

Panama City Port Authority



REQUEST FOR QUALIFICATIONS

24-01

FOR

ENGINEERING SERVICES

EAST TERMINAL PHASE TWO WAREHOUSE

PANAMA CITY, FLORIDA

PANAMA CITY PORT AUTHORITY

REQUEST FOR QUALIFICATIONS

24-01("RFQ") FOR

EAST TERMINAL PHASE TWO WAREHOUSE ENGINEERING SERVICES

In accordance with Section 287.055, *Florida Statutes*, and other state and federal laws, The Panama City Port Authority, a special district, (the "Port") is soliciting professional consultants for engineering services for the design, bid, and construction management of the Port's East Terminal Phase Two Warehouse project.

A Non-Mandatory Q&A will be held on February 2nd, 2024, at 10:00 AM, (CST). The meeting can be attended in person at the Port Authority's Board room, address One Seaport Drive, Panama City, Florida 32401, or by Microsoft Teams Meeting ID: 217 730 593 375, Passcode: ewr9pp. Submissions for this Request for Qualifications (RFQ) must be delivered in person, via U.S. mail or courier service to the Port Authority's Administrative Office at One Seaport Drive, Panama City, Florida 32401, or through the Port Authority's Alternative Electronic Submission by **February 23, 2024, by 2:00 M, CST**. Submissions must be in a sealed package and must be plainly marked, "RFQ EAST TERMINAL PHASE TWO WAREHOUSE ENGINEERING SERVICES" along with the Respondent's name and address. For the Port Authority's Alternative Electronic Submission Delivery Procedure, contact Ms. Sarah Harris, Public Relations Administrator at: sharris@portpanamacityusa.com. Submissions delivered after 2:00 PM, CST, on February 23rd, 2024, may be rejected by the Port Authority as untimely.

Please review all documents pertaining to this Request for Qualifications before submitting requested information. The Request for Qualifications documents may be obtained from our website: www.panamacityportauthority.com. If you should have questions regarding this application package, please submit them by e-mail to Ms. Sarah Harris, Public Relations Administrator, at: sharris@portpanamacityusa.com.

The Port Authority reserves the right to reject any or all submissions for this RFQ in whole or in part, to waive informalities in the process, to obtain new submittals, or to postpone the opening of responses submitted pursuant to Port Authority policy. **The Panama City Port Authority is an Equal Opportunity Employer.**

Alex King

Executive Director

**PANAMA CITY PORT AUTHORITY
REQUEST FOR QUALIFICATIONS 24-01
FOR EAST TERMINAL PHASE TWO WAREHOUSE
ENGINEERING SERVICES**

CLOSING DATE: February 23, 2024 – 2:00 P.M. CST

PURPOSE

In accordance with Section 287.055, *Florida Statutes*, and other state and federal laws, The Panama City Port Authority, a special district, (the “**Port**”) is soliciting professional consultants for engineering services for the design, bid, and construction management of the Port’s East Terminal Phase Two Warehouse project.

SCHEDULE

The following dates and activities are provided for planning purposes. All respondents who submit proposals by the submission deadline will be notified of any changes in writing.

Advertisement	January 24, 2024
Non-Mandatory Q & A	February 2, 2024
Questions due by	February 14, 2024
Final Addendum	February 16, 2024
Proposal Submittal	February 23, 2024, 2:00 PM CST
Short-listed Firm Notification (if needed)	March 1, 2024
Presentations by Short-listed Firms (if needed)	March 14, 2024
Recommendation of Selected Firms	March 14, 2024
Contract Award	After Selection

Short listing and follow-up presentations are not expected to be needed. Respondents should be prepared to answer follow up with questions as needed between February 23, 2024, through March 1, 2024. If presentations are needed, the Port will notify selected respondents of the timing and location of the presentations. The Port may call a special meeting to consider recommendations after submittal but before March 14, 2024. If the Port does so, it will notify accepted submittals of the special meeting.

SCOPE OF WORK

Background: Panama City Port Authority owns and operates two marine terminals: the East Terminal and West Terminal. The Port has been awarded a Port Infrastructure Development Program (PIDP) grant from U.S. Department of Transportation’s Maritime Administration (MARAD) for its East Terminal Phase Two Expansion Project. The grant amount is approximately \$11.25 million and is to fund a new 200,000 SF warehouse, rail spur construction, and roadway access construction for the warehouse at the Port’s East Terminal (the “**Project**”). The Port seeks

to secure the services of a qualified engineering consultant with a team of qualified and experienced professionals to design, bid, and provide construction management of the Project. The selected firm will have to work closely with Port staff and state and federal personnel throughout the Project and should be familiar with ports and federal grants.

