

Engineer: N/A **RE:** Addenda #3
of Pages: 30

Clarifications:

1. The Umbrella Policy should be in the amount of \$3,000,000

2.

3.

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2

Questions: (answers to all question are shown in *Italics* immediately after the question) for example:

proposal due date of July 31 as my accountant would need more time to verify and produce such document. *Please submit your latest Financial package with your RFP.*

9. Regarding Exhibit A of the RFP: The implementation plan table (page 11) indicates Summer/Fall 2013 for Development of Construction Documents. Does such date intend to represent finalization of construction documents for all of the items outlined under the title "Areas of Work" on the same page? *Yes*
10. Many of the drawings in the drawing set seem to have layers hidden, blank areas, and/or seem incomplete. Could we be provided with a more complete drawing set that does not have the aforementioned issues? *Send E-mail address and we will attempt to send them.* Could we be provided with drawings that contain the equipment schedules? *See attached*
11. Could we be provided with the commissioning report/O&M manuals from construction? *There is no commissioning report.*
12. The contract form that has been provided seems to be more suited for construction or design/building. Can we be provided with a contract form that is appropriate for professional services? *See attached*
13. Can we be provided with the sign-in sheet from the Pre-Proposal Meeting that took place on July 17th, 2013? *See Addenda #2*
14. Could you provide full OLA Design/Engineering Report including all appendices and sketches? *There are no sketches*
15. Please provide any available memos or information provided by OLA related to any missing information from their report. *No*
16. Is the intent of the RFP to have the successful engineering firm provide TAB either with their own labor or through a subcontractor? *Yes* Should the submitted proposal have an all-inclusive price for TAB? *Yes* Alternatively, will BPCA obtain the services of a certified TAB contractor who will perform their scope at the direction of the engineer? *No*
17. Design Phase, line 14 states: "Proposer shall design to existing LEED alteration requirements." During the walkthrough it was suggested that the facility was not quite concerned about LEED requirements. Could you elaborate on your preferences regarding LEED for any alterations? *LEED Alteration is not a concern*
18. Forensic report recommendations have many options. Which are the preferred options? *BPCA is leaning towards not using the geothermal wells*
19. Would alternate approaches be considered in lieu of what was recommended in the forensic report? *Yes, with substantiated reasoning*
20. Is the intent of the implementation plan to supply all services one time through (Design, Bid, and Construction for everything) or to break up the scope into multiple phases of these services (Design, Bid, and Construction for boiler; then Design, Bid, and Construction for Chillers; then Design, Bid, Construction for other phases)? How many phases will there be? *Provide all services at once.*

21. The scope of work on Page 11 mentions the 4th Floor Kitchen Exhaust but this was not covered by the Forensic Engineering report. Please provide a description of this work. *FA refiling for the kitchen exhaust, fire smoke damper may need to be relocated or installed, consultant to investigate*
22. The scope of work on pages 10 and 11 of the RFP does not have sufficient detail to prepare an accurate fee proposal. Should we assume a full replacement of the systems listed under "Area of Work" on page 11? *See Addenda#1, at OLA report for recommendations which should help you with your proposal*
23. The RFP allows for "Other Work" (Item 3 under "General" on page 18; Item 3 under "Design Phase"; and Last bullet on the bottom of page 11). While we can include time for further investigation, how can we provide a fee for the design of unknown work? *In your proposal, please include estimated hours and costs for future investigations*

By signing the line below, I am acknowledging that all pages of the addenda has been received reviewed and understood, and will be incorporated into the bid price submitted. This document must be attached to the proposal for consideration.

Print Name	Signature	Date
Number of pages received: _____	<fill in>	

Distributed to: All present and all prospective Proposers



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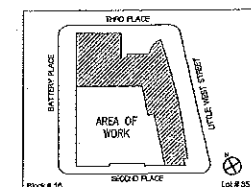
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Revisions



Block # 10

Location Plan
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HVAC SCHEDULES SHEET 1 OF 4 (BY DEVELOPER)

Date August 10, 2007

Scale N.T.S.

Drawn By

Checked By

Project No. 0428

Sheet No.

H600

WATER TO WATER HEAT PUMP UNIT SCHEDULE (Provided by Developer)

UNIT NO.			NO. UNITS	LOCATION	COMPRESSOR	UNIT ELECTRICAL DATA						COOLING										HEATING										EOP	MEA NO.	REMARKS
					TYPE/MT	REA (AMPS)	IRA (AMPS)	WES (AMPS)	VOLTS	PHASE	HZ	GPM	PD (FT. H ₂ O)	ENT (°F)	LWT (°F)	GPM	PD (FT. H ₂ O)	ENT (°F)	LWT (°F)	CAPACITY (MBH)	GPM	PD (FT. H ₂ O)	ENT (°F)	LWT (°F)	GPM	PD (FT. H ₂ O)	ENT (°F)	LWT (°F)	CAPACITY (MBH)					
WHHP-1,2	1	2ND FLR. MEZ	SCROLL / 2	59.1	42.5	133	190	208	3	60	70	10.0	60	72.8	75	12.0	55	45	351.61	70	10.0	50	42.2	75	9.8	55	45	351.19	3.6	132-89-E	FLORIDA HEAT PUMP WYARD			

