

THE PORT AUTHORITY OF NY & NJ

Daniel D. Duffy
FOI Administrator

May 15, 2012

Mr. D. John McAusland
Port Authority Police Benevolent Association, Inc.
611 Palisade Avenue
Englewood Cliffs, NJ 076321805

Re: Freedom of Information Reference No. 12856

Dear Mr. McAusland:

This is a response to your December 8, 2011 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy attached) for a copy of any contract, subcontract between the PA and Allied-Barton Security Services, formerly known as Spectaguard, Allied Security, Barton Protective Service or SSI, executed by the PA on or after 1/1/00.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/12856-C.pdf>. Paper copies of the available records are available upon request.

Certain material responsive to your request is exempt from disclosure pursuant to Exemption (1) of the Code.

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

Very truly yours,



Daniel D. Duffy
FOI Administrator

Attachment



THE PORT AUTHORITY OF NY & NJ

**PURCHASING SERVICES DIVISION
ONE MADISON AVENUE, 7TH FL.
NEW YORK, NY 10010**

INVITATION FOR BID/PUBLIC BID OPENING

BID INFORMATION

**TITLE: REBID - FOR THE TRAINING, MANAGEMENT, DEPLOYMENT,
AND SUPERVISION OF PEDESTRIAN MANAGERS FOR THE
WORLD TRADE CENTER RECONSTRUCTION**

BID NO.: 21730

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

BID DUE DATE: July 21, 2010

TIME: 11:00 AM

**CONTRACT SPECIALIST
PATRICIA COSE**

**PHONE NO.: (212) 435-3917
EMAIL: pcose@panynj.gov**

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

**AlliedBarton Security Services LLC
(NAME OF BIDDING ENTITY)**

**330 West 34th Street, 18Fl, New York, NY 10001
(ADDRESS)**

**New York, NY 10001
(CITY, STATE AND ZIP CODE)**

**Craig M. Schwab, Business Development Mgr. (212) 328-0211
(REPRESENTATIVE TO CONTACT-NAME & TITLE) (TELEPHONE)**

**(212) 689-7521
(FEDERAL TAX LD. NO.) (FAX NO.)**

BUSINESS CORPORATION PARTNERSHIP INDIVIDUAL

XX OTHER (SPECIFY): Limited Liability Company (LLC)

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 an area of about 1,500 square miles in both States, centering about New York Harbor. The Port District includes the Cities of New York and Yonkers in New York State, and the cities of Newark, Jersey City, Bayonne, Hoboken and Elizabeth in the State of New Jersey, and over 200 other municipalities, including all or part of seventeen counties, in the two States. The 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. 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. 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.

PART I - 3

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.

3. Vendor Profile

To ensure maximum opportunities, it is vitally 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>.

4. 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.

5. Firm Offer

The lowest qualified Bidder shall be the Bidder who is deemed by the Port Authority to be fully responsible, qualified to perform the work and submits the lowest Bid inclusive of the Base Contract Period and all Option Periods.

The lowest qualified Bidder offers to provide the Port Authority of New York and New Jersey 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.

6. 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.

7. 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 will be posted on the Port Authority website. Addenda shall be considered part of the Contract.

8. 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, a partnership, or a joint venture, a statement of the names and residences of its officers, partners, or authorized representatives, as applicable, should be submitted on the "Name and Residence of Principals Sheet", directly following the Signature Sheet in Part IV.

9. Union Jurisdiction

All prospective Bidders are advised to ascertain whether any union now represented or not represented at the Site of the Work 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.

10. 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.

11. Bidder's Prerequisites

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.

12. Qualification Information

The Port Authority may give written notice to the Bidder to furnish the Port Authority with information and to meet with designated representatives of the Port Authority relating to the 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 Bidder may be required to demonstrate that it is financially capable of performing this Contract, and the determination of the Bidder's financial qualifications will be made by the Port Authority in its sole discretion. The 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 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 Bidder may be submitted; such financial statements, however, must be accompanied by a signed copy of the Bidder's most recent Federal income tax return and a statement in writing from the Bidder, signed by an executive officer or their authorized designee, that such statements accurately reflect the present financial condition of the 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 Bidder shall submit a statement in writing, signed by an executive officer of the Bidder or their designee, that the present financial condition of the Bidder is at least as good as that shown on the statements submitted.

2. Bidder's statement of work on hand, including any work on which a Bid has been submitted, and 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 Bidder's work on each of these jobs.
 3. The name and address of the Bidder's banking institution, chief banking representative handling the Bidder's account, the Bidder's Federal Employer Identification Number (i.e., the number assigned to firms by the Federal Government for tax purposes), the Bidder's Dun and Bradstreet number, if any, the name of any other credit service to which the Bidder has furnished information, and the number, if any, assigned by such service to the Bidder's account.
- b. Information relating to the Bidder's Prerequisites, if any, as set forth in this Contract (Parts II and V).
 - c. A statement describing the legal and financial form of the entity submitting the Bid, including ownership, financial structure and a point of contact. Such entity must legally exist and be qualified to do business within the state required under this Bid as of the date that Bids are submitted. As applicable, provide copies of the Articles of Incorporation, By laws and Amendments, partnership agreement, joint venture agreement and/or other appropriate organizational documents for the Bidder, its officers, financial guarantors and, if any such entities are joint ventures or partnerships, for all those of ventures or partners. Describe the rationale for the selection of the structure of the entity. Describe contractual, financial, legal commitments and agreements and functional relationships among financial guarantors and officers with relation to the Work required by this Bid, to the extent that they are not disclosed in the organizational documents.
 - 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 Port Authority Trans-Hudson Corporation (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 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 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.

13. Conflict of Interest

Individual Conflict of Interest: If the Bidder or any employee, agent or subcontractor of the Bidder may have a possible conflict of interest, or may give the appearance of a possible conflict of interest, the Bidder shall include in its proposal a statement indicating the nature of the conflict and submit a mitigation plan addressing that conflict. The Port Authority reserves the right to disqualify the Bidder if, in its sole discretion, any interest disclosed from any source could create a conflict of interest or give the appearance of a conflict of interest. The Port Authority's determination regarding any questions of conflict of interest shall be final.

In the opinion of the Authority, any Bidder performing construction management, general contracting, design, environmental and/or management services in any capacity for the Authority or other World Trade Center (WTC) stakeholders/owners responsible for building portions of the WTC site, such as the Lower Manhattan Development Corporation (LMDC), the New York State Department of Transportation (NYSDOT), WTC Net Lessee, has a potential conflict of interest. However, a Bidder who has a business relationship as indicated above, and believes that it can provide a mitigation plan that would address the conflict of interest shall submit such plan for evaluation to the Authority with its Bid.

It is envisioned and recommended that the following items/concepts be addressed in a proposed mitigation plan where a conflict or the appearance of a conflict of interest may in the future, or does currently exist:

- 1) A proposed organizational chart/structure/firewall designed to keep staff and resources separate, as specific by project, and to allow for no overlap between team members and resources including, but not limited to: equipment, materials, staffing, laydown areas, and office facilities on said projects.
- 2) Specific plan(s) intended to maintain the separation and integrity, as specific by project, of the following to include, but not be limited to: confidential and/or privileged information, documents, plans, drawings, estimates and other financial data.
- 3) Specific plan to maintain proper and independent billing procedure(s) designed to address the avoidance of double and improper billings.

4) Specific plan to educate employees, on all levels, of the importance of said mitigation plan to promote the awareness and importance of mitigation and its roll in preventing fraud, waste, and abuse, and verification of such education/training and individual understanding.

5) Specific plan to internally oversee and/or audit the above-listed plans and procedures to ensure compliance.

6) Specific contingency plan, notification, and approval process for cases where there is a necessary, reasonable, and business related purpose for overlap in and/or sharing of staff members and/or resources.

7) Specific contingency plan addressing a direct or suspected violation of said mitigation plan. All violations must be reported to the Port Authority, including its Inspector General.

8) The Contractor shall ensure that any subconsultant/subcontractor must cooperate with the Port Authority's Inspector General and its Integrity Monitor, in auditing the mitigation plan for compliance. This cooperation must include access to all necessary documentation and interviews of employees.

The Authority reserves the right to disqualify the Bidder if, in its sole discretion, any interest disclosed from any source could create a conflict of interest or give the appearance of a conflict of interest. The Authority's determination regarding any questions of conflict of interest will be final.

As used herein, "Integrity Monitor" shall mean a private firm hired to assist the Office of Inspector General in preventing and detecting fraud. There are two applications for an Integrity Monitor. First, an Integrity Monitor is assigned to prevent or detect fraud on a specific project - for example all Port Authority projects at the World Trade Center site have an Integrity Monitor. Second, the Port Authority has required contractors with integrity issues to retain at their own cost an Office of Inspector General-approved Integrity Monitor as a condition of being awarded contracts.

Organizational Conflict of Interest:

(1) The resultant contract to this Invitation for Bidders (IFB) 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 Bidder or Contractor.

- a. The Contractor shall have access to confidential and/or sensitive Authority information in the course of performing this Agreement. 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 even after Contract expiration or termination 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.

- b. To the extent that the Contractor either (i) 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 (ii) 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 complete.

(2) A Bidder, by submitting its bid, agrees to the above stated conditions and terms and further agrees to perform all duties under the Contract and, in doing so, agrees 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.

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

14. Pre-award Meeting

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

15. M/WBE Subcontracting Provisions

The Port Authority has a long-standing practice of making its business opportunities available to Minority Business Enterprises (MBEs) and Women-Owned Businesses (WBEs) and has taken affirmative steps to encourage such firms to seek business opportunities with the Port Authority. The successful Bidder will use good faith efforts to provide for seventeen percent (17%) of the Total Contract Price by Port Authority certified M/WBEs as defined in this Contract, in the purchasing, including

purchase of equipment, supplies and labor services, and subcontracting of opportunities associated with this Contract.

Good faith efforts to include participation by M/WBEs shall include, but not be limited to the following:

- 1) Dividing the services and materials to be procured into small portions where feasible;
- 2) Giving reasonable advance notice of specific subcontracting and purchasing opportunities to such firms as may be appropriate;
- 3) Soliciting services and materials from M/WBEs, which are certified by the Port Authority;
- 4) Ensuring that provision is made for timely progress payments to the M/WBEs; and
- 5) Observance of reasonable commercial standards of fair dealing in the respective trade or business.

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

The M/WBE Participation Plan ("Plan") submitted by the Bidder to the Port Authority shall contain, at a minimum, the following:

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

All M/WBE subcontractors listed on the M/WBE Participation Plan must be certified by the Port Authority in order for the Contractor to receive credit toward the M/WBE goals set forth in this Contract. Port Authority M/WBE certified vendor information is available to all vendors who are registered with the Port Authority. Please log on to <https://panynjprocure.com/VenLogon.asp> to search for M/WBEs by a particular commodity or service. The Port Authority makes no representation as to the financial responsibility of such firms or their ability to perform Work under this Contract.

Bidders shall include their M/WBE Participation Plan with their Bids, to be reviewed and approved by the Authority's Office of Business and Job Opportunity ("OBJO").

Bidders may request a waiver of the M/WBE participation goals set forth in this Contract by providing with its Bid, information in accordance with this provision and the provision entitled "M/WBE Good Faith Participation" in the Standard Contract Terms and Conditions.

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

16. 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.

17. City Payroll Tax

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

- a) City of Newark, New Jersey for services performed in Newark, New Jersey;
- b) City of New York, New York for services performed in New York, New York;
and
- c) City of Yonkers, New York for services performed in Yonkers, 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.

18. 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>

END OF PART I - STANDARD INFORMATION FOR BIDDERS

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 included 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

Training, Management, Deployment, and Supervision of Pedestrian Managers for the World Trade Center Reconstruction

2. Location(s) Services Required

Intersections or Posts, as more fully described in the definition of "Site of the Work" in the Specifications.

3. Expected Date of Commencement of Contract

On or about August 16, 2010 ("Commencement Date")

4. Contract Type

Unit Price Contract

5. Duration of Contract

Two (2) years to expire on or about August 15, 2012 ("Expiration Date")

6. Price Adjustment during Base Term (Index Based)

Price adjustment during the Base Term shall be pursuant to the clause entitled "Price Adjustment" in Part III hereof.

7. Option Period(s)

There shall be up to four (4), one (1) year Option Periods, which shall be exercised at the sole discretion of the Authority.

8. Price Adjustment during Option Period(s) (Index Based)

Price adjustment during the Option Period(s) shall be pursuant to the clause entitled "Price Adjustment" in Part III hereof.

9. Extension Period

Not Applicable

10. Work Site Inspection

Not Required

11. Specific Bidder's Prerequisites

The Bidder must meet each of the following Prerequisites:

- a. The Bidder shall have had at least five (5) year(s) of continuous experience immediately prior to the date of submission of its bid in the management and

operation of a business managing or directing pedestrians in metropolitan high traffic areas and during that time shall have actually engaged in providing said or such services to commercial or industrial accounts under contract. The Bidder may fulfill this prerequisite if the Bidder can demonstrate to the satisfaction of the Port Authority that the persons or entities owning and controlling the Bidder have had a cumulative total of at least five (5) year(s) of experience immediately prior to the date of the submission of its bid in the management and operation of a business actually engaged in providing these services to commercial or industrial accounts under contract during that time, or have owned and controlled other entities which have actually engaged in providing the above described services during that time period and must demonstrate to the satisfaction of the Authority that all Pedestrian Managers to be assigned to this Contract have managed pedestrian volumes of over 1,000 pedestrians per peak hour for at least three (3) of the five (5) years, without any material incident or safety issues and all Supervisors assigned to this Contract have managed pedestrian volumes of over 3,000 pedestrians per peak hour for the five (5) years and for two (2) of the five (5) years, performed in a supervisory role, without any material incident or safety issues.

- b. During the time period stated in (a) above, the Bidder, or persons or entities owning and controlling the Bidder, shall have satisfactorily performed or be performing under at least two (2) contract(s) requiring similar services of similar scope to those required under this Contract, each valued at or in excess of \$500,000 without any material incident or safety issues.
- c. The Bidder shall have earned in its last fiscal year, or the last complete calendar year immediately preceding the opening of its bid, a minimum of \$2,200,000.00 annual gross income from the type of service required under this Contract.
- d. In the event a bid is submitted by a joint venture the foregoing prerequisites will be considered with respect to such Bid as follows: The prerequisite in subparagraph (a) and (b) above, will be considered satisfied if the joint venture itself, or any of its participant entities individually, can meet the requirements. The prerequisite in subparagraph (c) above, will be considered satisfied if the gross income of the joint venture itself meets the prerequisite or the gross income of the participant entities in the joint venture cumulatively meets the prerequisite. If a joint venture which has not been established as a distinct legal entity submits a bid, it and all participants in the joint venture shall be bound jointly and severally and each such participant in the joint venture shall execute the bid and do each act and thing required by this Invitation for Bid. On the original bid and wherever else the Bidder's name would appear, the name of the joint venture Bidder should appear if the joint venture is a distinct legal entity. If the Bidder is a common law joint venture, the names of all participants should be listed followed by the words "acting jointly and severally". All joint venture Bidders must provide documentation of their legal status.

- e. The Contractor shall use good faith efforts to achieve participation equivalent to a combined 17% of the total Contract price for Minority Business Enterprises (MBEs) and Women-Owned Business Enterprises (WBEs), in accordance with M/WBE Subcontracting Provision in Part I – Standard Information for Bidders.

Proof that the above prerequisites are met should be submitted with the bid. Proof should also contain contact information, as appropriate.

12. Bidder's Additional Submittal Requirements

a. Background Qualifications Questionnaire:

The Bidder shall submit a completed Background Qualifications Questionnaire (BQQ), required for itself and all consultants, contractors, subcontractors, subconsultants and vendors providing services at the World Trade Center Site, known to the Bidder at the time of Bid submission. This document and instructions for submitting the completed BQQ to the Authority's Office of Inspector General can be obtained at the Authority's website through the following link:

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

b. Wage and Health Benefit Documentation:

Bidders are strongly encouraged to provide for a stable workforce. Bidders are requested to submit additional documentation as follows:

- i. Supporting documentation that it provides or is capable of providing Health Benefits for its full time employees, who will be performing the services hereunder in compliance with the Health Benefit requirements set forth in Part V, Section 3, entitled "Wages, Health and Supplemental Benefits", with such Health Benefits to be provided within thirty (30) days of award of this Contract;
- ii. The "Calculation of Hourly Rate Forms" included in Part IV detailing its allowance for holiday, vacation and sick days, health, retirement, and other supplemental benefits provided by the Bidder to its employees working under this Contract;
- iii. The Bidder shall show the number of full-time and part-time employees it intends to utilize and manage in providing these Services, including supervisory staff.

In preparing the "Calculation of Hourly Rate Forms" for this Contract, the Bidder shall take into consideration the costs of all benefits hereunder, including but not limited to: holiday, vacation, sick days, health and retirement. Please note that all calculations should be based on 2080 annual hours.

END OF PART II - CONTRACT SPECIFIC INFORMATION FOR BIDDERS

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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, equipment, materials and all other things necessary to perform the Work required by this Contract as specified in Part II, and fully set forth in the Specifications, at the location(s) listed in Part II and fully set forth in the Specifications, and 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. Duration

- a) The initial term of this Contract (hereinafter called the "Base Term") shall commence on or about the date specified in Part II hereof, on the specific date set forth in the Port Authority's written notice of bid acceptance (hereinafter called the "Commencement Date"), and unless otherwise terminated, revoked or extended in accordance with the provisions hereof, shall expire as specified in Part II hereof (hereinafter called the "Expiration Date").
- b) If specified as applicable to this Contract and set forth in Part II hereof, the Port Authority shall have the right to extend this Contract for additional period(s) (hereinafter referred to as the "Option Period(s)") following the Expiration Date, upon the same terms and conditions subject only to adjustments of charges, if applicable to this Contract, as may be hereinafter provided in the paragraph entitled "Price Adjustments". If the Port Authority shall elect to exercise the Option(s) to extend this Contract, then, no later than thirty (30) days prior to the Expiration Date, the Port Authority shall send a notice that it is extending the Base Term of this Contract, and this Contract shall thereupon be extended for the applicable Option Period. If the Contract provides for more than one Option Period, the same procedure shall apply with regard to extending the term of this Contract for succeeding Option Periods.
- c) Unless specified as not applicable to this Contract in Part II hereof, the Port Authority shall have the absolute right to extend the Base Term for an additional period of up to one hundred and twenty (120) days subsequent to the Expiration Date of the Base Term, or the Expiration Date of the final exercised Option Period (hereinafter called the "Extension Period"), subject to the same terms and conditions as the previous contract period. The prices quoted by the Contractor

for the previous contract period shall remain in effect during this Extension Period without adjustment. If it so elects to extend this Contract, the Port Authority will advise the Contractor, in writing, that the term is so extended, and stipulate the length of the extended term, at least thirty (30) days prior to the expiration date of the previous contract period.

3. 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 Work performed by the Contractor hereunder, a compensation calculated from the actual quantities of services performed and the respective prices inserted by the Contractor in the Pricing Sheet(s), forming a part of this Contract, exclusive of compensation under the clause hereof entitled "Extra Work". The manner of submission of all bills for payment to the Contractor by the Port Authority for Services rendered under this Contract shall be subject to the approval of the Manager 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 following procedures:

- a) Payment shall be made in accordance with the prices for the applicable service (during the applicable Contract year) as they appear on the Pricing Sheet(s), as the same may be adjusted from time to time as specified herein, minus any deductions for services not performed and/or any liquidated damages, if applicable, to which the invoice may be subject and/or any adjustments as may be required pursuant to increases and decreases in areas or frequencies, if applicable. All Work must be completed within the time frames specified or as designated by the Manager.
- b) The Contractor shall submit to the Manager by the fifth day of each month following the month of commencement of this Contract and on or by the fifth day of each month thereafter (including the month following the termination, revocation or expiration of this Contract) a complete and correct invoice for the Work performed during the preceding month accompanied by such information as may be required by the Manager for verification. The invoice must show the Contractor's Federal Tax Identification Number. Payment will be made within thirty (30) days of Port Authority verification of the invoice.
- c) No certificate, payment, acceptance of any Work 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.
- d) 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 monthly payments payable to the Contractor hereunder.

"Final Payment", as the term is used throughout this Contract, shall mean the final payment made for services rendered in the last month of the Base Term or any extended term. However should this Contract be terminated for any reason prior to the last month of the Base Term or any extended term, then Final Payment shall be the payment made for services rendered in the month during which such termination becomes effective. 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 things done or 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.

4. Price Adjustment

For each year following the first year of the Base Term and for any Option Period that is applicable to this Contract and is exercised hereunder Port Authority shall adjust the amounts payable to the Contractor utilizing the Consumer Price Index for all Urban Consumers; Series Id: CUURA101SA0L2; Not Seasonally Adjusted; New York-Northern New Jersey-Long Island, NY-NJ-CT-PA area; all items less shelter; 1982-1984=100, published by the Bureau of Labor Statistics of the United States Department of Labor (hereinafter called the "Price Index"). In the event that adjustment is calculated to be zero or negative, the effective adjustment shall be zero for that period.

The term "Anniversary Date" shall mean the date(s) of the first and each succeeding twelve-month anniversary of the Commencement Date of this Contract.

The term "Annual Period" shall mean each and any twelve-month period hereafter commencing on the Commencement Date and on each Anniversary Date thereafter.

Effective on the first day of each Anniversary Date following the first year of the Base Term and for any Option Period exercised hereunder, the amounts payable shall be adjusted as follows:

For the Annual Period that is subject to adjustment, the Price Index shall be determined for the date that is eighteen (18) months prior to the Anniversary Date commencing the Annual Period to be adjusted, and the date that is six (6) months prior the Anniversary Date commencing the Annual Period to be adjusted. The amounts payable to the Contractor in the Annual Period preceding the Annual Period subject to adjustment, shall be multiplied by a fraction, the numerator of which is the Price Index for the month and year represented by the date which is six (6) months prior to the Anniversary Date commencing the Annual Period to be adjusted, and the denominator of which is the Price Index for the month and year represented by the

date which is eighteen (18) months prior to the Anniversary Date commencing the Annual Period to be adjusted. The resulting product shall be the amounts payable to the Contractor in the succeeding Annual Period.

In the event the amounts payable to the Contractor as set forth on the Pricing Sheet(s) shall be adjusted hereunder, then, simultaneously with such adjustment, the Average Hourly Direct Wages and the Supplemental Benefits as set forth in the "Calculation of Average Hourly Rate Forms" and accepted by the Port Authority (cumulatively the "Employee Payments") shall also be adjusted by multiplying said amounts, as the same may have been previously adjusted hereunder, by the same fraction set forth in the applicable paragraph above, which was used to adjust the amounts payable to the Contractor in the corresponding year in the Base Term or Option Period, as applicable, and thereafter such adjusted employee payments shall be in effect and payable as though set forth in this of Contract. The Contractor shall pay and provide the same to employees hereunder and shall comply with all the terms and provisions of the section of the Contract entitled "Wages, Health and Supplemental Benefits" in Part V hereof. At the commencement of each Option Period, if any, the Contractor shall submit to the Port Authority its plan to insure its compliance with the Employee Payments requirement in effect during such coming Option Period.

In the event that the Consumer Price Index is not available for any specified month as hereinabove set forth within the time set forth for payment, such Consumer Price Index for the last month then published shall be used to constitute the Consumer Price Index. In the event that adjustment is calculated to be zero or negative, the effective adjustment shall be zero for that period with respect to the Average Hourly Direct Wages and the Supplemental Benefits required herein. Nothing herein shall prevent a Contractor from raising wages or increasing benefits at its own discretion.

In the event of a change in the basis for the computation of the said Price Index or the discontinuance of its publication, such other appropriate index shall be substituted as may be agreed upon by the Authority and the Contractor as properly reflecting changes in the value of the current United States money in a manner similar to that established in the said Price Index. In the event of the failure of the parties to so agree on another appropriate index, the Port Authority may select and use such index, as it seems appropriate.

Notwithstanding the provisions of this Section, in no event shall any adjustment hereunder be greater than three (3%) per annum.

If after an adjustment referred to in this Section, the Price Index used for computing such adjustment shall be changed or adjusted, then the amounts payable to the Contractor for that portion of the period during which the Price Index changed shall be recomputed. If such recomputation results in a smaller increase in the amount payable to such period, then after notification of the change or adjustment, the recomputed amounts shall be in effect and upon demand by the Port Authority, the

Contractor shall refund to Port Authority excess amounts theretofore paid by Port Authority for such period.

5. Insurance

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 - \$ 10 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 New York and New Jersey 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 warranty/guarantee period.

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

"The insurer(s) shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority."

The 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.

Each policy above shall 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 New York and New Jersey, Att: WTC 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 for the Contractor.

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 New York and New Jersey, WTC 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 Site of the Work. 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 WTC 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 at the Site of the Work. 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, at its own cost and expense.

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 it by law or by this or any other Contract.

6. Increase and Decrease in Areas or Frequencies

The Manager shall have the right, at any time and from time to time in his/her sole discretion, to increase or decrease the frequencies of all or any part of the Services required hereunder and/or to add areas not described herein or in Part V – Specifications of this Contract, Scope of Work, or to remove areas or parts of areas which are hereunder so described. In the event the Manager decides to change any frequencies and/or areas, such change shall be by written notice not less than twenty-four (24) hours prior to the effective date specified in said notice.

In the event of an emergency and in response to shifts in pedestrian patterns, construction activity within the WTC Site, direction of NYCDOT, or direction of the Port Authority, the Contractor shall have sufficient qualified personnel available to add Pedestrian Managers at the Site of the Work within the time frame requested by the Authority. Any such request shall be by written notice to the Contractor from the Manager.

In the event of an increase or decrease in areas and/or frequencies, the Contractor's compensation will be adjusted to reflect such change in areas or frequencies utilizing the applicable rate as set forth in the Pricing Sheet(s) located in Part IV of this Contract, for such Services (for the applicable Contract Year).

Where no specific rate has been quoted for the type of services to be increased or decreased, the Manager shall have the right to negotiate the compensation to reflect such change (whether increase or decrease in areas or frequencies) calculated from the quantities of Services to be performed, which in the opinion of the Manager, are necessary to complete the Work, by multiplying a unit of measure determined for the services, by the negotiated rate. The Manager shall have the authority to decide all questions in connection with increase and decrease in areas or frequencies. The exercise by the Manager of the powers and authorities vested in him/her by this Section shall be final upon the Port Authority and the Contractor.

In the event of a decrease in areas or frequencies, the Contractor shall not be entitled to compensation for Work not performed (and if compensation was previously distributed for such unperformed Work, Contractor shall return such compensation).

No such change in areas or frequencies will be implemented which results in a total increase or decrease in compensation that is greater than 50% of the Total Estimated Contract Price, as set forth in the Pricing Sheet(s) located in Part IV of this Contract for the Base Term or, if changes are to be implemented during an Option Period, 50% for that Option Period.

Any increases in frequencies or areas shall not constitute Extra Work and, as such, the Extra Work provisions of this Contract shall not be applicable thereto.

7. Extra Work

The Authority reserves the right to make changes that are within the general scope of work of this Contract.

The Authority must authorize any changes or additions other than that listed in Section 6 above, ("Extra Work") in a written "Change Order" that states either the applicable rate or the negotiated lump sum amount or the maximum, not-to-exceed amount that may be payable to the Contractor, before the Contractor commences the additional or changed work. The executed Change Order is a condition precedent to the Contractor's reimbursement for such work.

An increase in area or frequency does not constitute Extra Work, but shall be compensable based on the rates in the Pricing Sheet located in Part IV of this Contract, and the paragraph herein titled "Increase or Decrease in Areas or Frequencies".

The Contractor is required to perform Extra Work pursuant to a written Change Order of the Manager expressly recognizing such work as Extra Work. When applicable, Extra Work shall be performed at the same rates as set forth in the Pricing Sheet located in Part IV of this Contract. If no such rate is applicable, then the Authority and Contractor may negotiate a lump sum or unit price. If a lump sum or unit price compensation cannot be agreed upon by the parties in writing prior to the start of Work, the Manager may nonetheless, in writing, require that the Contractor begin the work, pending final negotiation of the Extra Work amount or resolution of dispute.

If the Contractor is requested to perform work that it considers Extra Work, without a written Change Order, the Contractor shall give written notice to the Manager within twenty-four (24) hours of performing the work that it so considers such work as Extra Work. Failure of the Contractor to provide said notice shall be a waiver of any claim to an increase in compensation for such work and a conclusive and binding determination that it is not Extra Work.

No payments shall be authorized by the Authority to the Contractor until a final agreement, or resolution of dispute, is made on the payment terms applicable to the Extra Work.

The Manager shall have the authority to decide all questions in connection with the Extra Work. The exercise by the 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.