General Project Description: The Project will be constructed on a resilient site elevated approximately 14 + Feet (FT) above mean waterline (MWL). Development and construction methods will use environmentally responsible, low-carbon footprint designs. This includes clear-span, high ceiling infrastructure for safer operations, and constructing a loading dock for multi-modal connectivity. In addition, the Project will utilize modern fire suppression systems and light emitting diode (LED) energy efficient lighting.

Required Personnel and Resources: The respondent shall have senior professional staff with demonstrated experience in port operations and construction project management. Additionally, the respondent shall have demonstrated experience on multi-disciplinary facility construction projects and knowledge and experience in federal, state, and local funding and grant programs. Since the primary service required is professional engineering, the firm must have an Engineering Certificate of Authorization in the State of Florida.

Services. Services during this contract are expected to consist of (i) the planning, design, drawing, bidding, and management of construction projects, including a warehouse and supporting railroad and other infrastructure; (ii) construction and environmental permitting and data review; and (iii) management of federal grant requirements. The selected contractor will have to work with the Port's staff, contractors, and federal, state, and local grant personnel. The expected duration of any Engineering Agreement will be five (5) years, with the Port's option to renew the Agreement for one (1) additional one (1) year term.

Specifically, the respondent should have experienced personnel and resources to complete the following activities:

- A. Meetings. Attend meetings with Port personnel and agents, including employees, board members, and consultants to provide advice and assistance on the contracted services. Meet with Federal and State agency grant personnel as requested and needed. Minimum meetings shall include:
 - a. Kickoff Meeting: Engineer shall participate in a kickoff meeting organized by the Port. This meeting should be approximately two (2) hours in duration and include a site visit to the East Terminal to discuss the conceptual design of the 200,000 SF warehouse, rail spur construction, and roadway access construction for the warehouse.
 - b. Monthly Status Meetings: Engineer shall participate in monthly status meetings with The Port Authority. This meeting should be approximately one hour in duration.

- c. Conclusion and Recommendation Meeting: Engineer shall participate in a meeting with the Panama City Port Authority to present its conclusions and recommendations to the Panama City Port Authority

- B. Technical Assistance. Provide general engineering expertise to support the ongoing activities related to the Project;

- C. Correspondence and Reports. Prepare correspondence and engineering reports to the Port, and any local, state and federal agency as necessary;

- D. Permitting, Design and Construction Planning. Obtain or amend all necessary permits from the Florida Department of Environmental Protection (FDEP), United States Army Corps of Engineers (USACE), Bay County, and the City of Panama City for the Project. Prepare designs and construction drawings for the Project. Design components shall include:
 - a. Design and Construction for a 200,000 Square Foot (SF) warehouse
 - b. Rail spur construction
 - c. Roadway construction for access to the warehouse

- E. Bidding and Construction Management. Procure and manage contracted construction services for the Project in compliance with MARAD grant requirements Construction deliverables shall be in electronic format along with one (1) hard copy. The Port will provide its comments within fourteen days for any deliverable. Engineer shall provide the following deliverables on the schedule below:
 - (a) Concept Development Phase - Engineer shall provide preliminary sketches or layouts, a rough order of magnitude opinion of cost, and a narrative discussing Engineer's concepts.
 - (b) Schematic Design Phase - Engineer shall provide 30 percent drawings, outline specifications, an opinion of cost, and a narrative discussing the design changes from the Concept Development Phase.
 - (c) Design Development Phase - Engineer shall provide 90 percent refined drawings and specifications, a proposed bid sheet, a proposed construction schedule, an updated opinion of cost, and a narrative discussing the design changes from the Schematic Design Phase.
 - (d) Final Document Phase - Engineer shall provide a final conceptual design of the 200,000 SF warehouse, rail spur, and roadway access plans, and all the project permits required.

- (e) Construction Phase - The Port will assign the Engineering Firm to process the 200,000 SF warehouse, rail spur, and roadway access to the construction phase. This will include advancing design to 100% construction plans and supporting documentation, preparing plans and bid documents, managing the bid process, and construction management for the project including the construction of the 200,000 SF warehouse, rail spur, and roadway access. This will be executed by subsequent Task Orders submitted to the Port Authority staff for review and agreed upon by the Panama City Port Authority.

- F. Documentation and Support. Provide the Port with documentation required by MARAD or other state or federal government with the appropriate levels of technical and engineering support. Serve as the Port's expert on the engineering and construction of the Project as needed;

- G. Audit. Upon completion of all projects and damage assessments, prepare and maintain documentation for state and federal final inspections and audits.

- J. Other Grant Management Assistance: Provide other state and federal grant engineering services as needed. Assist the Port with the technical engineering services of other federal or state grant programs not identified above.