PLATE HEAT EXCHANGER SCHEDULE (Provided by Developer)

UNIT No.	SERVICE	LOCATION	CAPACITY (GPM)	WEL. HEAT TRANSFER AREA (SQ. FT.)	PLATE MAT.	# PLATES	WELL WATER CIRCUIT						BUILDING WATER CIRCUIT				PHYSICAL CHARACTERISTICS				REMARKS		
							FLUID	GPM	ENT (°)	LWT (°)	PD (PSI)	DESIGN PRESS. (PSIG)	FLUID	GPM	ENT (°)	LWT (°)	PD (PSI)	DESIGN PRESS. (PSIG)	LENGTH (IN.)	WATTI (IN.)		HEIGHT (IN.)	OPERATING HEIGHT
101-1	WELL WATER	2ND FLR. MEZ	654.6	382.1	ALLOY 316	73	WATER	131	60	70	4.83	100	WATER	131	72.0	62.0	4.80	150	45	19	78	1010	SAVAR TO ALPHA LAMIN. AGRIL-FO

NOTE: 1. ASME STAMPER. 2. DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH ASME 3. UL LISTED

PUMP SCHEDULE (Provided by Developer)

Form: SCHEDULE (1) (Revised 12/2004)															
PUMP No.	SERVICE	LOCATION	FLUID	PERFORMANCE DATA			CONSTRUCTION DATA		MOTOR DATA		ELECTRICAL DATA			REMARKS	
				GPM	FLUID TEMP (°F)	TDH (FT. H ₂ O)	TYPE	DESIGN PRESS. (PSI)	WHP	STARTER TYPE	VOLTS	PHASE	HZ		
WHP-1,2,3	WELL WATER	WELL	WATER	710	55	65	SMITHSIBLE	150	15	VFD	208	3	60		

HOT WATER BOILER SCHEDULE (Provided by Developer)

UNIT No.	LOCATION	SOURCE	TYPE	GROSS INPUT MBH/Hr	NET OUTPUT MBH/Hr	BURNER PERFORMANCE DATA					BLOWER DATA			HOT WATER			UNIT DIMENSIONS			OPERATING	MANUF. MODEL #	REMARKS
						GAS					ELECTRICAL DATA			MOTOR			WATER					
						FUEL	GAS FLOW RATE	GAS TEMP	WATER PRESS. (H.W.E.)	VOLTS	PHASE	Hz	GPM	CMH (FT)	IN (FT)	OUT (FT)	IN (FT)	OUT (FT)	IN (FT)			
B-1	2ND FLR MEZ	HOT WATER	CONDENSING	920	1,000	N.GAS	1,000	1 1/4"	0.5	120	1	90	90	90	120	4'-0"	1'-10"	6'-0"	1350	AERCO XC1000	1	

NOTE: 1. LOW NOX

VENTILATION INDEX

SYSTEM	DESCRIPTION	NO. OF PEOPLE	ROOM AREA (SQ. FT.)	ROOM VOLUME (CU. FT.)	VENT INDEX	REQUIRED TOTAL			ACTUAL CFM/SQ. FT.		
						SUPPLY CFM/SQ. FT.	SUPPLY CFM	OUTSIDE AIR CFM	SUPPLY CFM	OUTSIDE AIR CFM	
AVU-1	STAGING	95	21680	437720	8911.4	.4	8754	0.13	2818	15400	13600
AVU-2	SHOPS	13	1868	33624	4023.4	.4	747	0.13	248	2350	885
AVU-3	LOCKER ROOM	20	2740	43040	3382	.4	1085	0.13	365	3030	2500
AVU-4	OFFICES	43	6040	9040	2808.3	.4	2115	0.13	605	8100	806
AVU-5	MEETING ROOM	20	1100	9900	1045	.6	680	0.20	220	800	330

NOTES:

1. THE AMOUNT OF ACTUAL OUTDOOR AIR SHALL BE AT LEAST 33-1/3 PERCENT OF THE REQUIRED TOTAL.

AIR CONDITIONING UNIT SCHEDULE

UNIT NO.	SCHEMATIC	LOCATION	MODEL	HP	WATER DATA	COOLING COOL DATA	HEATING COOL DATA	MANUFACTURER	BOOK NO.	COMPRESSOR	VIA	REMARKS
AC-1	AS	PASSAGEWAY EAST JAIL	600	0.5	1/2	208	3	60	67	18.1	15.45	AC-1
AC-2	AS	PRISON ELEV. 400	1200	0.5	3/4	208	3	67	200	37.4	30.15	AC-2
AC-3	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1
AC-4	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1

NOTES: 1. FILTERS SHALL BE 40% EFFICIENCY WITH A MAX PRE-FILTER. 2. UNITS SHALL BE COUPLED WITH CONDENSING COILS. 3. CONDENSING COILS SHALL HAVE COIL SEPARATION. 4. CONDENSING COILS SHALL HAVE COIL SEPARATION. 5. CONDENSING COILS SHALL HAVE COIL SEPARATION.

