

## **Advertisement for Bids**

### **Cleveland-Cuyahoga County Port Authority Cleveland, Ohio**

NOTICE IS HEREBY GIVEN by the Board of Directors that Sealed Bids will be received by the Cleveland-Cuyahoga County Port Authority for the:

#### **Port of Cleveland Third Floor Office Space Modifications**

**The successful Bidder will perform the scope of work outlined in the Contract Documents. The work consists of the renovations to the Port Authority's offices located on the third floor of 1100 W. 9<sup>th</sup> Street.**

Bids will be received at the office of the Cleveland-Cuyahoga County Port Authority, Attention: Mr. Nicholas A. LaPointe, 1100 West Ninth Street, Suite 300, Cleveland, Ohio 44113 until 11:00 a.m. local time on July 7<sup>th</sup>, 2022.

Specifications ("Bid Packets") will be available and may be obtained at the office of the Cleveland-Cuyahoga County Port Authority ("Port Authority") at 1100 West Ninth Street, Suite 300, Cleveland, Ohio 44113 during regular business hours of 9:00 a.m. through 4:00 p.m. or on the Port Authority website: <https://www.portofcleveland.com/doing-business/>.

A mandatory pre-bid meeting will be held on June 28<sup>th</sup>, at 1:00 p.m. at the Port Authority's Office Building located at 1100 W. 9<sup>th</sup> Street in Cleveland, Ohio. Registration to attend this pre-bid meeting is requested a minimum of 24 hours in advance.

Bids must be submitted on the forms furnished in the Bid Packet.

**THE PORT AUTHORITY RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS, TO WAIVE ANY TECHNICALITIES, TO REQUEST ADDITIONAL BIDS AND TO OTHERWISE PROCEED IN ACCORDANCE WITH THE BEST INTEREST OF THE PORT AUTHORITY.**

Any Bid may be withdrawn or amended prior to the closing time for the receipt of the Bids. If any Bidder has questions, they should contact Nicholas A. LaPointe at 216-377-1342, or email [Nicholas.LaPointe@portofcleveland.com](mailto:Nicholas.LaPointe@portofcleveland.com).

**UNDER NO CIRCUMSTANCE WILL THE PORT AUTHORITY BE RESPONSIBLE FOR ANY COSTS INCURRED BY ANY BIDDER IN RESPONDING TO THIS REQUEST FOR BIDS.**

The successful Bidder will be required to enter into a contract with the Port Authority based upon the materials submitted and any mutually agreeable negotiations completed between the parties.

Cleveland-Cuyahoga County Port Authority

William Friedman  
President

# Cleveland-Cuyahoga County Port Authority

## Project: Port of Cleveland Third Floor Office Space Modifications

**Bid Deadline: 11:00 a.m. local time on July 7<sup>th</sup>, 2022**

Instruction to Bidders, General Contract  
Conditions,  
Proposal & Bid Forms, and Form Contract  
Agreement

### **Part A - Instruction to Bidders & Special Conditions**

#### **A-1 ADVERTISEMENT**

An advertisement for bids for the Project appears in one or more newspapers of general circulation in Cuyahoga County and can be examined, along with the publication dates of said ad, at the office of the Port Authority.

#### **A-2 PRE-BID MEETING**

A mandatory pre-bid meeting will be held on June 28<sup>th</sup>, at 1:00 p.m. at the Port of Cleveland's office building located at 1100 W. 9<sup>th</sup> Street in Cleveland, Ohio. All interested bidders are required to attend this pre-bid meeting. Pre-registration is requested a minimum of 24 hours in advance and shall be made to the attention of Nicholas LaPointe at [Nicholas.LaPointe@PortofCleveland.com](mailto:Nicholas.LaPointe@PortofCleveland.com).

#### **A-3 BID DEADLINE**

Sealed bids with the envelope clearly endorsed with the Project's name will be received at the office of the Port Authority, 1100 West Ninth Street, Suite 300, Cleveland, Ohio 44113, until 11:00 am of the Bid opening date and then publicly opened and read. The Bid Opening Date may be extended by the Port Authority if the Port Authority believes good cause exists to do so.

#### **A-4 BID FORM**

Every bid must be made upon the blank Bid Forms and each Bidder must fully, truthfully and accurately complete all portions of the Bid Forms. The Bid Forms must acknowledge all Addenda made hereto and failure to acknowledge all Addenda may cause the bid to be considered non-responsive, which may result in the rejection of the bid. Oral representations, statements, explanations, or instructions given before the award of the Contract will not be binding upon the Port Authority.

#### **A-5 PRE-BID QUESTIONS & REVISIONS PRIOR TO BID OPENING DATE**

Pre-bid questions shall be directed to Nicholas LaPointe at [Nicholas.LaPointe@PortofCleveland.com](mailto:Nicholas.LaPointe@PortofCleveland.com). The pre-bid question deadline for the Project has been set for the close of business on Wednesday, June 29<sup>th</sup>. Responses will be returned to all Bidders via Addendums posted to the Port Authority's website on or before close of business on July 1<sup>st</sup>. All Addendums will be posted to the Port Authority's website a minimum of 24 hours in advance of the bid deadline. The Port Authority reserves the right to revise or amend this Bid Package, including, without limitation, the specifications and/or drawings, prior to the Bid Opening Date. Such revisions and amendments, if any, will be announced by Addenda on the Port Authority's website. If the revisions and amendments require changes the Port Authority considers material, the Bid Opening Date may be postponed by such

number of days as in the opinion of the Port Authority will enable Bidders to respond to the material revisions and amendments.

## **A-6 DEFINITIONS**

The following words, or pronouns used in their stead, shall, wherever they appear in the Contract Documents, be construed as follows, unless a different meaning is clear from the context:

1. "Addendum" or "Addenda" shall mean the additional or modified contract requirements prepared by the Port Authority and issued in writing, by means of drawings, or both, by the Port Authority prior to the receipt of bids. Addendum or Addenda are considered official contract documents.
2. "Allowance" shall mean a fixed lump sum price that is populated by the Owner, and if performed, shall be paid as a lump sum item. Scope of work for this item shall not exceed the fee populated on the Bid Form.
3. "Alternate Bid Item" shall mean items that the Contractor shall bid which may be exercised at discretion of Owner.
4. "Authorized Representative" shall mean the authorized representative of the Port Authority appointed in the Specifications and Supplemental Conditions or otherwise.
5. "As Directed By Engineer" shall mean work that shall be only progressed and paid out at the discretion of the Port Authority's Authorized Representative.
6. "Bidder" shall be any entity submitting a bid.
7. "Bid Form" shall be the blank bid form attached to this Bid Package.
8. "Bid Opening Date" is the date given in the caption of this document unless otherwise altered.
9. "Bid Package" consists of the Advertisement described in A-1, Instructions to Bidders, General Conditions, Specifications and Supplemental Conditions, Bid Form and Form Contract and the documents identified herein and any Addenda issued by the Port Authority prior to Bid Opening Date ("Bid Package").
10. "Change Directive" shall have the meaning given to it in B-31.
11. "Change Order" shall have the meaning given to it in B-31.
12. "Contract" or "Contract Documents" shall mean each of the various parts of the contract referred to in Section B-1, both as a whole and severally, and shall include subsidiary agreements or amendments thereto, if any.
13. "Contractor" shall mean the entity awarded the Contract and its permitted successors.
14. "Contract Drawings" shall mean those identified in Section B-1.
15. "Final Acceptance" shall mean final acceptance of the Work by the Port Authority, as evidenced by the certificate of completion and acceptance executed by the Port Authority, a copy of which shall be sent to the Contractor. Such acceptance shall be deemed to have taken place as of the date so stated in such certificate.
16. "Form Contract" shall be the blank contract form attached to this Bid Package.

17. "Law" or "Laws" shall mean all applicable laws including the Constitutions of the State of Ohio and United States, statutes and regulations of the United States, the State of Ohio or any of its political subdivisions or agencies, resolutions of Port Authority, and any municipal ordinance, rule or regulation having the force of law which is applicable to the Contract, the Work or the Bid Package.
18. "Materialman" shall mean any entity other than employees of the Contractor, which contracts with the Contractor, or any Subcontractor to fabricate or deliver, or who actually fabricates or delivers, materials, plant, or equipment to be expended, used or incorporated in the Work.
19. "President" shall mean the President of the Port Authority.
20. "Port Authority" shall mean the Cleveland-Cuyahoga County Port Authority.
21. "Prospective Bidders" shall mean all who have, in writing, provided their name, address and facsimile numbers to the Port Authority and specifically stated their interest in the Project.
22. "Site" shall mean the area upon which the Work is to be performed, and such other areas adjacent thereto as may be designated by the President.
23. "Specifications" shall mean all of the directions, requirements, and standards of performance applying to the Work as hereinafter detailed.
24. "Standard" shall have the meaning given to it in Section B-18.
25. "Subcontractor" shall mean anyone (other than the Contractor and its employees) who performs work (other than or in addition to the furnishing of materials, plant or equipment) at or about the Site, directly or indirectly for or on behalf of the Contractor (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.
26. "Work" shall include the furnishing of all labor, materials, tools, equipment, incidentals, and any other thing necessary or required for the full performance of the Contract by the Contractor.
27. "Workman", "Laborer" or "Workingman" shall mean any employee of the Contractor, or of a Subcontractor, who performs personal labor or personal services at the Site.

#### **A-7 CORRECTNESS OF BIDDING DOCUMENTS**

Prospective Bidders shall examine the documents of this Bid Package and note any errors, inconsistencies, omissions, ambiguities or deficiencies bearing on the performance of the Work or the interpretation of the Contract Documents. Upon discovery of any errors, inconsistencies, omissions, ambiguities or deficiencies, Prospective Bidders shall promptly notify the Port Authority in writing and request clarification. The Port Authority is not bound to respond to any such request. The Port Authority will make any corrections it deems necessary to the Contract Documents by issuing an Addendum before the Bid Opening Date.

By placing a Bid, Prospective Bidder waives any claim based on any error, inconsistency, omission, ambiguity or deficiency in the Contract Documents known to it or which could have been reasonably discovered by it.

**A-8 NAME OF BIDDER**

Each bid must be clearly signed with the full accurate legal name and address of the entity making the bid and of each person, firm or corporation having a 5% or more interest in it and any fictional business or trade name used by said entity. In case of a partnership, the firm name and address and name and address of each individual partner must be given. In case of a corporation or limited liability company, the title of the officer signing must be stated, and each officer is warranting that it is duly authorized by signing. In case of an individual, use the term "doing business as \_\_\_\_\_" or "sole owner."

**A-9 BIDDER'S AFFIDAVIT**

Each Bidder is required to submit with its bid the Port Authority's standard bid affidavit, a copy of which is enclosed and available from the Port Authority on request. Contractor shall also familiarize himself/herself with the certifications by which the Contractor is agreeing to or verifying through the signature and submission of a bid.

**A-10 BID BOND, CERTIFIED OR CASHIER'S CHECK, LETTER OF CREDIT**

Each bid must be accompanied by a bid bond signed by a surety company authorized to do business in Ohio, or by a certified check, cashier's check, or Letter of Credit in the sum of 10% of the amount of the bid. Said bond, check or Letter of Credit shall be security for entry into a contract by Bidder and security for Bidder providing proper security for its performance if the bid is accepted. Any bid bond must be in proper form to establish the surety company's liability to Port Authority, which form is subject to approval by Port Authority's counsel. Please note, the Port Authority does not have a standard Bond Form.

**A-11 DISPOSITION OF BID BOND, CERTIFIED OR CASHIER'S CHECK, LETTER OF CREDIT**

- a. The bid bond, certified or cashier's check, or Letter of Credit shall be forfeited and the principal amount of said bid bond shall be paid to the Port Authority, or said check or Letter of Credit shall be surrendered to the Port Authority as the agreed amount of liquidated damages in case of failure to enter into a Contract. The bid bond, check or Letter of Credit will be released or returned to the Bidder if the bid is rejected.
- b. If the bid is accepted, the bid bond, certified or cashier's check or Letter of Credit will be returned after the form Contract has been signed and the payment and performance bond herein required furnished and approved by the Port Authority. All bid bonds, certified or cashier's checks or Letters of Credit will be retained until Bidder has signed and secured the performance of its Contract. Any Bidder in default of signing and properly securing the Contract awarded to it, shall forfeit the bid bond, certified or cashier's check or Letter of Credit to the Port Authority as liquidated damages. If any or all of the Bidders fail to enter into a Contract or properly secure its performance, the Port Authority may retain any or all of the bid bonds, checks or Letters of Credit of such Bidders so failing and reject all other bids.

**A-12 UNACCEPTABLE BIDS**

A bid may be rejected in the Port Authority's sole and absolute discretion from any entity that is or was in arrears or is or was in default to the Port Authority upon any debt, contract or upon any obligation to the Port Authority.

**A-13 EVIDENCE OF ABILITY TO DO WORK**

Bidders must present evidence to the Port Authority, with their bid, that they are fully competent and have the necessary facilities, experience, personal and pecuniary resources to

deliver the material and complete the Work in a satisfactory manner and within the time specified. Failure to submit this information may be grounds for bid rejection or determination that a Contractor is unresponsive and irresponsible.