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

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

END OF PART III - CONTRACT SPECIFIC TERMS AND CONDITIONS

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 120 days after the date on which the Port Authority opens this bid.

The undersigned certifies that a duly authorized officer of the Contractor has signed this Bid and that the name of the Bidding Entity listed below is its legal name in accordance with its organizational documents.

**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 AlliedBarton Security Services LLC
Bidder's Address 330 West 34th Street, 18th Floor
City, State, Zip New York, NY 10001
Telephone No. 212 481 5777 FAX 212 689 7521
Email craig.schwab@alliedbarton.com EIN #
SIGNATURE [Signature] Date 7/21/10
Print Name and Title Lawrence F. Loesch, VP/GM

2010 JUL 21 AM 11:32
PROCUREMENT

ACKNOWLEDGEMENT:

STATE OF: New York
COUNTY OF: Kings

On this 21 day of July, 2010, personally came before me,
Larry Loesch, who duly sworn by me, did depose that (s)he has knowledge of the matters herein stated and 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

ULANDA R. GARRETT
State Of New York
Kings County
01GA8005702
Commission Expires 5/18 2012
[Signature]

NOTE: If a joint venture is bidding , 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 an SBE or MWBE: _____ (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)
William C. Whitmore	CEO	
William A. Torzolini	CFO	
David I. Buckman	EVP/GC	

2010 JUL 21 AM 11:32
PROCUREMENT

3. PRICING SHEET(S)

Entry of Prices

- a. The prices quoted shall be written in figures, in ink, preferably in 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 operations in the Contract are consistent.
- c. Prices must be submitted for each Item required on the Pricing Sheet(s). Bidders are advised that the Items on the Pricing Sheet(s) correspond to the required services set forth in the Specifications hereunder.
- d. Bidders must insert all figures as required and verify all computations for accuracy. The Port Authority in its sole judgment reserves the right to: (1) reject Bids without checking them for mathematical errors or omissions, (2) reject Bids that contain or appear to contain errors or omissions, and (3) supply corrections to Bids that contain or appear to contain mathematical errors and omissions, and in this case the Port Authority reserves the right to recompute the Total Estimated Contract Price (which amount shall then govern in all cases) based upon the Hourly Rates inserted by the Bidder.
- e. In the event that a Bidder quotes an amount in the Total Amount column but omits to quote an Hourly Rate for that amount in the space provided, the Port Authority reserves the right to compute and insert the appropriate Hourly Rate.
- f. The Total Estimated Contract Price is solely for the purpose of facilitating the comparisons of Bids. Compensation shall be paid in accordance with the section of this Contract entitled "Payment".
- g. The Total Estimated Contract Price shall be obtained by adding the Total Estimated Contract Price for Year 1 of the Contract, to the Total Estimated Contract Price for each subsequent year, as well as Option Years, including in the Total Estimated Contract Price for the following years.

4. CALCULATION OF AVERAGE HOURLY RATE FORMS

INSTRUCTIONS FOR CALCULATION OF AVERAGE HOURLY RATE FORMS

Attached are the "Calculation of Average Hourly Rate" Forms for the enumerated positions under this Contract. A separate form is required for each employee category. The Bidder shall use these forms in support of the Wages, Health and Supplemental Benefits Clause contained in Part V of this Contract. When completing these forms, please refer to the definitions located in the aforementioned clause.

A Bidder's entries in these forms for Item#1, Item#2 and Item #3 shall become requirements if the bid is accepted by the Port Authority and the Bidder must maintain the averages quoted at all times.

Nothing in the forms shall modify the requirements of the clause entitled, "Wages, Health and Supplemental Benefits" located in Part V hereof or the terms and conditions of the subject Contract.

TRAINING, MANAGEMENT, DEPLOYEMENT, AND SUPERVISION OF PEDESTRIAN MANAGERS
FOR THE WORLD TRADE CENTER RECONSTRUCTION
PEDESTRIAN MANAGER
MINIMUM WAGE: \$17.04

FULL - TIME EMPLOYEES FORM

ITEM # 1

AVERAGE HOURLY DIRECT WAGE	<u>\$17.04</u>
NUMBER OF EMPLOYEES	23

ITEM # 2

AVERAGE HEALTH BENEFITS	<u>\$1.00</u>
HEALTH	

ITEM # 3:

AVERAGE SUPPLEMENTAL BENEFITS (ITEMS NOT REQUIRED BY LAW)

HOLIDAY ALLOWANCE	<u>\$0.41</u>
VACATION ALLOWANCE	<u>\$0.37</u>
SICK TIME ALLOWANCE	
PENSION	<u>\$0.02</u>
WELFARE	
OTHER SUPPLEMENTAL BENEFITS	<u>\$0.00</u>
SPECIFY	<u>\$0.00</u>

Number of
Days Provided
11 days paid at 1.5 time when worked
Standard ABSS Vacation Plan

ABSS 401K Plan

SUB TOTAL (ITEM # 1, 2 & 3)	<u>\$18.84</u>
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sub total 1, 2 & 3

ITEM # 4

AVERAGE TAXES AND INSURANCES (ITEMS REQUIRED BY LAW)

F.I.C.A.	<u>\$1.36</u>
S.U.I.	<u>\$0.52</u>
F.U.I.	<u>\$0.07</u>
WORKERS' COMPENSATION	<u>\$0.34</u>
GENERAL LIABILITY INSURANCE	<u>\$0.24</u>
DISABILITY INSURANCE	<u>\$0.02</u>
OTHER TAXES AND INSURANCE	<u>\$0.06</u>
SPECIFY <u>MTA TAX for NYC</u>	

ITEM # 5: ADDITIONAL COMPONENTS
(IF APPLICABLE)

VEHICLE/ MTCE/FUEL	<u>\$0.00</u>
UNIFORMS	<u>\$0.25</u>
EQUIPMENT	<u>\$0.02</u>
MATERIALS	<u>\$0.00</u>
SUPPLIES	<u>\$0.01</u>
RELIEF	
ROLL CALL	
OTHER COMPONENTS NOT SPECIFIED ABOVE	
SPECIFY -	

GENERAL ADMINISTRATIVE COSTS, OVERHEAD AND PROFIT	<u>\$1.96</u>
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TOTAL (ITEMS # 1, 2, 3, 4 & 5)	<u>\$23.69</u>
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BIDDER NAME: Allied Barton Security Services

BID NUMBER: 21730

TRAINING, MANAGEMENT, DEPLOYMENT, AND SUPERVISION OF PEDESTRIAN MANAGERS
FOR THE WORLD TRADE CENTER RECONSTRUCTION

SUPERVISOR
MINIMUM WAGE: \$19.05

FULL - TIME EMPLOYEES FORM

ITEM # 1

AVERAGE HOURLY DIRECT WAGE \$19.05
NUMBER OF EMPLOYEES 2

ITEM # 2

AVERAGE HEALTH BENEFITS \$1.00
HEALTH

ITEM # 3:

AVERAGE SUPPLEMENTAL BENEFITS (ITEMS NOT REQUIRED BY LAW)

HOLIDAY ALLOWANCE \$0.46
VACATION ALLOWANCE \$0.42
SICK TIME ALLOWANCE _____
PENSION \$0.02
WELFARE _____
OTHER SUPPLEMENTAL BENEFITS \$0.00
SPECIFY \$0.00

Number of
Days Provided
11 days paid at 1.5 time when worked
Standard ABSS Vacation Plan

ABSS 401K Plan

SUB TOTAL (ITEM # 1, 2 & 3) \$20.95

sub total 1, 2 & 3

ITEM # 4

AVERAGE TAXES AND INSURANCES (ITEMS REQUIRED BY LAW)

F.I.C.A. \$1.52
S.U.I. \$0.58
F.U.I. \$0.08
WORKERS' COMPENSATION \$0.38
GENERAL LIABILITY INSURANCE \$0.27
DISABILITY INSURANCE \$0.02
OTHER TAXES AND INSURANCE \$0.07
SPECIFY MTA TAX for NYC

ITEM # 5: ADDITIONAL COMPONENTS
(IF APPLICABLE)

VEHICLE/ MTCE/FUEL \$0.00
UNIFORMS \$0.25
EQUIPMENT \$0.02
MATERIALS \$0.00
SUPPLIES \$0.01
RELIEF _____
ROLL CALL _____
OTHER COMPONENTS NOT SPECIFIED ABOVE _____
SPECIFY - _____

GENERAL ADMINISTRATIVE COSTS, OVERHEAD
AND PROFIT \$2.17

TOTAL (ITEMS # 1, 2, 3, 4 & 5) \$26.32

BIDDER NAME: Allied Barton Security Services

BID NUMBER: 21730

TRAINING, MANAGEMENT, DEPLOYMENT, AND SUPERVISION OF PEDESTRIAN MANAGERS
FOR THE WORLD TRADE CENTER RECONSTRUCTION
PEDESTRIAN MANAGER
MINIMUM WAGE: \$17.04

PART - TIME EMPLOYEES FORM

ITEM # 1

AVERAGE HOURLY DIRECT WAGE	<u>\$17.04</u>
NUMBER OF EMPLOYEES	<u>0</u>

ITEM # 2

AVERAGE HEALTH BENEFITS	<u> </u>
HEALTH	<u> </u>

ITEM # 3:

AVERAGE SUPPLEMENTAL BENEFITS (ITEMS NOT REQUIRED BY LAW)

HOLIDAY ALLOWANCE	<u>\$0.90</u>
VACATION ALLOWANCE	<u>\$0.00</u>
SICK TIME ALLOWANCE	<u> </u>
PENSION	<u>\$0.00</u>
WELFARE	<u> </u>
OTHER SUPPLEMENTAL BENEFITS	<u>\$0.00</u>
SPECIFY	<u>\$0.00</u>

Number of
Days Provided
11 days paid at 1.5 time when worked

SUB TOTAL (ITEM # 1, 2 & 3)	<u>\$17.94</u>
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sub total 1, 2 & 3

ITEM # 4

AVERAGE TAXES AND INSURANCES (ITEMS REQUIRED BY LAW)

F.I.C.A.	<u>\$1.36</u>
S.U.I.	<u>\$0.66</u>
F.U.I.	<u>\$0.10</u>
WORKERS' COMPENSATION	<u>\$0.34</u>
GENERAL LIABILITY INSURANCE	<u>\$0.24</u>
DISABILITY INSURANCE	<u>\$0.02</u>
OTHER TAXES AND INSURANCE	<u>\$0.06</u>
SPECIFY <u>MTA TAX for NYC</u>	<u> </u>

ITEM # 5: ADDITIONAL COMPONENTS
(IF APPLICABLE)

VEHICLE/ MTCE/FUEL	<u>\$0.00</u>
UNIFORMS	<u>\$0.54</u>
EQUIPMENT	<u>\$0.03</u>
MATERIALS	<u>\$0.00</u>
SUPPLIES	<u>\$0.02</u>
RELIEF	<u> </u>
ROLL CALL	<u> </u>
OTHER COMPONENTS NOT SPECIFIED ABOVE	<u> </u>
SPECIFY -	<u> </u>

GENERAL ADMINISTRATIVE COSTS, OVERHEAD AND PROFIT	<u>\$2.38</u>
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TOTAL (ITEMS # 1, 2, 3, 4 & 5)	<u>\$23.69</u>
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**TRAINING, MANAGEMENT, DEPLOYMENT, AND SUPERVISION OF PEDESTRIAN MANAGERS
FOR THE WORLD TRADE CENTER RECONSTRUCTION**

SUPERVISOR

MINIMUM WAGE: \$19.05

PART - TIME EMPLOYEES FORM

ITEM # 1

AVERAGE HOURLY DIRECT WAGE	<u>\$19.05</u>
NUMBER OF EMPLOYEES	<u>0</u>

ITEM # 2

AVERAGE HEALTH BENEFITS	<u> </u>
HEALTH	<u> </u>

ITEM # 3:

AVERAGE SUPPLEMENTAL BENEFITS (ITEMS NOT REQUIRED BY LAW)

HOLIDAY ALLOWANCE	<u>\$1.01</u>
VACATION ALLOWANCE	<u>\$0.00</u>
SICK TIME ALLOWANCE	<u> </u>
PENSION	<u>\$0.00</u>
WELFARE	<u> </u>
OTHER SUPPLEMENTAL BENEFITS	<u>\$0.00</u>
SPECIFY	<u>\$0.00</u>

Number of
Days Provided
11 days paid at 1.5 time when worked

SUB TOTAL (ITEM # 1, 2 & 3)	<u>\$20.06</u>
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sub total 1, 2 & 3

ITEM # 4

AVERAGE TAXES AND INSURANCES (ITEMS REQUIRED BY LAW)

F.I.C.A.	<u>\$1.52</u>
S.U.I.	<u>\$0.66</u>
F.U.I.	<u>\$0.10</u>
WORKERS' COMPENSATION	<u>\$0.38</u>
GENERAL LIABILITY INSURANCE	<u>\$0.27</u>
DISABILITY INSURANCE	<u>\$0.02</u>
OTHER TAXES AND INSURANCE	<u>\$0.07</u>
SPECIFY MTA TAX for NYC	<u> </u>

**ITEM # 5: ADDITIONAL COMPONENTS
(IF APPLICABLE)**

VEHICLE/ MTCE/FUEL	<u>\$0.00</u>
UNIFORMS	<u>\$0.54</u>
EQUIPMENT	<u>\$0.03</u>
MATERIALS	<u>\$0.00</u>
SUPPLIES	<u>\$0.02</u>
RELIEF	<u> </u>
ROLL CALL	<u> </u>
OTHER COMPONENTS NOT SPECIFIED ABOVE	<u> </u>
SPECIFY -	<u> </u>

GENERAL ADMINISTRATIVE COSTS, OVERHEAD AND PROFIT	<u>\$2.65</u>
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TOTAL (ITEMS # 1, 2, 3, 4 & 5)	<u>\$26.32</u>
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5. 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 New York and New Jersey or to The Port Authority of New York and New Jersey's representative in support of:

Bid No. 21730 are accurate, complete, and current as of 7/21/10.

This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the Bidder and The Port Authority of New York and New Jersey that are part of the Bid.

Firm: AlliedBarton Security Services LLC

Name: Lawrence F. Loesch, CPP

Title: Vice President/General Manager

Date: July 21, 2010

Staffing by Post	All Inclusive Hourly Rate	Year 1		Year 2		Option Year 1		Option Year 2		Option Year 3		Option Year 4		TOTAL ESTIMATED HOURS	TOTAL AMOUNT
		(1st, 12 Month Period)	ESTIMATED HOURS	AMOUNT	(2nd, 12 Month Period)	ESTIMATED HOURS	AMOUNT	(3rd, 12 Month Period)	ESTIMATED HOURS	AMOUNT	(4th, 12 Month Period)	ESTIMATED HOURS	AMOUNT		
Vesey St. & Church St.															
Podestrian Manager(s)	\$ 23.89	24,806	\$587,701.52	24,806	\$587,701.52	24,806	\$587,701.52	24,806	\$587,701.52	24,806	\$587,701.52	24,806	\$587,701.52	24,806	\$587,701.52
Liberty St. & Church St.															
Podestrian Manager(s)	\$ 23.89	14,978	\$354,781.44	14,978	\$354,781.44	14,978	\$354,781.44	14,978	\$354,781.44	14,978	\$354,781.44	14,978	\$354,781.44	14,978	\$354,781.44
W. Broadway & Vesey St.															
Podestrian Manager(s)	\$ 23.89	3,120	\$73,912.80	3,120	\$73,912.80	3,120	\$73,912.80	3,120	\$73,912.80	3,120	\$73,912.80	3,120	\$73,912.80	3,120	\$73,912.80
Comprising of all Posts (Inclusive of Optional Location 1 and Optional Location 2)															
Supervisor(s)	\$ 26.32	3,952	\$104,018.64	3,952	\$104,018.64	3,952	\$104,018.64	3,952	\$104,018.64	3,952	\$104,018.64	3,952	\$104,018.64	3,952	\$104,018.64
TOTAL	\$ 23.89	46,856	\$1,120,412.40	46,856	\$1,120,412.40	46,856	\$1,120,412.40	46,856	\$1,120,412.40	46,856	\$1,120,412.40	46,856	\$1,120,412.40	46,856	\$1,120,412.40
TOTAL ESTIMATED CONTRACT PRICE		Year 1 (1st, 12 Month Period)		Year 2 (2nd, 12 Month Period)		Option Year 1 (3rd, 12 Month Period)		Option Year 2 (4th, 12 Month Period)		Option Year 3 (5th, 12 Month Period)		Option Year 4 (6th, 12 Month Period)		TOTAL (Base + Option Years)	
		\$1,120,412.40		\$1,120,412.40		\$1,120,412.40		\$1,120,412.40		\$1,120,412.40		\$1,120,412.40		\$5,722,474.40	

NOTE: Bid shall be based on the following:

Required Staffing Levels (weekdays)

Hours of coverage: 7:00 AM - 7:00 PM

Vesey Street / Church Street - Seven (7) Pedestrian Managers

Liberty Street / Church Street - Four (4) Pedestrian Managers

W. Broadway / Vesey Street - One (1) Pedestrian Manager

Supervisor: At least one supervisor shall be on site to monitor the intersections at all times pedestrian managers are on duty.

Required Staffing Levels (weekends/holidays)

Hours of coverage: 8:00 AM - 4:00 PM

Vesey Street / Church Street - Four (4) Pedestrian Managers

Liberty Street / Church Street - Three (3) Pedestrian Managers

Supervisor: At least one supervisor shall be on site to monitor the intersections (shown above) at all times pedestrian managers are on duty.

All inclusive Hourly Rates are inclusive of direct wages, expenses, indirect costs, general and administrative costs and profit.

Escalation shall not be included within the hourly rates. See Part III - Contract Specific Terms and Conditions, Section 4, entitled "Price Adjustment".

PART V – SPECIFICATIONS, TABLE OF CONTENTS

PART V – SPECIFICATIONS, TABLE OF CONTENTS..... 1
1. Specific Definitions 2
2. Work Required by the Specifications 2
 I. Scope of Work 2
 II. Description of Tasks..... 5
 Task A 5
 Task B 6
 Task C 7
3. Wages, Health and Supplemental Benefits..... 7

PART V – SPECIFICATIONS

1. Specific Definitions

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

“Site of the Work” shall mean the following intersections (also referred to as “Intersections” or “Posts”), as applicable, located in lower Manhattan:

- Vesey Street / Church Street
- Liberty Street / Church Street
- W. Broadway / Vesey Street

2. Work Required by the Specifications

I. Scope of Work

The services of the Contractor shall generally consist of the procurement of all necessary labor, equipment, and uniforms for World Trade Center (WTC) pedestrian management personnel (Pedestrian Managers and Supervisors); and providing for the training, management, deployment, and supervision of pedestrian management personnel; and performance of all associated administrative tasks necessary to provide the required pedestrian management services (“Services” or “Work”). The Contractor shall also develop and enforce quality assurance procedures to ensure a high level of pedestrian management services around the WTC Site. These Services are provided to facilitate pedestrian circulation around the WTC Site as reinforcement of existing traffic signals and are required under permits granted by New York City Department of Transportation (NYCDOT). The nature of these Services is more fully described herein.

The Port Authority currently provides Pedestrian Managers at three (3) key intersections around the WTC Site in fulfillment of NYCDOT requirements: Vesey and Church Streets; Liberty and Church Streets; and West Broadway and Vesey Street.

Current staffing levels are as follows:

Monday – Friday, 7:00 AM – 7:00 PM

- | | |
|-----------------------------------|-----------------------|
| • Vesey Street / Church Street: | 7 Pedestrian Managers |
| • Liberty Street / Church Street: | 4 Pedestrian Managers |
| • W. Broadway / Vesey Street: | 1 Pedestrian Manager |

Weekends, 8:00 AM – 4:00 PM

- | | |
|-----------------------------------|-----------------------|
| • Vesey Street / Church Street: | 4 Pedestrian Managers |
| • Liberty Street / Church Street: | 3 Pedestrian Managers |

One Supervisor is on site at all times Pedestrian Managers are on duty.

The attached site plan shows the locations where Pedestrian Managers are posted (see Attachment A). The accompanying photos (See Attachment A) show the current Pedestrian Managers and provide a sense of the volumes of pedestrians crossing these Intersections. For example, the Vesey Street / Church Street Intersection has estimated morning peak hour (8 am to 9 am) pedestrian volumes of approximately 14,000. The Liberty Street / Church Street Intersection has estimated morning peak hour (8 am to 9 am) pedestrian volumes of roughly 4,500. The Vesey Street / West Broadway Intersection have estimated morning peak hour (8 am to 9 pm) pedestrian volumes of 700. The above pedestrian volumes are provided for informational purposes only.

Pedestrian management personnel are responsible for ensuring the efficient and orderly crossing of pedestrians at the specified intersections adjoining the WTC Site. Such personnel shall focus on guiding pedestrians alone, and shall not direct construction or passenger vehicles, enter the WTC Site, or engage in the tasks of others working on or around the WTC Site including, but not limited to: flaggers, gate operators, Traffic Enforcement Agents, Port Authority Police Department Officers, or New York City Police Department Officers.

NYCDOT may review and modify pedestrian management staffing levels periodically. NYCDOT regularly observes pedestrian management performance in the field.

The Port Authority is committed to providing the best possible pedestrian environment in the vicinity of the WTC Site. Moreover, the Authority has established a policy of providing proactive, responsive and respectful customer service at all of its facilities. Given the high visibility of the WTC project and significant amount of public interaction involved in the pedestrian management duties, all personnel are expected to fulfill their duties in accordance with these aims throughout the duration of the Contract.

The Contractor's attention is directed to Paragraph b of Section 18 "General Obligations" in the Standard Contract Terms and Conditions hereof, requiring the Contractor to be in compliance with any and all laws, rules, requirements, regulations and certifications that are currently or may become applicable to the Work under this Contract.

Pedestrian Manager & Supervisor Qualifications/Requirements

The role of the Pedestrian Managers and Supervisor(s) is to ensure the orderly flow of pedestrians by mitigating the competing priorities of vehicular and pedestrian traffic in a highly active and vastly complex construction site. The safety of the pedestrians is of the utmost importance. This unique work environment requires highly trained technical expertise to handle and minimize the inherent risk involved in and around high traffic construction zones with a large volume of pedestrians.

All Pedestrian Managers must possess five (5) or more years of law enforcement experience with at least two (2) years of experience in traffic management in local, state, federal government and/or U.S. military; and be adequately trained in flagging operations and certified as a "Flagger" by the American Traffic Safety Services Association. Proof of Flagger Certification must be submitted to the Port Authority before the Pedestrian Manager commences Work.

All Supervisors must possess ten (10) or more years of law enforcement experience with at least five (5) years of experience in traffic management in local, state, federal government and/or U.S. military, two (2) of which in a supervisory role; and be adequately trained in flagging operations and certified as a "Flagger" by the American Traffic Safety Services Association. Proof of Flagger Certification must be submitted to the Port Authority before the Supervisor commences Work.

Required Staffing Levels

The hours provided below indicate the Authority's current coverage requirements for Pedestrian Managers and Supervisors. These hours shall not be construed as required shifts (i.e. the Authority is not requiring that seven (7) Pedestrian Managers and an individual Supervisor work twelve (12) hours on a weekday). It shall be the responsibility of the Contractor to manage staffing levels to ensure the appropriate number of Pedestrian Managers and a Supervisor are working at the specified Intersection at any point during the time periods required below.

The three (3) intersections managed during weekdays require a total of twelve (12) Pedestrian Managers from 7:00 am to 7:00 pm.

Coverage is as follows:

- Vesey Street / Church Street – seven (7) Pedestrian Managers
- Liberty Street / Church Street – four (4) Pedestrian Managers
- W. Broadway / Vesey Street – one (1) Pedestrian Manager

At least one (1) Supervisor shall be on site to monitor the Posts at all times Pedestrian Managers are on Post. Refer to Attachment A (Site Plan) for locations.

The two (2) Intersections managed during weekends require a total of seven (7) Pedestrian Managers from 8:00 am to 4:00 pm.

- Vesey Street / Church Street – four (4) Pedestrian Managers
- Liberty Street / Church Street – three (3) Pedestrian Managers

At least one (1) Supervisor shall be on site to monitor the weekend Posts at all times Pedestrian Managers are on Post.

Holiday staffing levels shall be the same as weekend coverage levels.

At the Vesey Street / Church Street intersection on both weekdays and weekends, the Contractor must provide a chain (or other appropriate physical barrier approved by the Authority) to guide pedestrian flow during green signal phases or restrict

pedestrian flow during red signal phases. See Attachment A for a picture of the chain operation currently in use.

The Contractor shall have sufficient qualified personnel to add additional Pedestrian Managers at these posts and others around the site on twenty-four (24) hours notice in response to shifts in pedestrian patterns, construction activity within the WTC Site, direction of NYCDOT, or direction of the Port Authority.

To ensure continuity of the level of service, the Contractor shall dedicate, to the extent possible, the same pedestrian management personnel to managed Intersections and continually provide an ongoing safety program for the pedestrian management personnel.

II. Description of Tasks

Task A

Tasks to be performed by the Contractor shall include, but not be limited to:

1. Providing the required number of trained pedestrian management personnel at managed intersections to ensure Port Authority compliance with NYCDOT permits.
2. Providing adequate training and site orientation to ensure a consistently high level of pedestrian management services. Training shall include review of scope of duties as well as an overview of pedestrian and traffic management strategies including proper positioning within the managed intersection, hand signals, whistle blowing, and other relevant techniques. Site orientation shall include observing managed intersections (in person or via video recording) until conditions are well-understood.
3. Providing a fully developed management plan addressing recruitment, retention, supervision, protocol and training and such plan shall be submitted for Authority review and approval by the Authority within thirty (30) days of Contract award.
4. Providing an appropriate physical barrier at the Vesey and Church Street intersection and at any of the other intersections, as requested by the Authority, to guide pedestrian flow during green signal phases or restrict pedestrian flow during red signal phases.
5. Providing, supervising, and maintaining the cleanliness of Authority-approved work attire to ensure a professional and standardized appearance for all pedestrian management personnel. The dress code for all personnel herein, which is subject to approval by the Authority, shall at a minimum include:
 - Reflective vest and / or jacket with "Pedestrian Safety" clearly printed on the front or back
 - Dark colored trousers

- Collared shirt of a uniform color
- Black shoes (no sneakers) compliant with the requirements of the American Society of Testing Materials (ASTM) Committee F13 on Pedestrian/Walkway Safety and Footwear.
- Pedestrian management personnel shall have a visible identification badge on display at all times while on duty.

The Authority shall not be responsible for maintaining or for reimbursing the Contractor for provision or cleaning of work attire.

6. Maintaining and submitting to the Port Authority Manager daily, accurate attendance records for all pedestrian management personnel detailing all hours worked on Site and a brief summary of any issues, incidents and observations relevant to the pedestrian management operations.
7. Providing on a monthly basis the following:
 - Detailed budget for upcoming month of Services
 - Monthly cost reports tracking Pedestrian Manager and Supervisor hours worked for the previous month of Work
 - Detailed invoices for review and approval of Manager
 - Each of these deliverables must be submitted to the Manager within five (5) business days of the end of a billing cycle.
8. Periodic meetings with NYCDOT to assess Pedestrian Manager performance. Contractor shall prepare and submit minutes from these meetings to the Port Authority Manager within two (2) working days of the meeting.
9. Ensuring Pedestrian Manager and Supervisor adhere to their respective tasks described below in B and C.

Task B

Pedestrian Manager tasks shall include, but not be limited to:

- Maintaining Post coverage
- Halting pedestrians at intersections or directing them through intersections in coordination with traffic signals
- Utilizing appropriate physical barrier, as approved by the Authority, to guide pedestrian movement through the Intersections or restricting pedestrians from entering intersections in coordination with traffic signals
- Maintaining courteous and professional demeanor at all times while on duty
- Wearing attire, as approved by the Authority, and maintain a professional appearance at all times while on duty
- Reporting any incidents or unusual activity to Supervisor
- Performing all other specific duties or responsibilities as required by Supervisor or a designated Port Authority manager for the pedestrian management services

benchmarks or other prevailing standards. Employees may not receive Direct Wages lower than the Minimum Hourly Wages stated hereunder.