AIR HANDLING UNIT SCHEDULE

UNIT NO.	SCHEMATIC	LOCATION	MODEL	HP	WATER DATA	COOLING COOL DATA	HEATING COOL DATA	MANUFACTURER	BOOK NO.	COMPRESSOR	VIA	REMARKS
AC-1	AS	PASSAGEWAY EAST JAIL	600	0.5	1/2	208	3	60	67	18.1	15.45	AC-1
AC-2	AS	PRISON ELEV. 400	1200	0.5	3/4	208	3	67	200	37.4	30.15	AC-2
AC-3	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1
AC-4	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1

AIR HANDLING UNIT SCHEDULE CONTINUATION

UNIT NO.	SCHEMATIC	LOCATION	MODEL	HP	WATER DATA	COOLING COOL DATA	HEATING COOL DATA	MANUFACTURER	BOOK NO.	COMPRESSOR	VIA	REMARKS
AC-1	AS	PASSAGEWAY EAST JAIL	600	0.5	1/2	208	3	60	67	18.1	15.45	AC-1
AC-2	AS	PRISON ELEV. 400	1200	0.5	3/4	208	3	67	200	37.4	30.15	AC-2
AC-3	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1
AC-4	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1

AIR CURTAIN SCHEDULE (UNHEATED)

UNIT NO.	SCHEMATIC	LOCATION	MODEL	HP	WATER DATA	COOLING COOL DATA	HEATING COOL DATA	MANUFACTURER	BOOK NO.	COMPRESSOR	VIA	REMARKS
AC-1	AS	PASSAGEWAY EAST JAIL	600	0.5	1/2	208	3	60	67	18.1	15.45	AC-1
AC-2	AS	PRISON ELEV. 400	1200	0.5	3/4	208	3	67	200	37.4	30.15	AC-2
AC-3	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1
AC-4	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1

RADIANT CEILING PANEL SCHEDULE

UNIT NO.	SCHEMATIC	LOCATION	MODEL	HP	WATER DATA	COOLING COOL DATA	HEATING COOL DATA	MANUFACTURER	BOOK NO.	COMPRESSOR	VIA	REMARKS
AC-1	AS	PASSAGEWAY EAST JAIL	600	0.5	1/2	208	3	60	67	18.1	15.45	AC-1
AC-2	AS	PRISON ELEV. 400	1200	0.5	3/4	208	3	67	200	37.4	30.15	AC-2
AC-3	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1
AC-4	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1

CABINET UNIT HEATER (CUH)

UNIT NO.	SCHEMATIC	LOCATION	MODEL	HP	WATER DATA	COOLING COOL DATA	HEATING COOL DATA	MANUFACTURER	BOOK NO.	COMPRESSOR	VIA	REMARKS
AC-1	AS	PASSAGEWAY EAST JAIL	600	0.5	1/2	208	3	60	67	18.1	15.45	AC-1
AC-2	AS	PRISON ELEV. 400	1200	0.5	3/4	208	3	67	200	37.4	30.15	AC-2
AC-3	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1
AC-4	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1

CEILING DIFFUSER SCHEDULE

UNIT NO.	SCHEMATIC	LOCATION	MODEL	HP	WATER DATA	COOLING COOL DATA	HEATING COOL DATA	MANUFACTURER	BOOK NO.	COMPRESSOR	VIA	REMARKS
AC-1	AS	PASSAGEWAY EAST JAIL	600	0.5	1/2	208	3	60	67	18.1	15.45	AC-1
AC-2	AS	PRISON ELEV. 400	1200	0.5	3/4	208	3	67	200	37.4	30.15	AC-2
AC-3	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1
AC-4	AS	PRISON ELEV. 400	200	0.3	1/2	208	3	60	67	200	24.5	20.1

NOTES: 1. COORDINATE BOXES, PANE AND TYPING OF AIR GRATES WITH ARCHITECT. 2. PROVIDE COORD. OVERLAP DIFFUSERS FOR SEPARATION IN UNUSUAL CORNERS. 3. PROVIDE INSULATED PLANS FOR UNDER SUPPLY AND RETURN DIFFUSERS.



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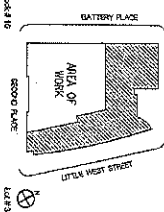
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HVAC SCHEDULES
SHEET 3 OF 4



H602



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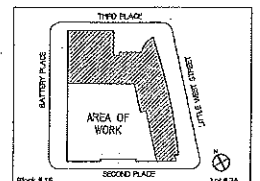
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Block # 16

Location Plan
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HVAC SCHEDULES SHEET 4 OF 4

Date: August 10, 2007

Scale: N.T.S.

Drawn By:

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Project No. 0425

Sheet No.