**A-14 APPROXIMATE QUANTITIES**

Actual contract quantities may vary from those estimated by the Port Authority to perform the scope of work outlined in the bid documents. It is the responsibility of the Contractor to verify the quantities listed in the Contract Documents. The Port Authority reserves the right to increase to perform additional work outside of work highlighted in the bid documents, or to omit any one or more items, at the unit price bid.

**A-15 EXAMINATION OF SITE OF WORK**

- a. Bidders are strongly encouraged to satisfy themselves as to all of the relevant existing conditions of the Site, including existing conditions, historic use, utilities, project staging areas, existing use, and ongoing operations that may affect the progress or performance of the Work. The Port Authority makes no guarantee, either express or implied, or any representations regarding Site conditions. Bidders submission of a bid is the acknowledgment of Bidder that it has inspected the Site, including existing improvements, and informed itself of observable Site conditions, or has waived its right to do so, and, in any event, has assumed the risk of all Site conditions, whether latent or patent.
- b. Subject to the convenience of the Port Authority, Prospective Bidders may visit the Site and take such other steps as may be necessary to ascertain the nature and location of the Work and Site Conditions. Prospective Bidders will be permitted to explore the Site by performance of select demolition or detailed investigation, so long as it does not interfere with Port Authority business or any other users of the Site. In such event, the Work shall be done at the sole expense and risk of the Potential Bidder, who shall maintain the Site in a safe condition and restore it to its previous condition upon completion of its test. Potential Bidders desiring to visit the Site must make arrangements for such visit by contacting the Authorized Representative and have insurance acceptable to the Port Authority.

**A-16 MATERIAL SAMPLES**

Before any Contract is awarded, the Bidder may be required to furnish a complete certified statement of the origin, composition, and manufacture of any or all materials to be used in the Work, together with samples, which samples may be subjected to tests to determine its quality and fitness for the Work.

**A-17 CONSIDERATION OF RESPONSIVE BIDS AND RESPONSIBLE BIDDERS**

- a. All responsible and responsive bids shall be considered. The Port Authority reserves the right to meet with any Bidder after the Bid Opening Date but prior to the awarding of the Contract to ascertain the responsiveness of the bid and responsibility of the Bidder.
- b. To be considered responsive, a bid must comply in all respects with the terms and conditions of the Bid Package and must not contain any irregularities or deviations from the Bid Package, which would affect the amount of the Bid or otherwise give the Bidder a competitive advantage. The bid must constitute a definite and unqualified offer to perform the Work in accordance with the terms and conditions of the Bid Package. Each bid is deemed submitted on the Plans, Specifications, Bid Documents and other Contract Documents, including, but not limited to, all Addenda. The Bidder will be required to comply with all requirements of the Contract Documents, regardless

of whether the Bidder had actual knowledge of the requirements and regardless of any statement, clarification, exception, or qualification made by the Bidder which might indicate a contrary intent.

- c. Factors which the Port Authority shall consider in determining whether a Bidder is responsible include, but are not necessarily limited to the experience of the Bidder, its financial condition, its conduct and performance on previous contracts, its facilities, its management skills, its ability to execute a contract properly, its experience performing work with the Port Authority, its ability to meet the MBE/FBE minimum requirements and goals established for the Project, and demonstration of experience performing work at secure facilities that have control check points where the scope of work involves the installation of confidential/sensitive security systems and monitoring equipment.

**A-18 REJECTION OR ACCEPTANCE OF BIDS; WAIVER OF NONCOMPLIANCE**

- a. The Port Authority will award the Contract(s) hereunder to the lowest responsive and responsible Bidder as determined in the discretion of the Port Authority and Sections 9.312 and 4582.12, Ohio Revised Code.
- b. The Port Authority, reserves the right to reject any or all bids. The Port Authority reserves the right to act in its best interest in awarding a Contract. Any bid, which is incomplete, conditional, ambiguous, or which contains additions not called for, irregularities of any kind, or in any manner does not strictly comply with this Bid Package, may be rejected.

**A-19 WITHDRAWAL OF BID**

No bid may be withdrawn after it has been deposited with the Port Authority.

**A-20 TIME OF AWARD**

Unless further time is required for analysis of the responsiveness of the bids or investigation of the responsibility and ability of any Bidder and in the absence of a limitation upon the time of acceptance set forth in the bid, the Port Authority will ordinarily notify the successful bidder of its intent to award or reject all bids received hereunder not later than thirty (30) days following the opening of bids although it reserves the right to unilaterally extend that time in a written notice to Potential Bidders, but in no event shall it be longer than sixty (60) days from Bid Opening Date. Any extension of time beyond that date shall be subject to agreement between said Bidder and the Port Authority.

**A-21 EXECUTION OF CONTRACT**

After award, within three (3) days of being provided with a final version of the Form Contract attached in draft form hereto, with blanks appropriately completed, Bidder shall execute the Form Contract and return it to the Port Authority. The finalized Form Contract will be sent to the successful Bidder following Board approval and authorization of the Contract. It is the intention of the Port Authority staff to present this Contract and make a recommendation for award at the Board meeting scheduled for no later than September 8<sup>th</sup>, 2022.

**A-22 PERFORMANCE AND PAYMENT BOND**

The Contractor shall furnish a payment and performance bond to the Port Authority in the form specified by Sections 153.54, 153.57 and 153.571 of the Ohio Revised Code, for the amount at least equal to 100 percent of the estimate as security for the faithful performance of its Contract. In addition to the Port Authority, the Ohio Department of Transportation ("ODOT" or

“Department”) shall be named as an obligee.

**A-23 RELEASE OF BOND**

The Contractor's bond will be released in the manner provided by law.

**A-24 PREVAILING WAGE**

Note, this project is prevailing wage, see section B-26 under the General Conditions of the contract.

**A-25 MINORITY & FEMALE BUSINESS PARTICIPATION**

The Cleveland-Cuyahoga County Port Authority is committed to economic inclusion of minority and female-owned businesses. It is the expectation that all minority and female firms or contractors working on the Project will perform a commercially useful function and that the Contractor will exercise its best efforts to utilize certified Minority Business Enterprises (“MBE”) and Female Business Enterprise (“FBE”) businesses in the construction of the Project Improvements at a level of 30% or greater overall, with a breakdown of 15% to MBE and 15% FBE. It is further expected that the workforce on the Project be reflective of the 30% inclusion participation commitment.

The Port Authority understands that as result of market limitations and details specific to each project, a 30% participation goal may be a difficult goal to attain on certain Projects. As a result, please indicate the level of anticipated FBE/MBE Project participation percentage on the Bid Forms. The participation level will be evaluated as part of an overall bidder’s responsiveness. The Port Authority requires a minimum participation of 20% on this Project. Prior to awarding the Contract, the Port Authority will request an MBE/FBE participation plan outlining how the Bidder intends on achieving the participation level listed on their Bid Form. It is the expectation that all minority and female firms working on the Project will perform a commercially useful function and that the contractor will exercise its best efforts to utilize certified MBE and FBE businesses in the construction of the Project at a level of 30% or greater.

The Contractor, will be expected to provide the Port Authority written confirmation that the MBE or FBE working on the project have performed or are performing a commercially useful function. If any subcontractor does not meet the commercially useful function definition, the percentage of inclusion will be adjusted to reflect that change. In addition, the Contractor is expected to provide monthly reports of which companies are currently working or scheduled to work on site. The monthly reports should also include the associated scopes of work and an affidavit for each MBE and FBE working on the project. The Port Authority will, from time to time conduct site visits and monitor the MBE and FBE workforce participation on the Project.

The Port Authority adheres to the following definitions:

Minority Business Enterprise (MBE) – Minority group members are United States citizens who are Asian, African American or Black, Hispanic and Native American. A Minority Business Enterprise (MBE) means that ownership of the business is at least 51% owned by such individuals or, in the case of a publicly-owned business, at least 51% of the stock is owned by one or more such individuals i.e. the management and daily operations are controlled by those minority group members.

Female Business Enterprise (FBE) – Female group members are United States female or women citizens. A Female Business Enterprise (FBE) means that ownership of the business is at least 51% owned, operated and controlled on a daily basis by one or more (in combination) female or women American citizens.



A Minority or Female-Owned Enterprise performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The company must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering materials, and installing (where applicable) and paying for the materials itself.

**A-26 RESERVED**

**A-27 CERTIFICATION AGAINST DEBARMENT & SUSPENSION**

The bidder hereby certifies by signing and submitting this proposal that, except as noted below, under penalty of perjury and under other such penalties as the laws of this state and the United States of America provide, that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal or state agency; that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; that the company or any person associated therewith in the capacity of owner, partner, director, manager, auditor, or any position involving the administration of federal funds does not have a proposed debarment pending; that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator has not been indicted, convicted, or had a civil judgment rendered against the company, or themselves by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

If there are exceptions to any of the above clauses please include a statement with the bid package detailing these exceptions.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, initiating agency and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. Execution of this proposal on the signature portion thereof shall constitute also signature of this certification as permitted by Title 28 United States Code, Section 1746.

**A-28 STATE EEO CERTIFICATION CLAUSE**

The hiring of employees for the performance of work under this contract shall be done in accordance with Ohio Revised Code sections 153.59 and 153.591, the Governor's Executive Order of January 27, 1972, including Appendices "A" and "B" and the Governor's amended Executive Order 84-9 of November 30, 1984. The successful contractor shall not discriminate against or intimate any person hired for the performance of the work by reason of race, color, religion, national origin, ancestry, sex or handicap. For any violation the contractor shall suffer such penalties as provided for in Ohio Revised Code section 153.60, the Governor Executive Order of January 27, 1972. The bidder also agrees that upon the award of this contract he shall incorporate this certification in all subcontracts on this Project regardless of tier.

**A-29 DRUG FREE SAFETY PROGRAM PARTICIPATION**

During the life of this Project, the Contractor and all its Subcontractors, that provide labor on the Project site, must be enrolled in and remain in good standing in the Ohio Bureau of Worker's Compensation ("OBWC") Drug-Free Safety Program ("DFSP") or a comparable program

approved by the OBWC.

In addition to being enrolled in and in good standing in an OBWC-approved DFSP or a comparable program approved by the OBWC, the Department requires each Contractor and Subcontractor that provides labor, to subject its employees who perform labor on the project site to random drug testing of 5 percent of its employees. The random drug testing percentage must also include the on-site supervisors of the Contractors and Subcontractors. Upon request, the Contractor and Subcontractor shall provide evidence of required testing to the Department.

Each Subcontractor shall require all lower-tier Subcontractors that provides labor on the Project site with whom the Subcontractor is in contract for the Work to be enrolled in and be in good standing in the OBWC DFSP or an OBWC-approved DFWP prior to a lower-tier Subcontractor providing labor at the Site.

The Department will declare a bid non-responsive and ineligible for award if the Contractor is not enrolled and in good standing in the Ohio Bureau of Workers' Compensation's Drug-Free Safety Program (DFSP) or a similar program approved by the Bureau of Workers' Compensation within 8 days of the bid opening. Furthermore, the Department will deny all requests to sublet when the subcontractor does not comply with the provisions of this proposal note.

Failure of the Contractor to require a Subcontractor to be enrolled in and be in good standing in the OBWC DFSP or an OBWC-approved DFWP prior to the time that the Subcontractor provides labor at the Site, shall result in the Contractor being found in breach of the Contract and that breach shall be used in the responsibility analysis of that Contractor or the Subcontractor who was not enrolled in a program for future contracts with the State for five years after the date of the breach.

The prime Contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace. The prime Contractor shall make a good faith effort to ensure that all its employees, while working on this project, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

The prime Contractor shall also require that this Contractual obligation be placed in all subcontractor and materialman contracts that it enters into and further requires that all subcontractors and materialmen place the same Contractual obligations in each of their lower tier contracts.

#### **A-30 OHIO WORKERS' COMPENSATION COVERAGE**

The Contractor must secure and maintain valid Ohio workers' compensation coverage until the Project has been finally accepted by ODOT. A certificate of coverage evidencing valid workers' compensation coverage must be submitted to the Port Authority before the Contract will be executed by the Port Authority.

The Contractor must immediately notify the Port Authority, in writing, if it or any subcontractor fails or refuses to renew their workers' compensation coverage. Furthermore, the Contractor must notify the Port Authority, in writing, if its or any of its subcontractor's workers' compensation policies are canceled, terminated or lapse.

The failure to maintain valid workers' compensation coverage shall be considered a breach of Contract which may result in the Contractor or subcontractor being removed from the Project, withholding of pay estimates and/or termination of the Contract.

#### **A-31 UNRESOLVED FINDING FOR RECOVERY**

The Contractor affirmatively represents to the Port Authority that it is not subject to a finding for recovery under Ohio Revised Code §9.24, or that it has taken the appropriate remedial steps required under §9.24 or otherwise qualifies under that section. The Contractor agrees that if this representation is deemed to be false, the Contract shall be void ab initio as between the parties to this Contract, and any funds paid by the state hereunder shall be immediately repaid to the Port Authority, or an action for recovery may be immediately commenced by the Port Authority and/or for recovery of said funds.