Port Experience Preferred. Preference will be given to firms with demonstrated experience in the maritime industry and port and transport operations. Preference will also be given to firms with experience and familiarity with Panama City Port Authority projects.

PRE-SUBMITAL CONTACT

Respondents should contact Sarah Harris, Public Relations Administrator, with technical or procedural questions about the service or proposal requirements. Please submit all questions via e-mail to sharris@portpanamacityusa.com. All communication must be in writing to be considered for this RFQ.

Consultants are instructed to contact only the designated point of contact. No other Port Board members, employees, consultants, or agents may be contacted about this proposal during the selection process. In accordance with § 287.057(25) Florida Statutes: "Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, any employee or Board member of the Port Authority concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response."

INSTRUCTIONS FOR SUBMITTAL

Firms or engineers desiring to provide services, as described in the Scope of Work, shall submit sealed proposals with an original, five (5) complete copies, and one (1) CD with all of the required

information included (each document must be in an individual PDF format file) no later than 2:00 P.M., central time, February 23, 2024 to the Port Authority's Administrative Offices at One Seaport Drive, Panama City, Florida 32401, either by mail or in person. For The Port's Alternative Electronic Submission Delivery Procedure, contact Ms. Sarah Harris, Public Relations Administrator at: sharris@portpanamacityusa.com .

Qualifications shall be sealed, and submitter should indicate on their proposal the following:

Response to Request for Qualifications for Engineering Services
East Terminal, Phase Two Warehouse
Date of Opening – 2:00 P.M. February 23, 2024
<Name and Address of submitter>

Offers by telephone or telegram shall not be accepted. Also, submitters are instructed NOT to fax their qualifications. Faxed qualifications shall be rejected as non-responsive regardless of where or when the fax is received.

Respondents are cautioned that they are responsible for delivery to the specific location cited above. Therefore, if your qualifications are delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the above address. This office will not be responsible for deliveries made to any place other than the specified address.

It is the sole responsibility of the service provider to ensure that their proposal reaches the Port on time. The Port shall not be responsible for late deliveries or mail delays. All qualifications will be opened publicly.

INSURANCE REQUIREMENTS

A minimum coverage of Professional Liability Insurance, Workers' Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance in the amount of not less than \$2,000,000 per occurrence will be required. Insurance is to be placed with insurers with a Best's rating (or equivalent rating agency) of no less than A. Evidence of insurance shall be provided to the Port upon request, and the respondent shall provide for thirty-day notice in writing to the Port prior to cancellation, expiration, or non-renewal of any insurance.

If the Respondent is to conduct business on the Port Authority premises, the Respondent shall comply with all requirements listed in the "Insurance Requirements for those Companies or Persons Conducting Business on Port Premises" attached as Exhibit B, unless such requirements are waived in writing by the Port.

TERMS AND CONDITIONS

1. The Port reserves the right to accept or reject any or all qualifications, with or without cause, to waive technicalities, or to accept the qualification which, in its sole judgment, best serves the interest of the Port, or to award a contract to the next most qualified submitter if a successful submitter does not execute a contract within thirty (30) days after approval of the selection by the Port.
2. The Port reserves the right, and has absolute and sole discretion, to cancel a solicitation at any time prior to approval of the award by the Port.
3. The Port reserves the right to request clarification of information submitted and to request additional information of one or more applicants.
4. Any firm may withdraw from consideration at any time in writing prior to award of the contract.
5. Costs of preparation of a response to this request for qualifications are solely those of the submitter. The Port assumes no responsibility for any such costs incurred by the submitter. The submitter also agrees that the Port bears no responsibility for any costs associated with any administrative or judicial proceedings resulting from the solicitation process.
6. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
7. Consultants shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. Consultants should ensure that minority and disadvantage applicants are represented in their workplace and employees are treated during their employment without regard to race, color, religion, sex, age, or national origin.
6. The respondent understands that this RFQ does not constitute an agreement or contract with the Port. The Port will negotiate a contract with the highest ranked respondent in accordance with the process in Section 287.055, *Florida Statutes*.
7. Any consultant, who submits in its proposal any information that is determined by the Port to be substantially inaccurate, misleading, exaggerated, or incorrect, may be disqualified from consideration.