H603

FAN COIL UNIT SCHEDULE

UNIT No.	SYSTEM TYPE	LOCATION	FAN DATA		MOTOR DATA				COOLING COIL DATA										HEATING COIL DATA						REMARKS		
			NOMINAL CFM	EXT. SP (H. W.)	WATTS	ELECTRICAL DATA				WATER					DESIGN					CAPACITY (MBT)						DESIGN PRESS. (PSIG)	CAPACITY (BTU/Hr)
						VOLTS	PHASE	HZ	EDR (F)	EMF (F)	QPM	PD (FT. H ₂ O)	ENT (F)	LWT (F)	QPM	PD (FT. H ₂ O)	ENT (F)	LWT (F)	QPM	PD (FT. H ₂ O)	ENT (F)	LWT (F)					
FCU-1	-	DOCKMASTER	395	0.15	130	120	1	60	80	67	2.3	13.03	45	55	-	8.5	11.3	60	0.8	0.45	130	110	-	8201	CARRIER 420N4040C5040Y		
FCU-2	-	RECEPTION	445	0.15	165	120	1	60	80	87	2.5	15.20	45	55	-	9.3	12.2	60	1.5	3.59	130	110	-	18221	CARRIER 420C0040C5040Y		
FCU-3	-	DRYING RM.	1000	0.5	1/2HP	208	3	60	80	67	7.7	10.03	45	55	-	23.4	38.3	60	2.4	8.54	130	110	-	18221	CARRIER 428C0040C5040Y		

NOTES:
1. FCU-3 SHALL HAVE HEATING COIL IN READY POSITION FOR DECONTAMINATION PURPOSES.

CONDENSATE PUMP SCHEDULE

UNIT No.	LOCATION	SERVICE	WATER PUMP DATA					CONSTRUCTION DATA			MOTOR DATA				VIBRATION ISOLATION				REMARKS
			QPM EA	DISCH. PRESS. (PSIG)	TEMP. (F)	RPM	BHP	TYPE OF UNIT	No. OF WATER PUMPS	RECY. CAPCY (GALS.)	EACH	STARTER TYPE	VOLTS	PHASE	HZ	SPECIFICATIONS	MIN. STAT. DEFLECTION (IN.)	MANUFACTURER & MODEL	
CP-A	—	AC CONDENSATE	1.0	ATM.	SEI	1000	1/50	1	1/2	1/30	CONST.	115	1	60	—	—	LITTLE GALT PUMP YOWA	1.	

NOTES: SHIP ACTION FLUID SINKING, UL LISTED OVERLOAD AND THERMAL SAFETY, 6" POWER CORD, CHECK VALVE AND ABS RECEIVER TANK

AIR COOLED CONDENSER SCHEDULE

UNIT No.	LOCATION	ELECTRICAL DATA		COMPRESSOR DATA					COOLING CAPACITY				CONDENSER FAN			PHYSICAL CHARACTERISTICS				VIBRATION ISOLATION			MANUFACTURER & MODEL	REMARKS	
		VOLTS	PHASE	HZ	R/L	N.A. (AMPS)	R.A. (AMPS)	L.R.A. (AMPS)	No. OF STEPS	EDR (°F)	ENR (°F)	TOTAL COOLING CAPACITY (MBH)	SENSIBLE COOLING CAPACITY (MBH)	No. OF FANS	HP (EA)	FLA (EA)	LENGTH	WIDTH	HEIGHT	OPERATING WEIGHT	SPECIFICATIONS				
																					MOUNTING TYPE	BASE TYPE			MIN. STATIC DEFLECTION (IN.)
ADC-1	4TH FLR. WALKWAY	208	3	60	1	10.4	6.5	41	1	115	--	15.1	15.33	1	1/2	2.2	36	30	16	--	H	--	1.0	COOL AIR B3P183AS	L
ADC-2	4TH FLR. WALKWAY	208	3	60	1	21.3	14.3	74	1	115	--	37.4	30.45	1	1.0	3.4	47	35	22	--	H	--	1.0	COOL AIR B3G3AS	L
ADC-3	4TH FLR. WALKWAY	208	3	60	1	14.1	8.7	50	1	115	+	24.5	20.1	1	3/4	3.2	47	35	22	--	H	--	1.0	COOL AIR B3G3AS	L

NOTES: 1. UNITS SHALL BE RATED FOR 115° F AMBIENT TEMPERATURES.

EXPANSION TANK SCHEDULE

NAME	SERVICE	LOCATION	TYPE	ACTUAL VOLUME (GAL.)	HEIGHT (IN.)	DIAMETER (IN.)	NO. OF CHARGE PRESS. (PSIG)	WORKING PRESS. (PSIG)	SYSTEM OPER. TEMP. (F)	OPERATING WEIGHT (LBS.)	REMARKS
ET-1	RM	2ND FLR. MER	DIAPHRAGM	80	56	24	35	45	160	230	MODEL #300LBC
ET-2	CMF	2ND FLR. MER	DIAPHRAGM	21.7	29.5	18.25	35	45	120	90	MODEL #JAX-40V
ET-3	SHW	2ND FLR. MER	DIAPHRAGM	60	56	24	35	45	160	230	MODEL #300LBC

HOT WATER HEATING COIL SCHEDULE

UNIT No.	TYPE	PERFORMANCE DATA				WATER DATA				MANUFACTURER
		QPM	EA	ENT (F)	LWT (F)	QPM	PD	ENT	LWT	
HWC-1	WATER	2000	65	80	4.0	—	130	110	—	HEATCRAFT