**A-32 RESERVED**

**A-33 RESERVED**

**A-34 RESERVED**

**A-35 OWNER SCHEDULE GOALS & MILESTONES**

Port Authority anticipates issuing Notice to Proceed as early as July 22<sup>nd</sup> but no later than September 16<sup>th</sup>, 2022. While not a requirement to complete the Project within the following durations, we have developed the following completion goals/milestones.

Project Mobilization: 60 Calendar Days From Notice To Proceed  
Substantial Completion: 120 Calendar Days From Notice To Proceed  
Final Completion & Turnover: 150 Days From Notice To Proceed

Based upon backlog, market conditions, and available workload, Contractor shall state their anticipated substantial completion and final completion durations on the Bid Form. The dates the Contractor places on their Bid Form will be incorporated into the final version of the Form Contract Agreement which will be contractually required to adhere to.

**A-36 RESERVED**

**A-37 RESERVED**

**A-38 RESERVED**

**A-39 RESERVED**

**A-40 RESERVED**

**A-41 RESERVED**

**A-42 RESERVED**

**A-43 RESERVED**

**A-44 CITY OF CLEVELAND, US ARMY CORPS OF ENGINEERS, AND OHIO ENVIRONMENTAL PROTECTION AGENCY PERMITS**

The above referenced permits are incorporated and made a part of this contract as special provisions incorporated herein. Note, there are no USACE or OEPA permits on this Project. Therefore, in the event that the Contractor or its agents refuse or fail to adhere to the requirements of the permits and as a result an assessment or fine is made or levied against the Port Authority, the Contractor shall reimburse the Port Authority within thirty (30) calendar days of the notice of assessment or fine or the Port Authority may withhold the amount of the fine from the Contractor's next pay estimate. All money collected or withheld from the Contractor shall be delivered to the permitting agencies issuing the assessment or fine.

These fines are not to be construed as a penalty but are liquidated damages to recover costs assessed against the Port Authority due to the Contractor's refusal or failure to comply with the permits.

#### **A-45 POTENTIAL IMPACTS AND DELAYS DUE TO COVID-19:**

In an effort to anticipate the potential impacts to the Project caused by the COVID-19 threat and in following direction from the Governor and other authorities, the Contractor is on notice of the need to comply with all federal, state and local orders generated to prevent the spread of contagious or infectious diseases, including the Stay at Home Order from the Ohio Director of Health dated March 22, 2020, and subsequent orders, located through the following website:

<https://coronavirus.ohio.gov/wps/portal/gov/covid-19/home/public-health-orders/directors-order-to-stay-at-home>

Contractor is on notice that the Project is considered essential and that the contractor and his employees, subcontractors and suppliers are considered essential businesses and performing essential functions as defined under the Stay at Home Order.

Notwithstanding any other provisions of the contract documents, in the event of project delay or impacts to performance due to a voluntary or mandatory COVID-19 virus Directives, Orders, quarantine or closure directed by government authorities, either party may, by providing notice to the other party as required under CMS 108.02(F), extend the Completion Date for a period of up to thirty (30) days. Extensions under this paragraph shall be considered an excusable, non-compensable delay in accordance with CMS 108.06(B). If any portion of the Work is still not able to be performed upon the expiration of the extension, either party may provide notice to the other party requesting a termination for convenience under 108.09. The termination for convenience remains at the sole discretion of the LPA's Person in Responsible Charge in conjunction with the Office of Local Programs.

The Contractor and LPA will exercise best efforts to utilize remote services to perform Work that otherwise cannot be performed in person due to a voluntary or mandatory COVID19 virus quarantine, closure, or impact as directed by Stay at Home Order.

Impacts to the Project generated by the Stay at Home Order shall not be considered an "issue" under 108.02 (F) for Projects sold after the date of this Note. Contractors are on notice that their bids should include any impacts they foresee or should have reasonably foreseen due to the Stay at Home Order or existing or reasonably foreseeable orders by any other federal, state or local official.

If any emergency order or declaration of any government official is lifted at any time, the LPA will provide written notice to the Contractor that this Note shall be considered void thirty (30) days after receipt of the written notice. If the Stay at Home Order from the Ohio Director of Health dated March 22, 2020 is lifted at any time, this Note shall be considered null and void thirty (30) days after the lifting of those orders.

#### **A-46 AFFIDAVIT OF MBE/FBE SUBCONTRACTOR PAYMENT**

The Ohio Revised Code 123.152, requires the Ohio Department of Transportation (ODOT) to monitor and verify that work subcontracted to Encouraging Diversity, Growth and Equity (EDGE) firms is actually performed by the EDGE firms. The Port Authority will use and require a similar affidavit for MBE/FBE participation on this Project. The affidavit seeks to verify actual payments made to MBE/FBE firms on the project. Each MBE/FBE firm must verify the actual payment amount.

The blank spaces in the affidavit must be filled in correctly, where indicated. The affidavit must

be signed by the Contractor and subcontractor, or by the subcontractor and MBE/FBE subcontractor, if applicable. By signing the affidavit, the noted firm agrees that the payment amount recorded is true and accurate as of the payment time period.

Completed and signed affidavit shall be electronically submitted to the Port Authority for the Project records.

**A-47 WORK HOURS, DISTURBANCES, & BUILDING TENANTS**

Contractor shall perform their work in a manner which does not impact or limit day to day operations at the Port's office building at 1100 W. 9<sup>th</sup> Street. Contractor must remain sensitive to noise, housekeeping, and the generation of fugitive dust. Work must be performed outside of normal business hours (9AM-4PM M-F) unless approved by the Port Authority. The work must also be closely coordinated prior to scheduling the work to occur. The work shall be performed in a manner which the Contractor protects adjacent areas from construction operations in accordance with the Contract documents. This includes cleaning up at the end of each shift, installing dust screens, and permitting full and uninhibited access to the office areas during normal business hours.

Special Work Sequencing Note: The Port Authority shall have the ability to print at all times. Contractor shall perform their work in a coordinated manner which will allow the copy area to be seamlessly transitioned from the current area (313) over to the open filing area (312). Temporary print station may be required to be set up by the Contractor depending on the sequence of work. Office 304 is occupied, work performed in this office shall be done in a manner which limits disturbance and disruption. Pathways to fire/emergency exits shall also be maintained during the progression of work.

**A-48 RESERVED**

**A-49 RESERVED**

**A-50 DESCRIPTION OF BID ITEMS & BID FORMS:**

Below, please find a description of the General Condition bid items contained on the Bid Form. As a general note, the quantities included in the descriptions and on the Bid Forms are approximate quantities and should be verified by the Contractor prior to the submission of their bids. The quantities and the level of detail included on the Bid Form was developed to assist the Owner with cross comparison of bids, modification of scope, and to assist the Contractors with preparing their estimates. Please populate the individual bid items which will roll up into each of the lump sum bid item groupings.

Please be advised that whether explicitly detailed in a specific bid item on the Bid-Form or not, the pricing provided on the Bid-Form shall be inclusive of all labor, equipment, permanent materials, insurance/bond, permitting, management/oversight, system commissioning, training, warranty, testing, and general condition costs to perform the work detailed in the Contract Drawings in accordance with the schedule established for this Project.

By submitting a bid, the Bidder also understands that the Port Authority expects that the Bidder shall fully furnish, commission, and train the Port Authority/USCBP staff in the full operation of the new facility. Upon turnover, the building should allow for USCBP's technology division to come in and finish the installation of the remaining technology components/systems to support their efforts.

- A. **Health, Safety, Security, & Communications Plan:** Prior to the commencement of work, the Contractor will be required to submit a Health, Safety, & Security plan to the Owner for review and approval. This plan shall include an emergency action plan, identify a list of

hazards on site(s) and mitigating efforts, highlight measures that will be put in place to mitigate these risks, list the required PPE and work appropriate clothing, critical points of contact, and measures that will be taken to ensure compliance with the Port Authority's Terminal Security Requirements. All costs associated with the development, implementation, and oversight of this plan shall be included in this lump sum bid item.

This Pay Item will be paid out to 40% upon submission and acceptance of the Health, Safety, Security, and Communication Plan. The balance will be prorated over the schedule duration of the Project.

- B. **Project Close Out:** This item shall include but not be limited to the submission of all as built record documentation/drawings to the Port Authority in electronic PDF format, the completion and close out of the punch list on the Project, key turnover, and the submission of all compliance and close out documentation on the Project. As built drawings shall be compiled across all disciplines using a PDF editing software and contractor shall denote any deviations, modifications, RFIs, etc. in the red lined electronic PDF as built record drawing set. The Contractor will be required to submit record of all closed out permits and the Project. This bid item shall also include any incidental training that has not been specifically called out and included in subsequent bid items below. The contractor shall assemble and submit O&M manuals for all new/modified systems including the HVAC, electrical, lighting, AV, and installed technology under this bid item. Following trade demobilization from the site, the Contractor shall hire a professional cleaning service (or use internal resources to provide a professional level) to clean Project area.

This Pay Item will be paid out to upon submission and issuance of Final Acceptance upon the close out of the Project. This Bid Item shall be no less than 5% of the Contract value.

- C. **Field Mobilization & Demobilization:** This item shall cover costs associated with the mobilization and demobilization of the General Contractor on and off the Project. This bid item will be progressed and paid at a 60% progression level at the time of mobilization and the remaining 40% will be paid upon complete demobilization from the site. This bid item shall not exceed more than 5% of the total Project value. Under this bid item, the Contractor shall be responsible for the public posting of all construction permits and standard Federal and State construction project job postings including but not limited to employee rights, job safety and health protection, equal employment opportunity, etc..
- D. **General Conditions:** This bid item shall include all Project costs associated with the performance of Project that are not included in another bid item. This includes but is not limited to insurance, project management/engineering support, field supervision, sanitary, temporary security fencing, trash disposal, furniture preservation/relocation, bonding, dust/work barriers, deliveries, project vehicles, small tools and supplies, safety supplies, etc..
- E. **Permitting:** This bid item shall include all fees associated with the pulling of the construction permits and the close out of the permits associated with this Project, including all trade permit fees. It should be noted that the Port Authority and the Port Authority's Authorized Representative, Cleveland DRAW filed and paid the required filing fees associated with the submission of the Construction Drawing set with the City of Cleveland Building Department. Please also note there are two separate permits for this Project.

## **Part B - General Conditions**

### **B-1 CONTRACT DOCUMENTS**

The following shall constitute the Contract Documents and shall be deemed the Contract made pursuant to this Bid Package:

- (1) All provisions required by law or resolution to be inserted in the Contract, whether actually inserted or not.
- (2) The Resolution of the Port Authority awarding the Contract.
- (3) Amendments to the Contract.
- (4) The Form Contract as completed and executed.
- (5) All Addenda issued by the Port Authority prior to Bid Submission.
- (6) Project Specifications and Supplemental General Conditions.
- (7) General Conditions.
- (8) The Contract Drawings.
- (9) Instruction to Bidders.
- (10) The Resolution authorizing the making of the public improvement.
- (11) All required Policies of Insurance.
- (12) The Affidavit of Non-Collusion.
- (13) The Bid.
- (14) Permits.
- (15) 2019 ODOT Construction & Material Specifications.

### **B-2 CONFLICT BETWEEN CONTRACT DOCUMENTS & LOCAL/FEDERAL REGULATIONS**

In the event there is a conflict between the provisions in various Contract Documents, and it is impossible to reconcile the conflict between the provisions, the provision that is in the Contract Document appearing first in the order set forth above shall take precedence. If there is any language or requirements of the Contract Documents that conflict between local contract language and Federal rules, the Federal rules shall prevail.

### **B-3 TIME OF ESSENCE**

Time is of the essence in the Contract. The Contractor shall begin Work on the day specified in paragraph B-4a and shall prosecute the work diligently so as to assure completion of the Work not later than the time specified therefore, or the time of completion as extended, pursuant to paragraph B-6 hereof.

### **B-4 TIME OF COMMENCEMENT AND COMPLETION OF WORK**

- a. A Contract shall be deemed executed when signed by the parties.
- b. Unless provided in the Specifications and Supplemental Conditions, the Bidder shall state in his bid the date by which the Work will be completed including major milestone dates. The date of completion will be used in determining the lowest responsive and responsible bidder.

### **B-5 LIQUIDATED DAMAGES FOR DELAY**

The Contractor will complete the Work on or before the dates and milestones fixed or otherwise agreed to in the Agreement, as it may be extended as provided in paragraph B-6. Damages to the Port Authority will result from the failure of the Contractor to timely complete the Work which will impact the operations of the facility and our site operator. Liquidated damages will be assessed in accordance with ODOT CMS 108.07 in the amount of \$900.00 for each Calendar Day of Overrun in Time.