8. The consultant awarded this contract shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of the later of final grant closeout or final audit by OMB of any project work performed under contract resulting from this RFQ. The Port shall have access to all records, documents and information collected and/or maintained by others in the course of the administration of the agreement. This information shall be made accessible at the awardees' place of business to the Port, including the Comptroller's Office or its designees, for purposes of inspection, reproduction and audit without restriction.
9. Any respondent who is deemed to have a conflict of interest prohibited by Chapter 112, Florida Statutes or by any generally accepted rules of professional conduct for professional engineers shall be disqualified.
10. The Port is a dependent special district of the State of Florida and is subject to Florida's broad public records law. The respondent shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes. If the respondent is determined to be acting on behalf of the Port as provided under Section 119.011(2), Florida Statutes, the respondent shall specifically comply with all of its requirements, which shall be incorporated into any final contract between the Port and respondent.
11. The successful respondent shall comply with all state and federal grant contracting requirements, including, but not limited to, an anti-collusion clause, a drug-free workplace certification, certification regarding state and federal lobbying, a certification that the respondent has not been debarred, suspended, or is otherwise ineligible or excluded from federal or state contracting, Buy America Requirements, and an agreement to comply with other state and federal grant contract regulations.

EVALUATIONS OF QUALIFICATIONS

Selection shall be in accordance with 2 CFR 200.317-327, Section 287.055, *Florida Statutes*, FEMA regulations, and other state and federal laws. Minimum requirements to qualify:

- The prime consultant must be a licensed Engineering Business in the State of Florida and have a Professional Engineer licensed in the State of Florida in the office.
- The affiliation and location of all team members must be clearly indicated on the accompanying forms.
- The respondent shall provide the firm's qualifications and capabilities that demonstrate how the firm will provide the Engineering Services outlined within the Scope of Work. Highlight any experience as the prime engineering contractor with a federal or MARAD grant. The specific qualifications should be provided on the following forms or in the firm's submission and include the following:

Relevant Experience - Recent experience demonstrating current capacity and expertise in assisting local governments or port facilities in designing, planning, building, and managing infrastructure, industrial, or transportation facilities and working with state and federal agencies on grant-funded projects.

Past Performance on Similar Projects - Provide at least three references for which the firm has performed design, planning, or construction management of an infrastructure, industrial, or transportation facility project with similar requirements to the scope of services. Provide the reference contact name, address, e-mail address, telephone numbers and date of the contract.

- The respondent should describe its approach and methodology to accomplish the work in the scope of services. The description shall include information on schedule and availability where applicable.
- The respondent shall complete all required forms and certifications in this RFQ.

The qualifications will be reviewed and evaluated in accordance with the following criteria and points:

Criteria	Points
Cover Sheet and Firm Information (<i>Forms A & B</i>)	5
Assigned Personnel and Experience (<i>Form C</i>).....	20
Previous Infrastructure, Industrial, or Transportation Work (<i>Form D</i>).....	20
Recent, Current and Projected Workloads (<i>Form E</i>).....	5
Project Approach (<i>Form F</i>)	20
Knowledge & Experience with Port Facilities (<i>Form G</i>)	25
Remaining Forms and Certifications completed (See Attachment)	5
Total.....	100

Based on the above criteria, the Port may elect to receive presentations from up to no more than three short-listed firms. Short listing of applicants and follow on presentations is not anticipated, and the Port maintains the right to and is expected to select from submitted proposals without presentations.

The presentations may be evaluated based on additional criteria (if any) that will be outlined at the time the Port announces the short-listed consultants.

Points from the initial evaluation will not carry through to the presentation evaluations.

**REQUEST FOR QUALIFICATIONS
TO PROVIDE PROFESSIONAL ENGINEERING SERVICES
to the PANAMA CITY PORT AUTHORITY**

CLOSING DATE: February 23, 2024, 2:00 P.M. CST

Name of Firm	
Address	
Phone Number	
Fax No.	
Email Address	
Contact Person	Complete authorized representative form below
Title	

FORM A

**COMPANY'S REPRESENTATIVE WHO IS AUTHORIZED
TO SUBMIT THIS STATEMENT OF QUALIFICATIONS**

COMPANY NAME _____

AUTHORIZED SIGNATURE _____

NAME (PRINT OR TYPE) _____

TITLE _____

EMAIL: _____

PHONE NUMBER: _____

ADDRESS: _____

The Port is authorized to rely upon the authority of the respondent Authorized representative above.

The Respondent agrees to notify the Port in writing of any change in the Respondent's Authorized Representative.

FIRM INFORMATION

PRIMARY SERVICES LOCATION/ADDRESS	
PHONE NUMBER	
E-MAIL ADDRESS	
NO. OF LICENSED PEs	
% WORK EXPECTED TO BE PROVIDED BY PRIME	
YEARS IN BUSINESS	
SUBCONSULTANTS LOCATION/ADDRESS	
PHONE NUMBER	
E-MAIL ADDRESS	
NO. OF LICENSED PROFESSIONALS	
SUBCONSULTANTS LOCATION/ADDRESS	
PHONE NUMBER	
E-MAIL ADDRESS	
NO. OF LICENSED PROFESSIONALS	

ASSIGNED PERSONNEL AND EXPERIENCE

Please provide information on the primary team members who will be assigned to the contract for the roles and disciplines listed below. Note: If the project manager is also the principal-in-charge, you may write "same" in appropriate line. Changes in Key Personnel listed must be approved by the Port. Use additional sheets as needed or identify the sections of your submission that are responsive to this request.