REMARKS:

FUEL OIL PUMP SCHEDULE

UNIT No.	LOCATION	SERVICE	OIL TEMP. (F)	GPH (EACH)	DISC. PRESSURE (PSIG)	RPM	ELECTRICAL DATA				UNIF.	MODEL #	REMARKS
							VOLTS	PHASE	HZ	EDR (F)			
FOP-1	CELLAR	GENERATOR	—	160	60	1750	1/2	208	3	60	—	LD-10ME	—
FOP-2	CELLAR	GENERATOR	—	160	60	1750	1/2	208	3	60	—	LD-10ME	—

ELECTRIC HUMIDIFIER SCHEDULE

UNIT NO.	ASSOCIATED SYSTEM	LOCATION	TYPE	CFM	AIR DATA								ELECTRICAL DATA				WATER MODEL #	REMARKS
					EDR (F)	PH (F)	WV (F)	QPM (GPH)	VOLTS	PHASE	HZ	EDR (F)						
H-1	AC-4	4TH FLR CLG	ELECTRIC	8190	10	45	72	30	28.40	10.0	1	208	3	60	DR-STEEN VM-10	1,2,3,4,5,6,7,8		
H-2	AC-5	4TH FLR CLG	ELECTRIC	600	10	45	72	30	10.47	4.0	1	208	3	60	DR-STEEN VM-4	1,2,3,4,5,6,7,8		

NOTES: 1. PROVIDE WATER FILTER WITH UNIT 2. PROVIDE MANUFACTURER WALL MOUNTED ROOM HAZARDAR
3. 3" BRASS SHALL BE RIGID TO AD. COORD. DRUG
4. PROVIDE P-TAP ON DRINK LINE
5. DUCTWORK CONSTRUCTION OF HUMIDIFIER SHALL BE SLOPED BACKWARDS TO HUMIDIFIER AND 1" DOWN ON DUCTWORK
6. MAXIMUM WATER CONDUCTIVITY OF 2 GRAMS/GALLON
7. POWER WIRE WIRE CONNECTION SITE OF 6 GAUGE
8. DUCT DISPERSED USING 1/2" SICK VAPOR HOSE, 10 FEET DOWN STREAM OF H-1

CIRCULATION FANS

TAG	QTY	BLADES	SIZE/TYPE	HP	RPM	WEIGHT	CFM	250/440 AMP	MODEL/MANUFACTURER
CF-1,2	1	10	12"PF	1	99	200	101,578	3.6/2.21	80 ASS FANS MODEL P-12
CF-3	1	10	12"PF	1	99	200	101,578	3.6/2.21	80 ASS FANS MODEL P-12

NOTES:
1) ALL FANS SUPPLIED WITH CONTROL BOX WITH VARIABLE FREQUENCY DRIVES INCLUDING LINE FILTER
2) ALL FANS SUPPLIED WITH 20% OVERSPEED BLADES
3) ALL FANS TO HAVE REVERSIBLE MOTOR CONTROL
4) CF-1&2 SHALL BE MOUNTED AS UPFLOW FANS
5) CF-3 SHALL BE MOUNTED AS DOWNFLOW FANS

ELECTRIC UNIT HEATER SCHEDULE

UNIT No.	AIR DATA				ELECTRICAL DATA				MOUNTING HEIGHT (F)	TYPE	MANUFACTURER & MODEL	REMARKS
	FLOW (CFM)	EDR (F)	KW	HP	RPM	STEPS	VOLTS	PHASE	HZ			
EVN-1	310	55	2.8	1/50	1000	1	208	1	60	12'	9" AFF	1, 3, 4, 5.

NOTES: 1. BUILT IN THERMOSTAT 2. MOUNTING HARDWARE INCLUDED WITH PACKAGE 3. BUILT IN TRANSFORMER 4. PROVIDE BUILT-IN DISCONNECT
5. COLOR AND FINISH TO APPROVED BY ARCHITECT

MODEL CONSULTANT AGREEMENT
[Updated February 2001]

CONSULTANT AGREEMENT

between

BATTERY PARK CITY AUTHORITY

d/b/a HUGH L. CAREY BATTERY PARK CITY AUTHORITY

and

[NAME OF CONSULTANT]

Dated as of _____

Contract No. _____

CONSULTANT AGREEMENT

AGREEMENT made as of _____ between BATTERY PARK CITY AUTHORITY, d/b/a Hugh L. Carey Battery Park City Authority, a body corporate and politic, constituting a public benefit corporation, having a place of business at One World Financial Center, New York, NY 10281 ("Owner") and _____, a _____ formed pursuant to the laws of the State of New York, having an office at _____ ("Consultant").