**B-6 DELAY FOR CAUSES BEYOND CONTRACTOR CONTROL**

- a. If the Contractor is delayed in the completion of the Work by any act or omission of the Port Authority, or by any other contractor employed by the Port Authority, or by changes ordered in the Work, or by strikes, lockouts, fire, unusual delay by common carriers, unavoidable casualties, or any cause beyond the Contractor's control, including orders, limitations, or restrictions of any governmental agency having jurisdiction over the Work, or by delay authorized by the Port Authority, or by any cause which the Port Authority decides justifies the delay; then, for all such delays and suspensions, the Contractor shall be allowed one calendar day extension beyond the time herein stated for completion of the Work for each and every calendar day of such delay so caused, the same to be ascertained by the Port Authority.
- b. The Port Authority will consider an extension to the completion date and milestone dates in the event of extended periods of adverse weather or seasonal conditions in accordance with ODOT CM&S 108.6. Payment for excusable days will also be considered by the Port Authority and evaluated in accordance with CM&S 108.6.
- c. No extension shall be made for any one or more of such delays unless within ten (10) days after the beginning of such delay a written request for additional time shall be filed with the Port Authority. In case of a continuing cause of delay, only one request will be necessary.
- d. No claims for damages or any claim other than for an extension of time as herein provided shall be made or asserted against the Port Authority by reason of any delay.
- e. When by reason of any of the causes stated herein an extension of time has been allowed for the completion of Work, the Contractor shall not be entitled to a bonus for completion prior to the date so extended, anything in the Contract Documents to the contrary notwithstanding.

**B-7 STORAGE OF MATERIALS**

- a. The Contractor shall make all necessary arrangements and provisions for the storage of materials and equipment to be used for the Work.
- b. Materials and equipment which are to become the property of the Port Authority shall be so stored as to facilitate their prompt inspection and insure preservation of the quality and fitness of the materials and equipment, including proper protection against damage by freezing and wet weather; and shall be placed under cover on wooden platforms or other hard, clean surfaces, and not on the ground, when so directed. Whenever the best interest of the Port Authority so requires, upon order of the Port Authority, the Contractor shall promptly provide improved storage facilities and methods.
- c. Property other than Port Authority property shall not be used for storage purposes without written permission of the owner or other person properly in possession or control of such premises.
- d. The Port Authority disclaims all responsibility for loss or damage to stored materials or equipment, or both.
- e. The Port Authority shall and will not pay for stored materials that are located offsite unless authored under special arrangement with the Port Authority.



**B-8 RESPONSIBILITY OF CONTRACTOR FOR DAMAGE TO WORK**

- a. The Port Authority will not insure the Work until final acceptance nor insure against claims for injury to persons or property arising during performance of the Work. The Contractor will be held responsible for all damage to the Work, regardless of cause, until final completion and acceptance, even though partial payments have been made under the Contract. The Contractor will be held answerable for all damages that may occur to persons or property from want of proper shoring, bracing, lighting, watching, boarding or enclosing, and for any accident arising from defective scaffolding or apparatus, or from any negligence on the part of it or its employees.
- b. The Contractor shall provide proper facilities, take all necessary precautions and assume the entire cost for protecting the Work against adverse weather conditions and for handling all storm and flood water, sewage, seepage, ice or snow that may be encountered during the performance of the Contract. The manner of providing for such contingencies and for carrying on the Work in freezing weather shall meet with the approval of the Port Authority.

**B-9 DUTY AND RESPONSIBILITY OF CONTRACTOR FOR PLANT AND METHODS**

The Contractor shall provide and install such plants and shall use such methods and appliances for the performance of all operations connected with the Work as will secure the safety of the Work and those working on it, a satisfactory quality of the Work and a rate of progress that will insure the completion of the Work within the time specified. If at any time before the commencement or during the progress of the Work, or any part of it, such methods and appliances appear to be unsafe, inefficient or inadequate for securing the safety of the Workmen, the quality of the Work or the rate of progress required, the Port Authority may order the Contractor to increase safety measures or to improve their character, and the Contractor shall comply with such orders; but the failure of the Port Authority to make such a demand shall not release the Contractor from its obligation to secure the safe conduct and the quality of the Work, and the rate of progress required. The Contractor alone shall be responsible for the safety, efficiency and adequacy of its plant, appliances and methods.

**B-10 STRUCTURES ENCOUNTERED AND PROTECTION OF PROPERTY**

- a. The Contractor shall, at its own expense, support and protect all structures, improvements, equipment and fixtures of all kinds and all other property that may be encountered or endangered in the progression of the Work. It shall repair and make good any damage caused to any such property by reason of its operations leaving all Work in approved condition at the completion of the Contract.
- b. The Port Authority reserves the right to repair any damage to property caused by the Contractor, or its Subcontractors, Laborers or Materialmen and the cost of such repair shall be borne by the Contractor. In the event the Contractor refuses or fails to pay for such repair work, without prejudice to any other remedies available to the Port Authority, the cost of the same shall be deducted from any money that may be due it.

**B-11 WATCHMEN**

- a. The Contractor shall provide the necessary watchmen and sufficient warning lights and barricades at its own expense and it shall take such other precautions as are necessary to protect life and property.

- b. The Port Authority may at any time order the Contractor to provide watchmen or additional watchmen at any point where, in its opinion, they are required, or where the proper official of any municipality affected may request them.
- c. Nothing in this section shall be construed as requiring the Contractor to provide a road patrol.

**B-12 SANITARY PROVISIONS**

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements of law and ordinance.

**B-13 WATER SUPPLY**

Direct connections to water infrastructure are available at the site(s). Contractor will be required to obtain permits, meter, and other requirement to facilitate the use of a hydrant as clean source water. If excessive or irresponsible amounts of water are sourced from the Port Authority's metered facilities, the Port Authority reserves the right to recover costs from the Contractor.

**B-14 ACCESSIBILITY OF FIRE HYDRANTS AND STOP VALVES**

Fire hydrants and stop valves adjacent to the Work or on or adjacent to the Site shall be kept readily accessible to fire apparatus and no material or other obstruction shall be placed within five (5) feet of any hydrant or stop valve unless by special permission of the proper authorities.

**B-15 REMOVAL OF RUBBISH**

The Contractor shall, at its own expense, keep the Site and Work, clean during the construction and remove all rubbish as it accumulates. Upon the completion of the Work, the Contractor shall remove all temporary structures and rubbish of all kinds and shall leave the Site and the Work in a clean and neat condition.

**B-16 PUBLIC LIABILITY, PROPERTY DAMAGE AND AUTOMOBILE INSURANCE**

The Contractor will be required to meet the minimum insurance requirements outlined below. The cost of insurance is incidental to all contract items unless specified. The Contractor shall take out and maintain during the life of the Contract such public liability and property damage insurance, with the Port Authority named as an additional insured, as shall protect the Contractor, the Port Authority and any Subcontractor performing Work from damage, personal injury, accidental death, and property damage which may arise from operations under the Contract, whether such operations are by the Contractor, Subcontractor or anyone directly or indirectly employed by or operating as an independent contractor for either of them. An exact copy of such policy or policies shall be deposited with the Port Authority before the commencement of any Work. The amounts of such insurance shall be as follows:

- a. Public Liability Insurance: In an amount not less than \$1,000,000 for injuries, including accidental death to any one person, and subject to the same limit for each person, in an amount not less than \$2,000,000 on account of one occurrence involving injury to more than one person, and property damage insurance in an amount not less than \$1,000,000.
- b. The following special hazards shall be covered during the life of the Contract by rider or riders to the policy or policies above required, or by separate policies of

insurance in amounts as follows:

- (1) Public Liability insurance to cover each automobile, truck, or other vehicle used in the performance of the Contract in an amount not less than \$1,000,000 on account of injury or death of one person and not less than \$2,000,000 on account of injury or death of two or more persons.
  - (2) Property damage liability insurance to cover each automobile, truck or other vehicle used in the performance of the Contract in an amount not less than \$1,000,000 on any occurrence.
- c. The policy shall contain provisions whereby the insurance company agrees that ten (10) days prior to cancellation, change or reduction of the insurance afforded by the policy, with respect to the Contract, written notice will be mailed to the Port Authority.

#### **B-17 ACCESS TO WORK AND PLACE OF MANUFACTURE**

Port Authority staff and authorized representatives shall at all times have access to inspect the Work wherever it is in preparation, progress, being manufactured or fabricated and the Contractor shall arrange and provide proper facilities for such access and inspection to determine whether such Work is being done in accordance with the Contract.

#### **B-18 STANDARDS AND SUBSTITUTIONS**

- a. The type or make of any material, equipment, article, device, fixture or furnishing, or of any form of construction, named in these specifications, whether or not the words "or approved equal" or those of like import are used shall be known as the "Standard" specified. The bid shall be based only on the Standards specified.
- b. Where two or more Standards are named together, Bidders may bid upon any of the Standards named.
- c. Bidders may, at their discretion, request consideration of "Approved Equal": substitutions for the Standards specified, however, the Port Authority and the Architect of Record shall make the determination on whether proposed alternate is an "Approved Equal" that will be permitted.
- d. Each proposed substitution will be analyzed to determine quality and fitness for the purpose intended as compared with the Standard and a decision as to its acceptance or rejection. The decision of the Port Authority as to the acceptability of any substitute item shall be final.
- e. The use of any experimental or untried methods, or the use or installation of any experimental or untried materials or equipment or any combination of either or both, shall not be allowed. Each Bidder, or the Contractor if a Contract has been awarded, shall, if so required by the Port Authority, submit ample proof that the method of doing any of the Work has been successfully used for like work for a period of at least one year; or that the materials or equipment or any combination of either or both proposed to be used on, or furnished for the Work, is of a reliable make and is of a type that has been successfully used in practical service outside of the Bidder or the Contractor's facilities, for a period of not less than one year.

#### **B-19 INSPECTION**

- a. Inspectors as designated by the Port Authority shall be authorized to inspect all Work done and materials furnished. Such inspection may extend to all or any part of the

Work, and to the preparation or manufacture of the materials to be used. In case of any dispute arising between the Contractor and the inspector as to materials furnished or the manner of performing the Work, the inspector shall have the authority to stop the use of material or suspend the Work until the question at issue can be referred to and decided by the Port Authority. The inspector shall not be authorized to revoke, alter, enlarge, relax or release any requirements of any specifications, nor to approve or accept any portion of the Work or to issue instructions contrary to the plans and specifications. The inspector shall not act as a foreman or perform other duties for the Contractor or interfere with the management of its Work. Any advice, which the inspector may give the Contractor, shall in no way be constructed as binding the Port Authority in any way or releasing the Contractor from the fulfillment of the terms of the Contract.

- b. The Contractor shall not be entitled to any claims for loss of time, damages or anticipated profit due to any time lost from suspension or rejection of any Work or from disputes with the Port Authority.

**B-20 LAWS, PERMITS AND REGULATIONS**

The Contractor shall comply with all applicable Laws and shall be responsible for securing at its own expense any and all licenses, permits and certificates of inspection required by law, or by the Contract Documents.

**B-21 BLASTING**

No blasting is permitted unless specifically authorized in writing for any Work.

**B-22 OTHER CONTRACTS**

It is understood and agreed that the Contractor shall execute his Work in such a manner and in such order as will not interfere with work in progress and will permit the Port Authority to perform other work or to enter into other contracts for work and materials to be constructed or placed in, on or about the Work, with the least interference possible and with complete cooperation with the Port Authority and other contractors. The Port Authority shall decide all questions of priority among separate contractors.

**B-23 PATENTS**

The Contractor shall pay all royalties and license fees and shall hold and save the Port Authority and its officers, agents, servants and employees harmless from liability of any nature or kind, including cost and expenses, for or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Port Authority unless otherwise specifically stipulated in the Contract Documents. In this respect the Contractor shall defend all suits or claims for infringement of any patent or license rights by counsel acceptable to Port Authority.

**B-24 INDEPENDENT CONTRACTOR STATUS**

The Contractor is and shall remain an independent contractor with respect to all services performed and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for social security, tax withholding, unemployment insurance, workers' compensation or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Law which are measured by the wages, salaries, or other remuneration paid to persons employed by the Contractor on the Work and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under Law and the Contractor also agrees to indemnify and save harmless the

Port Authority from any such contributions or taxes or liability therefore.

## **B-25 NON-DISCRIMINATION**

**1. Compliance with Regulations:** The CONTRACTOR will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the CONTRACTOR will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

**2. Nondiscrimination:** The CONTRACTOR, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONTRACTOR will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

**3. Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential subcontractor, or supplier will be notified by the CONTRACTOR of the CONTRACTOR's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

**4. Information and Reports:** The CONTRACTOR will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or the Federal Highway Administration (hereinafter "FHWA") to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, the CONTRACTOR will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

**5. Sanctions for Noncompliance:** In the event of the CONTRACTOR's noncompliance with the nondiscrimination provisions of this contract, the Port Authority will impose such contract sanctions as it or STATE / FHWA may determine to be appropriate, including, but not limited to:

Withholding of payments to the CONTRACTOR under the contract until the CONTRACTOR complies, and/or

Cancellation, termination or suspension of the contract, in whole or in part.

**6. Incorporation of Provisions:** The CONTRACTOR will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONTRACTOR will take such action with respect to any subcontractor procurement as the Port Authority or STATE / FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor, or supplier as a result of such direction, the CONTRACTOR may request the Port Authority / STATE to enter into such litigation to protect the interests of the Port Authority and the STATE, and, in addition, the Port Authority /

STATE may request the United States to enter into such litigation to protect the interests of the United States.

