner.

B) Vehicle Access

All vehicles, with their contents, entering the site shall have been screened by the Authority prior to being allowed access to the site. Such screening shall be for the purposes of validating that the vehicle requesting entry is in fact what it is stated to be, and that it contains or includes no item or material considered by the Authority to be, actually or potentially, deleterious to the site. All personnel driving, managing or accompanying the vehicles and their contents, shall be subject to the same conditions described above for all personnel, and shall not be allowed entry to the site except in conformance therewith.

The Authority shall provide, install, maintain, and operate vehicle Screening access points and adjacent off site Vehicle Screening Facilities. These Facilities shall be located at the points of entry to the site best placed" to accommodate the construction. There are expected, but not guaranteed, to be four such

points at all times. The Authority shall operate, relocate, and reconfigure as required, the access points to the site to accommodate the work to the greatest degree possible.

In order to maintain orderly access to the site and not impact the local streets and or the arterials the contractor, in coordination with the Authority, shall be responsible for scheduling "on time " deliveries of all vehicles requiring access to the site to include deliveries covered by the "Trusted Vendor" program. Important: "Vehicles are not allowed to utilize the local streets or arterials for lay by or staging purposes" unless approved per NYCDOT permit. The Contractor shall notify the Authority of all deliveries a minimum of 24 hours in advance. Notification for deliveries shall be made by the contractor in writing (e mail is acceptable), in a format to be determined by the Authority. Such request shall include, at a minimum, the following information:

- Vehicle Registration and Insurance information. (Copies to be submitted to the Authority).
- Description of vehicle and manifest of its contents.
- Identity of driver and other accompanying personnel.
- Proposed time for arrival at site.
- Proposed point of entry to site.
- Description and duration of activity while on site.

Requests for screening of oversize loads are subject to the same requirements except that 72 hours notice may be required.

The contractor shall be responsible to ensure that the vehicle to be screened presents itself, together with all required documentation, at the assigned location and time. Failure to do so, and the resulting delays, that may require rescheduling of the appointment for screening, shall be the sole responsibility of the contractor. If a particular vendor, supplier, contractor, or other entity is consistently late or does not supply the required information for scheduled screenings, in the sole opinion of the Authority, the Authority may institute different requirements that it deems necessary to avoid or mitigate future delays.

It is the intent of the Authority in order to reduce on site screening time and provide flexibility in the scheduling of deliveries that the contractor will be allowed to substitute or add a critical delivery under the following conditions:

- The delivery does not conflict with other scheduled deliveries nor is disruptive to on going site activities.
- The vendor/vehicle/driver is in the "Trusted Vendor" program

It is the intent of the Authority to establish a "Trusted Vendor" program. The "Trusted Vendor" program will include the enrollment of vehicles and their drivers in order to expedite their access to the site. These types of vehicles will be primarily company owned vehicles and trucks such as concrete, tanker, haul, heavy construction equipment and other delivery trucks, which frequent the site. These vehicles shall be required as previously outlined to schedule deliveries in advance and if requested, provide sufficient time to allow the Authority adequate time to determine and provide the necessary pre-screening.

For "Trusted Vendor" screening the vehicle shall present itself at the assigned place within the allotted timeframe. Screening shall include:

- Verification of vehicle and personnel identity and credentials.
- Physical examination of the vehicle including the undercarriage, and its contents, as deemed necessary by the Authority.

Upon successful screening the vehicle will be allowed direct entry to the site.

For vehicle companies wishing to participate in the "Trusted Vendor program" the company will be required to provide the information as previously outlined for the vehicle – identify and have credentialed the driver or group of drivers in accordance with the credentialing requirements, assign a supervisory employee (Trusted Individual) of the firm who will over-see the loading and dispatching of the vehicles and be willing to be subject to a bi-annual audit of their procedures.

C) Exhibits

A. WTC ID Process-Disqualifying Crimes June 2006

EXHIBIT A

WTC Identification Process - Disqualifying Crimes

June 2006

Standard Level Access for Unescorted Access to Secure Access Control Areas

Individual workers must agree to have a background check by filling out and signing a background screening application and consent form.

Identity Validation Check will be completed to determine that the individual is who the individual says he/she is.

Individual must be a United States Citizen, Lawful Resident alien, or otherwise lawfully permitted to work in the United States.

Validate applicant-supplied data to assess truthfulness. Willful falsification or omission disqualifies individual.

Identify criminal, terrorist, or other security-related information.

List of Disqualifying Criminal Offenses for Access to the World Trade Center Site

(a) Permanent disqualifying criminal offenses. An individual will be permanently disqualified from receiving credentials to access the World Trade Center Site if he or she is convicted, or found not guilty by reason of insanity, of any of the following crimes:

1. Violation(s) of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. 1961, et seq., or a State law that is comparable.
2. A crime listed in 18 U.S.C. Chapter 113B-Terrorism, or a State law that is comparable.
3. Espionage
4. Sedition
5. Treason
6. Unlawful, possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device, or hazardous materials.
7. Conspiracy or attempt to commit any of the above offenses.