W I T N E S S E T H:

WHEREAS, Owner has fee title to certain real property located in the City, County and State of New York, generally known as Battery Park City ("Battery Park City"); and

WHEREAS, Owner is in the process of creating the staged development of Battery Park City, in individual parcels, with the goal of creating a richly diversified mixed use community providing residential and commercial space with related amenities such as parks, plazas, recreational areas and a waterfront esplanade; and

WHEREAS, Owner intends to retain the services of Consultant to _____ and Consultant desires to perform such services for Owner;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereby agree as follows:

1. Scope of Work

Consultant shall perform, directly or through the use of consultants, contractors or other third parties (collectively, "Subconsultants"¹), all the services described in the Scope of Work attached hereto as Exhibit A (the "Work") and in accordance with any schedule for the Work set forth therein. Owner hereby acknowledges that certain portions of the Work may have been performed by Consultant prior to the date hereof, in anticipation of this Agreement.

¹ _____
The Subconsultants are

2. Time for Performance

The Work shall commence on the date hereof and terminate not later than _____ unless this Agreement is otherwise terminated as hereinafter provided or the time for performance of the Work is extended by Owner upon written notice.

3. Compensation

(a) Consultant shall be entitled to receive as compensation ("Fee") for the Work an amount equal to the lower of (1) \$_____ or (2) the amount obtained by multiplying the relevant hourly rates set forth in Exhibit B² hereto by the number of hours worked by Consultant. **[if applicable: The Fee includes reimbursement in accordance with Owner's standard policies for reasonable expenses actually incurred by Consultant in connection with the performance of the Work.]** Consultant shall submit written requests for payment on or about the first (1st) day of each calendar month for Work actually performed by it during the immediately preceding calendar month. Each request shall be accompanied by a statement of Work performed and, at Owner's discretion, time sheets or comparable documentation indicating hours worked in each category **[delete the preceeding underlined phrase if Compensation is based on a fixed Fee]**. Owner shall pay Consultant so much of the amount requested as may be approved by Owner not later than the 30th day following Owner's receipt of each written request. Any amounts indicated in any exhibit hereto as attributable to any phase of the Work which do not in fact become payable to Consultant with respect to such phase of the Work shall be available for payment to Consultant with respect to subsequent phases of the Work, subject to the provisions of this Article 3 and the approval of Owner.

(b) Consultant shall also be reimbursed in accordance with Owner's standard policies for reasonable expenses actually incurred ("Reimbursable Expenses") by Consultant in connection with the performance of the Work, such expenses not to exceed \$_____. **[THIS SECTION SHOULD BE OMITTED IF REIMBURSABLE EXPENSES ARE INCLUDED IN THE FEE AS SET FORTH ABOVE.]**

(c) All requests for payment should be addressed as follows:

Battery Park City Authority
Office of the Treasurer
Attention: Accounts Payable
One World Financial Center, 24th Floor
New York, New York 10281-1097

A duplicate copy is to be sent to the attention of **[name of project manager.]**

² Subject to the approval of Owner, which shall not be unreasonably withheld, Consultant may substitute personnel during the term of the Agreement, provided that the title(s) and hourly rate(s) for such person(s) remain the same.

4. Increase and Decrease in the Scope of Consultant's Work

Owner shall have the right to make changes or to increase or reduce the scope of the Work or to extend the period set forth in the time schedule in Section 2, at any time and for any reason, upon written notice to Consultant specifying the nature and extent of such changes. In the event any such changes as contemplated herein results in an additional expenditure of time by Consultant or Subconsultant (as hereinafter defined), Owner will pay Consultant an additional fee computed in accordance with the hourly rates set forth in Exhibit B, or if no such rates are set forth, upon terms to be agreed upon.

5. Consultant Cooperation

Consultant shall work with such firms or individuals as Owner shall designate from time to time in connection with the Work, and agrees to meet with such firms or individuals at such times as Owner may require in order to maintain an ongoing review process so as to expedite determinations and approvals required to be made in connection with the Work.

6. Termination

(a) Consultant acknowledges that Owner may cancel or terminate this Agreement at any time, in whole or in part, without incurring any penalty or damages on account of such cancellations or termination upon three (3) days' written notice, in which event, except as otherwise provided herein, all of Owner's liability hereunder shall cease and terminate as of the date specified in such notice.

(b) If Owner shall so terminate this Agreement for reasons other than those set forth in subsection 6(c), then, with respect to the Work which is the subject of such termination, Consultant shall be entitled to that portion of the Fee which has not theretofore been paid to Consultant and which shall compensate Consultant for all such Work actually and satisfactorily performed by it up to the date of such termination.

(c) Anything herein contained to the contrary notwithstanding, if:

(i) Consultant shall fail to diligently, timely and expeditiously perform any of its obligations as set forth in the Agreement;

(ii) Any representation or warranty made or deemed to have been made under this Agreement by Consultant shall prove to be untrue in any material respect;

(iii) Consultant shall make a general assignment for the benefit of its creditors, or a receiver or trustee shall have been appointed on account of Consultant's insolvency, or Consultant otherwise shall be or become insolvent, or an order for relief

shall have been entered against Consultant under Chapter 7 or Chapter 11 of Title 11 of the United States Code;

(iv) a breach of any covenant or agreement contained in Section 16 of this Agreement or any other section of this Agreement shall occur; or