**B-26 PREVAILING WAGES ON STATE PROJECT WITH NO FEDERAL-AID**

The following is in addition to Section 108.10 of the State of Ohio Department of Transportation Construction and Material Specifications (C&MS).

This contract is subject to Ohio Prevailing Wage Laws, Chapter 4115 of the Ohio Revised Code and the Contractor and all subcontractors shall comply with all provisions contained therein or as otherwise provided by this note. The Contractor guarantees that the prevailing wage scale to be paid to all laborers and mechanics employed on this contract shall be in accordance with the schedule of the prevailing hourly wage and fringe benefits as determined by the Ohio Department of Commerce for the county in which the work is being performed. The failure to pay prevailing wages to all laborers and mechanics employed on this project, shall be considered a breach of contract. Such a failure may result in the revocation of the contractor's and/or subcontractor's certificate of qualification and debarment. A schedule of the most current prevailing wage rates may be accessed by registering with the Ohio Department of Commerce, Labor and Worker Safety Division, Wage and Hour Bureau at the following web address:

<https://com.ohio.gov/divisions-and-programs/industrial-compliance/wage-and-hour/wage-and-hour>

The Contractor and all subcontractors shall compensate the employees on this contract at a pay rate not less than the hourly wage and fringe rate listed on the website noted above, for the applicable job classification or as may be modified by the Ohio Department of Commerce, Division of Labor and Worker Safety Wage and Hour Bureau, when new prevailing rates are established.

Overtime shall be paid at one and one-half times the basic hourly rate for any hours worked beyond forty hours during a pay week. The Contractor and all subcontractors shall pay all compensation by company check to the worker and fringe benefit program.

The wage and fringe rates determined for this project or as may be later modified, shall be posted by the Contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers or otherwise made available to the workers. On the first pay date of contract work the Contractor and all subcontractors shall furnish each employee covered by prevailing wage a completed form whpw1512 in accordance with section 4115.05 of the Ohio Revised Code, showing the classification, hourly pay rate, fringes, and identifying the LPA Prevailing Wage Coordinator (PWC), if such employees are not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor. These forms shall be signed by the Contractor or subcontractor and the employee and kept in the Contractor's or subcontractor's payroll files.

The Contractor and all subcontractors shall submit to the PWC or other designated LPA representative, certified payrolls on form whpw1509 or equivalent, in accordance with sections 4115.07 and 4115.071 (C) of the Ohio Revised Code, three weeks after the start of work and every subsequent week until the completion of the contract. Additionally, a copy of the "Apprentice Certification" obtained from the Ohio State Apprenticeship Council, must accompany all certified payrolls submitted, for all apprentices working on this project. Upon completion of the contract and before the final payment, the Contractor shall submit to the PWC a final wage affidavit in accordance with section 4115.07 of the Ohio Revised Code stating that wages have been paid in conformance with the minimum rates set forth in the contract. Please be aware that it is ultimately the responsibility of the Contractor to ensure that all laws relating to prevailing wages in Chapter 4115 of the Ohio Revised Code are strictly adhered to by all subcontractors.

The Contractor and all subcontractors shall make all of its payroll records available for inspection, copying or transcription by any authorized representative of the contracting agency. Additionally, the Contractor and all subcontractors shall permit such representatives to interview any employees during working hours while the employee is on the job.

If the Contractor or any subcontractor fails to comply with any of the provisions contained in this proposal note, the LPA may terminate the contract and/or withhold or suspend pay estimates after written notice and a reasonable opportunity to comply has been provided.

#### **B-27 STATE OR FEDERAL TAXES**

- a. The Contract price or prices for the materials contained in the contract are subject to increase or decrease by the amount of any additional tax or reduction of tax, as the case may be, affecting such commodity imposed by or under authority of the Federal Government or the State of Ohio, which may be enacted after the Bid Opening Date and such changes shall continue in effect during the existence of such change in the taxes, provided, however, that in the event of any increase in cost, a claim shall be presented by the Contractor within thirty (30) days and provided that such claim is supported by evidence showing such additional tax, satisfactory to the counsel for the Port Authority. Reductions in taxes will be deducted from the contract price.
- b. The Port Authority is exempt from all sales, excise and transportation taxes, except State of Ohio gasoline tax. The price or prices bid, whether a unit price, lump sum price, lot price, or a trade discount from catalogue list prices, shall be exclusive of all such taxes and will be so construed.

#### **B-28 LABOR AND MATERIAL MEN/WOMEN**

- a. The Contractor shall promptly pay or satisfy proper claims of all persons who have performed labor or furnished material for the Contractor in the execution of the Contract, including those who have previously filed attested accounts of such claims with the Port Authority, and all bills, costs or claims of whatever kind which might in law or equity become a lien upon the Work or against the fund from which the same is to be paid or a charge against the Port Authority.
- b. The Port Authority may retain out of any moneys at any time due Contractor a sum sufficient to pay all Laborers, Subcontractors or Materialmen who have filed an attested account of such claim with the Port Authority within one hundred twenty days from the performance of last labor or the delivery of last materials, stating that any balance for said work or materials is still due and unpaid, which amount may be retained by the said Port Authority until satisfactory evidence is furnished to counsel for the Port Authority that said balance has been fully paid, and if said evidence is not furnished before the next estimate becoming due to the Contractor under the Contract, the Port Authority may pay said balance to the person claiming it and charge such payment to the Contractor as payment on the Contract, unless the Contractor shall have previously filed with the Port Authority written notice that such claim is in dispute. In the event of such dispute, the Port Authority will retain the amount until the claim has been adjusted or the money paid into court on proceedings in the nature of an interpleader. Notwithstanding any of the above Port Authority is permitted at any time to take all steps and actions authorized to it under state mechanics lien and similar or related statutes.

#### **B-29 ASSIGNMENT**

The Contractor shall not assign, transfer, convey or otherwise dispose of the Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, any of the moneys due or to become due under the Contract, except by written consent of the Port Authority, and the giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. Any such assignment contrary to these provisions shall be null and void and of no effect on Port Authority. Any assignment, transfer, or conveyance permitted by the Port Authority in writing shall not be valid until the actual assignment, transfer or conveyance is filed in the office of the Port Authority.

#### **B-30 SUBCONTRACTORS**

- a. The Contract will be made pursuant to the bid submitted by the Contractor and in reliance upon the Contractor's qualifications and responsibility, therefore the Contractor shall not sublet nor shall any Subcontractor commence performance of any part of the Work without the previous written consent of the Port Authority. In making application for subletting any portion of the Work, the Contractor shall state in writing the portion of the Work which each Subcontractor is to do or the material which it is to furnish, its place of business, and such other information as may be required in order to ascertain whether such Subcontractor is responsible, reliable and able to perform the work or to furnish the materials as called for in the specifications. Subletting, if permitted, shall not relieve the Contractor, nor its surety of any of its obligations under the Contract. If at the time the bid is made the Contractor knows of parties it may identify as potential Subcontractors it shall list them as potential Subcontractors in the bid.
- b. Any subcontract for Work must conform to the requirements of the Contract.
- c. The Contractor shall be and remain solely responsible to the Port Authority for the acts and omissions of its Subcontractors and of such Subcontractors' agents. The Contractor shall promptly, upon request of the Port Authority file a conformed copy of the subcontract, as a condition precedent to the approval of a Subcontractor. The Contractor and subcontractor jointly and severally agree that no obligation upon the Port Authority is thereby created to pay to, or see to the payment of any sums to any Subcontractor.

#### **B-31 CHANGES OR MODIFICATIONS OF CONTRACT**

When in the prosecution of any Work it becomes convenient, in the opinion of the Port Authority, to make alterations or modifications in the Contract, such alterations or modifications shall be within the general scope of the Work and shall be made in writing by the Port Authority, subject, however to authorization by the Board of Directors, if required, under law or Port Authority regulations or resolutions. The alteration or modification may either be a Change Order, Change Directive or Minor Change. If the alteration or modification the Contractor has been directed to perform does not involve an adjustment to the amount due under the Contract, or the time the Contractor has to complete the Work ("Minor Change"), then such alteration or modification shall immediately become binding on Contractor upon the written order of the Port Authority.

If the matter involves an adjustment to the amount due under the Contract, or the time for completion of the Work, then the written order received from Port Authority shall be binding on the Contractor as a Change Order, if the Contractor enters into a written change order agreeing to the change in the Work, the adjustment to the amount due under the Contract and adjustment to the time for completion of Work. The Port Authority shall negotiate with the Contractor prices for Change Order work if not already established in the Bid. These prices shall be comparable to prices that would have resulted from a competitive bid contract and will be determined in accordance with Section 109.05 of C&MS 2019.

A Port Authority Authorized Representative will measure the quantities of Work and calculate



payments based on the method of measurement and basis of payment provisions provided in the Specifications. The Port Authority will keep a master list of quantities from which payment will be authorized and paid against. During the progression of work, at no time will quantities over and above those listed in the Project will be paid out unless a Change Order is authorized during the progression of work by the Port Authority. Upon Final Inspection & Completion of the Project a final quantity Change Order shall be issued on the Project to modify the Contract for the actual quantities installed.

If a Change Order has not been signed the written order for the Port Authority shall become effective on the Contractor as a Change Directive which the Contractor shall be bound to do and the Contractor will be paid an amount based on unit prices stated in the Contract Documents or in the absence thereof based on actual cost incurred by the Contractor, as evidenced by detailed records kept by Contractor of all expenditures for the changed Work, plus reasonable overhead and profit. The Port Authority shall determine reasonable overhead and profit using C&MS 109.05C under Force Account work.

All amounts due Contractor for changes in the Work shall take into account savings realized by the Contractor. No such alterations shall be valid unless the price to be paid for the Work or material, or both, under the altered or modified Contract, shall have been authorized by the President or said Board where necessary. Authorized Representative is not authorized to change, modify or amend the Contract.

## **B-32 PORT AUTHORITY RIGHTS UPON CONTRACTOR'S DEFAULT**

### a. Termination of Contract

In addition to the rights Port Authority may otherwise have, the Port Authority shall have the right to terminate the Contractor's right to continue the Work on the Contract upon (1) the failure of the Contractor to begin on or within 14 days of the notice to proceed with physical preparation at the Site for the Work; (2) the failure of the Contractor to begin the Work on or within 14 days of the notice to proceed; (3) the failure of the Contractor to cure any unexcused delay in performance within three days after written notice is given if it appears to the Port Authority that the Work has been so unreasonably delayed as to tend to indicate the likelihood of failure of completion within the time specified; (4) failure to replace any Work, material or equipment not meeting the Contract specifications within three days after receipt of written notice of the Contractor's failure to properly provide conforming Work, material or equipment; (5) failure to complete the Work by the Completion Date with any extensions which may have been granted; (6) any other default not cured by the Contractor on or within ten days of notice, and if the default is of the type that cannot be cured in that time period, then the Contractor has begun to cure said default and diligently and continuously pursues cure; or (7) if the Contractor shall become insolvent, or shall be adjudged as bankrupt, or shall make any assignment for the benefit of its creditors, or if a receiver of its property shall be appointed. The Port Authority's right to terminate the Contract shall be without prejudice to any other right or remedy, and Port Authority may enter upon the premises and take possession of all materials, tools and appliances thereon, and finish the Work by whatever method it may deem expedient.

### b. Delivery of Material

The delivery of any material, equipment, or the performance of any labor hereunder which does not in all respects conform to the Contract, may be rejected and the Contractor shall be notified by the Port Authority of such rejection and the reason therefore, which notice shall be confirmed in writing. If the Contractor fails to

effect immediate replacement of such rejected materials, equipment and labor with material, equipment and labor meeting the requirements of the order and of the Contract, the Port Authority may purchase material, equipment and hire labor of the character required under the order up to the amount rejected and the Contractor and its surety shall be liable to the Port Authority for any excess cost and expense occasioned the Port Authority thereby. The Port Authority shall have the right to suspend the whole or any part of the Work, when the Contractor is not doing the Work in accordance with the Contract. No extension of time for completion of the Work or claim for damages will be allowed by reason of such suspension.

c. Contractor's Liability for Damages

In case of such discontinuance of the employment of the Contractor, it shall not be entitled to receive any further payment under the Contract until the Work is wholly completed, at which time, if the unpaid balance of the amount to be paid under the Contract shall exceed the expenses incurred by the Port Authority in finishing the work, such excess shall be paid by the Port Authority to the Contractor, but if such expenses shall exceed such unpaid balance, the Contractor shall pay the difference to the Port Authority. If the right of the Contractor under the Contract is terminated, the Contractor shall only be paid for work actually performed and material incorporated into the project at the agreed to rate. The Contractor shall remain liable to Port Authority for any damages suffered by Port Authority regardless of the termination of the right to continue performing Work.

d. Rights of Port Authority in Case of Nonperformance:

If the Contractor shall refuse or neglect to supply a sufficient number of properly skilled Workmen, or materials of the proper quality, or shall fail in any respect to prosecute the Work or any part thereof with promptness and diligence, or fail in the performance of any of its agreements, the Port Authority may, after 48 hours written notice to the Contractor, provide such labor or materials, and deduct the cost thereof from any monies then due or thereafter to become due to the Contractor under the Contract.