(b) Interim disqualifying criminal offenses. The crimes listed in paragraphs (b)(l) through (b)(3) of this section are disqualifying if either of the following factors is true: the applicant was convicted or found not guilty by reason of insanity of the crime in a civilian or military jurisdiction, within the 10 years preceding the date of application; or the applicant is currently on probation or parole for the crime regardless of the date of conviction.

1. Unlawful sale, distribution, manufacture, import or export of a controlled substance that resulted in the conviction of an A Felony in the New York State Penal Law, or any comparable law in any State, or comparable Federal Law.
2. Theft, dishonesty, fraud, extortion, or misrepresentation.
3. Conspiracy or attempt to commit any of the above crimes listed in (b).

(c) Interim disqualifying criminal offenses. The crimes listed in paragraphs (c)(l) through (c)(2) of this section are disqualifying if either of the following factors is true: the applicant was convicted or found not guilty by reason of insanity of the crime in a civilian or military jurisdiction, within 5 years preceding the date of application; or the applicant is currently on probation or parole for the crime regardless of date of conviction.

1. Violation of Felony Offenses (as defined in the New York State Penal Law 70.02) or any comparable law in any State.
2. Conspiracy or attempt to commit any of the above crime.

NOTE: An individual will be disqualified from receiving credentials to the WTC site if he or she is wanted or under indictment in any civilian or military jurisdiction for any of the crimes listed above until the want or warrant is released. Additionally, a person will not receive credentials if he or she is on the Terrorist Watch List.

Site Security Requirements
World Trade Center Site
New York City, NY

EXHIBIT A
WTC Identification Process - Disqualifying Crimes
June 2006

Medium Level Access for Unescorted Access to Secure Access Control Areas

Individual workers must agree to have a background check by filling out and signing a background screening application and consent form.

Identity Validation Check will be completed to determine that the individual is who the individual says he/she is.

Individual must be a United States Citizen, Lawful Resident alien, or otherwise lawfully permitted to work in the United States.

Validate applicant-supplied data to assess truthfulness. Willful falsification or omission disqualifies individual.

Identify criminal, terrorist, or other security-related information.

No convictions against below listed 49CFR 1542.209 (d) within seven (7) years preceding the date of application, except as noted*

(13) Murder.
(14) Assault with intent to murder.
(15) Espionage.
(16) Sedition.
(17) Kidnapping or hostage taking.
*(18) Treason.
(19) Rape or aggravated sexual abuse.
*(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.
**(21) Extortion.
**(22) Armed or felony unarmed robbery.
(23) Distribution of, or intent to distribute, a controlled substance.
(24) Felony Arson.
(25) Felony involving a threat.
(26) Felony involving-
- (i) Willful destruction of property;
- **(ii) Importation or manufacture of a controlled substance;
- **(iii) Burglary;
- **(iv) Theft;
- **(v) Dishonesty, fraud, or misrepresentation;
- **(vi) Possession or distribution stolen property;
- (vii) Aggravated assault;
- **(viii) Bribery; or
- (ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment: of more than 1 year; or

(27) Violence at international airports;
(a) Terrorism.

*(b) RlCO (Racketeer Influenced and Corrupt Organizations Act).
(c) A crime involving a severe transportation security incident.
(d) Felony involving-
(i) Smuggling;
(ii) Immigration violations;
(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.

Note * No convictions in their lifetime since birth

Note ** No convictions within the past ten (10) years preceding the date of this application

EXHIBIT A
WTC Identification Process - Disqualifying Crimes
June 2006

High Level Access for Unescorted Access to Secure Access Control Areas

Individual workers must agree to have a background check by filling out and signing a background screening application and consent form.

Individual must be a United States Citizen or a Lawful Resident Alien.

Identity Validation Check will be completed to determine that the individual is who the individual says he/she is.

Validate applicant-supplied data to assess truthfulness. Willful falsification or omission disqualifies individual.