- 7) "Health Benefits" shall mean benefits, other than Supplemental Benefits, as hereinafter defined, paid or covered under health insurance plans, to cover the costs of healthcare for Employees and their families.
 - 8) The "Cost of Health Benefits" shall mean the cost to the Contractor (and its subcontractors) of such benefits that meet the requirements of this Contract for providing health coverage for Employees and their families.
 - 9) "Average Health Benefits" shall be calculated by dividing the sum of the Health Benefits paid or provided for Straight-time hours worked by all Employees in each Employee category by the number of Straight-time hours worked by the Employees in such category.
 - 10) "Supplemental Benefits" shall mean benefits, other than Health Benefits, provided to Employees, including, but not limited to: fair and reasonable vacation allowances, sick leave, holiday, jury duty, birthday, welfare, retirement and non-occupational disability benefits, life, accident, or other such types of insurance, but excluding Health Benefits.
 - 11) The "Cost of Supplemental Benefits" shall mean the cost to the Contractor (and its subcontractors) of all remuneration for employment provided to Employees in any medium other than cash, but including payments which are not Wages within the meaning of this numbered clause.
 - 12) "Average Supplemental Benefits" shall be calculated by dividing the sum of the Supplemental Benefits, which shall exclude Health Benefits, paid or provided for Straight-time hours worked by all Employees in each Employee category by the number of Straight-time hours worked by the Employees in such category.
 - 13) "Contract Year", as used in this Agreement shall mean the twelve (12) month period commencing on the Commencement Date of the Contract and each successive twelve (12) month period thereafter or such portion of a twelve (12) month period that the Contract is in effect if the Contract should expire or be terminated on other than the last day of such twelve (12) month period.
- B. Supplemental Benefits including but not limited to holiday, sick time and vacation time that are accrued in one year but not paid until the following year are not allowed to be included in the computation of benefits until they are paid.

For example: Assume an employee begins working for the Contractor on January 1, 2008. Although the employee accrues 10 vacation days, he/she cannot take them until he/she has worked for the Contractor for one year. The employee finally takes his/her vacation in February 2009. The employee's vacation benefits accrued in 2008 but were never paid. Therefore, the Contractor may not include the employee's vacation benefits in the computation of Supplemental Benefits until they are actually paid. At that time, the vacation time will be credited retroactively and applied in the computation of benefits for the year 2008.

Task C

Supervisor tasks shall include, but not be limited to:

- Liaise with specific New York City Police Department (NYPD) Traffic Enforcement Agents on behalf of the Port Authority, routinely collecting paperwork and verifying activities
- Directing supervisory responsibility of Pedestrian Managers on Post
- Ensuring all Posts are properly covered and equipped
- Making arrangements to replace Pedestrian Managers who must leave their Posts
- Preparing and attending Pedestrian Manager roll calls
- Maintaining Post coverage log including Pedestrian Manager reporting times
- Maintaining continuing contact with all Pedestrian Managers on duty

3. Wages, Health and Supplemental Benefits

A. Definitions:

- 1) "Employee" shall mean any person, employed by the Contractor or its subcontractors, to perform any of the Services required under this Contract.
- 2) "Full Time Employee" (F.T.E.) shall mean any person or Employee who is paid on a straight time hourly basis, working on such a compensation basis for a minimum of thirty (30) hours during a seven (7) day consecutive period continually (including vacation, sick leave, etc.) throughout each Contract Year. Time for which an employee is paid on an overtime or premium time basis shall not be counted in determining the thirty (30) hours requirement. The Port Authority will not reimburse the Contractor for any overtime without the Port Authority's prior written consent.
- 3) "Straight-time" shall mean the non-overtime hours actually worked by Employees under this Contract and shall include the time an employee spends at roll call, whether or not paid; however, meal periods and relief time shall be excluded, whether or not paid.
- 4) "Direct Wages" shall mean monetary amounts paid by the Contractor or its subcontractor(s) to its employees for straight time (non-overtime) hours worked, including shift differentials, if any. Employee incentive plan payments are not included as Direct Wages.
- 5) "Average Hourly Direct Wages" shall be calculated by dividing the sum of the direct hourly Straight-time wages paid to all Employees in each Employee category by the number of Straight-time hours worked by the Employees in such category.
- 6) "Minimum Hourly Wages" shall mean the levels of fair wages determined by the Port Authority for Employees in each Employee category based on certain

benchmarks or other prevailing standards. Employees may not receive Direct Wages lower than the Minimum Hourly Wages stated hereunder.

- 7) "Health Benefits" shall mean benefits, other than Supplemental Benefits, as hereinafter defined, paid or covered under health insurance plans, to cover the costs of healthcare for Employees and their families.
- 8) The "Cost of Health Benefits" shall mean the cost to the Contractor (and its subcontractors) of such benefits that meet the requirements of this Contract for providing health coverage for Employees and their families.
- 9) "Average Health Benefits" shall be calculated by dividing the sum of the Health Benefits paid or provided for Straight-time hours worked by all Employees in each Employee category by the number of Straight-time hours worked by the Employees in such category.
- 10) "Supplemental Benefits" shall mean benefits, other than Health Benefits, provided to Employees, including, but not limited to: fair and reasonable vacation allowances, sick leave, holiday, jury duty, birthday, welfare, retirement and non-occupational disability benefits, life, accident, or other such types of insurance, but excluding Health Benefits.
- 11) The "Cost of Supplemental Benefits" shall mean the cost to the Contractor (and its subcontractors) of all remuneration for employment provided to Employees in any medium other than cash, but including payments which are not Wages within the meaning of this numbered clause.
- 12) "Average Supplemental Benefits" shall be calculated by dividing the sum of the Supplemental Benefits, which shall exclude Health Benefits, paid or provided for Straight-time hours worked by all Employees in each Employee category by the number of Straight-time hours worked by the Employees in such category.
- 13) "Contract Year", as used in this Agreement shall mean the twelve (12) month period commencing on the Commencement Date of the Contract and each successive twelve (12) month period thereafter or such portion of a twelve (12) month period that the Contract is in effect if the Contract should expire or be terminated on other than the last day of such twelve (12) month period.

- B. Supplemental Benefits including but not limited to holiday, sick time and vacation time that are accrued in one year but not paid until the following year are not allowed to be included in the computation of benefits until they are paid.**

For example: Assume an employee begins working for the Contractor on January 1, 2008. Although the employee accrues 10 vacation days, he/she cannot take them until he/she has worked for the Contractor for one year. The employee finally takes his/her vacation in February 2009. The employee's vacation benefits accrued in 2008 but were never paid. Therefore, the Contractor may not include the employee's vacation benefits in the computation of Supplemental Benefits until they are actually paid. At that time, the vacation time will be credited retroactively and applied in the computation of benefits for the year 2008.

- 5) Health Benefits shall be provided to Full Time Employees (F.T.E.'s) and their families no later than thirty (30) days from the first date of Employee performance under the Contract.
 - 6) The Contractor shall provide each F.T.E. with written information, i.e. documents relating to each Employee's health care coverage.
 - 7) The Contractor shall provide continued Health Benefits to F.T.E.'s and their families of the same quality, or better as those approved by the Authority and initially provided under this Contract, throughout the duration of the Contract term.
- E. Contractor in the performance of the Services herein, shall pay or provide (and shall cause any subcontractor to pay or provide) not less than the Supplemental Benefits established in the Calculation of Average Hourly Rate Forms and accepted by the Port Authority for each Employee category, and such Supplemental Benefits shall be subject to the requirements as set forth below.
- 1) Without limiting the foregoing, under no circumstances shall the cost of providing uniforms or footwear, cleaning of uniforms, training and transportation to and from post, or any other items incidental to rendering the Services covered under this Contract, be allowed or included in the Cost of Supplemental Benefits.
 - 2) Any reimbursements to employees for expenses, and payroll taxes, employee incentive plans and any other benefits required by law are not includable in the Cost of Supplemental Benefits.
 - 3) The established numerical value for the Supplemental Benefits, other than Health Benefits, shall be as set forth in the Calculation of Average Hourly Rate Forms and accepted by the Port Authority.
- F. In the event that the compensation payable under this Contract is subject to adjustment from time to time as provided in the paragraph entitled "Price Adjustment" in the Contract Specific Terms and Conditions, then the Average Hourly Direct Wages and Supplemental Benefits set forth in the Calculation of Average Hourly Rate Forms and accepted by the Port Authority, shall be adjusted by multiplying said amounts by the same percentage amount which was used to adjust the compensation payable under this Contract, as the same may have been further adjusted.
- G. Nothing contained herein shall be construed to prevent the Contractor or any subcontractor from paying or providing any individual Employee hourly Direct Wages, Health and Supplemental Benefits higher than the Minimum Hourly Wages, Health Benefits and Supplemental Benefits described in this numbered clause. It is understood that the Contractor's obligation to pay or provide the Minimum Hourly Wages as set forth above, the Health Benefits as set forth herein and the Supplemental Benefits as set forth in the Calculation of Average Hourly Rate Forms and accepted by the Port Authority, allows the Contractor to pay or provide some of its Employees hourly Direct Wages, Health Benefits and other Supplemental Benefits that are higher than the minimum and nothing herein shall be construed to constitute a

representation or guarantee by the Port Authority that the Contractor or its subcontractors can obtain employees for the amounts herein- before described.

H. Contractors (and its subcontractors) should expect to be audited with respect to Wages, Health and Supplemental Benefits paid or provided to Employees under this Contract. All Wage and Benefit requirements under this Contract will be strictly enforced. Failure on the part of the Contractor (and its subcontractors) to comply with any of the requirements under this Contract, including but not limited to the timely submission of payroll certifications and documents related to Health Benefits and Supplemental Benefits provided to Employees may be deemed a substantial breach of this Contract giving rise to the rights and remedies enumerated hereafter in the paragraph entitled "Rights and Remedies of the Port Authority" in the Standard Contract Terms and Conditions, as well as any other rights and remedies the Port Authority would have in the absence of such enumeration and failure to comply with each of these requirements will be taken into consideration prior to award of future contracts with the Port Authority.

I. The Contractor and its subcontractors shall maintain records in accordance with the requirements set forth in the paragraph entitled "Records and Reports" in the Standard Contract Terms and Conditions.

For records related to Wages, Health and Supplemental Benefits, the Contractor and its subcontractors are also required to provide such records and books of account in spreadsheet or other electronic format, when requested by Port Authority.

Upon request by the Port Authority, the Contractor (and its subcontractors) shall have (15) fifteen business days to provide such payroll records and books of account unless the Port Authority indicates, in writing, that such records and books of account may be provided at a later date.

In the event the Contractor or a subcontractor(s) fails to provide the required records, or if the Port Authority determines that the records and books of account provided for audit are incomplete, the Port Authority may, at its sole discretion, estimate wages, health and supplemental benefits and non-overtime hours worked in order to determine whether the Contractor (or its subcontractors) was in compliance with the Wages, Health and Supplemental Benefits provisions of this Contract.

J. Further, the Contractor shall submit (and shall cause its subcontractors to submit) to the Port Authority on the fifteenth day of the seventh month following the month in which the Commencement Date of this Contract falls and every six months thereafter, and the month following the month in which the termination date of this Contract falls, a certified statement signed by an executive officer of the Contractor (or its subcontractor) based upon the Contractor's (or subcontractors') payroll records which indicate that the Wage, Health and Supplemental Benefits requirements were met during the six month period ending on the last day of the month preceding the date of submission of the said statement, together with such other detailed information as the Port Authority may request from time to time regarding Wages, Health and Supplemental Benefits paid or provided by the Contractor or its subcontractor to Employees engaged in providing the Contractor's Services under the Contract. Each

certified statement shall, at a minimum, contain the level of detail specified in Exhibit C.

- K.** In the event that an audit of the Contractor's (or subcontractors) books and records or the aforesaid monthly statements submitted by the Contractor (or subcontractor) to the Port Authority should disclose that for any Contract Year, either the Contractor or a subcontractor has not paid at least the Minimum Hourly Wages as set forth above, the Average Hourly Direct Wages and the Supplemental Benefits as set forth in the "Calculation of Average Hourly Rate Form" and accepted by the Port Authority, and the Health Benefits as set forth herein (the "employee payments"), (including any adjustments, if provided for, as set forth in Part III in the section entitled "Price Adjustment"), the Contractor shall pay to the Contractor's Employees who have not been paid the proper employee payments (or to the Port Authority for retention by the Port Authority until such time as the Contractor's Employees are paid), or shall pay to the subcontractor's Employees similarly affected or shall have the subcontractor so pay, at the option of the Port Authority, an amount (calculated for the Contractor or subcontractor which has not paid or provided the required amounts hereunder) equivalent to the product obtained by multiplying the difference between the employee payments required hereunder and the employee payments actually paid or provided by the number of non-overtime hours worked by the affected Employees of the subject Contractor or subcontractor employed during such Contract year, calculated per the position category listed in Paragraph C above (hereinafter referred to as the "Underpayment Amount"). The Port Authority may, in its discretion, elect to deduct the Underpayment Amount due from the Contractor in accordance with the provisions of this Section from any subsequent payment payable to the Contractor under this Contract plus an amount equal to any payroll and associated taxes which would have been paid on the Underpayment Amount from any subsequent payment payable to the Contractor under this Contract.
- L.** In addition to the underpayment payable by the Contractor, the Port Authority may deduct interest on the underpayment amount calculated at 19.2% annual interest from any subsequent payment to the Contractor.
- M.** If requested by the Port Authority, the Contractor shall submit to the Port Authority for approval, a plan for the Contractor's or subcontractors' return of the Underpayment Amount to each affected Employee, including a deadline for compliance. In approving such a plan, the Authority may require the Contractor or a subcontractor to return the Underpayment Amount to the affected Employees in cash and the Contractor or the subcontractor is responsible for any additional payroll taxes resulting from this payment.

END OF PART V - SPECIFICATIONS

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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:

1. Authority or Port Authority - shall mean the Port Authority of New York and New Jersey.
2. Chief Engineer - shall mean the Chief Engineer of the Authority, or designee thereof, acting either personally or through his duly authorized representatives acting within the scope of the particular authority vested in him unless specifically stated to mean acting personally.
3. Contract, Document or Agreement - shall mean the writings setting forth the scope, terms and conditions 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 Sheet(s) with Contract prices inserted," "Standard Contract Terms and Conditions," and "Contract Specific Terms and Conditions," 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.
4. Days or Calendar Days - shall mean consecutive calendar days, Saturdays, Sundays, and holidays, included.
5. Director - shall mean the Director of World Trade Center Construction Department ("WTCC") of the Port Authority at which the services hereunder are to be performed, for the time being, or his/her designee or successor in duties for the purpose of this Contract, acting personally or through one of his/her authorized representatives for the purpose of this Contract.
6. Manager - shall mean the WTC Site Logistics Project Manager or his successor in duties for the purpose of this Contract, acting personally or through his duly authorized representative for the purpose of this Contract.
7. Minority Business Enterprise (MBE) - shall mean a business entity which is at least 51% owned and controlled by one or more members of one or more minority groups, or, in the case of a publicly held corporation, at least 51% of the stock of which is owned by one or more minority groups, and whose management and daily business operations are controlled by one or more such individuals who are citizens or permanent resident aliens.

"Minority Group" means any of the following racial or ethnic groups:

- a. Black persons having origins in any of the Black African racial groups not of Hispanic origin;
- b. Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race;
- c. Asian and Pacific Islander persons having origins in any of the original peoples of the Far East, Southeast Asia, The Indian Subcontinent, or the Pacific Islands;

- d. Native American or Alaskan native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.
8. Month - unless otherwise specified, shall mean a calendar month.
9. Site of the Work - or words of similar import shall mean the areas around the World Trade Center Site that require Contractor's performance of work, as required by this Contract and specifically designated in Attachment C, Scope of Work.
10. 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.
11. Week - unless otherwise specified, shall mean seven (7) consecutive calendar days, Saturdays, Sundays, and holidays.
12. 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.
13. Work - shall mean all services, equipment and 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 the services to be performed or goods to be furnished in connection with the service to be provided hereunder.
14. No person shall be deemed a representative of the Director or Manager except to the extent specifically authorized in an express written notice to the Contractor signed by the Director or Manager, as the case may be. Further, no person shall be deemed a successor in duties of the Director unless the Contractor is so notified in writing signed by the Authority's Manager, Purchasing Services Division. No person shall be deemed a successor in duties of the Manager unless the Contractor is so notified in a writing signed by the Director.

PART II GENERAL PROVISIONS

1. Rules and Regulations of The Port Authority

- 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 Rules and Regulations of the Port Authority now in effect, and such further reasonable Rules and Regulations which may from time to time during the term of this Agreement be promulgated by the Port Authority for

reasons of safety, health, preservation of property or maintenance of a good and orderly appearance and efficient operation around the World Trade Center site ("WTC Site") and the Site of the Work. The Port Authority agrees that, except in case of emergency, it shall give notice to the Contractor of every Rule and Regulation hereafter adopted by it at least five days before the Contractor shall be required to comply therewith.

- b. A copy of the facility Rules and Regulations of the Port Authority shall be available for review by the Contractor at the Office of the Secretary of the Port Authority.

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 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, its 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 Port 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 Port 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 Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, 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.
- c. See also Paragraph 8 of Exhibit A, FTA Requirements.

6. Rights and Remedies of the Port Authority

The Port 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 Port 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 Port 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 stop 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 Port Authority, the Contractor expressly agrees that no default, act or omission of the Port 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, 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 Port 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 of the Work which interfere or are likely to interfere with the operation of the Port Authority or with the operations of lessees, licensees or other users of the Site of the Work or with the operations of the Contractor under this Contract.
- b. The Contractor shall immediately give notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or

controversies and the progress thereof. The Contractor shall use its best efforts to resolve any such complaint, trouble, dispute or controversy. If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against the Contractor at the Site of the Work or against any operations of the Contractor under this Contract, whether or not caused by the employees of the Contractor, and if any of the foregoing, in the opinion of the Port Authority, results or is likely to result in any curtailment or diminution of the services to be performed hereunder or to interfere with or affect the operations of the Port Authority, or to interfere with or affect the operations of lessees, licensees, or other users around the WTC Site or in the event of any other cessation or stoppage of operations by the Contractor hereunder for any reason whatsoever, the Port Authority shall have the right at any time during the continuance thereof to suspend the operations of the Contractor under this Contract, and during the period of the suspension the Contractor shall not perform its services hereunder and the Port Authority shall have the right during said period to itself or by any third person or persons selected by it to perform said services of the Contractor using the equipment which is used by the Contractor in its operations hereunder as the Port Authority deems necessary and without cost to the Port Authority. During such time of suspension, the Contractor shall not be entitled to any compensation. Any flat fees, including any management fees, shall be prorated. Prior to the exercise of such right by the Port Authority, it shall give the Contractor notice thereof, which notice may be oral. No exercise by the Port Authority of the rights granted to it in the above subparagraph shall be or be deemed to be a waiver of any rights of termination or revocation contained in this Contract or a waiver of any rights or remedies which may be available to the Port Authority under this Contract or otherwise.

- c. During the time that the Contractor is performing the contract, other persons may be engaged in other operations on or about the Site of the Work including operations, pedestrian, bus and vehicular traffic and other Contractors performing at the worksite, 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 site and not to delay, endanger or interfere with the operation of others (whether or not specifically mentioned above), all to the best interests of the Port Authority and the public as may be directed by the Port Authority.

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

- a. 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.

- b. This Agreement is funded in whole or in part by the Federal Transit Administration (FTA), pursuant to the current version of the "United States of America Department of Transportation Federal Transit Administration - Master Agreement for Lower Manhattan Recovery Grants" ("Master Agreement"). Accordingly, the FTA required contract provisions, attached hereto as Exhibit A and incorporated herein shall apply to this Contract and any subcontract hereunder.

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 Port 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 Port 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 Port 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. Termination for Convenience. If one or more of the following events shall occur:

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

then upon the occurrence of such event or at any time thereafter during the continuance thereof, the Port Authority shall have the right on twenty-four (24) hours written notice to the Contractor to 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 Port Authority shall have the right upon five (5) days notice to the Contractor to terminate this Contract and the rights of the Contractor hereunder; termination to be effective upon the date and time specified in such notice as if said date were the date of the expiration of this Contract. Termination shall not relieve the Contractor of any liabilities or obligations hereunder which have accrued on or prior to the effective date of termination.

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

- d. If any of the events enumerated in this Section shall occur prior to commencement date of this Contract the Port Authority upon the occurrence of any such event or any time thereafter during the continuance thereof by twenty-four (24) hours notice may terminate or suspend this Contract and the rights of the Contractor hereunder, such termination or suspension to be effective upon the date specified in such notice.
- e. No payment by the Port Authority of any monies to the Contractor for any period or periods after default of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Contractor and no act or thing done or omitted to be done by the Port Authority shall be deemed to be a waiver of the right of the Port Authority to terminate this Contract or of any other right or remedies to which the Port Authority may be entitled because of any breach thereof. No waiver by the Port Authority of any default on the part of the Contractor in the performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Contractor shall be or be construed to be a waiver by the Port Authority of any other subsequent default in the performance of any of the said terms, covenants and conditions.
- f. In addition to all other rights of revocation or termination hereunder and notwithstanding any other provision of this Contract the Port Authority may terminate this Contract and the rights of the Contractor hereunder 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 date were the original expiration date hereof and if such effective date of termination is other than the last day of the month, the amount of the compensation due to the Contractor from the Port Authority shall be prorated when applicable on a daily basis. Such cancellation shall be without prejudice to the rights and obligations of the parties arising out of portions already performed but no allowance shall be made for anticipated profits.
- g. The 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 Port Authority shall have at law or in equity consequent upon the Contractor's breach of this Contract and shall be without prejudice to any and all such other rights and remedies. It is hereby specifically agreed and understood that the exercise by the Port Authority of any right of termination set forth in this paragraph shall not be or be deemed to be an exercise by the Port Authority of an election of remedies so as to preclude the Port 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 Port Authority and the Contractor (including its obligation to the Port Authority to pay any claim lawfully made against it by any supplier, subcontractor or worker or other person which arises out of or in connection with the performance of this Contract or any other agreement with the Port Authority) or (2) any claim (just or unjust) which arises out of or in connection with this Contract or any other agreement between the Port Authority and the Contractor is made against the Port Authority or (3) any subcontractor under this Contract or any other agreement between the Port Authority and the Contractor fails to pay any claims lawfully made against it by any supplier, subcontractor, worker or other third person which arises out of or in connection with this Contract or any other agreement between the Port Authority and the Contractor or if in the opinion of the Port Authority any of the aforesaid contingencies is likely to arise, then the Port Authority shall have the right, in its discretion, to withhold out of any payment (final or otherwise) such sums as the Port Authority may deem

ample to protect it against delay or loss or to ensure the payment of just claims of third persons, and to apply such sums in such manner as the Port Authority may deem proper to secure such protection or satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Port Authority to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of such payment, shall not be deemed to indicate that the Port Authority does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Port Authority to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such rights by the Port Authority shall create any obligation of any kind to such supplier, subcontractors, worker or other third persons. If, however, the payment of any amount due the Contractor shall be improperly delayed, the Port Authority shall pay the Contractor interest thereon at the rate of 6% per annum for the period of the delay, it being agreed that such interest shall be in lieu of and in liquidation of any damages to the Contractor because of such delay.

- i. If the Port Authority has paid any sum or has incurred any obligation or expense which the Contractor has agreed to pay or reimburse the Port Authority, or if the Port Authority is required or elects to pay any sum or sums or incurs any 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 Port Authority the sum or sums so paid or expense so incurred, including all interests, costs and damages, promptly upon the receipt of the Port Authority's statement therefore. The Port 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 Port Authority pays any installment to the Contractor without reducing said installment as may be provided in this Contract, it may reduce any succeeding installment by the proper amount, or it may bill the Contractor for the amount by which the installment paid should have been reduced and the Contractor shall pay to the Port Authority any such amount promptly upon receipt of the Port Authority's statement therefore.
- k. The Port 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 Tax Exemption

- a. Purchases of services and tangible personal property by the Port Authority are exempt from New York and New Jersey state and local sales and compensating use taxes (Sales Taxes). Therefore, the Port Authority's purchase of the Contractor's services under this Contract is exempt from Sales Taxes. Accordingly, the Contractor must not include Sales Taxes in the price charged to the Port Authority for the contractor's services under this Contract.
- b. The compensation set forth in this Agreement is the complete compensation to the Contractor, and the Port Authority will not separately reimburse the Contractor for any taxes unless specifically set forth in this Agreement.

16. No Estoppel or Waiver

- a. The Port 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 Port 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.
- b. 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 Port 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

- a. 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 Port 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 Port Authority has notified the Contractor in writing of a pending claim by the Port 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.
- b. 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 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 Port Authority of all such

equipment or devices.

- c. The Contractor hereby further agrees to furnish to the Port Authority from time to time such written reports in connection with its operations hereunder as the Port Authority may deem necessary or desirable. The format of all forms, schedules and reports furnished by the Contractor to the Port Authority shall be subject to the continuing approval of the Port Authority.
- d. No provision in this Contract giving the Port 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 Manager.
- 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 is not to be construed as a submission by the Port 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, in conducting its operations hereunder, take all necessary precautions to protect the general environment and to prevent environmental pollution, contamination, damage to property and personal injury. In the event the Contractor encounters material reasonably believed to be asbestos, polychlorinated biphenyl (PCB) or any other hazardous material, in conducting its operations hereunder, the Contractor shall immediately stop Work in the area affected and report the condition in writing to the Manager. 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 Manager.

- e. 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 applicable fire insurance policies covering the Site of the Work or any part thereof or upon the contents of any building thereon; or
 2. will increase the rate of any applicable fire insurance, extended coverage or rental insurance or any part thereof or upon the contents of any building thereon; or
 3. in the opinion of the Port Authority will cause or 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 of Work 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 the work area; or
 6. shall constitute a nuisance in or around the WTC site or the Site of the Work or which may result in the creation, commission or maintenance of a nuisance.
- f. If by reason of the Contractor's failure to comply with the provisions of this Section and provided the Port 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 of the Work 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 Port Authority that part of all fire insurance, extended coverage or rental insurance premiums paid or payable by the Port Authority which shall have been charged because of such violations by the Contractor.
- g. The Contractor shall conduct its operations hereunder so as not to endanger, unreasonably interfere with, or delay the operations or activities of any tenants or occupants on the premises and, moreover, shall use the same degree of care in performance on the premises as would be required by law of the Port Authority and shall conduct operations hereunder in a courteous, efficient and safe manner.
- h. The Contractor shall provide such equipment and medical facilities as may be necessary to supply first aid service in case of accidents to its personnel who may be injured in the furnishing of service hereunder. The Contractor shall maintain standing arrangements for the removal and hospital treatment of any of its personnel who may be injured.

19. Assignments and Subcontracting

- a. Any assignment or other transfer by the Contractor of this Contract or any part hereof or of any of his rights hereunder or of any monies due or to become due hereunder and any delegation of any of his duties hereunder without the express consent in writing of the Authority shall be void

and of no effect as to the Authority, provided, however, that the Contractor may subcontract portions of the Work to such persons as the Engineer may, from time to time, expressly approve in writing. For each individual, partnership or corporation proposed by the Contractor as a subcontractor, the Contractor shall submit to the Authority a certification or, if a certification cannot be made, a statement by such person, partnership or corporation to the same effect as the certification or statement required from the Contractor pursuant to the clauses of the "Information For Bidders" entitled "Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Suspension, Debarment, Disqualification, Prequalification Denial or Termination, Etc; Disclosure of Other Required Information", "Non-Collusive Bidding and Code of Ethics Certification; Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent Fee or Other Fee" and "Certification of Participation in a State-Registered Apprenticeship Program". For each proposed subcontractor, the Contractor shall ensure that the Background Qualification Questionnaire Package ("BQQP"), available at http://www.panynj.gov/wtcprogress/pdf/PANYNJ_OIG_WTC_BOOP.zip, is completed. The Certification of Participation in a State-Registered Apprenticeship Program shall only be applicable to each subcontractor whose total amount of subcontract under this Contract is greater than \$1 Million Dollars. Notwithstanding the aforementioned, for any subcontract or supply contract greater than \$25,000, the Contractor shall obtain certifications and any necessary disclosure forms from all subcontractors and suppliers as set forth in Part III below and in Exhibit A, FTA Requirements, Paragraph 5 (Debarment and Suspension) and for any subcontract or supply contract greater than \$100,000, the Contractor shall obtain certifications and any necessary disclosure forms from all subcontractors and suppliers as set forth in Part III below and in Exhibit A, FTA Requirements, Paragraph 6 (Certification - Lobbying Restrictions - Contracts Exceeding \$100,000) and forward the originals to the Director of Procurement, Procurement Department, Port Authority of New York & New Jersey, One Madison Avenue, 7th Floor New York, New York 10010. All further subcontracting by any subcontractor shall also be subject to such approval of the Engineer. Approval of a subcontractor may be conditioned on (among other things) the furnishing, without expense to the Authority, of a surety bond guaranteeing payment by the subcontractor of claims of materialmen, subcontractors, workmen and other third persons arising out of the subcontractor's performance of any part of the Work.