**B-33 ACCEPTANCE OF PERFORMANCE**

It shall be understood and agreed by the parties hereto that the Port Authority shall determine if the quality of the Work and the material and equipment furnished under the Contract is satisfactory.

**B-34 GUARANTEE**

- a. The Contractor guarantees that the Work done and all material used in the Project under Contract are in all respects new, first-class, and of the proper kind and quality necessary for the Work and the Work will be done in a good and workmanlike manner and in accordance with the Contract Documents. The Contractor guarantees that the improvement constructed will remain in good condition for and during the entire period of guarantee.
- b. The period of guarantee shall begin upon the date of Final Acceptance of the Work, and shall continue for one year thereafter or as otherwise provided in the Specifications and Supplemental Conditions.
- c. If at any time before or during said period of guarantee, any defects appear in the

Work, or if any of the Work is not in accordance with the requirements of the Contract Documents, or for any other cause which is not attributed to unusual causes such as damage by others, or unusual casualty or natural disaster, all as determined by the Port Authority. Port Authority will notify the Contractor to rectify such defects or omissions, or to make the repairs so required.

- d. If the Contractor shall fail to begin to rectify such defects or omissions or to start such repairs within five (5) days from the date of such notification, or if such repair work is not made in a manner satisfactory to the Port Authority, the Port Authority shall have the right to purchase any necessary materials, rent any necessary tools and equipment and to employ such other person or persons as it may deem proper to make such repairs, and to recover said amounts from the Contractor by paying the expense thereof out of the monies then due, or which may thereafter become due to the Contractor, or out of the amount retained for that purpose by the Port Authority.
- e. In case of an emergency, as deemed by the Port Authority, the Port Authority shall have the right to purchase any necessary materials, rent any necessary tools and equipment and to employ such other person or persons as it may deem proper to make such repairs, and to recover the expenses from the Contractor and/or its sureties including paying the expense thereof out of the moneys then due, or which may thereafter become due to the Contractor, or out of the amount retained for that purpose by the Port Authority.
- f. If any retained or unpaid moneys are not sufficient to meet such expense, the Contractor and/or its sureties shall pay the difference immediately upon request.
- g. If it is necessary to remove any part of the Work to repair defects in materials or workmanship, or if any part of the Work becomes damaged due to such rectification or repairing, all such Work shall be replaced or repaired, all to the satisfaction of the Port Authority. The guarantee provisions shall also apply to all rectified or repaired work.

## **B-35 TERMS OF PAYMENT**

- a. The Contractor will make current requests for payment using the AIA Document G702, "Application and Certificate for Payment", not more than once each month ("Payment Request(s)"), and submit them to the Port Authority for approval. All Payment Requests shall be dated the last working day of the month and shall be submitted to the Port Authority by the tenth day of the following month. Signed and notarized payment requests and associated back up shall be sent electronically to the Port Authority's accounting department at the following email address: [Accounting@PortofCleveland.com](mailto:Accounting@PortofCleveland.com). All Payment Requests shall include certified payroll, a partial waiver of lien and claims from the Contractor, updated MBE/FBE reporting, subcontractor payment reporting, certified payrolls through the pay period, and a lien waiver from each subcontractor listed on the previous Payment Request (collectively the "Lien Waivers"). Prior of submission of the monthly payment application, a pencil copy Payment Request shall be submitted by the Contractor to the resident engineer in charge of the Project for approval/consideration. The Payment Request shall cover installed materials, the amount and value of Work performed in accordance with the Contract during the preceding payment period, and a complete list of all subcontractors hired by the Contractor that performed work on the project during the period of time covered by the Payment Request. At the discretion of the Port Authority, allowances may be made for nonperishable materials, which are to be incorporated into the Work, when delivered and properly stored upon the Site. Upon approval of the Contractor's Payment Request, the Port Authority will make estimates in writing, once each payment period, of the material in place complete, and the amount of

Work performed, all in accordance with the Contract. Upon approval of the Payment Request and the Lien Waivers by the Port Authority, the Contractor shall be paid the amount of each such estimate and less all prior payments.

- b. Contractor shall not, directly or indirectly, create, incur, assume or suffer to be created by it or by any subcontractor, laborer, materialman or other suppliers of goods, services, labor or materials, any claim, lien, charge or encumbrance against the funds for the public improvement or any part thereof or upon the project. Furthermore, Contractor shall promptly pay or discharge, and discharge of record any such claim, lien or encumbrance for labor, materials, supplies or other charges, that if unpaid, might be or become a lien against the funds for the public improvement or any component of the public improvement.
- c. Upon the Final Acceptance of the Work, the Port Authority shall pay the Contractor the whole amount of the money then due the said Contractor under the contract less amounts which may be withheld.
- d. The payment of the moneys provided for herein shall constitute a full and complete discharge of all the duties and obligations of the Port Authority under the Contract.

**B-36 NO WAIVER OF LEGAL RIGHTS**

Neither acceptance of nor payment for the Work, or any part of the Work, nor any extensions of time, nor any possession taken by the Port Authority shall operate as a waiver of any portion of the Contract, nor shall a waiver of any breach of the Contract be held to be a waiver of any other or subsequent breach.

**B-37 INDEMNITY CLAUSE**

The Contractor shall indemnify, keep and save harmless the Port Authority and its respective officers, agents and employees against all suits or claims that may be based upon any injury to persons or property that may occur, or that may be alleged to have occurred in the course of the performance of the Contract by the Contractor, or as a result of the performance of the Contract by the Contractor, whether or not it shall be claimed that the injury was caused through a negligent act or omission of the Contractor or its agents, and whether or not the persons injured or whose property was damaged were third parties, employees of the Contractor or employees of an authorized Subcontractor; and the Contractor shall at its own expense defend the Port Authority in all litigation through counsel of Port Authority's choice, pay all attorneys' fees and all costs and other expenses arising out of the litigation or claim or incurred in connection therewith; and shall, at its own expense, satisfy and cause to be discharged such judgments as may be obtained against the Port Authority, or any of its officers, agents or employees.

**B-38 CONTRACTOR'S DRAWINGS**

The Contractor shall prepare all necessary detail drawings, designs, and data giving full and complete information, and it shall commence Work immediately upon receipt of the necessary information, priority being given to those drawings, necessary for fabrication of the material or equipment in the order of its required delivery.

Unless otherwise specified, an electronic copy of all the Contractor's and Subcontractors' drawings shall be submitted for approval. The Contractor shall submit all drawings to the Port Authority at the proper time so as to prevent delays in delivery of materials and equipment. All Contractor's drawings submitted for approval by the Port Authority shall be sent directly to the Port Authority's office, and shall be addressed as follows: Cleveland-Cuyahoga County Port Authority, 1100 West 9th Street, Suite 300, Cleveland, Ohio 44113. All shipments shall be

clearly marked.

All drawings submitted by Subcontractors, for approval by the Port Authority, shall first be sent by the Subcontractors directly to the Contractor, who shall keep a record of the drawing numbers and dates of receipt. The Contractor shall check thoroughly all Subcontractors' drawings as regards measurements, sizes of members, materials and details to satisfy itself that they conform to the Port Authority's Plans and Specifications. Drawings found to be inadequate or otherwise in error shall be returned to the Subcontractors for correction before submitting them to the Port Authority. After the Contractor has checked and approved such drawings, it shall place thereon the date of approval and signature of the reviewer, and then submit them to the Port Authority for approval.

All Contractor's and Subcontractors' drawings shall be submitted in the order in which materials and equipment are needed at the Site without necessarily waiting for completion of all drawings before submitting part of them for approval. The Port Authority's approval of the Contractor's and Subcontractors' drawings shall not relieve the Contractor from responsibility for errors or omissions, which may exist, even though work is done in accordance with such approved drawings. Where such errors or omissions are discovered later, they will be remedied by the Contractor without requiring any approval by the Port Authority.

No fabrication shall be started nor working drawings used on the Work until applicable drawings have been approved by the Port Authority. This approval however, is for general design only and shall not relieve the Contractor of its responsibility for the sufficiency of detail design or correctness of detail dimensions.

After approval, the Contractor shall furnish the Port Authority with one reproducible copy of each final approved drawing unless otherwise specified.

All drawings prepared or furnished by the Contractor shall be marked with the title of the work and the name of the Contractor, as well as the Port Authority. Each shipment of drawings shall be accompanied by a letter of transmittal giving list of the numbers and titles of drawings.

All drawings, including detail shop drawings supplied by the Contractor, shall become the property of the Port Authority and the Port Authority shall be entitled to use all or any portion of such drawings for any purpose including the duplication of facilities under construction or the construction of new facilities.

#### **B-39 SUSPENSION OF WORK FOR THE CONVENIENCE OF THE PORT AUTHORITY**

The Port Authority may by written order direct the Contractor to suspend all or any part of the Work for such period of time as may be determined by the Port Authority to be necessary or desirable for the convenience of the Port Authority. Any extension of time to be made because of such order to suspend Work shall be made in accordance with Section B-6 of the General Conditions. Any claim by the Contractor for an adjustment hereunder must be asserted within 30 days from the date such suspension is ordered.

#### **B-40 SUPERVISION BY AUTHORIZED REPRESENTATIVE OR PRESIDENT**

- a. President, and unless it expressly appears otherwise in this document, Authorized Representative, shall be the sole authorized individuals to act for or on behalf of Port Authority, unless otherwise appearing herein.
- b. Only the President shall have the authority to suspend Work (unless it is an emergency in which case Authorized Representative is authorized to act), terminate the Contract, terminate Work under the Contract, modify or amend the Contract, or waive compliance with any term of the Contract.

- c. The President shall have authority to stop the work at any time whenever such stoppage may be necessary to insure the proper execution of the Contract. The President shall have the right to order the removal and replacement of Work failing to meet the requirements of the Contract.
- d. It shall be the responsibility of the Authorized Representative to make written recommendations to the Port Authority in regard to all claims and other matters relating to the execution and progress of the Work and interpretations of the Contract Documents. The decisions on all such shall be made by the President, or his representative.
- e. Any notice to be supplied the Port shall be addressed to the Port Authority offices to the attention of the Authorized Representative unless it is a matter that only the President can act upon in which event it shall be to the attention of President with a copy to the Authorized Representative.

**B-41 DUST OR FUME CONTROL**

Whenever work of any kind creates nuisance or harmful dust or fumes, equipment for the complete protection of all personnel and property against dust and fumes shall be installed, maintained and effectively operated by the Contractor.

**B-42 TEMPORARY POWER AND LIGHT**

The Contractor will provide for electrical service as required for Work.

The Contractor shall furnish, install and remove its service cables from the designated electrical distribution point and shall further furnish, install and remove any accessory electrical equipment, such as fused switches, transformers, control devices and lighting required for the proper functioning of its equipment.

All temporary power cable shall be supported on insulators and spaced in accordance with all local and national electric Codes. High-voltage safety signs shall be located on cable and distribution panels. Upon completion of the construction, or as otherwise directed by the Port Authority, the Contractor shall dismantle completely, or any portion thereof, its temporary light system at its own expense.

**B-43 HEAT AND COMPRESSOR AIR**

The Contractor shall supply all heat for such periods of time and at such temperatures as required for the proper protection and execution of the Work. The Contractor shall supply all compressed air for construction purposes.

**B-44 HANDLING AND PROTECTION OF MATERIAL**

If requested by the Port Authority the planned method of moving or placing of materials shall be submitted for approval. This approval shall not relieve the Contractor of responsibility for the safety of the material and personnel.

The Contractor shall be responsible for unloading, uncrating and handling all equipment and material to be erected by it, whether furnished by the Contractor or others. The salvage materials and scrap resulting from such Work shall be disposed of by the Contractor in the manner prescribed, for removal of rubbish, unless otherwise directed by the Port Authority.

Any salvaged material considered usable by the Port Authority shall be stored and disposed in

such a manner as the Port Authority may direct. Such usable material shall belong to the Port Authority if it results from material ordered directly by the Port Authority, and consigned to the Port Authority, or it is material removed from the existing facilities by the Contractor during the course of its Work. It shall be deemed to belong to the Contractor if it results from equipment or material ordered directly by the Contractor and consigned to the Contractor.

**B-45 CONTRACTOR'S OFFICE**

If an office is required to be maintained at the Site per the Specifications and Supplemental Conditions, the Contractor shall maintain an office at the Site during the construction period at which it or its authorized agent shall be present at all times while the Work is in progress. A copy of the Contract, and working drawings and the specifications for the Work shall be kept in the office where they will be readily available. A job posting board shall also be installed/present prior to the commencement of work.

**B-46 USE OF PREMISES AND PARKING**

The Contractor shall confine its apparatus, storage of materials and the operations of its workmen to the limits indicated by the Port Authority and shall not unreasonably encumber the premises with its materials.

The Contractor shall use designated access roads for equipment, trucks and other vehicles.

Parking of Contractor's vehicles shall be limited to areas designated by the Port Authority. Parking space at the Site is limited and space for the parking of the personal vehicles of the Contractor's work force may not be provided by the Port Authority.