Role	Name of Individual Assigned to the Project	Affiliation and Location	No. of Years of Experience	Education, Degrees(s)	Florida Active Registration(s) and No(s)

PREVIOUS INFRASTRUCTURE, INDUSTRIAL, OR TRANSPORTATION FACILITY WORK COMPLETED

List a minimum of three (3) similar previous infrastructure, industrial, or transportation facility work completed in which the proposed Project Team members, or your firm have served in the past. Please note if the Project Team members were with another firm at the time of the project.

Provide the name of the project, the owner of the project (including owner contact information), a brief description of the project, the role and duties of your firm or the Project Team members, and a the current status of the project (closed, active, etc...)

Use additional sheets if necessary or identify the sections of your submission that are responsive to this request.

FORM D

RECENT, CURRENT, AND PROJECTED WORKLOADS

Delineate your firm's recent, current, and projected workloads using the remainder of this page. Include the present and projected workloads of identified key personnel to be assigned to this contract. Provide the team members percentage of availability for Port assignments. State that the personnel listed in the submittal shall be available for and assigned to this contract. Use additional sheets if necessary or identify the sections of your submission that are responsive to this request.

FORM E

PROJECT APPROACH

Briefly describe in detail your firm's approach to successful completion of this project. Include a discussion of specialized skills, knowledge and expertise of your project team, which will be utilized to complete the project. Use additional sheets if necessary or identify the sections of your submission that are responsive to this request.

**KNOWLEDGE & EXPERIENCE
WITH PORT FACILITIES**

Using the remainder of this page, provide information on your team's experience with port facilities, particularly planning, designing, permitting, and managing construction of a large warehouse facility, with associated rail or other infrastructure improvements. Use additional sheets if necessary or identify the sections of your submission that are responsive to this request.

ATTACHMENT TO
PORT RFQ FOR ENGINEERING SERVICES

REQUIRED FORMS AND CERTIFICATIONS

CONFLICT OF INTEREST AND LITIGATION STATEMENT

The conflict of interest and litigation statements are for informational purposes only and will not be used in the initial scoring process.

Please mark one of the following:

- To the best of our knowledge, the undersigned firm has no potential conflicts of interest due to any other clients, contracts, or property interest for this project.

- The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts, or property interest for this project.

Please mark one of the following:

- The undersigned firm has had no litigation on any engineering projects in the last five years.

- The undersigned firm, by attachment to this form, submits a summary and disposition of individual cases of litigation during the past five years.

The Port reserves the right to request additional information on these subjects and also to eliminate any firm from the selection process that has material conflict(s) of interest or a history of litigation resulting from engineering errors or omissions or unethical or illegal business practices.

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

MINORITY BUSINESS ENTERPRISE

State whether your firm or any firm to which you may subcontract services related to this project, is a certified minority business enterprise as defined by federal law or the Florida Small and Minority Business Assistance Act of 1985.

Prime Consultant: _____

Subcontracted Services: _____

ANTI-COLLUSION CLAUSE

Firm certifies that their response is made without prior understanding, agreement or connection with any Corporation, Firm or person submitting a response for the same services and is in all respects fair and without collusion or fraud.

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date _____

DRUG FREE WORKPLACE

To have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under Proposal a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under Proposal, the employees will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program if such is available in the employee's community, by an employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify the following:

(Check one and sign in the space provided.)

_____ This firm complies fully with the above requirements.

_____ This firm does not have a drug free work place program at this time.

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

APPENDIX A, 44 C.F.R. PART 18-CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge, that:

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

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

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

**Certification Regarding
Debarment, Suspension,
Ineligibility And Voluntary
Exclusion**

Contractor Covered Transactions

- (1) The prospective contractor of the Recipient certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

- (2) Where the Recipient's contractor is unable to certify to the above statement, the prospective contractor shall attach an explanation to this form.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

ATTACHMENT 2

U.S. DEPARTMENT OF TRANSPORTATION MARITIME ADMINISTRATION

FEDERAL GRANT CONTRACT REQUIREMENTS

The supplemental conditions contained in this section are intended to cooperate with, supplement, and modify the general conditions and other specifications of this RFQ, or any subsequent contract award. The Project is intended to be funded with a U.S. Department of Transportation Maritime Administration grant (MARAD). The following are conditions to the Port's Port Infrastructure Development Program (PIDP) grant from MARAD for fiscal year 2022 and shall be incorporated into this RFQ and any subsequent contract with the selected firm, including an obligation to amend the contract as necessary to satisfy the grant funding terms.