- b. No consent to any assignment or other transfer, and no approval of any subcontractor, shall under any circumstances operate to relieve the Contractor of any of his obligations; no subcontract, no approval of any subcontractor and no act or omission of the Authority or the Engineer shall create any rights in favor of such subcontractor and against the Authority; and as between the Authority and the Contractor, all assignees, subcontractors, and other transferees shall for all purposes be deemed to be agents of the Contractor. Moreover, all subcontracts and all approvals of subcontractors shall be and, regardless of their form, shall be deemed to be conditioned upon performance by the subcontractor in accordance with this Contract; and if any subcontractor shall fail to perform the Contract to the satisfaction of the Engineer, the Engineer shall have the absolute right to rescind his approval forthwith and to require the performance of the Contract by the Contractor personally or through other approved subcontractors.
- c. In the event the Authority enters into agreement with a third party or third parties, for such party or parties to assume management and/or operation of some or all of the World Trade Center, the Authority shall have the right to assign this Contract in whole or in part to such third party or parties following advance written notice to the Contractor.

20. Indemnification and Risks Assumed By The Contractor

To the extent permitted by law, the Contractor shall indemnify and hold harmless the Port Authority, its Commissioners, officers, representatives and employees from and against all claims and demands, just or unjust, of third persons (including employees, officers, and agents of 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 the Port Authority, of third persons, 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, the Port Authority or third persons or from any other cause, excepting only risks occasioned solely by affirmative willful acts of the Port Authority done subsequent to the opening of bids on this Contract, and shall to the extent permitted by law indemnify the Port Authority for all loss or damage incurred in connection with such risks:

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

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

statutes respecting suits against the Port Authority.

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

21. Approval of Methods

Neither the approval of the Port Authority of the methods of furnishing services hereunder nor the failure of the Port Authority to call attention to improper or inadequate methods or to require a change in the method of furnishing services hereunder, nor the failure of the Port 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 of the Work. 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 Manager.
- c. The Contractor shall at all times maintain in a clean and orderly condition and appearance any and all facilities provided by the Port Authority for the Contractor's operations, and all fixtures, sink closets, equipment, and other personal property of the Port Authority which are located in said facilities.

23. Accident Reports

The Contractor shall promptly report in writing to the Manager and to the Deputy Chief, Litigation Management of the Port Authority 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.

24. Trash Removal

The Contractor shall remove daily from the Site of the Work 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 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 of the Work. 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 of the Work.

25. 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 of the Work must be turned in to the Port Authority and a receipt will be issued therefor.

26. Property of the Contractor

- a. All property of the Contractor at the Site of the Work 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.

27. Modification of Contract

- a. The Authority reserves the right to make changes that are within the general scope of this Contract. Payment for such changes shall be made in accordance with the Pricing Sheet(s) of this Contract. If the Contractor is of the opinion that any work it has been directed to perform is beyond the Scope-of-Work of this Contract and constitutes extra work, it shall notify the Authority in writing within twenty-four (24) hours of such direction. The Authority's determination as to whether or not such work constitutes extra work shall be final, conclusive and binding upon the Contractor except as to arbitrariness or matters of law, and the Contractor shall be entitled to request additional compensation for the extra work as provided by this Contract. Changes that are for work that is outside the scope of the Contract shall be accomplished either by competitive bids or proposals or shall have justification for the use of a sole source procurement.
- b. 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.
- c. See also the Extra Work Provision located in the Contract Specific Terms and Conditions of this Contract.

28. Dispute Resolution.

- a. To resolve all disputes and to prevent litigation, the parties to this Contract authorize Authority's Chief Engineer to decide all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to, or on account of, this Contract (including claims in the nature of breach of contract or fraud or misrepresentation before or subsequent to acceptance of Contractor's bid and claims of a type that are barred by the provisions of this Contract). Chief Engineer's decision with respect to any question or dispute under this Paragraph 28 shall be conclusive, final, and binding on the parties. The decision may be based on such assistance as Chief Engineer may find desirable.
- b. The effect of Chief Engineer's decision with respect to any question or dispute under this Section 28 shall not be impaired or waived by any negotiations or settlement offers in connection with the question or dispute decided, whether or not Chief Engineer participated therein, or by any prior decision of the Port Authority or others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Contract.
- c. All such questions or disputes under this Paragraph shall be submitted in writing by Contractor or the Port Authority to Chief Engineer for decision, together with all evidence and other pertinent information in regard to such question or dispute, in order that a fair and impartial decision may be made. The other party shall have a reasonable time to respond. The Port Authority may join any other entity to the dispute that has a valid dispute resolution agreement with the Port Authority. In any action against the Port Authority relating to any such question or dispute, Contractor must allege in its complaint and prove such submission, which shall be a condition precedent to any such action. No evidence or information shall be introduced or relied upon in such an action that has not been so presented to Chief Engineer.

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 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 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 and it shall be incumbent upon the Contractor to obtain the most current list from the Manager.

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 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 the Port Authority or its employees or agents, 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 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 or the Port Authority, 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 the Port Authority against infringement, then the Port Authority may, without limiting any other rights it may have, require the Contractor to supply temporary or permanent replacement facilities approved by the 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 the Port Authority or take such steps as may be necessary to insure compliance by the Contractor and the Port Authority with said injunction, to the satisfaction of the Port Authority.

In addition, the Contractor shall promptly and fully inform the Director 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 Authority, the Contractor shall make available to the designated Authority representative all such passwords and codes.

33. High Security Areas

- a. Services under the Contract may be required in high security areas, as the same may be designated by the Manager from time to time. The Port Authority shall require the observance

of certain security procedures with respect to the high security 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.

- b. Twenty-four hours prior to the proposed performance of any work in a high security area, the Contractor shall notify the Manager. The Contractor shall conform to the procedures as may be established by the Manager from time to time and at any time for access to high security areas and the escorting of personnel hereunder. Prior to the start of work, the Contractor shall request a description from the Manager of the high security areas which will be in effect on the commencement date. The description of high security areas may be changed from time to time and at any time by the 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 Authority reserves the right to impose multiple layers of security requirements on the performance of the Contract work, including on the Contractor, its staff and subcontractors and their staffs depending upon the level of security required, as determined by the Authority. The Contractor shall and shall instruct its subcontractors to cooperate with Authority staff in adopting security requirements. These security requirements may include but may not be 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/current government issued identification (at least one having an official photograph) to verify staff's name and residence; (2) screening of federal, state, and/or 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.

The Contractor may be required to have its staff, and any subcontractor's staff, authorize the Authority or its designee to perform background checks. Such authorization shall be in a form acceptable to the Authority. If the Authority directs the Contractor to have identity checks and background screening performed by a particular firm designated by the Authority, the Authority will compensate the Contractor for the cost of such screening pursuant to the Extra Work provisions of the Contract.

- b. No person will be permitted on or about the construction site without a photo identification badge approved by the Engineer. The Contractor shall provide such badges for employees, subcontractors and materialmen. All employees of the Contractor, subcontractors and materialmen shall wear identification badges in a conspicuous and clearly visible position whenever they are working at the construction site.

If the Authority requires facility-specific identification badges for the Contractor's and subcontractors' staffs, the Authority will supply such identification badges at no cost to the Contractor.

- c. **Access control, inspection, and monitoring by security guards:**

The Authority will provide for facility access control, inspection and monitoring by Authority retained security guards. Should the Authority require the Contractor to hire security guards for the purpose of facility access control and inspection in lieu of or in addition to the Authority retained facility security guards, the Contractor will be reimbursed for the cost of such security guards pursuant to the Extra Work provisions of the Contract. However, this provision shall not relieve the Contractor of its responsibility to secure its equipment and work at the facility at its own expense.

The Authority may impose, increase, and/or upgrade security requirements for the Contractor, subcontractors and their staffs during the term of this Contract to address changing security conditions and/or new governmental regulations.

Attached hereto as Exhibit C and incorporated herein is the current revision of Downtown Restoration Program – The World Trade Center Site – Safety, Health and Environmental Program.

35. Construction In Progress

The Contractor recognizes that construction is in progress at the WTC Site 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 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 facility requiring issuance of an OSHA permit, the Contractor shall contact the Manager to obtain an 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 WTC Site.

38. Vending Machines, Food Preparation

The Contractor shall not install, maintain or operate on the Site of the Work any vending machines without the prior written approval of the Port Authority.

39. Confidential Information/Non-Publication

- a. Confidential information shall mean all information disclosed to the Contractor or the personnel provided by the Contractor hereunder which relates to the Authority's past, present, and future research, development and business activities including, but not limited to, software

and documentation licensed to the Authority or proprietary to the Authority and all associated software, source code procedures and documentation. Confidential information shall also mean any other tangible or intangible information or materials including but not limited to computer identification numbers, access codes, passwords, and reports obtained and/or used during the performance of the Contractor's services under this Contract.

Confidential information shall also mean and include collectively, as per *The Port Authority of New York & New Jersey Information Security Handbook (October 15, 2008, corrected as of February, 9 2009)*, Confidential Proprietary Information, Confidential Privileged Information and information that is labeled, marked or otherwise identified by or on behalf of the Authority so as to reasonably connote that such information is confidential, privileged, sensitive or proprietary in nature. Confidential Information shall also include all work product that contains or is derived from any of the foregoing, whether in whole or in part, regardless of whether prepared by the Authority or a third-party or when the Authority receives such information from others and agrees to treat such information as Confidential.

The Contractor shall hold all such confidential information in trust and confidence for the Authority, and agree that the Contractor and the personnel provided by the Contractor hereunder shall not, during or after the termination or expiration of this Contract, disclose to any person, firm or corporation, nor use for its own business or benefit, any information obtained by it under or in connection with the supplying of services contemplated by this Contract. The Contractor and the personnel provided by the Contractor hereunder shall not violate in any manner any patent, copyright, trade secret or other proprietary right of the Authority or third persons in connection with their services hereunder, either before or after termination or expiration of this Contract. The Contractor and the personnel provided by the Contractor hereunder shall not willfully or otherwise perform any dishonest or fraudulent acts, breach any security procedures, or damage or destroy any hardware, software or documentation, proprietary or otherwise, in connection with their services hereunder. The Contractor shall promptly and fully inform the Director in writing of any patent, copyright, trade secret or other intellectual property rights or disputes, whether existing or potential, of which the Contractor has knowledge, relating to any idea, design, method, material, equipment or other matter related to this Contract or coming to the Contractor's attention in connection with this Contract.

- b. The Contractor shall not issue nor permit to be issued any press release, advertisement, or literature of any kind, which refers to the Port Authority or to the fact that goods have been, are being or will be provided to it and/or that services have been, are being or will be performed for it in connection with this Agreement, unless the vendor first obtains the written approval of the Port Authority. Such approval may be withheld if for any reason the Port Authority believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

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 of the Work:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Columbus Day
Presidents Day	Veterans Day
Memorial Day	Thanksgiving Day
Independence Day	Day After Thanksgiving
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 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 Manager, any employee so assigned is performing his/her functions unsatisfactorily, he/she shall be replaced by the Contractor within twenty-four (24) hours following the Contractor's receipt of the 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 Manager's staff. Any employee operating a motor vehicle must have a valid driver's license.

43. General Uniform/Dress Code Requirements for Contractor's Personnel

In addition to any specific uniform or dress code requirements (collectively referred to herein as "uniforms") 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 Manager. The Contractor will also be responsible for ensuring that its employees are wearing shoes appropriate for the tasks performed. The 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 of the Work 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 rates set forth in the Pricing sheet(s) include all costs and expenses for the foregoing.

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 of the Work.

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 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 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 of the Work or for the safety and proper persons who park automotive vehicles in any parking area at the Site of the Work 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 Manager. Any vehicle used by the Contractor hereunder shall be marked or placarded, identifying it as the Contractor's vehicle.

46. Manager's Authority

In the performance of the Work hereunder, the Contractor shall conform to all orders, directions and requirements of the Manager and shall perform the Work hereunder to the satisfaction of the 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 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 Manager objects. Upon request, the Manager shall confirm in writing any oral order, direction, requirement or determination.

The Manager shall have the authority to decide all questions in connection with the Services to be performed hereunder. The exercise by the 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. Order of Precedence

If there is a conflict between provisions of this Contract, the following order of precedence shall apply:

- a. FTA statutes and regulations, including Exhibit A, FTA Requirements
- b. Downtown Restoration Program – The World Trade Center Site – Safety, Health and Environmental Program, Exhibit B
- c. Attachment C, Scope of Work
- d. Part III, The Contract Specific Terms and Conditions
- e. The Standard Contract Terms and Conditions

48. M/WBE Good Faith Participation

If specified as applicable to this Contract, the Contractor shall use every good-faith effort to provide for participation by certified Minority Business Enterprises (MBEs) and certified Women-owned Business Enterprises (WBEs) as herein defined, in all purchasing and subcontracting opportunities associated with this Contract, including purchase of equipment, supplies and labor services.

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

- a. Dividing the services and materials to be procured into small portions, where feasible.
- b. Giving reasonable advance notice of specific contracting, subcontracting and purchasing opportunities to such MBEs/WBEs as may be appropriate.
- c. Soliciting services and materials, to be procured, from the Directory of MBEs/WBEs, a copy of which can be obtained by contacting the Port Authority's Office of Business and Job Opportunity at (212) 435-7819 or seeking MBEs/WBEs from other sources.
- d. Insuring that provision is made to provide progress payments to MBEs/WBEs on a timely basis.
- e. Observance of reasonable commercial standards of fair dealing in the respective trade or business.

Either prior or subsequent to Contract award, the Contractor may request a full or partial waiver of the M/WBE participation goals set forth in this Contract by providing documentation demonstrating to the Manager, for approval by the Port Authority's Office of Business and Job Opportunity, that its good faith efforts did not result in compliance with the goals set forth above because participation by eligible M/WBEs could not be obtained at a reasonable price or that such M/WBEs were not available to adequately perform as subcontractors. The Contractor shall provide written documentation in support of its request to the Manager. The documentation shall include, but not be limited to, documentation demonstrating good faith efforts as described above, which may include, proof that the Authority's directory does not contain M/WBEs in this specific field of work, a list of organizations contacted to obtain M/WBEs, and/or a list of M/WBEs contacted and their price quotes. If approved by the Authority's Office of Business and Job Opportunity, the Manager will provide written approval of the modified or waived M/WBE Participation Plan.

Subsequent to Contract award, all changes to the M/WBE Participation Plan must be submitted via a modified M/WBE Participation Plan to the Manager for review and approval by the Authority's Office of Business and Job Opportunity. For submittal of modifications to the M/WBE Plan, Contractors are directed to use form PA3749C, which may be downloaded at http://www.panynj.gov/DoingBusinessWith/contractors/html/other_info.html. The Contractor shall not make changes to its approved M/WBE Participation Plan or substitute M/WBE

subcontractors or suppliers for those named in their approved plan without the Manager's prior written approval. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the Contractor's own forces, shall be a violation of this section. Progress toward attainment of M/WBE participation goals set forth herein will be monitored throughout the duration of this Contract.

The Contractor shall also submit to the Manager, along with invoices, the Statement of Subcontractor Payments as the M/WBE Participation Report, annexed hereto as an attachment. The Statement must include the name and business address of each M/WBE subcontractor and supplier actually involved in the Contract, a description of the work performed and/or product or service supplied by each such subcontractor or supplier, the date and amount of each expenditure, and such other information that may assist the Manager in determining the Contractor's compliance with the foregoing provisions.

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

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 \$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 to the individual named in the clause hereof entitled "Bidder's Questions"), 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.

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. 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-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 on this Contract of any change of circumstances which might under this clause make it unable to make the foregoing certifications 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 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 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. No Gifts, Gratuities, Offers of Employment, Etc.

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

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

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

In 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.

5. 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. 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.

6. 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 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;

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.

EXHIBIT A

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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 the Federal Transit Administration, pursuant to the current version of the "United States of America Department of Transportation Federal Transit Administration - Master Agreement for Lower Manhattan Recovery Grants" ("Master Agreement").

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

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

2. FEDERAL CHANGES

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

3. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

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

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

4. ORGANIZATIONAL CONFLICT OF INTEREST

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

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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.

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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, One Madison Avenue, 7th Floor, New York, NY 10010.

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- 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

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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

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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.

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- (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

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

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- (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

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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.

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

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

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

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

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

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

B. 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,

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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.

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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 FTA Administrator and grantee (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20230.
- C. To include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

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

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

- A. Minimum Wages
 - 1.) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not

Federal Transit Administration Requirements

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

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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:

Federal Transit Administration Requirements

- (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

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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:

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- (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

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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

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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

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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.

Federal Transit Administration Requirements

C. **Withholding for unpaid wages and liquidated damages**

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

D. **Subcontracts**

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

12. **SEISMIC SAFETY**

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

13. **ENERGY CONSERVATION**

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

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

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

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- B. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- C. The Contractor also agrees to include the requirements of this Article in all subcontracts exceeding \$100,000 issued pursuant to this Contract.

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

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

16. FLY AMERICA

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

17. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

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

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

18. PREFERENCE FOR RECYCLED PRODUCTS

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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.

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)(1)-(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

FTA REQUIREMENTS

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

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

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

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

FTA REQUIREMENTS

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

1. The prospective lower tier participant,

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

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

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

Executed this day _____ of _____, 2009.

BY SIGNATURE OF AUTHORIZED OFFICIAL

NAME AND TITLE OF AUTHORIZED OFFICIAL

FTA REQUIREMENTS

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

1. By signing and submitting this Proposal, the prospective lower tier participant is providing the signed certification set out on the previous page.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Authority may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the Authority if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. The Proposer may contact the Procurement Representative for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Authority.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under sub-paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Authority may pursue available remedies including suspension and/or debarment.

EXHIBIT B

DOWNTOWN RESTORATION PROGRAM

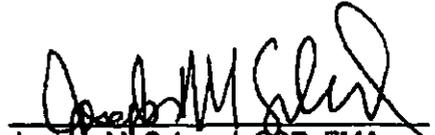
THE WORLD TRADE CENTER SITE

**SAFETY, HEALTH AND
ENVIRONMENTAL
PROGRAM**

June 4, 2008
Revision 1

Approvals and Endorsements

Prepared by:



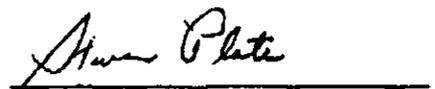
Joseph M. Schwed, CSP, FMA
WTC Site Safety Director
World Trade Center Construction

Reviewed by:



Alan Reiss
Deputy Director
World Trade Center Construction

Accepted by:



Steven Plate
Director, World Trade Center

Date Issued: 05/05/08

Revisions

Rev. No.	Rev. Date	Description
0	5-May-08	Initial Issue
1	4-June-08	Initial Issue Comments Incorporated

ACRONYMS

American Society for Testing and Materials:	ASTM
Compressed Gas Cylinder:	CGC
Contractor Safety Manager:	CSM
Engineer of Construction:	EOC
Fire Department of New York:	FDNY
Federal Railroad Administration:	FRA
Hazardous Material:	HAZMAT
Health and Safety Plan:	HASP
PA Inspection & Safety Division:	ISD
Job Hazard Analysis:	JHA
Lower Manhattan Development Corporation:	LMDC
Metropolitan Transportation Authority	MTA
National Electric Code:	NEC
National Fire Protection Association:	NFPA
New York City Building Code:	NYCBC
New York City Department of Buildings	NYCDOB
Port Authority Trans-Hudson:	PATH
PATH Right of Way:	ROW
PATH System Safety and Security Division:	PATH SS&SD
Port Authority Resident Engineer's Office:	REO
Silverstein Properties, Inc:	SPI
PA Tenant Alteration Application:	TAA
PA Tenant Construction and Alteration Applications:	TCA
U.S. Department of Transportation:	US DOT
U.S. Occupational Safety and Health Administration:	OSHA
World Trade Center Site:	WTC Site
World Trade Center Site Safety Director:	SSD

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1.01 Program Objective

The Port Authority of New York and New Jersey (hereinafter referred to as the "Port Authority") has prepared this Site Safety, Health, and Environmental Program, hereinafter referred to as the "Program," to promote safety, and to mitigate and/or control all hazards associated with the construction at the World Trade Center Site. The goals of this Program are to prevent personal injury, property damage, environmental damage, and to reduce all direct and indirect costs and productivity losses attributable to accident occurrences.

The Port Authority reserves the right to revise this Program as required and necessary to ensure worker, public, property, and environmental protection, and to remain current with applicable regulations and technologies.

To ensure the safety of World Trade Center (WTC) Site workers, visitors, and the protection of the public, property and environment, no work shall commence until notification is received from the Port Authority Resident Engineer's Office (REO) that the prime contractors' health and safety plan and all related submittals have been approved by the Port Authority.

1.02 Program Approach

The Program is currently applicable to the WTC Tower 1-Freedom Tower, the WTC Memorial and Museum, the WTC Vehicle Security Center and the WTC PATH Transportation HUB Projects. Discussions are ongoing with other stakeholder projects and an addendum to the Program will be issued upon completion.

These are the minimum WTC Site requirements established by the Port Authority for worker protection, public safety, the protection of adjoining properties/utilities/streets, and the environment. All prime and sub-contractors, employees, consultants, vendors, and external agencies shall be required to incorporate these Port Authority requirements into their corporate health and safety plans. All provisions herein are intended to ensure regulatory compliance and best management practices during the performance of any work at the WTC Site.

All work performed at the WTC Site must be carefully coordinated as to not interfere with the construction activities of others working at the WTC Site, WTC Site maintenance and operations, or with the continuous operation and security of the PATH and MTA transit systems. Constant care must be exercised at all time to avoid any adverse impacts to PATH or MTA customers, employees, the general operation, security, structural integrity of the system, and emergency egress pathways, or impede emergency response.

1.03 Program Effectiveness and Cooperation

The effectiveness of this Program is dependent on the active participation and cooperation between the Port Authority, all WTC stakeholders/owners and agencies performing or responsible for construction activities on or in the vicinity of the WTC Site including, WTC Site tenants and lessees, as well as respective employees, consultants, prime contractors, sub-contractors, tradesmen, vendors, and authorized visitors.

The success of the Program, its implementation and maintenance requires the careful coordination of all construction activities on the WTC Site respectful of the following items:

- a) All work must be planned prior to execution to ensure that appropriate care is taken to anticipate and eliminate all risks or potential for personal injury, property damage, and environmental damage;
- b) The means and methods employed for the performance of any work must comply with the safety requirements of all applicable federal, state and local jurisdictional rules and regulations, ordinances, codes, statutes, industry standards, and Port Authority policies and procedures;
- c) Reliable, verifiable and uniform health and safety procedures must be established and maintained for the entire WTC Site to ensure the prompt detection and remediation of unsafe conditions or work practices. Safety deficiencies shall be corrected on a timely basis, or as directed by the REO, the WTC Site Safety Director (SSD), or their designated representatives. Each prime contractor's Contractor Safety Manager (CSM) shall establish a documented program to track and categorize injuries and illnesses, and record all safety deficiencies and the corrective actions taken as to each;
- d) Comprehensive safety training programs must be established and maintained for WTC Site workers to enhance safety awareness, and to promote a cooperative approach in the identification and mitigation of unsafe or unhealthy conditions and work practices;
- e) Comprehensive, enforceable, and site specific Health and Safety Plans (HASPs) and Job Hazard Analyses (JHAs) must be established by each prime and sub-contractor, and be readily available at the worksite to ensure that all work is performed in a manner that eliminates predictable worker, property, and environmental hazards. All HASPs and JHAs shall be submitted prior to the performance of any work, and at a minimum be updated quarterly or as required by the REO, the SSD or their designated representatives based upon any changes in the scope of work, existing site conditions, or the intended method of execution;

- f) A comprehensive communications system must be established and maintained to ensure that all emergency response contacts and related information are readily available throughout the WTC Site for the prompt reaction to and investigation of all accidents/incidents;
- g) All work except that regulated under 29 CFR 1926 Subpart R performed on vertical or horizontal surfaces or ledges that are equal to or greater than 6 feet above a lower level, including work on scaffolds, shall require fall protection.

Each prime contractor shall develop and implement a comprehensive and enforceable 100% Fall Protection Policy to be followed by all sub-contractors, employees, vendors, consultants, and external agencies when working or walking on all vertical and horizontal surfaces and ledges, including work performed on scaffolding, equal to or greater than 6 feet above a lower level except that regulated under 29 CFR 1926 Subpart R. Fall protection systems shall be designed by a qualified person, and installed and maintained by a competent person.

When determined by the competent person of a work crew performing leading edge or pre-cast concrete erection work that fall protection is infeasible, that competent person shall prepare a Fall Protection Plan as described in U.S. OSHA 29 CFR 1926.502(k), have it signed by a principal of that company, and forward the document to the prime contractor's CSM. The CSM shall review and approve the plan, and forward it to the REO and SSD for review and comment as required.

When determined by the competent person of a work crew erecting or dismantling a scaffold that fall protection is infeasible, consistent with U.S. OSHA 29 CFR 1926.451(g)(2), the competent person shall substantiate in writing the following, have it signed by a principal of that company, and forward the document to the prime contractor's CSM. The CSM shall review and approve the plan, and forward it to the REO and SSD for review and comment as required:

1. The type, location, and height of the scaffold being erected, used or dismantled;
2. The size of the work crew for scaffold erection, use or disassembly;
3. The duration of the task requiring scaffold erection, use or disassembly;
4. The conditions and reasons why fall protection is infeasible;
5. The methods used to inform, train and protect the workers from falls in the absence of fall protection.

- h) A comprehensive and enforceable Lockout/Tagout Program shall be established and followed prior to the performance of any operation in which a piece of machinery, equipment, system, or component thereof could unexpectedly start-up or become energized and release a form of energy (e.g.: electrical, mechanical, hydraulic, pneumatic, chemical, or thermal) while being serviced.

If the scope of work or the need to provide continued electrical service, work on a live (energized) electrical system or component (e.g. conductor, piece of equipment, transformer, switch gear, vault, panel) is required, a qualified person as defined and referenced in 29 CFR 1926.449 shall prepare and submit to the CSM an arc flash protection work plan which includes, but not limited to:

1. A description of the work location, scope of work, duration, contractor performing the work, crew size, and reason why the system cannot be de-energized;
2. The identification of the actual and potential arc flash hazards present, and a determination of flash intensity;
3. The establishment of an arc flash protection boundary identifying the personnel protective equipment (PPE) requirements and worker qualifications for each boundary;
4. The performance of a hazard assessment to identify the type of PPE and tools required to protect the worker from arc flashing;
5. The type of training provided to the work crew in the use of PPE and tools required to perform the work;
6. Written procedures describing the sequence of work;
7. An emergency action plan in the event of an accident.

Prior to the start of any work, the arc flash protection work plan, which is specific for the system being worked on, must be reviewed and signed off as "Approved" by the CSM or their designated representative, then forwarded to the REO and SSD for review and comment prior to the commencement of that task.

- i) A comprehensive and enforceable Permit-Required Confined Space Entry Program shall be established, signed off as "Approved" by the CSM, then submitted to the REO and SSD for review and comment prior to the performance of any operation in which entering to inspect, work, or monitor a

space meeting the criteria of an OSHA permit-required confined space is required;

- j) When working in an active roadway (e.g., erecting, using or dismantling a platform scaffold, using or moving an aerial lift, excavations, manhole entries, roadway paving, utility mark-outs, boring operations, surveys) a flag person and/or an impact resistant barrier (e.g. jersey barrier) shall be in-place for the duration of work. If the barrier is to remain in place during overnight hours, appropriate lighting shall be installed.
- k) All stationary and mobile fuel tanks with a storage capacity of greater than 5-gallons shall be equipped with secondary containment either integral to the unit, or by the installation of an impervious membrane and containment barrier (e.g.: berm/dike system);
- l) Appropriate U.S. and New York State labor law and regulatory postings shall be displayed, maintained, and updated in areas of worker assembly;
- m) Communication with workers (e.g.: posters, site safety training, equipment training, tool box talks, job safety analyses, etc.) shall be in a form and language that is understood and comprehended by the work crew.

1.04 Titles and Responsibilities of WTC Site Personnel

Chief Engineer

The Chief Engineer of the Port Authority of New York & New Jersey is the final authority regarding the interpretation of all jurisdictional codes, regulations, and ordinances at the WTC site.

Engineer of Construction

The Engineer of Construction is the duly authorized representative of the Director of the World Trade Center Construction Department and the authority regarding the application of all jurisdictional codes, regulations, and ordinances at the WTC Site. The Engineer of Construction, or his/her duly authorized representative, is primarily responsible for ensuring that each contractor comply with the requirements of the Contract Specifications and Tenant Construction Applications issued by the Port Authority for work performed at the WTC Site. The day-to-day enforcement and administration of the Program, contractor HASPs and JHAs is the responsibility of both the REO, the SSD, and their designated representatives.