**B-47 CONTRACTOR'S SUPERINTENDENCE**

The Contractor shall at all times have a competent superintendent in charge of the Work, who is thoroughly familiar with the class of work covered by the specifications. The superintendent shall not be transferred or relieved without one week's prior written notice to the Port Authority.

The Contractor's superintendent shall represent the Contractor and all instructions given to him shall be binding as if given to the Contractor. He shall have authority to execute such instructions.

The Contractor's superintendent shall at all times cooperate with the Port Authority and other contractors in all matters, including labor relations.

The President may direct that the superintendent be replaced if his work is not satisfactory.

**B-48 LABORRELATIONS**

- a. The Contractor shall be responsible for its own labor relations with any trade or union represented among its employees, and it shall negotiate and seek to adjust all disputes between itself and its employees or anyone representing such employees. The same responsibility shall extend to the Subcontractors.
- b. If any dispute (other than disputes affecting wage rates, hours or conditions of employment) arises with any person discharged for cause by one Contractor or Subcontractor may not be re-employed on the job site by another, without the Port Authority's approval. trade or a union which, in the opinion of the Port Authority, affects more than a single Contractor or which threatens, unless resolved, to delay the Work generally or to postpone the completion of the Work beyond the contemplated or scheduled completion date, then the Port Authority shall have the right to intervene and

to attempt to effect a solution or adjustment of such dispute which will permit the uninterrupted continuation of the Work.

- c. The Port Authority, may by written notice, request the Contractor dismiss forthwith any superintendent, foreman or watchman of the Contractor or its Subcontractor, that the Port Authority may deem incompetent, or careless or a hindrance to the proper completion of the Work. The Contractor shall comply with such notice as promptly as practicable without detriment to the Work.
- d. Any additional cost or expense incurred by any Contractor under the provisions of the preceding paragraphs shall not form the basis of any claim for an extra, or for any compensation over and above, or in addition to, the contract price previously agreed upon between such Contractor and the Port Authority.

#### **B-49 SCHEDULES, PROGRESS REPORTS AND WORK COORDINATION**

In general, it is the intent to allow the Contractor to choose its own methods and procedures consistent with good practice. However, all coordination and scheduling of Work and all other Contractors will be done in consultation with the Port Authority and other critical stakeholders. The Contractor shall furnish to the Port Authority for its approval, upon award of the Work, a baseline schedule of expected progress for Work which will be discussed and reviewed at the Project kick off meeting. The Contractor shall be prepared to discuss this schedule with the Port Authority and to make any changes required to fit its Work into the overall program.

The Contractor shall provide updated copies of the baseline schedule monthly. The baseline schedule shall include updates on the status of all submittals and other critical preconstruction activities, allow for sufficient review/return time from Project stakeholders, Project milestones, mobilization, completion dates, and a detailed breakdown of the Scope of Work.

The Contractor shall furnish to the Port Authority not later than noon on the following day, a detailed daily force report covering all craft labor and supervision of the Contractor, and each of its Subcontractors with a general description of the work performed by each craft.

The Contractor shall submit, upon request, to Port Authority its purchase order list showing its various suppliers, purchase order number, date, a description of the material involved and the delivery date specified. Such information is to be submitted at regular intervals so that the Port Authority will be aware of the progress being made by the Contractor in the placing of orders. The Contractor shall be solely responsible for expediting the delivery of all material to be furnished by it so that construction progress shall be maintained according to the schedule in effect.

During the course of the Work, the Contractor must confer on a regularly scheduled basis with the Port Authority and with the other Contractors' superintendents and Project stakeholders for the purpose of formulating the detailed work in accordance with the schedules and coordinating the Work with the work of other Contractors and Project stakeholders.

The Contractor shall have its trades afford all other trades under the control of other Contractors every reasonable opportunity for the installation of their work, as well as for the storage of their material and equipment.

When the Contractor is required to place or install material or equipment furnished by others, the Contractor shall notify the Port Authority, in writing from time to time when such equipment or material will be needed, and the Contractor shall cooperate with the Port Authority in arriving at the best workable overall scheduling of such work.

#### **B-50 SAFEGUARDS IN CONSTRUCTION**



The Contractor shall provide and maintain as directed by the Port Authority at its own cost and expense, adequate, safe and sufficient walkways, platforms, scaffolds, barriers, handrails, ladders, hoists, alarms, safety signs and all necessary and proper equipment, apparatus and appliances useful in carrying on the Work and to make the site and free from avoidable danger, and to comply with all requirements of public authorities with respect thereto.

When requested by the Port Authority the Contractor shall provide, at no extra charge, scaffolds or ladders in place as may be required by the Port Authority or its inspectors for examination of the Work in progress.

The Contractor in all its operations shall be governed by codes in general acceptance throughout the construction industry and perform all work in accordance with same.

The Contractor shall take all reasonable steps and precautions to protect health and minimize danger from all hazards to life and property and shall make all reports and permit all inspections deemed necessary by the Port Authority.

#### **B-51 CUTTING AND PATCHING**

The Contractor shall not do any cutting and patching in connection with the Work unless otherwise specified or directed.

#### **B-52 MANUFACTURERS' STANDARD CLAUSES**

The applicable items of these General Conditions or the Specification and Supplemental Conditions shall control in case of any variance between any provision or provisions thereof and any provision or provisions contained in any standard sections of manufacturers' proposals, unless otherwise agreed to by both parties and so stated in the Contract.

#### **B-53 DISPUTE RESOLUTION**

The inclusion of the Dispute Resolution clause in this Contract does not relieve the Contractor's Mitigation and Notice requirements of 108.2F of the C&MS. Whenever an issue is elevated to a dispute, the parties shall exhaust the Port Authority's Dispute Resolution and Administrative Claim process as set forth below prior to filing an action in any court of competent jurisdiction. If the Port Authority's Dispute Resolution and Administrative Claim process is exhausted, prior to filing an action in any court of competent jurisdiction, the claim shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The following procedures do not compromise the Contractor's right to seek relief in any court of competent jurisdiction.

All parties to the dispute must adhere to the Dispute Resolution and Administrative Claim process. Do not contact Port Authority personnel who are to be involved in a Step 2 or Step 3 review until a decision has been issued by the previous tier. Port Authority personnel involved in Step 2 or Step 3 reviews will not consider a dispute until the previous tier has properly reviewed the dispute and issued a decision.

Failure to meet any of the timeframes outlined below or to request an extension may terminate further review of the dispute and may serve as a waiver of the Contractor's right to file a claim.

Disputes and claims by subcontractors and suppliers may be pursued by the Contractor on behalf of subcontractors or suppliers. Disputes and claims by subcontractors and suppliers against the Port Authority but not supported by the Contractor will not be reviewed by the Port Authority. Disputes and claims of subcontractors and suppliers against the Contractor will not

be reviewed by the Port Authority.

Contractor will continue with all work, including that which is in dispute. The Port Authority will continue to pay for work not in dispute.

The Port Authority will not make the adjustments allowed by 104.02.B, 104.02.C, and 104.02.D of the 2019 ODOT Construction and Materials Specifications if the Contractor did not give notice as specified above. This provision does not apply to adjustments provided in Table 104.02-2 of the 2019 ODOT CMS.

**Step 1 (On-Site Determination):** An Authorized Representative of the Port Authority will meet with the Contractor's superintendent within two (2) working days of receipt of the Contractor Written Early Notice set forth in 108.02.F of the 2016 ODOT CMS. They will review all pertinent information and contract provisions and negotiate in an effort to reach a resolution according to the Contract Documents. The Port Authority will issue a written decision of Step 1 within fourteen (14) calendar days of the meeting and receipt of substantiating documentation. If the dispute is not resolved, either abandon or escalate the dispute to Step 2.

**Step 2 (Port Authority Dispute Resolution Committee):** The Port Authority Dispute Resolution Committee will be responsible for hearing and deciding disputes at the Step 2 level. The committee will consist of the Port Authority's CFO, CCO, and President/CEO or designees (other than the project personnel involved).

Within seven (7) calendar days of receipt of the Step 1 decision, submit a written request for a Step 2 meeting to the Port Authority's Authorized Representative. The Port Authority's Authorized Representative will assign the dispute a dispute number. Within fourteen (14) calendar days of receipt of the request for a Step 2 meeting, submit the dispute documentation as follows:

- a) Submit three (3) complete copies of the documentation of the dispute to the Port Authority's Authorized Representative.
- b) Identify the dispute on a cover page by county, project number, Contractor name, subcontractor or supplier (if involved in the dispute), and dispute number.
- c) Clearly identify each item for which additional compensation and/or time is requested.
- d) Provide a detailed narrative of the disputed work or project circumstance at issue. Include the dates of the disputed work and the date of early notice.
- e) Reference the applicable provisions of the plans, specifications, proposal, or other contract documents in dispute. Include copies of the cited provisions in the dispute documentation.
- f) Include the dollar amount of additional compensation and length of contract time extension requested.
- g) Include supporting documents for the requested compensation stated in letter (f) above.
- h) Provide a detailed schedule analysis for any dispute involving additional contract time, actual or constructive acceleration, or delay damages. At a minimum, this schedule analysis must include the Schedule Update immediately preceding the occurrence of the circumstance alleged to have caused delay and must comply with accepted industry practices. Failure to submit the required schedule analysis will result in the denial of that portion of the Contractor's request.
- i) Include copies of relevant correspondence and other pertinent documents.

Within fourteen (14) calendar days of receipt of the Contractor's dispute documentation, the committee will conduct the Step 2 meeting with the Contractor personnel who are authorized to resolve the dispute. The committee will issue a written decision of Step 2 within fourteen (14) calendar days of the meeting. If the dispute is not resolved, either abandon or escalate the dispute to Step 3.

**Step 3 Hired Neutral Third Party (Mediation):** Submit a written Notice of Intent to File a Claim to the Port Authority's Authorized Representative, who will serve as the Dispute Resolution Coordinator (DRC), within fourteen (14) calendar days of receipt of the Step 2 decision.

The dispute becomes a claim when the DRC receives the Notice of Intent to File a Claim.

Submit six (6) complete copies of the claim documentation to the DRC within thirty (30) calendar days of receipt of the Notice of Intent to File a Claim. This timeframe may be extended upon mutual agreement of the parties and with approval of the DRC.

In addition to the documentation submitted at Step 2:

- a) Enhance the narrative to include sufficient description and information to enable understanding by a third party who has no knowledge of the dispute or familiarity with the project.
- b) Certify the claim in writing and under oath using the following certification:

*"I, (Name and Title of an Officer of the Contractor) certify that this claim is made in good faith, that all supporting data is accurate and complete to the best of my knowledge and belief, and that the claim amount accurately reflects the contract amendment for which (Contractor Company name) believes the Port Authority is liable."*

Sign and date this claim certification and have the signature notarized pursuant to the laws of the State of Ohio. The date the DRC receives the certified claim documentation is the date of the Port Authority's Receipt of the Certified Claim for the purpose of the calculation of interest as defined in 102.02.G.4 of the 2016 ODOT CMS.

- c) An overview of the project.
- d) Response to each argument set forth by the Contractor.
- e) Any counterclaims, accompanied by supporting documentation, Port Authority wishes to assert.

The Port Authority's Authorized Representative will then choose Mediation in the manner in which those methods are practiced by the Port Authority's Authorized Representative and allowed by law. The DRC will coordinate the agreement of the parties to the Mediation, and the selection of a Mediator. The fees of the Mediator will be shared equally between the Port Authority and the Contractor. The DRC will obtain a written agreement, signed by both parties, that establishes the Mediation process. The Mediator will have complete control of the claim upon execution of the Mediation agreement.

The decision of the Mediator is the final step of the Port Authority's Dispute Resolution Process. The decision may be appealed by the Port Authority who is not bound by any offers of settlement or findings of entitlement made during Steps 1, 2, and 3 of the Dispute Resolution Process.

Cleveland-Cuyahoga County Port Authority

**BID FORMS**

**SEE ATTACHED BID  
FORM**

# Port of Cleveland Third Floor Office Space Modifications

## **SCOPE OF WORK SEE ADDITIONAL BID ITEM INFORMATION :**

1100 W9th Street Building Third Floor: Minor demolition and partition changes with associated MEP alterations and finishes to remove a large conference room for two offices with a small break out-meeting room. (931 sf). Includes tenant specific requirements, and add alternate as listed below.