**U.S. DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

**EXHIBITS TO MARAD GRANT AGREEMENTS UNDER THE
FISCAL YEAR 2022 PORT INFRASTRUCTURE DEVELOPMENT PROGRAM**

October 25, 2023

EXHIBIT A

APPLICABLE FEDERAL LAWS AND REGULATIONS

By entering into this agreement for a FY 2022 PIDP Grant, the Recipient assures and certifies, with respect to this Grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

General Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. §§ 3141, et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. §§ 201, et seq.
- c. Hatch Act - 5 U.S.C. §§ 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. §§ 4601, et seq.
- e. National Historic Preservation Act of 1966 - 54 U.S.C. § 306108
- f. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. §§ 312501, et seq.
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. §§ 3001, et seq.
- h. Clean Air Act – 42 U.S.C. §§ 7401, et seq.
- i. Clean Water Act - 33 U.S.C. §§ 1251, et seq.
- j. Endangered Species Act – 16 U.S.C. §§ 1531 et seq.
- k. Coastal Zone Management Act – 16 U.S.C. §§ 1451 et seq.
- l. Flood Disaster Protection Act of 1973 – 42 U.S.C. §§ 4001 et seq.
- m. Age Discrimination Act of 1975, as amended - 42 U.S.C. §§ 6101, et seq.
- n. American Indian Religious Freedom Act, 42 U.S.C. 1996
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended - 42 U.S.C. §§ 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 - 42 U.S.C. §§ 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C. § 8373
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. §§ 3701, et seq.
- u. Copeland Anti-kickback Act, as amended - 18 U.S.C. § 874 and 40 U.S.C. § 3145
- v. National Environmental Policy Act of 1969 - 42 U.S.C. §§ 4321, et seq.
- w. Wild and Scenic Rivers Act – 16 U.S.C. §§ 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. §§ 7501, et seq.
- y. Americans with Disabilities Act of 1990 - 42 U.S.C. §§ 12101, et seq.
- z. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. §§ 1681–1683 and §§ 1685–1687
- aa. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
- bb. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. §§ 2000d, et seq.
- cc. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352

- dd. Freedom of Information Act - 5 U.S.C. § 552, as amended
- ee. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. §§ 1801, et seq.
- ff. Farmland Protection Policy Act of 1981 – 7 U.S.C. §§ 4201, et seq.
- gg. Noise Control Act of 1972 – 42 U.S.C. §§ 4901, et seq.
- hh. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. §§ 661, et seq.
- ii. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 - 33 U.S.C. §§ 401 and 525
- jj. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. § 303 and 23 U.S.C. § 138
- kk. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) – 42 U.S.C. §§ 9601, et seq.
- ll. Safe Drinking Water Act – 42 U.S.C. §§ 300f, et seq.
- mm. The Wilderness Act – 16 U.S.C. §§ 1131, et seq.
- nn. Migratory Bird Treaty Act 16 U.S.C. §§ 703, et seq.
- oo. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- pp. Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- qq. Build America, Buy America Act – Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298
- rr. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232

Executive Orders

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency
- h. Executive Order 13985 – Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- j. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

General Federal Regulations

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1
- e. Contractors and subcontractors on public building or public work financed in whole or

- part by loans or grants from the United States – 29 C.F.R. Part 3
- f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 C.F.R. Part 5
 - g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60, et seq.
 - h. New Restrictions on Lobbying – 49 C.F.R. Part 20
 - i. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
 - j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
 - k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
 - l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
 - m. DOT’s implementation of DOJ’s ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 C.F.R. Part 35
 - n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
 - o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
 - p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
 - q. DOT’s implementing ADA regulations for transit services and transit vehicles, including the DOT’s standards for accessible transportation facilities in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
 - r. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26 (as applicable under section 18.3 of this agreement)
 - s. Preference for Privately Owned Commercial U.S. Flag Vessels – 46 C.F.R. Part 381

Specific assurances required to be included in the FY 2022 PIDP Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

EXHIBIT B
ADDITIONAL STANDARD TERMS

TERM B.1
TITLE VI ASSURANCE
(Implementing Title VI of the Civil Rights Act of 1964, as amended)

**ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED
PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL
FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities
Act, as amended)

49 C.F.R. Parts 21, 25, 27, 37 and 38

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 PIDP, the Recipient **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Maritime Administration (MARAD), it is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise

subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including MARAD.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FY 2022 PIDP grant:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the FY 2022 PIDP Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”
3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing MARAD's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by MARAD. You must keep records, reports, and submit the material for review upon request to MARAD, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal

financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FY 2022 PIDP. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FY 2022 PIDP.