Port Authority Resident Engineer

The Port Authority Resident Engineer (the "REO") with the SSD is responsible for the daily monitoring of all work performed at the WTC Site. This includes the issuance of

all Port Authority approvals and/or comments for all HASPs and JHAs submitted by CSM(s). The responsibilities of the REO include, but are not limited to, the following:

- a) The stoppage of any construction activities if warranted for protection of life and/or property/or utilities, protection of the environment, or the elimination of any hazardous or potentially hazardous conditions;
- b) Notify the contractor and their CSM when unsafe working conditions, practices and behavior are detected (e.g., lack of good housekeeping practices, use of equipment in obviously poor condition, failure to adhere to rules, regulations, ordinances or policies regarding safety);
- c) Notify the contractor and the CSM of any noncompliance with safety requirements contained in either the Contract Specifications of the Tenant Construction Application;
- d) Review all Daily Reports, Equipment Maintenance Log, Inspection Reports, and Accident Reports as appropriate. Such reports are to be promptly submitted and audited to ensure that the contractor takes immediate and prudent action to correct all anticipated or discovered safety deficiencies. Accident reports are to be submitted to the REO and SSD within twenty-four hours of the event;
- e) Directs the immediate removal from Port Authority property any employee, worker, person, or equipment deemed unnecessary or dangerous;
- f) Report all accidents/incidents and all serious injuries to PATH patrons/employees to the Manager, System Safety and Security Division;

Port Authority Inspection & Safety Division

The Port Authority Inspection and Safety Division (ISD) will advise and support the REO and the SSD in all matters of occupational and public safety, and health, and at a minimum, shall provide the following services:

- a) Routinely inspect and monitor the safety performance of contractors performing work at the WTC Site and prepare written reports documenting their findings and corrective recommendations for the protection of workers, the public, adjoining structures, utilities, and the environment. Such written reports will be provided to the REO and the SSD within twenty-four hours following any routine inspection;
- b) Review all Port Authority contract, TAA/TCA drawings, specifications, and submittals to ensure compliance with all applicable safety standards and codes;

- c) Review and prepare written comments on all HASPs and JHAs provided by all prime contractors, sub-contractors, WTC stakeholders/owners and external agencies to ensure uniformity and completeness in accordance with all applicable safety standards and codes, and best management practices;
- d) Participate in the performance of accident investigations to identify the factors contributing to all incidents. Prepare a report identifying the contributing factors and the recommendations to prevent reoccurrences;
- e) Accompanies and assists outside regulatory agency representatives (e.g., OSHA, FDNY, and insurance brokers) in the performance of their routine inspections and investigations;
- f) Performs Port Authority liaison responsibilities with outside regulatory agency representatives, insurance Underwriters, Brokers and Adjustors;
- g) Provide recommendations to the SSD to improve the effectiveness of the Program.

Treasury-Risk Management

Treasury-Risk Management will advise and support the REO and the SSD in all matters of insurance, and coordinate a cooperative approach to site safety with insurance company safety representatives and loss control managers. Under the Port Authority's Owner Controlled Insurance Program (OCIP), qualified insurance company safety professionals who have significant years of field experience in accident prevention in the construction industry will focus their efforts on current health and safety issues, and potential impact to the Port Authority. These safety professionals will work under the direction of the ISD, and in cooperation with the SSD regarding all health and safety matters within the WTC Site.

At a minimum, Treasury-Risk Management and loss control managers shall:

- a) Coordinate and maintain effective and routine communication with all parties involved in the safety and loss control efforts provided by the Port Authority and Insurers involved in the management and control of risk within the WTC Site;
- b) Analyze loss trends, prepare safety and loss control reports, including an analysis of accident frequency, severity and causes. Provide recommendations to increase the effectiveness of the Program;
- c) Routinely review and recommend changes and/or enhancements to the application and content of the HASP submitted by all WTC stakeholders/owners and external agencies and their prime contractors.

PATH System Safety and Security Division

The PATH System Safety and Security Division (SS&SD) will advise and support the REO and the SSD in all matters of occupational and public safety, emergency management, fire protection and environmental protection that affect the PATH, and at a minimum provide the following services:

- a) Routinely inspect and monitor the safety performance of contractor(s) on site in the PATH Right-of-Way (PATH ROW), Station and terminal areas, and prepare written reports documenting their findings with corrective recommendations concerning worker protection, the protection of the public, adjoining structures, utilities, emergency management, egress, fire protection concerns and the environment. Such written reports will be provided to the SSD immediately following any routine inspection;
- b) Review all contract and TAA and TCA documents, drawings, specifications, and submittals to ensure compliance with all applicable safety, environmental and transportation standards and codes;
- c) Conduct accident/incident/injury investigations within the PATH ROW, station/terminal areas to identify the factors contributing to the accident/incident/injury, and provide recommendations to prevent reoccurrences;
- d) Accompany outside regulatory agency representatives (e.g. FRA, FDNY, insurance brokers, etc.) in the performance of their routine inspections and investigations;
- e) Provide ongoing recommendations to improve the effectiveness of the Program;
- f) Provide and update the PATH System Safety Program Plan, PATH Emergency Preparedness Plan for WTC Temporary Station, PATH Emergency Preparedness Plan (EPP) and PATH System Security Program Plan.

WTC Site Safety Director

The Port Authority shall designate a person to serve as the WTC Site Safety Director. The SSD shall have access to all project staff, and is responsible for a fully coordinated, enforceable and uniformly implemented Site Safety Program throughout the WTC Site. The SSD is also responsible for the promotion, planning and implementation of all safety awareness programs, practices, procedures, and training necessary to control, reduce, and eliminate hazards throughout the WTC Site. The SSD will report directly to the Deputy Director, World Trade Center Construction Department.

The SSD ensures that all WTC stakeholders/owners, prime and sub-contractors, and external agencies implement the Program as presented in this document, and that it is updated as required to address the changing conditions of the WTC Site that may affect the health and safety of the work environment. At a minimum, the SSD has the following responsibilities:

- a) Identifies, promotes, plans, develops, coordinates and modifies as required all site safety activities, programs and initiatives to preserve and protect the health and safety of all workers and employees within the WTC Site, the public, adjoining properties and utilities, and the environment;
- b) Develops and directs a comprehensive on-site inspection program to audit all construction activities within the WTC Site to ensure compliance with all applicable federal, state, and local regulations related to the health and safety of the workers and the public;
- c) Coordinates all activities amongst the Port Authority, WTC stakeholders/owners and external agencies and contractors to ensure that the work of one entity does not adversely impact the health and safety of another;
- d) Reviews and revises as required the Program and its associated health and safety requirements to improve overall worksite conditions, continually evaluate the effectiveness of its programs and initiatives, and initiate changes based on current industry trends;
- e) Ensures the appropriate preparation of site-specific HASPs and JHAs by all WTC stakeholders/owners, external agencies, and contractors prior to the implementation of such plan(s), and revisions thereto, as the project develops;
- f) Coordinates WTC Site safety training, and implements associated initiatives and objectives;
- g) Provides notification to PA and WTC senior staff, as appropriate, all accidents on the WTC Site. Participates in the investigation of incidents and provides the necessary support for investigative entities for purposes of conducting their investigation;
- h) Tracks and verifies that identified site safety deficiencies are corrected;
- i) Serves as a Port Authority liaison to outside federal, state, and city agencies as it relates to WTC Site health and safety issues. Collaborates with PA ISD on all health, safety and environmental issues.
- j) Reviews and/or audits all documentation maintained in the Port Authority Resident Engineer's Office related to safety as required.

WTC Site Manager

The WTC Site Manager is responsible for the safe and orderly operation, maintenance, and security of the WTC Site on a 24-hour basis, 365 days per year, and at a minimum shall provide the following services:

- a) Establishes and enforces policies, procedures, rules and regulations governing the WTC Site operations and security to facilitate redevelopment;
- b) Approves access for authorized individuals and vehicles;
- c) Provides physical upkeep for common facilities;
- d) Provides an overall Site Traffic Management, and Site Security Plan;
- e) Maintains designated public areas, and common use areas on the WTC Site.

WTC Stakeholders/Owners, External Agencies and Their Prime Contractors

The prime contractors of all WTC stakeholder/owners and external agencies are primarily responsible for accident and fire prevention, overall job site safety and general housekeeping, the protection of the public and adjoining properties/utilities/structures, the environment, and the PATH.

Safety management and enforcement shall be administered by a full-time employee of the prime contractor certified by the NYC Department of Buildings (DOB) as a Site Safety Manager (herein referred to as the "CSM"). The prime contractor's CSM shall work directly with the projects on site supervision, and report to their Corporate Safety Director and/or CEO, and cooperate and work with the Port Authority in the implementation of all required WTC Site safety programs and initiatives. The responsibilities of the CSM shall not be delegated nor contracted out to sub-contractors, suppliers, consultants, or any other persons or agency without the express written approval of the Port Authority.

The World Trade Center Construction Department Director, and the SSD will review the resume of any CSM proposed by the prime contractor. A personal interview may also be required. Only an individual deemed to be competent by the Director of World Trade Construction and the SSD would be accepted.

The responsibilities of all prime contractors include, but are not limited to, the following:

- a) The planning and execution of all construction work in accordance with the objectives and safety requirements of the Program, the Contract Specifications issued by the Port Authority, approved Tenant Construction Applications, Port Authority policies and procedures, and all applicable federal, state and

local laws, rules, regulations, statutes, and ordinances. The scheduling of all construction work must be approved in advance by the REO as not to interfere or conflict with PATH Maintenance and Operations or other construction operations;

- b) Develop and submit a hard copy and a non-modifiable electronic version of a written WTC HASP to the REO and the SSD within fourteen (14) working days of the Port Authority's approval to proceed with construction;
- c) The stopping of all construction activities as warranted for the protection of life and/or the public, property, streets, utilities, the environment, and the PATH Rail Rapid Transit System;
- d) Ensure formal and "tool-box" safety meetings are conducted on a weekly basis. All meetings shall be documented to identify the date of the meeting, the individual running the meeting, the issues discussed, follow-up actions, and a list of attendees present;
- e) Ensure that all sub-contractors, employees, workers, and visitors on the WTC Site are familiar with the provisions of the approved HASP, including but not limited to working adjacent to an operational rail rapid transit system and energized third rail;
- f) Notify the REO and the SSD immediately if any inspector or official from any industry, federal, state or local safety entity (e.g. FDNY, OSHA, etc.) arrives on the job site for a formal safety inspection, or media inquiry;
- g) Ensure that if any conflicts are discovered between the approved HASP and any other federal, state, or local rules, regulations or ordinances, the more stringent requirement will be complied with. If a conflict is discovered, the contractor shall notify the REO and the SSD immediately;
- h) Provide the CSM with a two-way voice communication system that provides direct and immediate contact with all emergency contacts.

Contractor Safety Manager

The prime contractors for each WTC stakeholder/owner and external agency shall designate a full time safety manager. The prime contractor's CSM shall report directly to the REO and SSD on all matters of safety and risk.

The CSM ensures through documented worksite inspections, training, and the JHA process, that site workers are performing work in a manner that minimizes the potential for injury, property damage, and environmental contamination.

In addition to occupational safety and health management, the CSM shall be responsible for compliance with the NYCDOB, Subchapter 19 - Safety of Public and Property During Construction Operations, for the protection of the public and property during construction operations.

The CSM shall possess a current and valid Site Safety Manager Certificate issued by the NYCDOB, consistent with Subchapter 19 of the NYC Building Code (NYCBC) - Safety of Public and Property During Construction Operations. A copy of a valid and current certification shall be contained in the contractor's HASP, as well as being submitted to the REO and the SSD.

At a minimum, the CSM shall have the following responsibilities:

- a) Ensures that the site specific HASP appropriately addresses all applicable federal, state and local regulatory standards, ordinances, etc., and the site specific requirements of the Program, as well as the prime contractor's responsibilities for system safety and adherence to PATH's safety rules and programs if applicable to the construction activities;
- b) Performs daily work site safety inspections with the appropriate competent persons of each sub-contractor and/or work crew to identify, document and correct any health and safety deficiencies, and to enforce the requirements of the HASP;
- c) Ensures that the prime and all sub-contractors prepare appropriate JHAs for each task identifying the hazards and controls required to minimize the risk of injury;
- d) Verifies that all equipment has been inspected and maintained in accordance with applicable OSHA regulations and manufacturer's specifications, and maintains appropriate documentation on site of all such inspections;
- e) Maintains a current listing of all competent persons as defined by OSHA at all times during performance of work at the site. Competent person certifications shall be submitted to the REO and the SSD for review and comment prior to the start of any such work. Activities that require a competent person shall be immediately terminated if no such person is readily available or the applicable OSHA standard is not adhered to;
- f) Ensures that each prime and sub-contractors' work crew has a competent person assigned during each work shift, and that the competent person remains on site with the work crew for the duration of the task;
- g) Ensures that each prime contractor and all sub-contractors working on the site adhere to all of the requirements of the Program, HASPs and JHAs;

- h) Prepares weekly safety updates for distribution to each sub-contractor performing work under the Contract. Copies of which shall be provided to the REO and the SSD;
- i) Ensures that each prime contractor convenes weekly safety meetings with employees and sub-contractors to inform them of all site safety issues and initiatives implemented by the WTC Site Safety Committee;
- j) Conducts initial and routine site and safety orientation programs for all employees and workers which at a minimum shall include a review of WTC Site Rules and Regulations, the approved HASPs and JHAs, a description of the hazards present at the WTC Site, which they may be in contact with or exposed to, identification of the procedures and equipment needed to eliminate the hazards, and the availability of all required PPE necessary to perform the work and emergency procedures;
- k) Ensures that each prime and sub-contractor can verify that prior to use, all workers are trained, experienced and proficient in the use, inspection, and maintenance of all equipment, aerial lifts, machinery, electric power tools, pneumatically driven tools, hydraulic power tools, fuel powered tools, and powder actuated tools in accordance with applicable regulations and the manufacturer's specifications;
- l) Maintains on the WTC Site all training documentation including the training date, name of instructor, training agenda, and training session sign-in sheets and list of all attendees including job title, trade and WTC Identification Number. As required, conducts and ensures that all prime and sub-contractor employees, visitors or other personnel who work, inspect, or are engaged in construction activities on or adjacent to the PATH tracks or platforms are trained and annually certified in PATH's Roadway Worker Protection Program;
- m) Conducts accident and near miss investigations, followed by the preparation of a written report describing the incident, contributing factors, and actions to be taken to prevent recurrence;
- n) Ensures that the HASP and all associated JHAs are in compliance with all applicable federal, state and local rules, regulations, statutes and ordinances;
- o) Performs the required inspections as outlined in Appendix A, Paragraph I: Periodic Site Safety Inspections, of Subchapter 19 of the NYCBC;
- p) At a minimum, prepares, maintains, and revises as required - subject to the review and approval of the REO, SSD, or their designated representatives, the following plans as required by Subchapter 19 of the NYCBC:
 - a. Lifting Operations

- b. Crane and Sling Inspections
- c. Fire Prevention and Protection
- d. Sidewalk / Roadway Protection
- e. Horizontal and Vertical Netting Installation and Inspection
- f. Machinery Inspection
- g. Demolition
- h. Excavations

OSHA Competent, Qualified and Authorized Persons

Each prime and sub-contractor shall designate, and will have present on Site with each work crew for the duration of that work shift at least one competent person as defined by the OSHA standard 29 CFR Part 1926.32, and as elsewhere referenced in other 29 CFR Part 1926 standards, and will at a minimum perform the duties as described in 29 CFR 1926.20(b)(2). The designated competent person shall be responsible, and have the authority from their employer to take prompt corrective action to eliminate the hazard(s).

At a minimum, each competent person shall have attended, and will possess identification cards verifying attendance in an OSHA 10-Hour Construction Industry Outreach Training Program. Each prime contractor's CSM shall obtain prior to the performance of any work a document indicating the experience and training of each competent person assigned to that task.

Each prime and each sub-contractor shall assign, when required by a specific 29 CFR Part 1926 standard, a qualified or authorized person as defined in OSHA standard 29 CFR Part 1926.32.

If in the opinion of the SSD a prime contractor's CSM, competent person, foreperson, or superintendent is not discharging his or her responsibility, or performing his or her job in a manner consistent with Sections 1.01 and 1.02 of this plan, the REO or SSD can order the removal of that person from his/her position at the WTC Site.

1.05 General Requirements

The prime contractors of each WTC stakeholder/owner and external agency shall protect the health and safety of their employees, sub-contractors, and suppliers, all employees of the Port Authority, all site visitors, the public, and other persons on or in the vicinity of the WTC Site. The prime contractor is also responsible to protect all

property, materials, supplies, and equipment either existing, constructed or stored on the site pending the issuance of a Final Certificate of Completion unless otherwise expressly approved by the Port Authority. The following are minimal requirements that the prime contractor must satisfy to achieve these purposes:

- a) Each prime contractor performing work at the WTC Site shall furnish a full time CSM certified as a site safety manager under Subchapter 19 of the NYCBC;
- b) The CSM cooperates and works with the REO and the SSD in the implementation of the HASP, and to comply with the requirements of Subchapter 19 under the NYCBC for all work performed under the Contract;
- c) Provide the submittals as specified in Section 1.04;
- d) No employee shall possess, use, purchase, sell, distribute, receive, store, or be under the influence of a controlled substance or alcohol when performing work at the WTC Site. Offending personnel shall be removed and/or dismissed from the WTC Site with their WTC Site access credentials revoked, and/or subject to criminal prosecution as warranted by their infraction. Each contractor shall submit to the SSD:
 1. Its policy on drug or alcohol use while on the worksite;
 2. The criteria used by supervisors in detecting the signs and symptoms of employee drug or alcohol use or abuse;
 3. Its policy describing the actions taken if an employee is suspected of using, or showing signs of drug or alcohol use;
 4. Its policy regarding drug or alcohol testing.
- e) No employee shall possess, carry, use, receive, purchase, sell, or store a firearm at the WTC Site. The Port Authority Police shall be informed of all such offenders;
- f) Prior to the use of an explosive or incinerating device, each contractor shall submit their plan to the REO for review and approval. The REO shall inform the Port Authority Police, the SSD, WTC Site Manager, and ISD of all operations involving explosive or incinerating devices.
- g) Prior to the start of any work, other than site mobilization and surveying activities, each prime contractor shall conduct a meeting with their sub-contractors' site supervisors to discuss and identify the potential risks and hazards for their scope of work;

- h) First aid supplies as designated by OSHA 29 CFR Part 1926.50 shall be accessible for immediate use. The number of employees, and the nature of the work shall determine the size and number of first aid kits/stations. The CSM shall ensure that first aid kits are inspected weekly, and supplies replenished promptly.

1.06 Submittal Requirements

All WTC Site stakeholders, prime contractors, sub-contractors, and external agencies shall be required to submit the following plans to the REO within the timeframe provided herein, or as specified by the REO. The REO shall review these plans, and provide comments as required addressing the contractor's overall compliance with the requirements of the Program:

- a) A hard copy and a non-modifiable electronic version of a written site specific WTC Site HASP within fourteen (14) working days of Port Authority's approval to proceed with construction. Each prime contractor's CSM shall ensure that all electronically transmitted HASPs are complete, clear, and in non-modifiable format acceptable to the Port Authority. All HASPs shall be reviewed and signed off as "Approved" by each prime contractor's CSM, then forwarded to the REO and SSD for review and comment prior to the commencement of any work, other than mobilization;

The prime contractor's CSM shall review the HASP and sub-contractor plans quarterly and revise accordingly, or as required by the REO or the SSD based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- b) Each prime contractor's CSM shall ensure that the competent person for each sub-contractor performing work at the WTC Site prepares a task specific JHA prior to performing the task;

The prime contractor's CSM shall review all JHAs quarterly and revise accordingly, or as required by the REO or the SSD based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- c) Each prime contractor's CSM shall develop a program to comply with the WTC Site's 100% Fall Protection Policy.

The prime contractor's CSM shall review and revise the Fall Protection Policy quarterly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard

copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- d) Each prime contractor's CSM shall develop Lockout/Tagout, and Permit-Required Confined Space Entry Programs.

The prime contractor's CSM shall review and revise the Lockout/Tagout and Permit-Required Confined Space Entry Programs quarterly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- e) Each prime contractor shall provide to the REO, the SSD, and WTC Site Manager its company name, address, onsite organizational structure including specific job titles and functions, and 24-hour phone numbers. The same information shall be provided for all sub-contractors working at the WTC Site.

- f) Each prime contractor shall prior to the start of work submit a written Fire Prevention and Protection Plan to include, at a minimum, locations of all fire extinguishing devices, standpipes, emergency egress routes, emergency vehicle access routes, alarm systems, chemical and compressed gas storage locations and associated containment and spill control measures, worksite evacuation routes, post-evacuation assembly locations, methods to eliminate fire hazards, maintenance of egress and exit ways, procedures to respond to a fire, and etc.

Existing fire protection systems within PATH's WTC Station shall not be impacted or impeded unless specific contractual work is required and previously scheduled and approved by PATH. PATH's Fire Safety Director monitors the system 24/7, and all activities shall be coordinated with the PATH Fire Safety Director through the REO;

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- g) The prime contractor shall submit prior to the performance of work a written Emergency Action Plan addressing, at a minimum, locations of all emergency egress routes, emergency vehicle access routes, alarm systems, evacuation routes, post-evacuation assembly locations and personal accounting, responses to medical emergencies and body fluid releases;

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO based upon any changes in the scope of work, existing

site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- h) The prime contractor shall submit prior to the performance of work plan identifying all proposed access routes, staging areas, crane locations, temporary traffic signal controls, worker and pedestrian crossings, vehicular and pedestrian gates for exit and entry, barriers, barricades, lighting, and fencing;

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO or WTC Site Manager based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- i) Prior to the performance of work, the prime contractor shall submit to the REO a written Hazard Communication Plan;

The prime contractor's CSM shall review and revise this plan as additional chemical products are introduced, or if chemical product use deficiencies are identified. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- j) Prior to the performance of work, the prime contractor shall submit to the REO and PATH SS&SD a written plan addressing compliance with PATH's Operational Conditions and Precautions and requirements (if applicable);

The prime contractor's CSM shall review and revise this plan quarterly, or as required by the REO or PATH SS&SD based upon any changes in the scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the PATH SS&SD;

- k) Prior to the performance of work, the prime contractor shall submit to the REO a written plan addressing the general housekeeping of the worksite including, but not limited to, the appropriate storage and/or security of all new and waste materials, the continued maintenance of clear access and egress paths, walkways, and traffic areas, the maintenance of all permanent and temporary structures and buildings, maintaining work areas free from accumulations of waste materials, rubbish, debris, or other refuse and/or equipment discarded during the performance of work, and the removal, disposal and/or control of all rogue water, snow, dust, other transient materials with a potential for release from the WTC Site;

The prime contractor's CSM shall review and revise this plan as housekeeping deficiencies are identified, or if control measures are ineffective. A hard copy,

and a non-modifiable electronic version of all revisions shall be forwarded to the REO.

- l) Prior to the performance of work, the prime contractor shall submit to the REO a written plan outlining the securing and anchorage of all materials and equipment to resist uplift attributable to high wind hazards;
- m) Prior to the performance of work, the prime contractor shall submit to the REO a written plan to address the grounding of all temporary electrical services, panels, tools and equipment in accordance with all applicable OSHA regulations and the National Electrical Code (NEC). All electrical tools, extension cords and equipment must be appropriately grounded in accordance with the requirements of OSHA and the NEC;

All prime and sub-contractors are advised that appropriate personnel protective precautions and restricted access areas must be established for work within specific locations of PATH adjacent to unguarded electrical equipment. Such access will be restricted to personnel deemed qualified by the REO and the PATH SS&SD.

- n) Prior to the performance of work, the prime contractor shall submit to the SSD and REO a written plan to address the installation and maintenance of appropriate fencing, barricades, signage, markings and lighting in all work areas, including tunnels, to mitigate hazardous conditions;
- o) Prior to the performance of work, the prime contractor shall submit to the REO a written plan to address the design, erection, dismantling, use, maintenance and inspection of all ladders and scaffolds prior to and during use;

The prime contractor's CSM shall review and revise this plan if deficiencies in ladder and scaffold use are identified. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

- p) The prime contractor shall submit prior to the performance of work a written plan to address burning, cutting, and/or welding operations (hot work) to the REO. Each contractor shall comply with the Hot Work Permit requirements established by the REO, and shall be responsible for any consequences or penalties for not complying with those requirements. The REO shall monitor and verify that proper fire protection measures, including fire watch, have been provided prior to, during, and at the commencement of any hot work.

The contractor shall include in their written plan the following:

1. Name of torch operator;
2. Name of fire watch

3. Company working for;
 4. Type of welding and compressed gases to be used;
 5. Compressed gas cylinder storage location;
 6. Applicable licenses, permits, and certificates of the torch operator for the type of activity;
 7. FDNY Certificate of Fitness for the assigned fire watch;
 8. Location of work;
 9. Duration;
 10. Copy of emergency procedures developed for this activity.
- q) On a quarterly schedule, the prime contractor's CSM shall submit to the REO copies of all required NYCBC Subchapter 19 inspections performed relative to the project. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD;
- r) The prime contractor shall submit prior to the performance of any abrasive blasting, surface scarification, steam or water blasting, a written plan addressing the following:
1. The selection and use of respiratory and personal protective equipment;
 2. Methods to achieve and maintain work area isolation, and to establish ventilation and water drainage control;
 3. The type of equipment to be used, its power source and requirements, and the type of blasting or cleaning agent;
 4. The engineering controls for dust control and debris containment/collection methods to be used;
 5. Personal and environmental monitoring requirements for airborne contaminants;
 6. Methods to achieve dust suppression during freezing temperatures or high wind conditions.

The prime contractor's CSM shall review the plan quarterly and revise accordingly, or as required by the REO based upon any changes in the

scope of work, existing site conditions, or the intended method of execution. A hard copy, and a non-modifiable electronic version of all revisions shall be forwarded to the SSD.

1.07 Description Of Work

The requirements contained in this Program are applicable to all projects associated with the redevelopment of the WTC Site.

1.08 Emergency Response/Notification

The CSM or designee will immediately notify the PAPD, followed by notification of the SSD as to any and all injuries and accidents, including but not limited to following:

1. Medical emergencies (e.g., amputations, thermal or chemical burns, unconsciousness, electrocution, poisoning, breathing difficulties, traumatic impact) requiring emergency medical services;
2. Fatalities;
3. Fires
4. Bomb threats;
5. Workplace violence;
6. Civil disturbances;
7. Damage to or theft of property or equipment;
8. Hazardous materials incidents;
9. Environmental contamination;
10. Property/Utility damage;
11. Pedestrian injuries;
12. Structural failures and collapses;
13. Crane failures/Hoisting incidents;
14. Suspicious activities, items or deliveries;
15. Vehicular accidents;
16. Lightning strikes.

When notifying the Port Authority Police, each caller will be required to provide the following information:

1. His/her name and company he/she works for;
2. Location of the incident;
3. Nature of incident or emergency;

4. Number of injured persons;
5. Threat or actual fire;
6. Threat or actual spill.

Except for police, rescue and emergency personnel, the prime contractor and CSM shall immediately secure the area and restrict access. The accident scene shall not be disturbed, nor will any equipment, machine, system component, or tool be removed until it has been released by the Port Authority Police, Port Authority Inspection and Safety, PA Office of Inspector General, REO, and PATH SS&SD (as appropriate).

Actions to be taken during emergencies should be included in each sub-contractor's Emergency Action Plan, and be discussed regularly with site supervision and at "tool box" safety meetings. WTC Site emergency telephone numbers and procedures shall be posted in conspicuous locations at the job sites and at all telephone locations. Any emergency situation, which impacts the operation of the PATH Rail Rapid Transit System, must be immediately communicated via the REO to the PATH Trainmaster.

The prime contractor's emergency procedures shall be continually reviewed, revised and drilled as required to provide maximum effectiveness. The prime contractor's CSM shall review these procedures quarterly and revise accordingly, or as required by the REO based upon any changes in the scope of work, existing site conditions, or the intended method of execution. Revised copies shall be forwarded to the REO.

1.09 Accident Investigation

The CSM shall ensure that all incidents described in Section 1.08: Emergency Responses, or as requested by the REO or the SSD are reported, verified, investigated, and analyzed with preliminary reports provided to the Port Authority Police, REO, and the SSD within twenty-four (24) hours of the incident.

The CSM shall provide assistance, information and documentation as required by the Port Authority representatives investigating the incident. If required by the Port Authority, additional investigation and follow-up reports shall be provided by the CSM.

Only Port Authority authorized personnel, such as the Port Authority Police, Port Authority Inspection and Safety, PA Office of Inspector General, REO, SSD, PATH SS&SD, Law Department Claims Division, and other duly authorized Port Authority representatives, or authorized regulatory agency representatives shall be given information pertaining to the event.