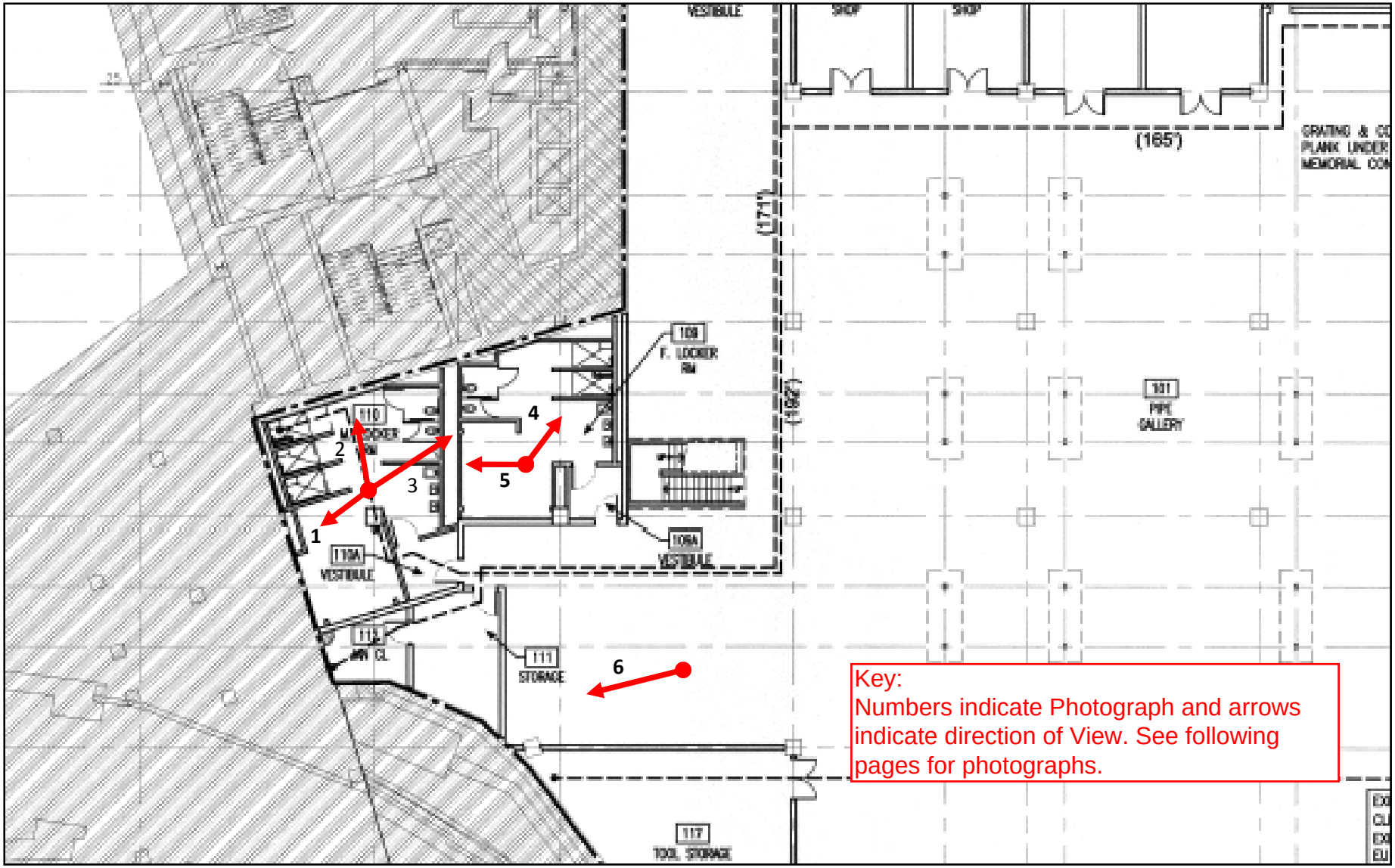
Identify criminal, terrorist, or other security-related information.

No convictions against below listed 49CFR 1542.209 (d) within ten (10) years preceding the date of application, except as noted*

(1) Forgery of certificates, false marking of aircraft, and other aircraft regulation violation;
(2) Interference with air navigation;
(3) Improper transportation of a hazardous material:
(4) Aircraft piracy;
(5) Interference with flight crewmembers or flight attendants:
(6) Commission of certain crimes aboard aircraft in flight;
(7) Carrying a weapon or explosive aboard aircraft;
(8) Conveying false information and threats: (e.g., bomb threats, explosives in briefcase, etc. in security areas);
(9) Aircraft piracy outside the special aircraft jurisdiction of the United States;
(10) Lighting violations involving transporting controlled substances;
(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;
(12) Destruction of any aircraft or aircraft facility;
(13) Murder.
(14) Assault with intent to murder.
*(15) Espionage.
*(16) Sedition.
(17) Kidnapping or hostage taking.
*(18) Treason.
(19) Rape or aggravated sexual abuse.
(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.
(21) Extortion.
(22) Armed or felony unarmed robbery.
(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony Arson.
(25) Felony involving a threat.
(26) Felony involving-
(i) Willful destruction of property;
(ii) Importation or manufacture of a controlled substance;
(iii) Burglary;
(iv) Theft;
(v) Dishonesty, fraud, or misrepresentation;
(vi) Possession or distribution stolen property;
(vii) Aggravated assault;
(viii) Bribery; or
(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment: of more than 1 year; or
(27) Violence at international airports:
*(a) Terrorism.
*(b) RlCO (Racketeer Influenced and Corrupt Organizations Act).
(c) A crime involving a severe transportation security incident.
(d) Felony involving-
(i) Smuggling;
(ii) Immigration violations;
(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.