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Maritime Administration (MARAD), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a 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 Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and 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 Recipient or MARAD to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or MARAD, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or MARAD may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant

thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or MARAD may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Specific Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022), 46 U.S.C. 54301, the Regulations for the Administration of FY 2022 PIDP, and the policies and procedures prescribed by the Maritime Administration (MARAD) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Recipient, its successors and assigns.

The Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Recipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Specific Assurance 7(a):

- A. The (Recipient, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (Recipient, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Recipient pursuant to the provisions of Specific Assurance 7(b):

- A. The (Recipient, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (Recipient, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Recipient will there upon revert to and vest in and become the absolute property of Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

TERM B.2
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

2 C.F.R. Parts 180 and 1200

These assurances and certifications are applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring MARAD approval or that is estimated to cost \$25,000 or more – as defined in 2 C.F.R. Parts 180 and 1200.

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 PIDP, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2022 PIDP Grant, as set out below.

1. Instructions for Certification – First Tier Participants:

a. The prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "civil judgment," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of

Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,” provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

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

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior MARAD approval or estimated to cost \$25,000 or more - 2 C.F.R. Parts 180 and 1200)

a. The prospective lower tier participant is providing the certification set out below.

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms “covered transaction,” “civil settlement,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered

transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

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

TERM B.3
REQUIREMENTS REGARDING DELINQUENT TAX LIABILITY OR A FELONY
CONVICTION UNDER ANY FEDERAL LAW

As required by sections 744 and 745 of Title VII, Division E of the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
- (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

The Recipient therefore agrees:

1. **Definitions.** For the purposes of this exhibit, the following definitions apply:

“**Covered Transaction**” means a transaction that uses any funds under this award and that is a contract, memorandum of understanding, cooperative agreement, grant, loan, or loan guarantee.

“**Felony Conviction**” means a conviction within the preceding 24 months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the United States Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. 3559.

“**Participant**” means the Recipient, an entity who submits a proposal for a Covered Transaction, or an entity who enters into a Covered Transaction.

“**Tax Delinquency**” means an unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2. **Mandatory Check in the System for Award Management.** Before entering a Covered Transaction with another entity, a Participant shall check the System for Award Management (the “SAM”) at <http://www.sam.gov/> for an entry describing that entity.

3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:

(1) Certify whether the entity has a Tax Delinquency; and

(2) Certify whether the entity has a Felony Conviction.

4 **Prohibition. If**

(1) the SAM entry for an entity indicates that the entity has a Tax Delinquency or a Federal Conviction;

(2) an entity provides an affirmative response to either certification in section 3; or

(3) an entity’s certification under section 3 was inaccurate when made or became inaccurate after being made

then a Participant shall not enter or continue a Covered Transaction with that entity unless the USDOT has determined in writing that suspension or debarment of that entity are not necessary to protect the interests of the Government.

5. **Mandatory Notice to the USDOT.**

(a) If the SAM entry for a Participant indicates that the Participant has a Tax Delinquency or a Felony Conviction, the Recipient shall notify the USDOT in writing of that entry.

(b) If a Participant provides an affirmative response to either certification in section 1, the Recipient shall notify the USDOT in writing of that affirmative response.

(c) If the Recipient knows that a Participant’s certification under section 1 was inaccurate when made or became inaccurate after being made, the Recipient shall notify the USDOT in writing of that inaccuracy.

6. **Flow Down.** For all Covered Transactions, including all tiers of subcontracts and subawards, the Recipient shall:

(1) require the SAM check in section 2;

(2) require the certifications in section 3;

(3) include the prohibition in section 4; and

(4) require all Participants to notify the Recipient in writing of any information that would require the Recipient to notify the USDOT under section 5.

TERM B.4
RECIPIENT POLICY TO BAN TEXT MESSAGING WHILE DRIVING

(a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009) and Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009). For clarification purposes, they may expand upon the definitions in the executive order.

For the purpose of this term B.3, “**Motor Vehicles**” means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for use on a local, State or Federal roadway, but does not include a military design motor vehicle or any other vehicle excluded under Federal Management Regulation 102-34-15.

For the purpose of this term B.3, “**Driving**” means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic congestion, a traffic signal, a stop sign, another traffic control device, or otherwise. It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this term B.3, “**Text messaging**” means reading from or entering data into any handheld or other electronic device (including, but not limited to, cell phones, navigational tools, laptop computers, or other electronic devices), including for the purpose of Short Message Service (SMS) texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless this practice is prohibited by State or local law. The term also does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this term B.3, the “**Government**” includes the United States Government and State, local, and tribal governments at all levels.