1.10 Regulatory References

Work performed at the WTC Site shall at a minimum comply with the most recent version of the applicable requirements of the following regulatory agencies as they pertain to worker health and safety health, environmental protection, protection of the public, waste management, and transportation. The more stringent regulation shall be followed:

1. U.S. Department of Labor, Occupational Safety and Health Administration: Title 29 CFR, Parts 1903, 1904, 1908, 1910, and 1926
2. U.S. Department of Labor, Mine Safety and Health Administration: Title 30, Chapter 1
3. U.S. Environmental Protection Agency Title 40 CFR
4. U.S. Department of Transportation Title 49 CFR
5. NYS Department of Environmental Conservation
6. NYS Department of Transportation
7. NYS Department of Labor
8. NYC Department of Buildings
9. NYC Fire Department
10. NYC Department of Health and Mental Hygiene
11. NYC Department of Environmental Protection
12. NYC Department of Sanitation
13. NYC Department of Transportation
14. NYC Department of Consumer Affairs
15. NFPA 130

Additionally, work performed at the WTC Site shall at a minimum comply with the most recent version of the applicable recommendations and guidelines from the following organizations, institutes, and associations as they pertain to worker health and safety health, environmental protection, protection of the public, waste management, and transportation. The more stringent regulation shall be followed.

1. American Concrete Institute

2. American Industrial Hygiene Association (AIHA)
3. American Red Cross
4. American National Standards Institute (ANSI)
5. American Society of Mechanical Engineers (ASME)
6. American Society for Testing Materials (ASTM)
7. American Welding Society
8. Compressed Gas Association
9. Institute of Makers of Explosives
10. Manual of Uniform Traffic Control Devices (MUTCD)
11. National Institute of Standards and Technology (NIST)
12. Underwriters Laboratories (UL)
13. U.S. Army Corp of Engineers

1.11 The WTC Site Safety Committee, Position Titles and Responsibilities

The WTC Site Safety Committee

A WTC Site Safety Committee shall be established for the WTC Site, and shall be comprised of the following Site representatives:

- a) The WTC Site Safety Director who will serve as the Chairperson of the WTC Site Safety Committee;
- b) The REO and support staff
- c) Authorized representatives from the Port Authority ISD
- d) Authorized representatives of Port Authority Treasury – Risk Management;
- e) Authorized representatives of the Port Authority Law Department;
- f) Authorized representatives of the Port Authority Office of Inspector General
- g) Authorized representatives of PATH;

- h) Authorized representatives of the Port Authority World Trade Center Construction Department;
- i) Authorized safety representatives from each WTC stakeholder/owner, and agencies performing or responsible for construction activities on or in the vicinity of the WTC Site.
- j) Authorized representatives from the Port Authority Police;
- k) Each prime contractor and sub-contractor safety manager or authorized safety representative.

Committee meetings will convene weekly, or as requested otherwise by the SSD to discuss occupational health and safety issues that affect the entire WTC Site, including but not limited to inspection findings, training, safety updates, monitoring results, general site conditions, and any revisions in approved HASPs and JHAs. This includes conflicts between the requirements of approved HASPs and any other federal, state, or local rules, regulations or ordinances.

The SSD shall prepare the agenda, document all meeting proceedings, and distribute a meeting report to all attendees.

1.12 WTC Site Safety Communications

On a daily basis, or as directed otherwise by the REO or SSD, site safety inspections will be conducted and documented by the CSM. The CSM shall determine which competent person from each prime contractor and subcontractor needs to be in attendance. The CSM will prepare a report documenting the inspection and identifying all health and safety deficiencies discovered. Such noted deficiencies will be annotated with a corrective timeframe and completion date as approved by the REO or SSD.

Copies of all such reports will be distributed to the REO and SSD, each WTC stakeholder/owner, external agency and the respective prime and subcontractors. Each prime and subcontractor shall then convene a weekly meeting with its employees to inform them of all such safety and health deficiencies, and update them regarding the remediation status of each.

1.13 WTC Site Safety Reporting

- a) On a weekly basis, the CSM of each prime contractor will provide the SSD with a hard copy and a non-modifiable electronic version of following:
 - 1. A written summary of all outstanding and the corrected safety and health deficiencies;

2. Accident/incident reports and investigations;
 3. Copies of Tool Box Talks, and safety classes and meetings minutes;
 4. Report on performance against established corporate site safety goals and measures.
- b) By the fifth day of each month, the CSM of each prime contractor will provide the SSD with an electronic copy of the prior month's safety performance. This report will be submitted monthly and include the following information:
1. Total hours worked within the reporting period for the prime contractor
 2. Total hours worked within the reporting period for all sub-contractors
 3. Total number of OSHA recordable injuries within the reporting period
 4. Total number of OSHA lost time injuries within the reporting period
 5. Total number of lost work days incurred within the reporting period
 6. Total number of restricted work days incurred within the reporting period
 7. Total number of first-aid cases within the reporting period
 8. Total number of near misses within the reporting period

SECTION 2.0 WTC Site Safety Orientation

All WTC stakeholders/owners, external agencies, prime contractors and sub-contractors, supervisors and employees must complete a WTC Site Safety Orientation Program prior to performing work at the WTC Site. Each entity shall be responsible for the development and implementation of such an orientation program to familiarize all site supervisors and employees with the objectives and goals of their corporate safety program and HASP, as well as the Program, including specific safety precautions and awareness required to work on or adjacent to an operating rail rapid transit system. In addition, all personnel should be advised of the disciplinary actions available to the REO and SSD for noncompliance.

The CSM shall ensure that each employee receives site safety orientation prior to their starting work at the WTC Site, as well as specialized training for job categories where such training is required by applicable regulation. Where employees are required to possess a certificate to perform their work, the CSM shall ensure that the certificate is current, valid, and applicable to the type of work being performed.

The CSM shall ensure that each sub-contractor provides on-going site safety training (e.g. classroom, tool-box talks, JHA reviews, manufacturer's demonstrations) for their employees. The CSM shall maintain onsite, and make available to the SSD and PATH SS&SD all training documentation and logs that include the date, name of instructor, agenda, attendance sign-in sheets and an alphabetized list of attendees with their job titles, trades and WTC Identification Numbers.

WTC Site safety orientation shall include, but not be limited to, the following topics:

- a) The recognition, avoidance, and control of actual or potential unsafe or unhealthy worksite conditions;
- b) PATH On Track Safety Training for working on or adjacent to the PATH Rail Rapid Transit System;
- c) Hazard communications training in the labeling, handling, storage, use, spill response, and disposal of hazardous materials, chemicals, products, and wastes (i.e., flammable, combustible, toxic, caustic, pressurized, cryogenic, explosive, etc.). Copies of each chemical products material safety data sheet shall be maintained at a location within the worksite, and made available to all workers during all shifts;
- d) The selection, use, limitations, inspection, maintenance, care, and storage of all personal protective equipment (PPE);
- e) Fire prevention and response training;
- f) The selection, use, erection, inspection, maintenance, disassembly, and fall protection requirements for the use of ladders, scaffolds, and aerial lifts (i.e., extensible boom platforms, aerial ladders, articulating boom platforms, vertical towers, man-buckets, etc.);
- g) Flagman training for roadway closures and traffic and pedestrian diversions;
- h) The use, inspection, and maintenance of all equipment, machinery, electric power tools, pneumatically driven tools, hydraulic power tools, fuel powered tools, and powder actuated tools in accordance with applicable regulations and the manufacturer's specifications;
- i) Requirements of the Program, and approved HASPs and JHAs and disciplinary actions for worker safety infractions;
- j) Responses to blood and bodily fluid releases;
- k) Zero tolerance for substance abuse;

- l) Emergency Action Plans addressing, at a minimum, locations of all emergency egress routes, emergency vehicle access routes, alarm systems, evacuation routes, post-evacuation assembly locations and personal accounting, and responses to medical emergencies.

All WTC stakeholders/owners, external agencies, prime and sub-contractors, supervisors and employees shall receive Site orientation information from the WTC Site Manager on the WTC Site's Security Program before obtaining a WTC Site ID or Vehicle Pass enabling them to perform work at the WTC Site. Each contractor shall be responsible for enrolling staff that will be assigned to work at the WTC Site into the training program.

SECTION 3.0 WORKSITE HAZARD ASSESSMENTS

3.01 Performance of Job Hazard Analysis

If based on the opinion of the REO or the SSD that a particular task, operation, or activity is not addressed, or not addressed fully in the submitted plans, a Job Hazard Analysis (JHA) must be prepared and submitted to the REO for review and acceptance prior to performing that task, operation, or activity. The JHA must be prepared by the contractor's CSM or designated employee, be reviewed by the contractor's CSM, and signed by the contractor's CSM, superintendent, and crew foreman, and maintained at the work site.

At a minimum, the JHA must include the following:

- a) Task, Operation, or Activity the JHA is being prepared for;
- b) Description of how work is to proceed;
- c) Crew size and members / Identification of crew foreman;
- d) Identification and analysis of hazards / exposures;
- e) Identification and implementation of hazard / exposure controls; which are to include but not be limited to tool and equipment selection, and personal protective equipment use;
- f) Specific training provided / To be provided;
- g) Employee review and sign-off.

SECTION 4.0 PREPARATION OF REGULATORY PLANS AND PROGRAMS

Based upon the nature and scope of the work, the CSM shall establish control procedures and plans as specified in 29 CFR Part 1926, and ensure that such controls and procedures are contained in the approved HASP.

The CSM and the competent person for each sub-contractor performing work on the WTC Site shall determine when occupational exposure assessments are required for physical, chemical, and radiation hazards such as noise, silica dust, metals, fumes, carbon monoxide, solvent vapors, particulates, and ionizing and non-ionizing radiation, etc. At a minimum, the exposure assessment will be based on 29 CFR 1926.55: Gases, Vapors, Fumes, Dusts, and Mists, and the Threshold Limit Values of Airborne Construction Table provided therein. The CSM shall arrange all such monitoring during the performance of work and ensure compliance with OSHA personnel exposure assessment requirements. Each affected employee shall be notified in writing of the results. Copies of sampling results shall be forwarded to the SSD.

The CSM shall ensure that all exposure monitoring is performed using accepted analytical methodologies (e.g. OSHA and National Institute of Occupation Safety and Health), and that the sampling frequency and results is representative of the work exposure. All sampling instrumentation used shall be properly calibrated.

Samples collected shall be submitted to a laboratory maintaining appropriate qualifications, state licensing, and current certifications (e.g. American Industrial Hygiene Association). The laboratory director or a certified industrial hygienist must sign all sampling reports.

The results of these exposure assessments shall be compared to the Threshold Limit Values of Airborne Contaminants For Construction, 29 CFR 1926.55 Appendix A, or other governmental, industry, or accepted and recognized exposure limits. The CSM shall determine if exposures exceed acceptable limits, and develop a remediation plan to reduce those exposures.

SECTION 5.0 EQUIPMENT AND MAINTENANCE

Consistent with 29 CFR 1926.20(b)(3), the CSM shall ensure that each prime and sub-contractor establishes a program for all equipment and machinery to be inspected prior to use, maintained, repaired, and stored in accordance with applicable regulations and the manufacturer's specifications, and will at all times be used, maintained, repaired, and stored in accordance with applicable regulations and the manufacturer's specifications.

All inspections shall at a minimum be conducted and documented at a frequency specified by the manufacturer, or more frequently based upon use as determined by the competent person for the work crew. A copy of the inspection document shall be forwarded to the SSD. Any tool or piece of equipment that shows evidence of defects or excessive wear shall be tagged, and removed from service and replaced,

or repaired in accordance with the manufactures specifications. The CSM shall maintain a written record of the disposal and/or removal of the equipment from the worksite.

Prior to each use, the competent person for the contractor and each sub-contractor shall ensure that the employee's personal fall arrest system (full body harness, connectors, d-rings, snap hooks, lanyards, lifelines, and anchorage points) is properly selected, inspected, and used, and that it is in good condition, and has the required tensile strength and load bearing capacity.

5.01 Ionizing Radiation

Prime and sub-contractors who perform activities using sources of ionizing radiation or X-rays must comply with the requirements of 29 CFR Part 1926.53 and the pertinent provisions of the Nuclear Regulatory Commission's Standards for Protection Against Radiation (10 CFR Part 20) and the New York State Department of Labor, Ionizing Radiation Protection (12 NYCRR Part 38). In particular, regulated sources must be properly licensed, securely stored, properly labeled and leak tested. Operator manuals must be available and users must be competent and specially trained in the proper and safe operation of the equipment.

Prime and sub-contractors using sources of ionizing radiation or x-ray devices shall submit a health and safety plan to the REO, SSD and PAPD.

5.02 Waste Management

All waste generated on site shall be properly stored, sorted, contained, labeled and disposed of at a frequency designed to eliminate fire hazards, vermin, and the obstruction of emergency egress. If the REO or the SSD determines that waste is not being properly managed, daily removal operations may be required.

SECTION 6.0 HEALTH AND SAFETY REQUIREMENTS

Each prime contractor, sub-contractor, and external agency performing work shall be required and responsible to prepare and implement the requisite programs, plans, and procedures necessary to protect worker health and safety, and to comply with all applicable federal, state, and local codes, rules, regulations, and ordinances. In addition to regulatory compliance, the following WTC Site-specific requirements shall be followed.

6.01 General Duty Clause

Each prime and sub-contractor, worker and employee performing work shall comply with the requirements of the OSHA, Section 5 (a) and (b): General Duty Clause.

Section (a): Each employer (Herein to include prime contractor and sub-contractor):

"Shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.";

"Shall comply with occupational safety and health standards promulgated under this Act."

Section (b): Each employee (prime contractor and sub-contractor employee):

"Shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct."

6.02 Recordkeeping and Reporting Occupational Injuries and Illnesses

Each prime and sub-contractor performing work shall maintain records, reports, and posting consistent with the requirements specified in OSHA 29 CFR Part 1904.

6.03 General Safety and Health Provisions

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart C: General Safety and Health Provisions.

6.04 Occupational Health and Environmental Controls

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart D: Occupational Health and Environmental Controls, in addition to the following mandatory specific worksite requirements:

- a) For hand washing purposes, all temporary lavatories shall provide either hand soap with running hot and cold or tepid potable water, or a sanitizing hand wash. Remote hand wash stations providing running hot and cold or tepid potable water will be permitted provided that they are located in close proximity of the lavatory. Paper towels must be provided;
- b) A break area furnished with tables, chairs, hand wash stations, temporary lavatories, lights, and trash containers must be provided;
- c) Trash, refuse, and construction debris shall not be allowed to accumulate for more than one day in areas of assembly, such as but not limited to locker rooms, lunch rooms, storage areas, and each jobsite location. A sufficient number of trash containers and construction dumpsters shall be provided, and their contents disposed of on a daily basis;
- d) Lighting for each work location, including tunnels, which at a minimum, complies with the requirements as referenced in 29 CFR Part 1926.56;

- e) Provisions for the quick flushing of the eye with a minimum of 15 minutes of continuous flow shall be provided and maintained;
- f) Consistent with U.S. OSHA publication #3154: Heat Stress Card, during periods of hot weather (equal to or greater than 85 degrees F and 40% Relative Humidity), each contractor's safety manager shall be required to develop a plan to prevent heat stress disorders. At a minimum, the plan shall address providing an adequate supply of drinking water with individual drinking cups, a shaded rest/break area, and training information on the signs and symptoms of heat stress;
- g) Consistent with U.S. OSHA publication #5156: Cold Stress Card, during periods of cold weather (equal to or less than 30 degrees F), each contractor's safety manager shall be required to develop a plan to prevent frostbite and hypothermia. At a minimum, the plan shall address providing a warm sheltered area, an adequate supply of drinking water with individual drinking cups, and training information on the signs and symptoms of hypothermia.

6.05 Personal Protective Equipment

Prior to the issuance of personnel protective equipment, each prime contractor's CSM shall require the competent person for each work crew to perform a JHA to determine the type(s) of personnel protective equipment required and provide training.

At a minimum, each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart C: General Safety and Health Provisions; Subpart D: Occupational Health and Environmental Controls (1926.57 – abrasive blasting; grinding, polishing, and buffing operations; spray finishing operations: 1926.60 – methylenedianiline; 1926.62: lead:); Subpart E: Personal Protective and Life Saving Equipment; Subparts M and R: Fall Protection; and Subpart Z: Toxic and Hazardous Substances, in addition to the following mandatory specific worksite requirements:

- a) Upon entrance to designated work areas, the minimal personal protective equipment requirements for work at the WTC Site are hard hats, reflective safety vests, work boots, and eye protection. A flashlight is required when working on or adjacent to PATH track areas and platforms;
 - 1. When working on or around PATH tracks, steel tipped safety shoes as per ASTM F2412-05 and F2413-05: Standard Specification of Performance Requirements for Foot Protection, are required.
- b) The CSM and the competent person for the each contractor and sub-contractor performing work shall select and issue all PPE identified in

approved JHAs. All JHAs shall be documented, maintained at the worksite, and on file with the CSM;

- c) All selected PPE shall comply with the most recent American National Standards Institute (ANSI) requirements;
- d) Full-length pants and shirts with sleeves that cover the entire shoulder must be worn at all times within the WTC Site.

6.06 Fire Protection and Prevention

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart F: Fire Protection and Prevention. Fire safety shall not be delegated to individual sub-contractors. The prime contractor and the CSM shall have overall responsibility to develop, implement, and maintain a fire protection and prevention program addressing 29 CFR Part 1926, Subpart F, and the following mandatory specific worksite requirements:

- a) Flammable and combustible liquids shall only be stored and transported in approved 1, 2, or 5-gallon Type I and II safety cans with spring loaded closing lids and flashback protection, or, in the alternative, United States Department of Transportation (US DOT) approved containers;
- b) All safety cans and containers shall be protected from fire, spark, impact, falls, and falling objects. Appropriate color-coding and permanent labeling such as "Gasoline", "Kerosene", "Diesel", or "Mixed-Fuel" shall adorn all safety cans and containers to designate its contents;
- c) Flammable and combustible liquid storage cans will be stored in approved fire cabinets, protected from fire, spark, impact, falls to lower levels, and falling objects. Up to 60 gallons of a flammable liquid and 120 gallons of a combustible liquid shall be permitted within a storage cabinet. No more than three storage cabinets will be allowed in each storage area;
- d) All stationery and mobile fuel tanks with a storage capacity of greater than 5-gallons shall be equipped with secondary containment either integral to the unit, or by the installation of an impervious membrane and containment barrier (e.g., berm/dike system).

The following information must be submitted to and approved by the REO and the SSD prior to a fuel tank being delivered and used at the WTC Site:

- 1) Provide the name of the tank manufacturer, fuel capacity, and product to be stored;

- 2) Identify the type of tank leak protection – is the tank double walled or will secondary containment be required; if secondary containment is required, detail its construction;
 - 3) Identify the method to fill the tank; method to dispense the product for use;
 - 4) Identify if the tank will be stationary or mobile; if mobile, identify method of transport - if not, where will it be located;
 - 5) Identify the fire protection equipment associated with tank; include number, type, and location of fire extinguishers;
 - 6) Provide a grounding and bonding plan for flammable and combustible liquids;
 - 7) Identify what postings / labels / placards will be used for identification and warnings; identify the individual responsible to inspect the tank(s) and frequency.
-
- e) At a minimum, an actively charged 20-B:C portable fire extinguisher shall be permanently mounted in plain view, with unobstructed access within 25 feet of every flammable and combustible liquid storage & use locations;
 - f) During construction, a 2-A rated portable fire extinguisher shall be located on each floor adjacent to each stairway; an additional 2-A rated portable fire extinguisher shall be provided for each 1500 square feet of building area, with a maximum unobstructed travel distance not to exceed 75 feet;
 - g) At least half of the distributed portable fire extinguishers shall be A:B:C rated. All portable fire extinguishers with a classification of B:C, or multiple classifications of A:B:C portable fire extinguishers shall be rated not less than 20-B;
 - h) Buckets and/or water supply are not acceptable alternatives to approved portable fire extinguishers and will not be permitted at the work site for purposes of fire protection;
 - i) Pressurized water-can extinguishers, if used, shall be provided with an approved anti-freeze solution in areas open to ambient temperatures during cold weather;
 - j) Appropriate, material-specific portable fire extinguishers shall be provided for any hazards not specifically noted elsewhere in this document;
 - k) All self-propelled equipment (forklifts, cranes, rollers, etc.) shall be provided with appropriate portable fire extinguishers;

- l) Portable fire extinguishers that are not mounted, such as those specifically used by the firewatch during cutting & welding operations, or mounted on self-propelled equipment shall not fulfill the requirements for distributed and mounted portable fire extinguishers.
- m) All portable fire extinguishers shall be mounted off the floor, clearly visible with signs noting location where necessary, and have unobstructed access to them;
- n) All portable fire extinguishers shall be maintained in a state of readiness. All required inspections, tests and maintenance shall be not less than that required by applicable codes and standards (NFPA 10 - Standard for Portable Fire Extinguishers, as referenced by the NYC Fire Prevention Code). A contract with an approved fire extinguisher contractor is recommended for inspections, testing, and maintenance. Used or defective extinguishers shall be removed and replaced with new units immediately after use or discovery of the defect;
- o) All portable fire extinguishers shall be provided with an inspection tag upon installation and shall have the installation date noted in permanent marker the date of installation;
- p) Smoking shall be strictly prohibited in the following locations:
 - 1. All enclosed spaces;
 - 2. Within 50 feet of flammable and combustible liquid storage cabinets, compressed gas cylinder storage cages, and hazardous material and hazardous waste storage locations;
 - 3. In all locations where combustible materials and dusts are present.
- q) The CSM and the competent person for the contractor and each subcontractor shall post "No Smoking Signs" as necessary in all areas where smoking is prohibited. Smoking is prohibited within all PATH areas;
- r) Combustible materials, including but not limited to wood, paper, cardboard, plastic, trash, refuse, etc., shall not be allowed to accumulate in storage locations, or on floors being constructed. A designated refuse area shall be established for accumulation awaiting pickup. All combustible materials must be removed from each floor under construction and the worksite on a daily basis. Flammable and combustible oil-soaked rags must be deposited into fireproof containers;

- s) Active stairways, aisles, and all egress pathways shall remain unobstructed, and free from the storage of debris, combustible materials, flammable liquids, compressed gas cylinders, and equipment.
- t) The use of propane as a fuel, heat, or power source is strictly prohibited without prior approval from ISD;
- u) The use of space heaters (propane or fuel gas) for area heating shall at a minimum comply with 29 CFR 1926.154: Temporary Heating Devices, the manufacturers specifications, and the following WTC Site requirements:
 - i) Describe the proposed application for propane and/or liquid fuel heater use;
 - j) Identify the locations where the propane and/or liquid fuel heater will be used, and duration of use;
 - k) Specify the locations where the propane and/or liquid fuel will be stored. Also provide:

For Propane Identify

The number of tanks to be stored
Size of the tank(s)
Pounds of propane to be stored
Maximum pounds of propane to be stored
Means of fire protection and security
Means to detect gas leaks in the system
Type, size, and location of fire extinguishers

For Liquid Fuel Identify

The number of heaters to be stored
Size of the heater's fuel tank
Amount of liquid fuel to be stored
Means of fire protection and spill control
Type, size, and location of fire extinguishers

- l) Specify the postings / labels / placards that will be used for product identification and warning; identify the individual(s) responsible to inspect the storage area and frequency of inspection;
- m) Describe how the propane and/or liquid fuel system will be set up; provide the name(s) of the FDNY Certificate of Fitness holder where required or competent person who will set up, monitor and inspect the system; identify what fire protection / prevention measures will be in-place;
- n) Affix to each propane tank and/or liquid fuel heater a tag identifying the name of the contractor using the unit;

- o) Describe the type of training that will be provided addressing propane and/or liquid fuel heating unit use;
- p) Submit a Job Hazard Analysis for use. The JHA must include:
 - Method of refueling consistent with manufacturers instructions and fire code requirements;
 - Method of transporting propane tanks and/or liquid fuel from storage to the work area;
 - Details for ventilation of enclosed space(s) where heaters will be used;
 - Scheduled inspection of heating units;
 - Assessment to verify fire protection / prevention preparedness;
 - Manufacturers recommendation for operational distances from combustibles.
- v) "No Smoking" signs shall be clearly posted in all locations where temporary space heaters are in use. Temporary space heaters shall not be used in the presence of flammable liquids or gases, or combustible dust. Combustible materials shall be stored at a distance from the space heater as recommended by the manufacturer;
- w) When in use, generators and associated exhaust outlets such as but not limited to piping, stacks, and manifolds shall be properly vented, and positioned away from combustible materials;
- x) Compressed gas cylinder, flammable and combustible liquids, and all chemical products shall be stored and signed/labeled in accordance with their hazard class. The co-mingling of different hazard classes in storage is prohibited;
- y) When required, storage areas shall be protected from vehicular impact by the use of "jersey barriers" or a similar impact resistant material;
- z) Enclosed facilities (e.g. trailers) used for the storage of flammable gases or liquids shall be properly ventilated by either mechanical or natural means based upon the characteristic of the chemical product being stored. If lighting is installed, explosion proof, intrinsically safe wiring is required.

6.07 Signage

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart G: Signs, Signals, and Barricades.

6.08 Materials Handling

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part

1926 Subpart H: Materials Handling, Storage, Use, and Disposal, in addition to the following mandatory specific worksite requirements:

- a) The competent person for each work crew using alloy steel chain, wire rope, natural and synthetic fiber rope, nylon/polyester/polypropylene webs (slings), shackles, eye-bolts, and hooks for the hoisting, lifting, supporting and suspension of materials shall at a minimum, inspect, maintain, and store the above elements at a frequency consistent with 29 CFR Part 1926.251: Rigging Equipment For Material Handling;
- b) The competent person shall document all sling inspections (daily, routine, and annual), maintain a copy of the inspection report at the worksite, and provide a copy of the inspection report to the CSM;
- c) Debris chutes with dumpsters manned by watch persons are required where the debris being removed is 20 feet or more from the point of deposit;
- d) Tag lines shall be used to control all suspended loads;
- e) Softeners shall be applied to all sharp edges when using synthetic and wire rope slings. This will help minimize abrasion and wire rope deformation;
- f) Multiple load (Christmas treeing) lifts are prohibited;
- g) Prior to the raising or lowering of loads, the path of the load shall be identified in advance of the lift. Lifts shall be coordinated in such a way as to minimize transporting the load above workers. Lifting loads over pedestrians or active roadways is strictly prohibited.
- h) When erecting, dismantling (including jumping) a tower crane, rigging materials that use synthetic slings should only be used if the manufacturer's manual recommends synthetic slings to be used. Synthetic slings shall never be used unless softening mechanisms have been applied to all sharp edges.

6.09 *Hand and Power Tool Use*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart I: Tools – Hand and Power, in addition to the following mandatory specific worksite requirements:

- a) Prior to the performance of work, the competent person for each work crew shall inspect all hand and power tools to ensure that workers are protected from the tool's point of operation. Workers shall be protected from open and exposed belts, gears, shafts, pulleys, sprockets, spindles, drums, fly wheels, reciprocating and rotating parts, and abrasive wheel explosions;

- b) Prior to use, the competent person shall ensure that all workers are trained and where required, certified in the use, inspection, and maintenance of all equipment, electric power tools, pneumatically driven tools, hydraulic power tools, fuel powered tools, and powder actuated tools in accordance with applicable regulations and the manufacturer's specifications.

As it pertains to the use of powder actuated tools, the contractor shall submit to the REO and the SSD prior to use the following:

1. Name of the tool operator;
 2. Work location;
 3. Copy of FDNY Certificate of Fitness, and verification of manufacturers training;
 4. Storage location and method for tool and shots;
 5. Plan to retrieve spent or unfired shots.
- c) As referenced in 29 CFR Part 1926.300(b)(4)(iv), each competent person needs to additionally evaluate the types of power tools noted therein;
- d) All power tools shall be inspected by the competent person to verify all switches and safety devices and guards are operational, and all power cords are firmly attached and in good repair;
- e) To prevent displacement, all pneumatic or pressurized airlines and hoses shall be secured to each other and the tool through the use of whip lines, cotter pins, retainers, or a similar securing mechanism;
- f) All hoses exceeding ½ inch inside diameter shall have a safety device at the source of supply or branch to reduce pressure in case of hose failure.