(v) Consultant otherwise shall be in default hereunder;

then Owner may terminate this Agreement as to Consultant for cause, in accordance with the procedure set forth in Subsection 6(a) hereof. Upon termination pursuant to this Subsection 6(c), Consultant shall be entitled to that portion of the Fee which has not theretofore been paid to Consultant and which shall compensate Consultant for all Work actually and satisfactorily performed by it up to the date of termination, provided, however, that Owner shall deduct from any such amount all additional costs and expenses which Owner may incur to correct and/or complete the Work over those which Owner would have incurred in connection with the Work if Owner had not so terminated this Agreement for cause. Nothing contained in this Agreement shall limit in any manner any and all rights or remedies otherwise available to Owner by reason of a default by Consultant under this Agreement, including, without limitation, the right to seek full reimbursement from Consultant for all costs and expenses incurred by Owner by reasons of Consultant's default hereunder and which Owner would not have otherwise incurred if Consultant had not defaulted hereunder.

(d) Upon any termination of this Agreement in accordance with the provisions of this Section 6, Consultant shall, with respect to the Work which is the subject of such termination:

(i) discontinue all its services from and after the date of the notice of termination, except as may be required to complete any item or portion or services to a point where discontinuance will not cause unnecessary waste of duplicative work or cost;

(ii) terminate, or if so directed by Owner, transfer to Owner all Subconsultant contracts, commitments and other agreements made by Consultant relating to the Work;

(iii) transfer to owner in the manner, to the extent, and at the time directed by Owner, all supplies, materials and other property produced as a part of, or acquired in the performance of the Work; and

(iv) take other actions as Owner may reasonably direct.

(e) In the event that the CM, having been terminated for cause pursuant to subsection 6(c), thereafter obtains a determination, in a judicial or other action or proceeding, that such termination was unwarranted, without basis, or invalid for any reason, then the termination shall be deemed to have been one for the convenience of

Owner and CM shall be entitled to be reimbursed and paid as provided in subsection 6(b) but to no other payments or damages.

(f) Every Subconsultant contract shall include (1) a provision authorizing termination by the CM (in form and substance similar to subsection 6(a) through 6(d)) in the event of a termination of the CM by the Owner, and (2) a provision under which the Subconsultant agrees that its obligations shall be assigned to the Owner, at Owner's option, upon a termination of this Agreement under subsection 6(a), 6(b) or 6(c). *(See Section 25.)*

7. Suspension

Owner may, at any time and for any reason, direct Consultant to delay or suspend the Work or any part thereof under this Agreement for a period of time. Such direction shall be in writing and shall specify the period during which such Work is to be stopped. Consultant shall resume such Work upon the date specified in such direction, or upon such other date as Owner may thereafter specify in writing upon reasonable notice to Consultant, provided, however, that if Owner shall direct a Work stoppage period of more than three (3) months, Consultant, no later than seventy-five (75) days prior to the final day of such Work stoppage period may terminate this Agreement and shall be entitled upon such termination to payment of such amount of the Fee which has not theretofore been paid to Consultant and which shall compensate Consultant for the Work actually and satisfactorily performed by it prior to the termination date.

8. Assignment

Consultant shall have no right to assign, transfer, convey, pledge or otherwise dispose of Consultant's interest in this Agreement without the prior express written consent of Owner.

9. Ownership of Documents

All plans, models and other material prepared and furnished by Consultant or any Subconsultants in connection with the Work shall become the property of Owner. Such documents may be used by Owner, in whole or in part, or in modified form, for all purposes Owner may deem advisable without further employment of, or payment of any additional compensation to, Consultant.

10. Insurance

(a) Consultant shall **provide, or cause to be provided, and thereafter shall keep or cause to be kept in full force and effect carry, and shall require each Subconsultant to carry,** the following insurance:

(i) Workers' Compensation and New York State Disability Benefits Insurance covering all persons employed or retained by Consultant or Subconsultants in connection with the Work.

(ii) Professional Liability Insurance with limits of liability in amounts not less than Two Million Dollars (\$2,000,000) for Consultant, and not less than One Million Dollars (\$1,000,000) for each Subconsultant insuring Consultant, each Subconsultant and any of their respective officers, directors, stockholders, employees, consultants and partners, for liability arising out of the carrying out of Consultant's or Subconsultant's professional responsibilities for the Work. All such professional liability policies shall include coverage for contractual liability, including the matters set forth in Section 17 hereof.

[INCLUDE FOLLOWING VALUABLE PAPERS INSURANCE AS SET FORTH ABOVE WHERE NATURE OF WORK INVOLVES PREPARATION OF ARCHITECTURAL/ENGINEERING DOCUMENTS SUCH AS DESIGN DRAWINGS AND SCHEMATICS.]