(b) *Workplace Safety.* In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009) and DOT Order 3902.10, Text Messaging While

Driving (Dec. 30, 2009), the Recipient, subrecipients, contractors, and subcontractors are encouraged to:

(1) adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(c) *Subawards and Contracts*. To the extent permitted by law, the Recipient shall insert the substance of this exhibit, including this paragraph (c), in all subawards, contracts, and subcontracts under this award that exceed the micro-purchase threshold, other than contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

TERM B.5
**REQUIRED USE OF AMERICAN IRON, STEEL, MANUFACTURED PRODUCTS,
AND CONSTRUCTION MATERIALS**

This award term implements § 70914(a) of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 C.F.R. part 184.

Requirement to Use Iron, Steel, Manufactured Products, and Construction Materials Produced in the United States.

The Recipient shall not use funds provided under this award for a project for infrastructure unless:

- (1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product; and
- (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

Inapplicability.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers.

When necessary, the Recipient may apply for, and the USDOT may grant, a waiver from the Buy America preference in this award term.

A request to waive the application of the domestic content procurement preference must be in writing. The USDOT will provide instructions on the waiver process and on the format, contents,

and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Office of Management and Budget (OMB) Made in America Office.

When the USDOT has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the USDOT determines that:

- (1) applying the domestic content procurement preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.transportation.gov/office-policy/transportation-policy/made-in-america>.

Definitions

“Component” means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into: a manufactured product; or, where applicable, an iron or steel product.

“Construction materials” means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- (i) Non-ferrous metals;
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

“Infrastructure project” means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. See also paragraphs (c) and (d) of 2 C.F.R. 184.4.

“Iron or steel products” means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

“Buy America preference” means the “domestic content procurement preference” set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

“Manufactured products” means:

(1) Articles, materials, or supplies that have been:

- (i) Processed into a specific form and shape; or
- (ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

(2) If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under 2 C.F.R. 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 C.F.R. 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.

“Manufacturer” means the entity that performs the final manufacturing process that produces a manufactured product.

“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

“Produced in the United States” means:

(1) In the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) In the case of manufactured products:

(i) The product was manufactured in the United States; and

(ii) The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. The costs of components of a manufactured product are determined according to 2 C.F.R. 184.5.

(3) In the case of construction materials, all manufacturing processes for the construction material occurred in the United States. See section 2 C.F.R. 184.6 for more information on the meaning of “all manufacturing processes” for specific construction materials.

“Section 70917(c) materials” means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. See section 70917(c) of the Build America, Buy America Act.

EXHIBIT C
QUARTERLY PROJECT PROGRESS REPORTS AND RECERTIFICATIONS:
FORMAT AND CONTENT

1. Purpose. The purpose of the Quarterly Project Progress Reports and Recertifications under this agreement for the FY 2022 PIDP are to ensure that the project scope, schedule, and budget will be maintained to the maximum extent possible.

2. Format and Content. The Recipient shall produce a quarterly cost, schedule, and status report that contains the sections enumerated in the following list. At the discretion of MARAD, modifications or additions can be made to produce a quarterly reporting format that will most effectively serve both the Recipient and MARAD. Some projects will have a more extensive quarterly status than others. For smaller projects, MARAD may determine that the content of the quarterly reports will be streamlined and project status meetings will be held on a less-frequent basis. The first quarterly progress report should include a detailed description and, where appropriate, drawings of the items funded.

(a) Project Overall Status. This section provides an overall status of the project's scope, schedule and budget. The Recipient shall note and explain any deviations from the scope of work, the schedule, or the budget that are described in this agreement.

(b) Project Significant Activities and Issues. This section provides highlights of key activities, accomplishments, and issues occurring on the project during the previous quarter. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to any applicable Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance.

(c) Action Items/Outstanding Issues. This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. The Recipient should include administrative items and outstanding issues that could have a significant or adverse effect on the project's scope, schedule, or budget. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

(d) Project Scope Overview. The purpose of this section is to provide a further update regarding the project scope. If the original scope contained in the grant agreement is still accurate, this section can simply state that the scope is unchanged.

(e) Project Schedule. An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate

format to be agreed upon between the Recipient and MARAD. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported. Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

(f) Project Cost. An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments to Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet. Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.

- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or disbursements for the project, compared to planned obligations and disbursements.

(g) Federal Financial Report (SF-425). The Federal Financial Report (SF-425) is a financial reporting form used throughout the Federal Government Grant system. Recipients shall complete this form and attach it to each quarterly Project Progress and Monitoring Report. The form is available at <https://www.grants.gov/forms/post-award-reporting-forms.html>.

(h) Certifications.

- i. A certification that the Recipient is in compliance with 2 C.F.R. 200.303 (Internal Controls) and 2 C.F.R. Part 200, Subpart F (Audit Requirements).
- ii. The certification required under 2 C.F.R. 200.415(a).