6.10 Welding and Cutting Operations

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart J: Welding and Cutting, in addition to the following mandatory specific worksite requirements:

- a) At no time should free standing, unsecured compressed gas cylinders be present at the WTC Site;
- b) A tag secured around the valve stem indicating ownership shall be affixed to each compressed gas cylinder identifying the contractor as the cylinder user;
- c) Compressed gas cylinders shall be secured to a welder's handcart through the use of chains or a bracket. If the handcart is not to be used within 24 hours,

the cylinders must be removed, and securely fastened (chained) within a designated and secured storage cage;

- d) Flammable and oxygen gas cylinders when stored must be separated by at least 20 feet, or by the construction of a 30-minute fire resistant barrier at least 5 feet in height. If stored on cylinder carts, the cart must have a 30-minute fire resistant barrier at least 5 feet in height;
- e) Storage cages shall be identified and labeled according to their contents;
- f) Compressed gas cylinders shall not be secured to building components such as structural columns, scaffolds, ladders/stair towers, guardrails, hand/stair rails, and re-bar;
- g) All compressed gas cylinders when not in use shall be stored with the valve protection cap in place;
- h) During all oxygen-fuel gas and arc welding and cutting operations, a fire watch with an adequately sized and proper class fire extinguisher shall be provided in the immediate vicinity, and all locations that could be impacted by spark or slag. All combustible materials and flammable liquids and gases shall be either removed from the vicinity, or protected in-place. The fire watch shall remain in-place until such time there is no potential for combustible material ignition. The fire watch shall not perform any other duties when acting as a fire watch;
- i) During welding and cutting operations, surrounding employees, workspaces and the public shall be protected from spark and glare through the use of welders screens;
- j) Welding clamps shall not be connected to any electrical conduit, wiring, or component;
- k) For each individual torch operation, a Hot Work Permit shall be requested, and issued by the EOC through the REO prior to the performance of work. Prior to all torch operations, the CSM shall submit the FDNY Certificates of Fitness for the welder, and fire watch to the REO for review and approval;
- l) Compressed gas cylinders shall not be stored in direct sunlight, in the snow or ice, or in locations where they cannot be seen or subject to impact.
- m) All fuel-gas lines (oxygen/acetylene) shall have installed at the regulator and torch a flash-back protection device that will prevent flame from passing into the fuel-gas system.

6.11 *Electrical*

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart K: Electrical, in addition to the following mandatory specific worksite requirements:

- a) On a daily basis, prior to the performance of each shift, the competent person shall inspect all extension cords, pig-tail power cords and light stringers, plug and cord sets, outlets, tools, and generators. Damaged or defective cords, plugs, outlets, tools, and generators shall be removed from service. All extension cords must be three-pronged grounded and have a heavy duty rating;
- b) Extension cords with missing ground plugs must be removed from service and destroyed;
- c) All extension cords, including those attached to generators, shall be connected to in-line ground fault circuit interrupter. The competent person shall test each line to verify that it is ground faulted protected prior to use;
- d) Where work is in, on, or around water, all extension cords, plugs and receptacles must be waterproof;
- e) The use of spliced (taped) electric or power cords is prohibited.

6.12 PATH Operational Safety Conditions and Precautions

PATH is an electrified rail rapid transit facility and care must be exercised around various unguarded AC and DC electric installations. All personnel entering a PATH ROW and facilities shall comply with PATH's safety rules and procedures. In particular, personnel must not place hands, feet, or any type of material between track switch points and stock rails or switch housings, or step or stand on switch rods, until the switch is properly authorized to be taken out of service and is securely clamped so that it cannot be moved.

Caution must also be exercised around train stop mechanisms, and other moving mechanical apparatus, which may move at any time. During winter weather conditions, the train stop and switch heaters may be turned on, causing the heater rods, switch rods, rails, and train stops to be hot and potentially cause burns if touched. Red sleeves are attached to the train stop heads when the train stop heaters are turned on.

Entrance to any Power Signals & Communications (PS&C) facility requires proper authorization and accompaniment by PS&C personnel and an employee in charge provided by the REO. Any person entering such a facility (relay room, bungalow, high tension feeder room, wayside signal case, etc.) must exercise particular care to

avoid inadvertent contact with energized conductors, terminals, and apparatus that may cause electric shocks and burns resulting in personal injury and possible death.

Impedance bonds are large black metal units mounted on the ties between the running rails, generally at signal locations where there are insulated rail joints. Proper procedures and safety precautions must be exercised before disconnecting any cables between the rails and the impedance bonds, due to the presence of potentially dangerous traction return currents.

Also, the internal tuning capacitors and secondary coil of the impedance bonds may have a potential of 150 volts or higher.

Where a general contractor's work is on or adjacent to the PATH ROW, the general contractor and each sub-contractor is required to annually pass the PATH's "On-Track Safety Program" in compliance with the rules and regulations set forth in FRA regulation 49 CFR Part 124, Subpart C: Railroad Worker Protection, and provide documentation and certify that the firm's employees have taken and passed the class. The course encompasses the On Track Safety Program, personnel protective equipment, communications, safety rules and procedures, emergency signals, etc. The full text of PATH's On-Track Safety Program is contained within Appendix III of the PATH Book of Rules.

Any personnel not certified under this Program will not be permitted to enter the PATH track area. Access onto the PATH System tracks must be coordinated in advance through the REQ. PATH will provide a four-hour certification class, which includes a certification test for supervisory staff representing the contractor. The contractor's supervisory staff will then be required to train and certify all additional contractor personnel that may be performing Work of the Contract. A letter certifying that the listed contractor personnel have been trained on the "PATH On-Track Safety Program" and, that they fully understand and will comply with all requirements of FRA rules, shall be filed with PATH's Manager, System Safety and Security Division at One PATH Plaza, Jersey City, NJ 07306, Tenth Floor, within 48 hours of such training. Only the persons specified in such letter will be permitted to enter the PATH ROW.

6.13 Scaffolding – Support, Suspended, Aerial

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart L: Scaffolds, in addition to the following mandatory specific worksite requirements:

- a) Fall protection shall be required on all platform, suspended, and aerial scaffolds when the working platform is equal to or greater than 6 feet above a lower level;

- b) Only a trained work crew under the supervision of a competent person shall be permitted to erect, use, modify, move, or dismantle any support, suspended, or aerial scaffold;
- c) The CSM shall maintain a list of the names and training experience of all prime and sub-contractor workers and/or employees competent to erect, use, and dismantle a scaffold and scaffolding system, and use of aerial lift;
- d) The competent person for the work crew erecting, using, or dismantling a scaffold and a scaffolding system, or using an aerial lift shall inspect the scaffold on a daily basis, or as required, prior to the performance of work by each shift, to ensure the scaffold and scaffolding system, or aerial lift complies with all applicable regulation and is acceptable for use;
- e) The competent person for the work crew erecting, using, moving, dismantling a scaffold and a scaffolding system, or using an aerial lift shall document the inspection using a checklist, keep a copy of the completed checklist at the jobsite, and provide the CSM with a copy;
- f) The working platform on all mobile scaffolds (i.e. bakers scaffold) shall be secured from displacement or upset by the use of a retaining clip or similar device. Lockable casters shall be provided on all mobile scaffolds;
- g) At a minimum, on a weekly basis or following an incident that could have affected the integrity of the scaffold or aerial lift, the competent person for the work crew erecting, using, dismantling a scaffold and scaffolding system, or an aerial lift shall affix a notification sign or tag to the scaffold or system indicating:
 - 1. If scaffold use is Approved, Restricted, or Prohibited;
 - 2. The date of the inspection;
 - 3. The name of the person inspecting the scaffold.
- h) When using cross-bracing as a component of a guard-rail system:
 - 1. Cross-brace For Top-Rail Protection:
 - i. The cross-brace intersect shall be at a height of 38 – 48 inches above the working or walking platform. An additional rail will be required as a mid-rail at a height midway between the cross-brace intersect and the working or walking platform
 - 2. Cross-brace For Mid-Rail Protection:
 - ii. The cross-brace intersect shall be at a height 20 – 30 inches above the working or walking platform. An additional rail will be required

as a top-rail at a height of 38 – 45 inches above the working or walking platform

- i) Toeboards shall be required on all scaffolds.

6.14 Fall Protection

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart M and Subpart R: Fall Protection, in addition to the following mandatory specific worksite requirements:

- a) All persons on a walking/working vertical or horizontal surface or ledge having an unprotected side or edge which is equal to or greater than six feet above a lower level unless otherwise regulated by Subpart R (including but not limited to wells, pits, excavations, holes, floor and wall openings, roof openings, shaft ways, skylights, hoist areas, material loading/off loading areas, and scaffold use) shall require fall protection through the use of guardrails, personal fall arrest system (PFAS), safety nets, or floor/ground and wall covers;
- b) When a PFAS is selected as a means of personnel fall protection, 100% tie-off to horizontal and vertical lifelines, and anchorage points shall be maintain by the use of a double lanyard;
- c) When using the top wire of a wire rope guardrail system as a horizontal lifeline, the top rope must be selected, installed and maintained to meet lifeline and anchorage loading requirements.
- d) PFASs shall be designed, installed, and maintained to ensure that if a worker experiences a fall, the lanyard shall engage to arrest the fall prior to any portion of the workers body impacting a lower level, structure or surface;
- e) Prior to each use, the competent person for the work crew shall ensure that his employee's personal fall arrest system (full body harness, connectors, d-rings, snap hooks, lanyards, lifelines, and anchorage points) are properly inspected, in good condition, and have the required tensile strength and load bearing capacity;
- f) All persons walking or working at any height above a dangerous process or piece of equipment shall be protected from falling through the use of guardrails, personal fall arrest, or safety nets;
- g) All persons exposed to falling objects shall be required to wear a hardhat, and be protected from falling objects through the use of screens, toe boards, safety nets, canopies, or restricted access;

- h) Personal fall arrest shall be required for all workers and employees working in vehicle mounted aerial platforms, extensible boom platforms, articulating boom platforms, vertical towers (scissor lifts), and aerial ladders;
- i) A Qualified Person as defined by 29 CFR Part 1926.32 must design the required lifeline and anchorage systems. The competent person shall be required to install, inspect, and maintain the system as designed;
- j) The CSM for the prime contractor and the competent person for each sub-contractor performing work on site shall develop an emergency response plan in the event a worker who experienced a fall wearing a personal fall arrest harness needs to be rescued;
- k) All exposed vertical and horizontal structural re-bar, and protruding pieces of metal shall be either be capped or covered with an impact resistant material;
- l) All surface openings, including but not limited to floor, wall, shaftway, utility, duct, skylight, roof, and conveyor shall be protected with a cover capable of supporting without failure at least twice the weight of workers, equipment, and materials imposed on it. All covers shall be secured from displacement caused by vertical or lateral impacts and wind load. All surface covers shall be identified as "Hole Cover - Do Not Remove". The competent person for the workcrew will inspect each covered surface prior to and during the performance of work. Any missing cover will be replaced, damaged covers repaired, and loose covers secured. Covers to be used in active roadways shall be capable of supporting without failure twice the maximum intended axle load of the largest vehicle;
- m) The CSM for the prime contractor shall notify the REO in advance of all safety net drop tests are required under 29 CFR 1926.502(e)(2), and provide written reports of each drop test result.
- n) The CSM for the prime contractor and the competent person for each sub-contractor performing work on site shall develop a safety net retrieval plan for personnel and debris.

6.15 Steel Erection

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart R, in addition to the following mandatory specific worksite requirements:

- a) Multiple erection loads (Christmas treeing) is prohibited;
- b) Prior to the raising or lowering of loads, the path of the load shall be identified in advance of the lift. Lifts shall be coordinated in such a way as to minimize

transporting the load above workers. Lifting loads over pedestrians or active roadways is strictly prohibited.

- c) Personnel platforms must have a positive-lock latch with a locking bolt and nut assembly, or provide a cable between the master links and hook block or headache ball;
- d) Fall protection shall be enforced by the work crew's competent person.
- e) The steel erection contractor shall use best available technologies and practices in achieving compliance with the fall protection requirements of Subpart R.

6.16 Cranes, Derricks, Hoists, Elevators and Conveyors

All Contractors and Subcontractors regardless of tier shall comply with the requirements of 29 CFR Part 1926, Subpart N: Cranes, Derricks, Hoists, Elevators, and Conveyors, and Subchapter 19 and Reference Standard RS 19-2 of the Building Code of the City of New York ("BCCNY") as follows:

1. **Prior to Delivery:** Prior to the delivery to the World Trade Center Site (the "WTC Site") of any crane or derrick regulated under the BCCNY, the contractor shall provide the following to the REO for review and approval:
 - a. A copy of a fully executed and current Form CD-2, entitled "Crane / Derrick / Mobile Work Platform – Approval and Operation Application / Certificate," Revised 08/15/05, as issued by the New York City Department of Buildings - Cranes & Derricks Division (NYCDOB-C&D), copy attached. The form shall be stamped approved by NYCDOB-C&D as a "Certificate of Approval / Certificate of Operation," and must include an expiration date, a crane Prototype Number, and a verifiable CD Number;
 - b. If the crane or derrick is diesel powered, and the engine has a horsepower rating equal to or greater than 50HP, a copy of the applicable catalogue cut or other relevant information describing the Emissions Control Device retrofitted to the engine. The retrofit shall be either a Diesel Particulate Filter ("DPF"), or other Best Available Technology ("BAT") as determined by the Materials Engineering Division ("MEU") of the Port Authority;
 - c. If delivery and/or placement of the crane or derrick will require movement over the Acrow ramp of the West Bathtub or the Acrow bridge on the West Street haul road, the contractor must comply with the "Acrow Panel Bridge Overload Protocol," dated April 30, 2002, copy attached. Please note that the protocol requires the submission of an "Acrow Panel Bridge – Vehicle Information Sheet" describing in detail the loading to be imposed on the ramp or bridge. Further, the information sheet must be accompanied by appropriate catalogue

cuts detailing the specific configuration of the crane or derrick during the movement.

Only upon the approval by the REO of the Certificate of Approval / Certificate of Operation, approval by MEU of the Diesel Emissions Control Device, and approval by Acrow Corporation of America of the Vehicle Information Sheet, will the delivery of the crane or derrick to the WTC Site be permitted. Please note that all such deliveries must also be scheduled with WTC Facility Operations.

2. **Upon Delivery:** Upon delivery of the crane or derrick to the WTC site, the contractor shall provide the following to the REO for review and approval prior to the operation and/or use of the crane or derrick:
 - a. A fully executed Form CD-4, entitled "Crane / Derrick / Mobile Work Platform – On-Site Inspection Application / Certificate," Revised 12/03, as issued by the NYCDOB-C&D, copy attached. The CD-4 is to be accompanied by applicable plans, drawings and specifications showing the following:
 1. The proposed location of the crane or derrick;
 2. All pertinent features of the site including, but not limited to, the assumed soil bearing values;
 3. Ground elevations and slopes;
 4. Vaults and other subsurface structures;
 5. Supporting platforms and structures;
 6. The swing and reach of the crane.
3. **Prior to Operation and/or Use:** Upon approval of the Form CD-4 by the REO (the "On-Site Inspection Certificate"), the contractor shall proceed as follows:
 - a. Procure the services of a New York State Licensed Professional to perform an on-site inspection, which shall include the following as required under BCCNY Reference Standard RS 19-2. The NYS Licensed Professional will be responsible for the verification, confirmation, and inspection of the following:
 1. That the crane or derrick has a valid Certificate of Approval / Certificate of Operation as issued by the NYCDOB-C&D for the configuration to be used at the WTC Site;
 2. That the crane dunnage, configuration, and location has been set-up in accordance with the plans, drawings, and specifications submitted with the On-Site Inspection Certificate;

3. That there are no vaults, or other below grade structures, affected by the crane other than those specifically shown on the plans and drawings submitted with the On-Site Inspection Certificate;
4. Perform a visual inspection of the crane to ensure that there is no damage to crane including, but not limited to, the following:
 - a. Bent or missing facings;
 - b. That the pins are properly installed, and have no visible fatigue;
 - c. All items listed in Section 5-2.1.2 of ASME B30.5-2004.
- b. Upon the completion of the on-site inspection by the NYS Licensed Professional, and his determination that the crane is in compliance with the On-Site Inspection Certificate, the NYS Licensed Professional must provide the following for review and approval by the REO:
 1. A fully executed, and signed & sealed Form CD-8, entitled "Technical Report – Statement of Responsibility," Revised 12/03, as issued by the NYCDOB-C&D, copy attached.

Upon the approval of the Form CD-8 by the REO (the "Technical Report"), the contractor may proceed with the operation and/or use of the crane or derrick at the WTC Site.

Special Notes:

1. Should the Certificate of Approval / Certificate of Operation initially issued by the NYCDOB-C&D expire while the crane or derrick is in use at the WTC Site, the owner of the crane or derrick shall provide a fully executed and complete Form CD-2, entitled "Crane / Derrick / Mobile Work Platform – Approval and Operation Application / Certificate," Revised 08/15/05, to the REO for review and approval.
2. In the case of Tower Cranes available for delivery to the WTC Site without a valid "Temporary Certificate of Approval/ Temporary Certificate of Operation," the REO may grant a waiver from the requirements of paragraph # 1.a above. However, such a waiver will require the completion of a Form CD-2 and the performance of all inspections required by NYCDOB-C&D by a NYS Licensed Professional Engineer. A signed & sealed certification will also be required by the NYSPE certifying that the results are satisfactory for operation and comply with the building Code of the City of New York.
3. The terms of the Certificate of Approval / Certificate of Operation, and Certificate of On-Site Inspection are limited to one (1) year. Upon expiration, the contractor must resubmit Forms CD-2, CD-4, and CD-8, and have a NYS Licensed Professional perform an on-site reinspection. Please note that the forms must be complete, and signed & sealed by the NYS Licensed Professional where appropriate.

4. Sometime following the delivery of any crane or derrick to the WTC Site, MEU will physically verify that the Diesel Emissions Retrofit has been completed in accordance with the BAT determination of Section 1 above.

6.17 Motor Vehicle and Mechanical Equipment

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart O: Motor Vehicles, Mechanized Equipment, and Marine Operations, in addition to the following mandatory specific worksite requirements:

- a) Each operator of motor vehicles on the WTC Site shall have a valid and current driver's license with appropriate vehicle classification and each motor vehicle shall display the required annual safety inspection sticker;
- b) Only properly identified company vehicles with valid proof of proper vehicle registration and insurance shall be allowed on the WTC Site. Vehicles shall have required identification properly displayed on each side of the vehicle. Markings can be either decal, magnetic or painted on the vehicle;
- c) All vehicles must be properly insured and documentation must be made available upon request. Signs on vehicles shall be sufficient size to be readable from 100 feet. At a minimum, vehicle signs shall contain:
 1. Company name;
 2. Company address;
 3. Company telephone number.
- d) Each prime contractor shall furnish, at their own expense, a qualified traffic flagperson as necessary to control the work traffic, unless otherwise directed by the REO or WTC Site Manager. Flagpersons shall be provided with appropriate PPE;
- e) All vehicles shall be equipped with a functioning back-up alarm;
- f) Employee owned vehicles and/or equipment shall be parked only in locations designated by the Port Authority. Illegally parked vehicles/equipment are subject to removal. The Port Authority shall not assume any costs respective of towing fees, vehicle damage and/or any costs associated with this action;
- g) The windshield, side view mirrors, back up mirrors, and overhead windows (as required) on all vehicles used on the WTC Site shall be intact, in good repair, undamaged, and clean. Vehicle safety equipment such as driver and passenger seatbelts, back-up alarms, head/tail/brake/back-up/and clearance lights shall be in good repair, clean and tested daily, or at the beginning of

each shift. Vehicles with deficiencies will be removed from service pending repair;

- h) All operators of construction equipment shall be properly licensed, and approved to use that equipment by the CSM. Copies of certifications, licenses, etc. shall be maintained onsite by the CSM and made available upon request by the REO or the SSD;
- i) Vehicles used to transport personnel shall have seats firmly secured and adequate for the number of individuals to be carried. All vehicle occupants shall be properly seated utilizing a manufacturer installed restraint device. Standing, kneeling or riding on the outside of moving vehicles is prohibited.

6.18 Excavations

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart P: Excavations, in addition to the following mandatory specific worksite requirements:

- a) No subsurface penetrations, core drilling, pilot holes, trenching or excavations operations are to be performed before either the Port Authority, or an outside agency or utility performs a mark-out. All underground utilities that are to remain must be protected for the duration of the operation;
- b) At a minimum, the competent person for each crew performing excavation and trenching operations shall:
 - 1. Be present at the worksite at all times when workers are within the excavation or trench;
 - 2. Provide a means of access and egress once the excavation or trench reaches a depth of 4 feet shall be provided, and depending upon the soil classification and worksite conditions provide cave-in protection when the depth reaches 5 feet, and fall protection if the depth of the trench or excavation equals or exceeds 6 feet;
 - 3. Establish a warning system to protect workers within the excavation or trench from vehicles;
 - 4. Ensure there is no overhead hoisting operations over occupied trenches or excavations;
- c) At a minimum, on a daily basis prior to the performance of work by each shift, or following an incident that possibly could affect the integrity of the protective system, inspect the excavation, protective system, egress ways, and adjacent

areas. All inspections shall be documented, with a copy maintained at the jobsite and a copy provided to the CSM.

- d) Prior to the commencement of any trench work, a plan showing the location, route, width and depth of the trenching is to be submitted to REO and the SSD for review. If trench shoring or shielding is required, a design prepared and stamped by a licensed NYS Professional Engineer is to accompany the plan;
- e) Open trenches, excavations, and stockpiled material at the construction site shall be appropriately barricaded, posted, and lighted;
- f) At a minimum, spoil piles and stockpiles shall be set back at least 2 feet from the edge of the trench or excavation, or at a greater distance as determined by the competent person;
- g) There shall be no work in trenches or excavations where there is the presence of water unless:
 - 1. The flow of water is controlled by the use of pumping devices, and that the work crew's competent person monitors pumping operation;
 - 2. The competent person has performed a inspection of the cave-in protection and prevention measures in place and has verified they have not been compromised;
 - 3. The competent person informs the CSM of the actions taken to support trench or excavation entry;
 - 4. The CSM approves the entry.
- n) All coverings for open trenches or excavations shall be appropriately anchored or pinned to prevent displacement, and be of sufficient strength to support at least twice the maximum axle load of the largest vehicle expected to cross over the cover.
- o) Working within a covered trench or excavation without prohibiting vehicle traffic over it is prohibited.

6.19 Concrete and Masonry Work

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart Q: Concrete and Masonry Construction.

6.20 Underground Construction, Caissons, Cofferdams and Compressed Air

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart S.

6.21 Demolition

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart T: Demolition, in addition to the following mandatory specific worksite requirements:

- a) Prior to the demolition of any structure, a licensed NYS Professional Engineer and the competent person of the demolition crew shall perform and document a pre-demolition inspection, followed by the preparation and submittal of a Demolition Plan to the CSM for review and approval. Once approved by the CSM, the plan shall forward the plan to the REO for review.

At a minimum, this plan will include a detailed description as to the means and methods, controls, and safety measures to be used for the demolition, and the following:

1. Verification of the location and condition of any remaining utilities in the structure. Prior to demolition, all active utilities and services need to be removed, de-energized, isolated, re-located, or guarded;
2. Verification of the stability of the existing, and adjacent structures. If required, such structures must be properly braced, shored, and supported to prevent unexpected collapse;
3. Identification of personal and debris fall hazards, and establishment of the appropriate controls suitable for each phase of the demolition;
4. Indication of whether waste chutes will be used, and if used, their location, construction, installation, and maintenance;
5. Identification of the protective measures to be provided for the protection of pedestrians and adjacent roadways, buildings and other structures in accordance with the provisions of Subchapter 19 of the NYCBC.

6.22 Blasting and the Use of Explosives

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart U: Blasting and the Use of Explosive, in addition to the requirements of the New York State Department of Labor and NYCBC. Additional requirements may be implemented by the FDNY or the MTA.

6.23 Power Distribution

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926 Subpart V: Power Transmission and Distribution.

6.24 Rollover Protective Structures; Overhead Protection

Each prime and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart W: Rollover Protective Structures; Overhead Protection.

6.25 Stairways and Ladders

Each prime contractor and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart X: Stairways and Ladders, in addition to the following mandatory specific worksite requirements:

- a) When there is a vertical walking/working surface-to-surface break equal to or greater than nineteen (19) inches, a ladder or stairway is required;
- b) Stairs that have at least four (4) risers, or that are at least thirty (30) inches in vertical height shall either have a hand or stair rail installed;
- c) Access and egress ways and landings to and from each ladder and stairways or stair tower shall remain unobstructed and in good repair;
- d) Self-supporting and non self-supporting stairways and ladders can only be used in their manufacturers' designed and specified positions;
- e) The use of extension ladders shall not exceed a maximum working height of 40 feet. The use of extension ladder portions shall be prohibited.
- f) Three-point contact must be maintained when ascending or descending ladders.
- g) All ladder rungs and steps, and stairway treads shall be constructed of a skid-resistant material, or surfaced to prevent slipping.

6.26 Diving

Each prime contractor and sub-contractor shall comply with the requirements of 29 CFR Part 1926, Subpart Y: Diving, in addition to the requirements of the U.S. Coast Guard for marine operations.

6.27 Hazard Communications

Each prime contractor's CSM shall establish a Hazard Communications Plan consistent with OSHA standard 29 CFR Part 1910.1200 for multi-employer sites, in addition to the following mandatory specific worksite requirements:

- a) All chemical containers shall be properly labeled to identify their contents;
- b) All chemical containers shall be properly stored and transported;
- c) Material Safety Data Sheets (MSDS) for each chemical product used at the WTC Site shall be maintained onsite by the CSM, and shall be available to all workers during all shifts, the EOC, REO, Port Authority Police, WTC Site Manager, and the SSD
- d) Compressed gas cylinders, flammable and combustible liquids, and all chemical products shall be stored and signed/labeled in accordance with their hazard class. The co-mingling of different hazard classes in storage is prohibited.

6.28 Restriction Of Hazardous Material Placarded Consignments

The following hazardous material placarded items shall be allowed onto the WTC Site providing the driver presents shipping papers and a delivery receipt indicating the name of the contractor requesting the products. Prior to delivery, the contractor's safety manager shall be in possession of the appropriate Material Safety Data Sheet.

Class 2 – Oxygen, Flammable Gas, Non-Flammable Gas, Flammable

Class 3 – Gasoline, Combustible, Fuel Oil

Class 9 - Miscellaneous

The following hazardous material placarded items shall be restricted from entering the WTC Site. Vehicles with the following placards shall be detained, and the SSD or designee shall be contacted.

Class 1 – Explosive

Class 2 – Inhalation Hazard

Class 4 – Flammable Solids, Spontaneously Combustible, Dangerous When Wet

Class 5 – Oxidizer, Organic Peroxide

Class 6 – Inhalation Hazard, Poison, Harmful

Class 7 – Radioactive

Class 8 – Corrosive

Dangerous Cargo

Prior to delivery, the contractor's safety manager shall be in possession of the appropriate Material Safety Data Sheet. The World Trade Center SSM or designee shall notify the CSM of the delivery and meet to review the consignment.