BID ITEM DESCRIPTION DESIGNATION	DESCRIPTION	UNIT	QUANTITY	CONTRACTOR'S TOTAL INDIVIDUAL BID ITEM COST
<b>GENERAL CONDITIONS (DIVISION 1)</b>				
1A	Health, Safety, & Communications Plan	L.S.	1	
1B	Project Close Out	L.S.	1	
1C	Field Mobilization & Demobilization	L.S.	1	
1D	General Conditions including dumpsters and temp facilities	L.S.	1	
1E	Permitting	L.S.	1	
<b>GENERAL CONDITIONS (DIVISION 1) SUBTOTAL:</b>				
<b>EXISTING CONDITIONS &amp; DEMOLITION (DIVISION 2)</b>				
2A	Remove interior partitions, doors, frames, ceilings, millwork etc	L.S.	1	
<b>EXISTING CONDITIONS &amp; DEMOLITION (DIVISION 2) SUBTOTAL:</b>				
<b>THERMAL &amp; MOISTURE PROTECTION (DIVISION 7)</b>				
7A	Sound batt insulation	L.S.	1	
7B	Joint sealants	L.S.	1	
7C	Fire penetrations and firestopping	L.S.	1	
<b>THERMAL &amp; MOISTURE PROTECTION (DIVISION 7) SUBTOTAL:</b>				
<b>OPENINGS (DIVISION 8)</b>				
8A	Aluminum storefront windows and doors	L.S.	1	
8B	Door hardware	L.S.	1	
<b>OPENINGS (DIVISION 8) SUBTOTAL:</b>				
<b>FINISHES (DIVISION 9)</b>				
9A	Metal stud partitions	L.S.	1	
9B	Gypsum board	L.S.	1	
9C	ACT ceilings	L.S.	1	
9D	Paint	L.S.	1	
9E	Carpets	L.S.	1	
9F	Wood flooring	L.S.	1	
9G	Trims and base	L.S.	1	
<b>FINISHES (DIVISION 9) SUBTOTAL:</b>				
<b>FURNISHINGS (DIVISION 12)</b>				
12A	Relocate and modify exiting casework and install new as required	L.S.	1	
12B	Countertops	L.S.	1	
12C	Furniture and accessories storage assemblies	L.S.	1	
<b>FURNISHINGS (DIVISION 12) SUBTOTAL:</b>				
<b>FIRE SUPPRESSION (DIVISION 21)</b>				
21A	Rework of existing NFPA13 water based fire suppression system	L.S.	1	
<b>FIRE SUPPRESSION (DIVISION 21) SUBTOTAL:</b>				
<b>MECHANICAL (DIVISION 23)</b>				
23A	Mechanical equipment- existing relocation/new	L.S.	1	
23B	Mechanical fixtures	L.S.	1	
23C	Mechanical controls	L.S.	1	

<b>MECHANICAL (DIVISION 23) SUBTOTAL:</b>				
<b>ELECTRICAL (DIVISION 26)</b>				
<b>26A</b>	Electrical distribution	L.S.	1	
<b>26B</b>	Electrical fixtures	L.S.	1	
<b>ELECTRICAL (DIVISION 26) SUBTOTAL:</b>				
<b>COMMUNICATIONS (DIVISION 27)</b>				
<b>27A</b>	DISTRIBUTION - CAT-6	L.S.	1	
<b>27B</b>	data-voice	L.S.	1	
<b>27C</b>	coaxial	L.S.	1	
<b>COMMUNICATION (DIVISION 27) SUBTOTAL:</b>				
<b>BASE BID SUB-TOTAL</b>				

<h2 style="margin: 0;">Port of Cleveland</h2> <h3 style="margin: 0;">Third Floor Office Space Modifications</h3> <p style="margin: 0;">(OPTIONAL BID ITEMS)</p>				
BID ITEM DESCRIPTION DESIGNATION	DESCRIPTION	UNIT	QUANTITY	CONTRACTOR'S TOTAL INDIVIDUAL BID ITEM COST (net add or deduct)
<b>ALTERNATE (ADD) #1A</b>	Repaint exposed deck office ceilings including scrape, sand, prep and paint 4,263 GSF plus stairwell ceiling	1	L.S.	
<b>ALTERNATE BID ITEMS SUM</b>				
<b>BASE BID SUB-TOTAL SUM</b>				
<b>TOTAL PROJECT COST w/ ALTERNATES EXERSIZED</b>				

Please provide a list of all major Subcontractors, Scope of Work, Estimated Contract Dollar Value, & Past Project Experience:

Company

Scope of Work

Estimated Contract Past Project Experience

**BIDDER:**

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip

Code: \_\_\_\_\_

Phone \_\_\_\_\_

**ADDITIONAL BID INFORMATION & QUESTIONS:**

1.) Does General Contractor Have Experience Working on Similar/Relatable Projects? YES / NO  
\* If yes, please supply experience w/ client reference contact information.

2.) Total Estimated MBE/FBE Participation Percentage (MIN. GOAL 20%): \_\_\_\_\_  
\*Please submit MBE/FBE participation plan to the Port Authority with your bid.

3.) Please confirm that the Project was estimated using prevailing wage rates specified in Contract. YES / NO

4.) Do you have experience working with the Cleveland-Cuyahoga County Port Authority? YES / NO  
\*If yes, please provide a list of projects.

5.) Contractor understands this is an active office space and will coordinate their work accordingly? YES / NO

6.) Please provide completion deadline for the Project:  
PROJECT MOBILIZATION \_\_\_\_\_  
SUBSTANTIAL COMPLETION \_\_\_\_\_  
FINAL COMPLETION & USCBP CERTIFICATE OF OCCUPANCY \_\_\_\_\_

7.) I acknowledge receipt of the following addenda (if any):            1            2            3            4

# AGREEMENT

## Project: Port of Cleveland Third Floor Office Space Modifications

THE CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY ("Port Authority"), a body corporate and politic and port authority organized and operating pursuant to Chapter 4582.01 et seq. of the Ohio Revised Code, hereby agrees with \_\_\_\_\_ ("Contractor"), an Ohio corporation, hereby agree that Contractor will perform the work described below for the price and upon the terms and conditions hereinafter set forth.

The aforementioned Port Authority and Contractor, in consideration of the payment, covenants and conditions hereinafter mentioned, hereby agree as follows:

### 1. PROJECT

The purpose of the Agreement is to establish the terms and conditions whereby the Contractor agrees to perform and accomplish the following:

**The successful Bidder will perform the scope of work outlined in the Contract Documents. The work consists of the renovations to the Port Authority's offices located on the third floor of 1100 W. 9<sup>th</sup> Street.**

### 2. CONTRACT DOCUMENTS

The Contract between Port Authority and Contractor consists of this agreement and the following documents ("Contract Documents") which are incorporated by reference:

- (1) All provisions required by law or resolution to be inserted in the Contract, whether actually inserted or not.
- (2) The Resolution of the Port Authority awarding the Contract.
- (3) Amendments to the Contract.
- (4) The Form Contract as completed and executed.
- (5) All Addenda issued by the Port Authority prior to Bid Submission.
- (6) Project Specifications and Supplemental General Conditions.
- (7) General Conditions.
- (8) The Contract Drawings.
- (9) Instruction to Bidders.
- (10) The Resolution authorizing the making of the public improvement.
- (11) All required Policies of Insurance.
- (12) The Affidavit of Non-Collusion.
- (13) The Bid.
- (14) Permits.
- (15) 2019 ODOT Construction & Material Specifications.

### 3. TIME OF COMPLETION

The Contractor acknowledges that TIME IS OF THE ESSENCE in this Agreement and that the work contemplated in the Contract Documents will be completed in accordance with the following project delivery milestones:



Mobilization: \_\_\_\_\_  
Substantial Completion: \_\_\_\_\_  
Final Completion & USCB/CCCPA Turnover: \_\_\_\_\_

**4. PAYMENT**

The Port Authority agrees to pay the Contractor an amount not to exceed \$XXX,XXX.00. The total contract price is for all labor, overhead, profit, supervision, materials and miscellaneous work requirements necessary for completion of the work.

**5. NOTICES**

All notices permitted or requested to be given hereunder shall be delivered or mailed to:

Cleveland-Cuyahoga County Port Authority  
1100 West Ninth Street, Suite 300  
Cleveland, OH 44113  
ATTN: Nicholas A. LaPointe

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by a duly authorized officer, as of this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CLEVELAND-CUYAHOGACOUNTY  
PORT AUTHORITY**

By: \_\_\_\_\_  
Its: President

**TBD**

By: \_\_\_\_\_  
Its: President

**SAMPLE**

**SUBMIT COPY w/ BID**  
**DISCLOSURE OF PERSONAL PROPERTY TAXES**

STATE OF OHIO

COUNTY OF CUYAHOGA

The undersigned, being first duly cautioned and sworn, says that:

1. He is the \_\_\_\_\_ of \_\_\_\_\_ whomade a bid for an improvement project or for the purchase of services and supplies for the Cleveland-Cuyahoga County Port Authority, involving the competitive bid process;
2. He is familiar with RC 5719.042, copies of which are available in the offices of the Cleveland-Cuyahoga County Port Authority, and that he submits to the Cleveland-Cuyahoga County Port Authority this statement under oath, that as the person with whom the contract is to be made was not charged at the time the bid was submitted with any delinquent personal property taxes on the general tax list of personal property of any county in which the Cleveland-Cuyahoga County Port Authority has territory or that such person was charged with delinquent personal property taxes on any such tax list.
3. This statement sets forth in full, the amount of such due and unpaid delinquent taxes and any due and unpaid penalties and interest thereon as specified by RC 5719.042.
4. If this statement indicates that the taxpayer was charged with any such taxes, a copy of the statement shall, with the permission of the taxpayer, which is hereby given, be transmitted by the Cleveland-Cuyahoga County Port Authority to the County Treasurer with thirty (30) days of the date this statement was submitted.
5. A copy of the statement shall also be incorporated into the contract between the Cleveland-Cuyahoga County Port Authority and the undersigned, and no payment shall be made with respect to any contract to which RC 5719.042 applies unless such statement has been so incorporated as a part thereof.

By \_\_\_\_\_

Title \_\_\_\_\_

# Ohio Personal Property Taxes

## Exhibit A

(Complete if taxes are owed)

**NON COLLUSION AFFIDAVIT**  
**SUBMIT COPY w/ BID**

STATE OF OHIO                    )  
  )SS  
CUYAHOGACOUNTY                )

**AFFIDAVIT**

\_\_\_\_\_ being first duly sworn deposes and says:

Individual only:                   That he is an individual doing business under the name of \_\_\_\_\_ at \_\_\_\_\_ in the City of \_\_\_\_\_, State of \_\_\_\_\_.

Partnership only:               That he is the duly authorized representative of a partnership doing business under the name of \_\_\_\_\_ in the City of \_\_\_\_\_, State of \_\_\_\_\_.

Corporation only:               That he is the duly authorized, qualified and acting \_\_\_\_\_ of \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_; and that he, said partnership or said corporation, is filing herewith a bid to the Cleveland-Cuyahoga County Port Authority in conformity with the foregoing specifications;

Individual only:                   Affiant further says that the following is a complete and accurate list of the names and addresses of all persons interested in said proposed contact:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Affiant further says that he is represented by the following attorneys:  
\_\_\_\_\_  
and is also represented by the following resident agents in the county of Cuyahoga:  
\_\_\_\_\_  
\_\_\_\_\_

Partnership only:               Affiant further says that the following is a complete and accurate list of the names and addresses of the members of said partnership:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Affiant further says that said partnership is represented by the following attorneys: \_\_\_\_\_ and is also represented by the following resident agents in the County of Cuyahoga:  
\_\_\_\_\_

Corporation only:               Affiant further says that the following is a complete and accurate list of the officers, directors and attorneys of said corporation:  
\_\_\_\_\_  
\_\_\_\_\_

President  
Vice President

Directors:

Secretary  
Treasurer  
Cuyahoga County Manager or Agent  
Attorneys

And that the following officers are duly authorized to execute contracts on behalf of said corporation:

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

Affiant further says that the bid filed herewith is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that such bid is genuine and not collusive or sham; that said bidder has not, directly or indirectly, induced or solicited any other bidder to put in a false or sham bid, and has not, directly or indirectly, colluded, conspired, connived or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that in accordance with Title 23 United States Code, Section 112 and Ohio Revised Code, Chapter 1331 et. seq; and Sections 2921.11 and 2921.13, the bidder hereby states, under penalty of perjury and under other such penalties as the law provides, that he or his agents or employees have not entered either directly or indirectly into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. Execution of this proposal on the signature portion thereof shall constitute also signature of this Non-Collusion Affidavit as permitted by title 28 United States Code, Section 1746; that said bidder has not in any manner, directly or indirectly sought by agreement, communication or conference with anyone to fix the bid price of said bidder or of any other bidder, or to fix any overhead, profit, or cost element of such bid price or that of any other bidder, or to secure any advantage against the Cleveland-Cuyahoga County Port Authority or anyone interested in the proposed contract; that all statements contained in such bid are true; that said bidder has not, directly or indirectly, submitted his bid price or any break-down thereof or the contents thereof, or divulged information or data relative thereto, or paid or agreed to pay, directly or indirectly, any money, or other valuable consideration for assistance or aid rendered or to be rendered in procuring or attempting to procure the contract above referred to, to any corporation, partnership, company, association, organization, or to any member or agent thereof, or to any other individual, except to such person or persons as herein above disclosed to have a partnership or other financial interest with said bidder in his general business; and further that said bidder will not pay or agree to pay, directly or indirectly, any money or other valuable consideration to any corporation, partnership, company, association, organization or to any member or agent thereof, or to any other individual, for aid or assistance in securing contract above referred to in the event the same is awarded to

\_\_\_\_\_  
\_\_\_\_\_  
(name of individual, partnership or corporation)

Further affiant saith not.

(Sign Here) \_\_\_\_\_

Sworn to before me and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022.

\_\_\_\_\_  
Notary Public

**REPORTING BID RIGGING**

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.