Note * No convictions in their lifetime since birth


VESTIBULE
SHOP
SHOP
(165')
(171')
(182')
108
F. LOCKER RM
101
PIPE GALLERY
110
M. LOCKER
109A
VESTIBULE
119A
VESTIBULE
112
111
STORAGE
117
TOOL STORAGE
1
2
3
4
5
6
Key:
Numbers indicate Photograph and arrows indicate direction of View. See following pages for photographs.

1

2

3

Approximate Level of Water Line

4

5

6

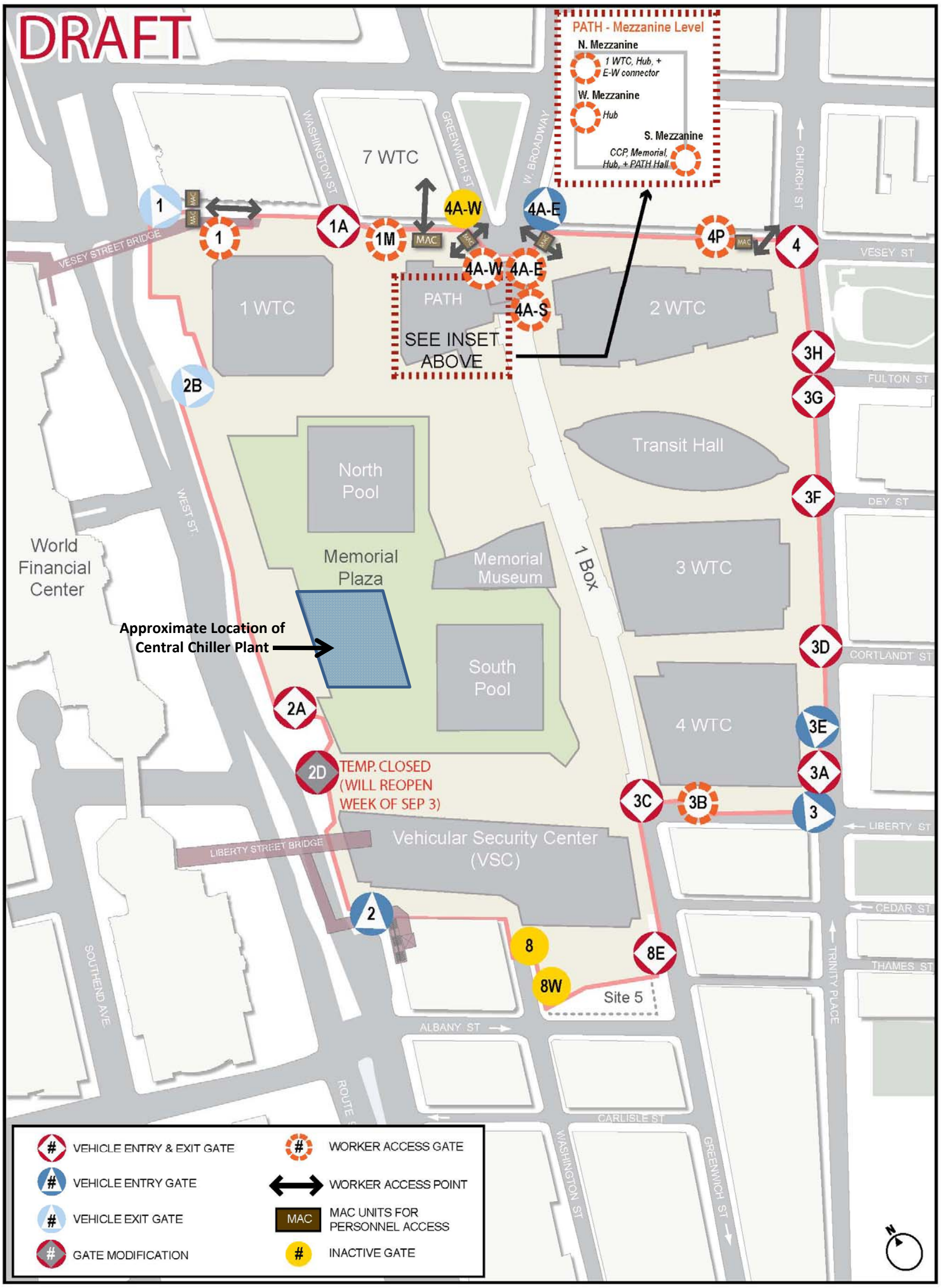



Exhibit D--Location Plan