6.29 Hazardous Chemical Storage Requirements

Consistent with the requirements in U.S. OSHA 29 CFR 1910, Subpart Z: Hazard Communication, 29 CFR 1926 Subpart F: Fire Protection and Prevention, Subpart J:

Welding and Cutting, and U.S. DOT 49 CFR, Subpart E, Part 172: Labeling, each contractor shall at a minimum comply with the following:

- a) Establish and maintain a secure hazardous chemicals storage location adequately sized, designed, and constructed for the type and quantity of materials to be stored. All chemicals shall be stored in appropriate containers compatible with their hazard class;
- b) Only chemicals with the same hazard class warning shall be stored together;
- c) Confine their storage of hazardous chemicals to the area assigned, or their work location. Hazardous chemicals cannot be stored in common areas, roadways, or established egress routes;
- d) Each storage location shall be framed, sheathed, and roofed with approved fire-retardant treated lumber; fenced and roofed; caged; or otherwise securely enclosed. The entrance door shall be constructed in such a manner as to allow for the visual identification of the stored contents. The entrance door shall be lockable and remain locked at all times when not occupied, with keys provided to WTC Site Manager, SSD, REO, and Port Authority Police;
- e) The wall to floor seam of each storage location shall be bermed with an appropriate and compatible absorbent material to capture any liquid in the event of a release;
- f) Material hazard identification signs consistent with the labeling requirements of U.S. DOT 49 CFR: Part 172, and the NFPA 704 Hazard Diamond shall be conspicuously posted at all entrances into the storage location. Smoking shall be prohibited within all chemical storage locations, and shall be signed accordingly;
- g) Maintain on-site an adequate supply of spill response equipment and materials compatible for the type and quantity of the chemical products in storage;
- h) Maintain on-site a material safety data sheet (MSDS) for each chemical product stored. Ensure that workers are trained in the hazards and use of the product;
- i) Select, issue, and train workers in the maintenance, use and storage of the personnel protective equipment required when using the chemical products;
- j) Provide worker training in the proper methods to respond to spills and releases from the storage area;
- k) Compressed gas cylinders, flammable and combustible liquids, and all chemical products shall be stored and signed/labeled in accordance with their

hazard class. The co-mingling of different hazard classes in storage is prohibited;

- l) When required, storage areas shall be protected from vehicular impact by the use of concrete "jersey barriers" or a similar impact resistant material;
- m) Enclosed facilities (i.e. trailers) used for the storage of flammable gases or liquids shall be properly ventilated by either mechanical or natural means based upon the characteristic of the chemical product being stored. If lighting is installed, explosion proof, intrinsically safe wiring is required;
- n) Select and provide the appropriate type, size, and number of fire extinguishers suitable for the fire hazards presented by the stored chemicals;
- o) If stored in drums, all drums shall be raised off the ground and stored on covered containment trays, or in contained enclosures;
- p) Flammable and combustible liquids, such as gasoline, kerosene, diesel, and mixed fuels shall only be stored in either Type I or II approved metal safety storage cans with flashback protection;
- q) All fuel containers (drums, gas cans, etc) shall be appropriately color-coded and permanently labeled as "Gasoline", "Kerosene", "Diesel", or "Mixed-Fuel";
- r) Flammable and combustible liquid safety storage cans shall be stored in approved fire cabinets with a quantity limited to 60-gals of flammable and 120-gals of combustible liquid per cabinet. No more than three storage cabinets shall be stored in one area;
- s) All non-stationary fuel tanks with a storage capacity of greater than 5-gallons shall be equipped with secondary spill containment either integral to the unit, or by the installation of an impervious membrane and containment barrier (e.g.: berm/dike system);
- t) A properly charged and maintained portable fire extinguisher with a rating of not less than 4-A:60B:C shall be permanently mounted in a conspicuous location readily accessible within 50 feet of the storage location;
- u) Compressed gas cylinders (CGC) shall be stored with their valve protection caps secured on the cylinder;
- v) CGC shall be stored with 3-point contact;
- w) CGC shall not be stored directly on the ground, on their sides, or stacked on top of the other;

- x) Flammable gases and oxygen must be stored separately at least 20 feet apart, or together with a 5-foot high, 30-minute fire-rated wall separating them.
- y) Smoking shall be strictly prohibited within 50 feet of flammable and combustible liquid storage cabinets, compressed gas cylinder storage cages, and hazardous material and hazardous waste storage locations;

6.30 Contractor's Financial Obligations for Chemical Release Incidents

In the event of a hazardous chemicals/materials (hazmat) incident:

- a) In the event of a hazardous chemicals/materials hazmat incident, the Port Authority Police will respond and immediately address any life safety concerns. As it relates to incident mitigation, the Port Authority Police will isolate, and attempt to confine, collect, and/or contain as an interim control. Long-term remediation will be performed by a remediation contractor;
- b) Each prime contractor shall be financially responsible and required to address (i.e., respond, mitigate, property and equipment restoration and repair, waste transportation and manifesting, waste disposal, and notification of the NYS DEC to obtain a spill number) all hazmat releases and incidents created by their own action or their subcontractors within their work and storage area(s) and during deliveries;
- c) Each prime and subcontractor whose actions cause a hazmat incident in another prime contractor's or sub-contractor's work or storage area(s) shall be financially responsible and required to address (e.g., response; mitigation; property and equipment restoration; repair, or replacement; waste transportation and manifesting; waste disposal; and notification of the NYS DEC to obtain a spill number) all hazmat releases and incidents;
- d) The Port Authority shall be responsible to mitigate those hazmat incidents affecting common use areas, and at a prime or sub-contractors work or storage area if a life safety or environmental hazard exists, or if the contractor's hazmat contractor is unavailable. In those instances where the Port Authority responds to a prime or sub-contractor's work or storage area, that contractor shall be financially responsible to reimburse the Port Authority for contractor charges (e.g., response; consulting; project monitoring; laboratory sampling and testing; mitigation; property and equipment restoration, repair, or replacement; waste storage, transportation, and disposal) and Port Authority staff time;
- e) Each prime contractor shall be required to provide to the REO, WTC Site Manager, and the SSD the name and contact information of their call-in hazmat contractor.

- f) The Port Authority shall provide an environmental consultant firm to monitor and document remediation work. Each prime contractor shall be required to reimburse the Port Authority for this environmental monitoring service (e.g., project monitors, supervision, sample collection and laboratory analysis, report preparation). The Port Authority will not sign any manifest, shipping document, or assume the title as "generator" for hazardous waste generated by a prime contractor.

SECTION 7.0 ENVIRONMENTAL CONTROLS

7.01 Abrasive Blasting

Prior to any abrasive blasting or surface cleaning operations, excluding steam water blasting, the competent person for the work crew performing the operation shall submit to the SSD a plan to address the following:

- a) Respiratory and personal protective equipment required;
- b) Work area isolation and ventilation required;
- c) Type of equipment to be used and the blasting agent;
- d) Dust control and debris containment/collection methods to be used;
- e) Personal and environmental monitoring requirements for airborne contaminants.

7.02 Diesel Emission Mitigation

The contractor and each subcontractor shall minimize all air-borne pollutants generated by diesel-powered equipment and vehicles at all times during the performance of Work. All Non-Road (e.g., backhoes, bull dozers, cranes, excavation machines, loaders, etc.) diesel-powered equipment, including stationary (e.g., generators, compressors, etc.), with a rated horsepower greater than 50 HP shall incorporate diesel emission reduction strategies that include the use of ultra-low sulfur diesel fuel and best available technology for emission controls. In addition, all such equipment and engines shall comply with all federal, state, and local regulations applicable to exhaust emission controls and safety. The mitigation measures to be employed are to consist of the following:

7.03 Ultra-Low Sulfur Diesel (ULSD) Fuel:

All diesel-powered Non-Road equipment to be used in the performance of work with a rated horsepower greater than or equal to 50 HP shall use Ultra-low Sulfur Diesel (ULSD) fuel that can be used without engine modification or fuel compartment flushing, and is certified to contain an average sulfur content of no more than 15 ppm, as determined over a six month period. In the event that the contractor can clearly demonstrate that ULSD fuel with an average sulfur content of not more than 15 ppm is not available, a written waiver may be granted by the REO until such time that the fuel has become available, or an approved equivalent is determined by the REO to satisfy the intent of this Section.

The Port Authority shall collect monthly samples of the ULSD fuel used during the period directly from the fuel tanks of equipment used on the construction site. The Testing Standards shall include, but are not limited to: ASTM D6920 – 03 "Total Sulfur in Naphthas, Distillates, Reformulated Gasolines, Diesels, Biodiesels, and Motor Fuels by Oxidative Combustion and Electrochemical Detection" or ASTM D6428-99 "Test Method for Total Sulfur in Liquid Aromatic Hydrocarbons and Their Derivatives by Oxidative Combustion and Electrochemical Detection."

The ULSD shall be obtained from any distributor capable of meeting the requirements of this Section. All ULSD fuel shall be dispensed directly on the construction site from either a dedicated on-site fuel storage facility or segregated truck delivery. In the case of onsite storage, all such facilities shall comply with all applicable jurisdictional codes pertaining to the storage, containment and dispensing of fuel and all details must be submitted and approved by the REO prior to implementation.

A listing of ULSD fuel suppliers is included on the following Web page.

http://www.epa.gov/otaq/retrofit/cont_fuels.htm

All Non-Road diesel-powered equipment with a rated horsepower greater than 50 HP that Control Devices (devices) utilizing the best available technology. The retrofit devices shall consist of Diesel Particulate Filters (DPFs) or other measures with equivalent particulate matter (PM) removal efficiency wherever the implementation of such a device is feasible. In cases where DPFs are not feasible for safety considerations, mechanical reasons, or where the technology would not function properly, the Contractor shall submit a request for a waiver to the REO review and approval prior to the use of such equipment. If the REO grants a waiver, Diesel Oxidation Catalysts (DOCs) shall be used. Only in the following cases will the use of diesel engines greater than 50 HP without tailpipe reduction measures be permitted by the REO.

- Where for technical reasons neither DPFs or DOCs can be used effectively, and the operation cannot be performed by another engine or other means;
- To immediately remedy safety and health hazards;

- In response to emergencies.

Such reductions are to be targeted primarily toward the reduction of PM and secondarily on the reduction of nitrogen oxides (NOX), and shall in no event result in an increase in the emissions of either pollutant. The devices shall be contained in the U.S. Environmental Protection Agency (EPA) Verified Retrofit Technology List, the list of California Air Resources Board (CARB) Verifications, Europe's Verified Technology List (VERT), or as otherwise approved by the REO to provide the maximal level of pollutant reductions intended under this Section. For more information, refer to the following websites:

U.S. Environmental Protection Agency Verified Technology List:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>

California Air Resources Board Verified Technology List:

<http://www.arb.ca.gov/diesel/verdev/level3/level3.htm>

Europe Verified Technology List:

<http://www.akpf.org/pub/vertfilterliste.pdf>

Vendors of such technologies include: Cleaire, DCL International, Engelhard, Johnson-Matthey, Fleetguard Emission Solutions, Donaldson, Engine Control Systems, or other approved equal.

7.04 Diesel Construction Equipment Age Requirements:

In order to facilitate the application of verified emission control devices as well as provide lower baseline emissions, all equipment used for the performance of Work under this Contract must use post-1995 fuel injection engines which meet Tier II engine emissions standards, as defined in 40 CFR Section 89.112. Exceptions will be made only for specific engines that are not yet commercially available as Tier II, and where the task cannot be reasonably accomplished using alternative engines or means which do comply with these demands. In such cases, the Contractor shall submit a request for a waiver to the REO for review and approval prior to the use of such equipment.

7.05 Diesel Emissions Mitigation Plan For Non-Road and On-Road Engines and Equipment:

A Diesel Emission Mitigation Plan (the "DEM Plan") shall be prepared by the contractor and submitted to the REO for review and approval prior to the use of any diesel-powered engines, including non-road and on-road Vehicles. The DEM Plan shall identify all engines and vehicles to be utilized in the performance of work, whether owned by, operated by or on the behalf of the

contractor, including that rented by the Port Authority as the rental agency of the contractor. No work shall proceed until a DEM Plan is submitted and approved by the REO. Once approved, no changes in or deviations from the DEM Plan will be permitted unless approved by the REO. The DEM Plan shall address the control of emissions from all engines and vehicles including on-road vehicles (i.e., diesel powered trucks) and non-road equipment not retrofitted with devices. The contents of this plan shall specifically address the requirements of the Subsections presented below:

1. *Work Zone Creation*: The contractor shall establish on-road vehicle (i.e., diesel trucks) staging zones for the off-loading and loading of materials to and from the construction site. Such zones shall be located to minimize the impact of pollutants from diesel engines and vehicles on sensitive receptors and the general public. In addition, the contractor shall ensure that diesel powered engines and vehicles are located away from the fresh air intakes of sensitive receptors as determined by the REO;
2. *Diesel Engine Idling Policy*: The idling time of Non-Road and On-Road Vehicles shall be limited to three (3) consecutive minutes, as determined by the REO except as follows:
 - a) When an on-road vehicle is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;
 - b) When it is necessary to operate heating, cooling or auxiliary equipment to accomplish the intended use of the vehicle; installed on the vehicle when such equipment is necessary;
 - c) To bring the vehicle to the manufacturer's recommended operating temperature. In this event, the temperature requirements must be indicated in the DEM plan as an exception;
 - d) When the outdoor ambient temperature is below twenty (20) degrees Fahrenheit;
 - e) When the vehicle is being actively worked on for repairs or maintenance.

7.06 Dust Mitigation

The contractor and each subcontractor shall control fugitive dust at all times - 24 hours a day, 7 days per week, including non-working hours, weekends, and holidays. The requirements for mitigating fugitive dust particulate dispersions from the construction site and during the performance of Work, such as earth moving and demolition activities, shall include the following:

- a) The spraying of a (non-hazardous, biodegradable) dust suppressing agent;

- b) The physical containment of fugitive dust;
- c) The adjustment for meteorological conditions, as appropriate;
- d) Wheel washing of all construction Non-Road and Motor Vehicles leaving the WTC Site.

The contractor and each subcontractor shall comply with all Federal, state, and local regulations applicable to the control and mitigation of fugitive dust dispersion. The contractor shall submit a Dust Control Plan ("DC Plan") to the REO for review and approval to address the specific measures contained in this Section. A copy of this DC Plan shall also be provided to each subcontractor who shall be obliged to comply in the provisions of his subcontract with the contractor. The DC Plan shall include contact information for responsible individual(s) from the contractor with 24 hour, 7 days per week availability, and who have been vested with the authority to implement all controls and mitigation measures identified in the DC Plan. The DC Plan must detail all dust control procedures for all such controls and measures as approved by the REO, and be job specific to address all anticipated Work activities that may generate fugitive dust dispersions (e.g., demolition, saw-cutting, pavement milling, haul roads, etc.).

7.07 Noise And Vibration Abatement

Where practicable, the contractor and each subcontractor shall schedule all construction activities to avoid and/or minimize any adverse acoustic noise or vibrations that could impact sensitive receptors as determined by the REO. Acoustical sensitive receptors presently include the Millennium Hotel on Church Street, Embassy Suites on Vesey Street, and Multi Family Residential Structure on the corner of Park Place and West Broadway and residential buildings along the south side of Liberty Street. The conditions and requirements are as follows:

- a) In the event that the REO determines that the contractor may or has exceeded the noise thresholds specified in Table 1 below, the REO may direct the contractor to implement, at his own cost, abatement measures deemed appropriate by the REO and/or as specified and approved in the contractor's Noise Control And Abatement Plan (the "NCA Plan"):

Table 1: Noise Limitation Thresholds For Sensitive Receptor Sites – Resultant noise at sensitive receptor sites shall be restricted to the following levels:

TIME	dBA Limit
Weekdays, 7AM to 4 PM	80
All Other Times	70

Note: Measurements to ensure Noise Limitation Threshold compliance will be based on instantaneous maximum readings using "slow" integration speed setting on the sound level meter.

- b) The contractor shall comply with all appropriate federal, state and local regulations applicable to noise control and mitigation. The contractor shall submit a NCA Plan to describe his intended mitigation procedures and methods to control and mitigate noise generated during the performance of Work. One (1) original and four (4) copies of the NCA Plan and revisions are to be submitted to the REO. A copy of the NCA Plan and all revisions shall be provided to each subcontractor prior to the commencement of his work. The subcontractor shall be specifically obliged to comply with the requirements of the approved NCA Plan in the provisions of his subcontract with the contractor. The NCA Plan shall specifically address the following:
1. Means and methods for the implementation of all controls and mitigation measures;
 2. Design drawings of noise abatement enclosures and barriers, signed and sealed by a Licensed Professional Engineer in the State of New York;
 3. Description of physical noise mitigation materials, including the name of manufacturer and its specifications. All such materials shall be fire resistant;
 4. Catalogue cuts and technical data sheets of construction equipment to be used during Work;
 5. The qualified acoustical firm procured by the contractor to provide professional services for the creation and implementation of the NCA Plan.
- c) To ensure compliance with this Section, the contractor shall procure the services of a qualified acoustical firm to provide assistance in the creation and implementation of the NCA Plan, and to provide noise monitoring on site. Each employee of the firm who will actually perform measurements or monitoring in the field shall be appropriately trained, and have demonstrated experience in the measurement and implementation of mitigation techniques for similar types of construction projects. Such employees shall have within the preceding five years performed acoustical consulting on at least three projects of similar size and complexity that included specific noise control and abatement initiatives, preferably in the City of New York, and submit to the REO for review and approval the name and qualifications of the firm and employees as stipulated above.
- d) The contractor shall continuously monitor the actual noise levels generated during construction activities to ensure compliance with the noise requirements stipulated herein. The Port Authority will monitor noise levels at known sensitive receptors or other locations deemed appropriate by the REO to verify compliance. When noise level measurements exceed the allowable thresholds, the contractor shall cease all construction activities, and immediately implement the mitigation procedures indicated in the approved

NCA Plan. If applicable procedures are not included in the NCA Plan, revised procedures are to be developed and implemented only with the approval of the REO. Such revised work procedures are to be incorporated in the current NCA Plan, and resubmitted for formal review by the REO. In the event that a conflict between the contractor's sound level measurements and those of the Port Authority, the Port Authority's noise level measurements shall prevail.

SECTION 8.0 EMPLOYEE DISCIPLINARY ACTIONS

The following policy shall be implemented regarding disciplinary actions for workers or employees who violate or disregard the requirements of the Program and approved prime and sub-contractor Health and Safety Plans. The severity of the worker's infraction and its impact on the health and safety of other workers, the PATH Rail System and Terminal, adjoining properties, the public and the environment shall be evaluated, and disciplinary action shall be taken against the worker or supervisor as deemed appropriate by the REO who may request advice from the EOC, the SSD, PATH SS&SD, and CSM.

- a) Following an investigation by the REO, the SSD, and CSM, site workers whose action, lack of action, or conduct creates or contributes to an imminent danger situation as referenced in 29 CFR 1903 and 1908: Imminent Danger, or who knowingly allowed an imminent danger to exist, may be required to leave the Site, be barred from returning to the Site, and have their WTC Site Identification credentials revoked;
- b) Site workers who fail to comply with the health and safety requirements of the Program and approved contractor and subcontractor Health and Safety Plans shall be notified verbally by the CSM. The CSM will document the conversation, and forward a written copy describing the infraction to the contractor and/or subcontractor employing the worker, and to the SSD and REO. If the worker is again determined to be non-compliant for the same infraction, the employee will be removed from the site, barred from returning to the site, and have his/her WTC Identification credentials revoked.

SECTION 9.0 PROPOSALS FOR ALTERNATE WORK PROCEDURES

If during the performance of work, site conditions are encountered such that the CSM determines that compliance with a particular section or provision of the Program is infeasible, for reasons other than cost, the CSM shall have an opportunity to propose an alternate work procedure by submitting the following information to the REO with the signatures of both the CSM and a corporate officer for the contractor:

1. What section or provision within the Program is an alternative work procedure being requested for;

2. Other than cost, why compliance with that section or provision is considered infeasible;
3. Description of what is being proposed in lieu of compliance with the particular section or provision, and how it provides an equivalent or greater level of worker safety;
4. Description of the provisions, practices, and training that will be implemented to ensure worker, property, and environmental protection;
5. How the effectiveness of the proposed alternative method will be evaluated, and by who;
6. The length of time the alternate work procedure is being requested for.

The REO shall review the proposal, and will respond in writing. Until such time as the proposal may be accepted, the requirements of the Program must be complied with, including that section or provision for which an alternative work procedure is being sought. If the proposal is approved, it must be posted by the CSM in an area of worker assembly for the duration of that particular activity.

WAGE/BENEFIT STATEMENT
Contract Year June 1, xxxx to May 31, xxxx.

<u>Wage/Benefit Categories</u>	<u>Straight Time / Regular HOURS</u> <u>By Employee Classification</u>				<u>Straight Time / Regular WAGES</u> <u>By Employee Classification</u>			
	<u>Cashier</u>	<u>Clerk</u>	<u>Lot Checker</u>	<u>Supervisor</u>	<u>Cashier</u>	<u>Clerk</u>	<u>Lot Checker</u>	<u>Supervisor</u>
<u>Regular Hours/Wages</u>								
June	20,000	2,000	1,500	7,000	\$ 200,000.00	\$ 25,000.00	\$ 15,000.00	\$ 100,000.00
July								
August								
September								
October								
November								
December								
January								
February								
March								
April								
May								
Total Regular Hours / Wages	20,000	2,000	1,500	7,000	\$ 200,000.00	\$ 25,000.00	\$ 15,000.00	\$ 100,000.00
<u>HOLIDAY/PERSONAL BONUS</u>								
June								
x								
x								
May								
Total								
<u>SICK TIME ALLOWANCE</u>								
June								
x								
x								
May								
Total								
<u>VACATION</u>								
June								
x								
x								
May								
Total								
<u>PENSION</u>								
June								
x								
x								
May								
Total								
<u>HEALTH / WELFARE</u>								
June								
x								
x								
May								
Total								
<u>JURY DUTY/BEREAVEMENT</u>								
June								
x								
x								
May								
Total								
Total Supplemental Benefits								
Total Average Wage / Supplemental Benefits								
Per Contract								
Difference								

EXHIBIT C

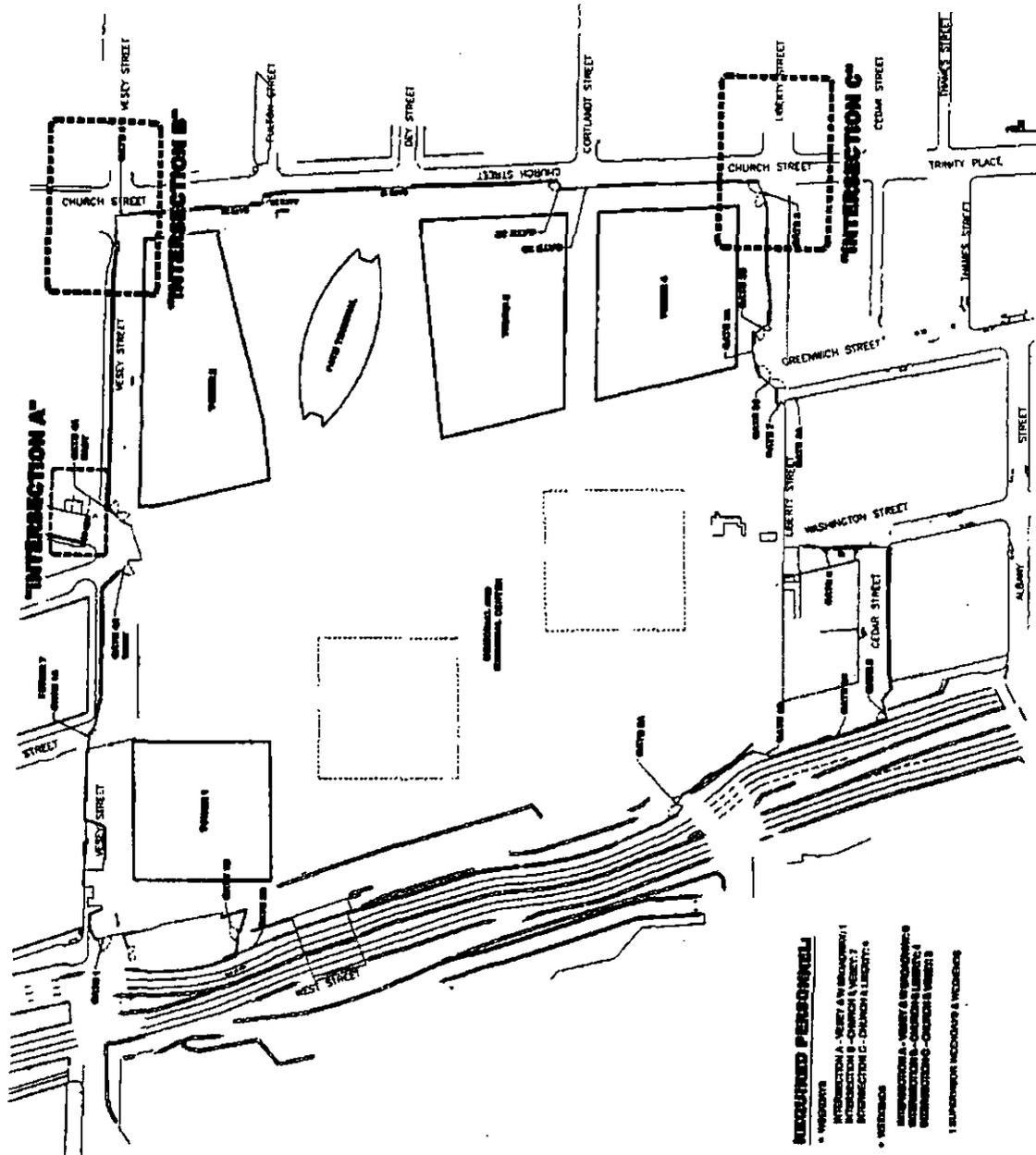
(Sample Statement)

XYZ COMPANY - Contract # _____
WAGE and BENEFITS STATEMENT
 Period Covered: June 1, xxxx to November 30, xxxx

	<u>Job Class 1</u>	<u>Job Class 2</u>	<u>Job Class 3</u>	<u>Job Class 4</u>	<u>Job Class 5</u>
Number of Employees	_____	_____	_____	_____	_____
MINIMUM HOURLY WAGES					
RATES PAID	\$9.50	\$10.50	\$11.50		
CONTRACT REQUIREMENTS	\$10.00	\$10.25	\$11.25		
Difference	(\$0.50)	\$0.25	\$0.25		
Direct Wages					
Straight-Time Direct Wages	\$ 375,000.00	\$ 275,000.00	\$ 110,000.00		
Shift Differential	2,000.00	-	-		
Total Wages	\$377,000.00	\$275,000.00	\$110,000.00		
Health Benefits					
Health/Welfare	\$ 75,000.00	\$ 50,000.00	\$ 40,000.00		
Total Health Benefits	75,000.00	50,000.00	40,000.00		
Supplemental Benefits					
Holiday	\$ 9,500.00	\$ 8,000.00	\$ 9,500.00		
Vacation	4,000.00	3,000.00	4,000.00		
Sick	4,000.00	3,000.00	4,000.00		
Personal	1,000.00	1,000.00	1,000.00		
Dental	1,000.00	1,000.00	1,000.00		
Jury Duty / Bereavement	-	500.00	-		
Bonus	13,600.00	10,000.00	13,600.00		
Pension / 401K	12,500.00	12,000.00	12,500.00		
Other (please specify)	-	-	-		
Total Supp. Benefits	\$ 45,600.00	\$ 38,500.00	\$ 45,600.00		
HOURS					
Straight-Time Hours	38,600.00	25,000.00	11,000.00		
Add: Roll Call Time, if applicable	550.00	550.00	550.00		
Less: Relief Time, if applicable	(500.00)	(500.00)	(500.00)		
Less: Meal Time, if applicable	-	-	-		
Hours Worked	38,650.00	25,050.00	11,050.00		
Average					
Average Direct Wages Paid	\$ 10.29	\$ 10.98	\$ 9.95		
Contract Requirements	10.25	10.50	10.75		
Difference	\$ 0.04	\$ 0.48	\$ (0.80)		
Average Health Benefits Paid	\$ 2.05	\$ 2.00	\$ 3.62		
Contract Requirements	\$ 2.00	\$ 2.00	\$ 2.00		
Difference	\$ 0.05	(0.00)	\$ 1.62		
Average Supplemental Benefits Paid	\$ 1.24	\$ 1.54	\$ 4.13		
Contract Requirements	\$ 1.50	\$ 1.70	\$ 4.13		
Difference	\$ (0.28)	(0.16)	\$ (0.00)		
MINIMUM SALARIES (if applic.)					
SALARIES PAID				\$33,375	\$42,777
CONTRACT REQUIREMENTS				\$33,375	\$40,600
Difference				\$0	\$2,177

NOTE:
 Details by month
 and by employee
 must be available and
 may be submitted
 with this statement.

Statement Certified by: _____
 Name Title Date



INSTRUCTIONS

PROPOSER INSTRUCTIONS: In accordance with Section 6. M/WBE Subcontracting Provisions, the proposer shall submit this form as the M/WBE Participation Plan and/or good faith documentation as part of Section 7. Proposal Submission Requirements.

BIDDER INSTRUCTIONS: In accordance with Part VI of the contract book, the bidder shall submit a M/WBE Participation Plan and/or best efforts documentation to the Manager or designee identified in the contract book within 10 days of contract award.

MANAGER/DESIGNEE INSTRUCTIONS: After a review of the submitted M/WBE Participation plan, forward to the Office of Business and Job Opportunity via fax at (212) 435-7828 or PAD to 233PAS 4th Floor for review and approval. Approved/waived/rejected plan will be returned within 5 business days of receipt of this document. Manager/Designee will advise vendor of the results of the M/WBE Participation Plan review.

ATTACHMENT C- STATEMENT OF SUBCONTRACTOR PAYMENTS

INSTRUCTIONS FOR STATEMENT OF SUBCONTRACTOR PAYMENT

Attached is the Statement of Subcontractor Payments form, which shall be submitted with every invoice to be used in conjunction with the M/WBE Participation Plan.

Statement of Subcontractor Payments

MMWBE Participation Report

Contract/PO No.: _____
 Contract Title: _____
 Prime Contractor Name: _____
 Contract/PO Amount: _____
 PA Project Manager: _____

Date of Invoice _____
 Committed MMWBE Goals: M ____ W ____
 Award date: _____
 Completion date: _____
 MMWBE Participation to date M ____ W ____

Subcontractor's Name	Description of Work Performed or Materials Supplied by Subcontractor	Subcontractor's Address & Phone No.	MMWBE Status	Total Contract Amount Awarded to Sub	Total of Sub's Previous Requests	Amount Paid Sub to date	Amount of This Request

In connection with the above-captioned contract I HEREBY DECLARE AND AFFIRM that I am a duly authorized representative of this company, and that the following Minority and Women Business Enterprises have been contracted with and have furnished or are furnishing and preparing materials for, and have done or are doing labor on the above captioned contract, that there is due and to become due them, respectively, the amounts set opposite their names for materials or labor as stated, and that this is a full, true, and complete statement of all such MMWBEs and of the amounts paid, due, and to become due to them:

Signature _____ Print Name _____ Title _____ Telephone _____