(iii) Valuable Papers Insurance insuring, for the benefit of Consultant and Owner all plans, designs, drawings, specifications and documents used under this Agreement by Consultant or any Subconsultant in a total amount of not less than Fifty Thousand Dollars (\$50,000). Consultant may furnish full coverage under one policy or may submit separate policies from the Subconsultants for their proportionate shares of such coverage

[INCLUDE FOLLOWING GENERAL AND AUTOMOBILE LIABILITY INSURANCE WHERE NATURE OF WORK INVOLVES PHYSICAL PRESENCE OF CONSULTANT ON SITE, EXCEPT MERE ATTENDANCE AT MEETINGS]

(iv) Comprehensive General Liability covering the liability of Consultant for all the Work and operations relating thereto and all obligations assumed by Consultant under this Agreement in an amount which shall not be less than the following limits:

Combined Single Limits, Bodily Injury and Property Damage Liability	
\$2,000,000	Aggregate
\$1,000,000	Each Occurrence

The said insurance shall name Owner, **Battery Park City Parks Conservancy Corporation and the State of New York** as additional insureds as respects this location shall, where applicable, be written on an occurrence basis and shall contain a provision that it is primary and that any similar insurance which Owner, Consultant or a Subconsultant elects to carry for their own benefit is secondary or excess and not contributing insurance.

(v.) Automobile Liability and Property Damage Insurance as follows: A policy covering the use in connection with the Work of all owned, non-owned and hired vehicles bearing, or under the circumstances under which such vehicles are being used being required by the Motor Vehicle Laws of the State of New York to bear license plates. The coverage under such policy shall not be less than the following limits:

Combined Single Limits,
Bodily Injury and Property Damage Liability

\$1,000,000 per each occurrence.

(b) All required insurance shall be maintained with responsible insurance carriers authorized to do business in the State of New York and approved by Owner. Upon execution of this Agreement and before commencing any performance hereunder, Consultant shall deposit with Owner the original policies of insurance, or certificates therefor, bearing notations or accompanied by other evidence satisfactory to Owner of the payment of all premium payments thereunder. Thereafter, certification of all premium payments shall be deposited with Owner not less than ten (10) days before the expiration dates of the policies. In the case of Valuable Papers Insurance, original policies, not certificates, must be deposited.

(c) Riders providing substantially as follows shall be made a part of the insurance policies described in Subsection 10(a) hereof, as applicable:

(i) the policy shall not be canceled, terminated, or allowed to expire, or the coverage thereof materially reduced, until thirty (30) days after receipt of written notice thereof by certified or registered mail, return receipt requested addressed to Owner; and

(ii) violation of any of the terms of the policy, or any other policy issued by the Company, shall not by itself invalidate such policy.

(d) The insurance policies required by this Section 10 shall be kept in full force and effect for the periods specified hereunder:

(i) Worker's Compensation and New York State disability benefits insurance **[and general liability insurance and automobile liability insurance, if applicable]** shall be kept in force until receipt of final payment by Consultant hereunder. This Agreement shall be void and of no force or effect unless, in compliance with the Workers' Compensation Law, Consultant, or Subconsultants, as the case may be, shall secure Workers Compensation Insurance for such of their respective employees engaged in the performance of the Work as are required to be insured under said law.

(ii) Professional Liability Insurance shall be kept in force for the earlier of six (6) years after the completion of the performance of the Work hereunder or six (6) years after termination of this Agreement.

(iii) Valuable Papers Insurance shall be kept in full force and effect until final delivery of all documents prepared by Consultant and/or Subconsultants in connection with the Work.

11. Authority of Owner

The Work shall be subject to the general supervision, direction, control and approval of Owner or its authorized representative, whose decision shall be final and binding upon Consultant as to all matters arising in connection with or relating to this Agreement. Owner shall determine all matters relative to the fulfillment of this Agreement on the part of Consultant and such determination shall be final and binding on Consultant. However, nothing in this paragraph shall excuse or relieve Consultant of its failure to comply with any of its responsibilities hereunder.

12. Entire Agreement

This Agreement, including Owner's Prompt Payment Policy annexed hereto, constitutes the entire Agreement between Owner and Consultant, and any prior agreements or understandings between Owner and Consultant with respect to any portion of the Work are hereby merged into and with this Agreement.

13. Consultant as Independent Contractor

Notwithstanding any other provision of this Agreement, Consultant's status shall be that of an independent contractor and not that of a servant, agent or employee of Owner. Accordingly, Consultant shall not hold itself out as, nor claim to be acting in the capacity of, an officer, agent, employee or servant of Owner.

14. Maintenance, Audit and Examination of Accounts

Consultant shall, until the earlier of six (6) years after completion of the performance of the Work or six (6) years after termination of this Agreement, or, in the event of litigation concerning the Consultant's Work, until the conclusion of such litigation, maintain, and require all Subconsultants to maintain, complete and correct books and records relating to all aspects of Consultant's obligations hereunder, including without limitation, accurate cost and accounting records specifically identifying the costs incurred in performing their respective obligations, and shall make such books and records available to Owner or its authorized representatives for review and audit at all such reasonable times as Owner from time to time may request. In the event that Consultant and/or any Subconsultants shall fail to comply with the provisions of this Section 14, and as a result thereof shall be unable to provide reasonable evidence of such compliance, Owner shall not be required to pay any portion of the Fee and Reimbursable

Expenses then due or next becoming due, as the case may be, with respect to such items, and if such compensation has already been paid, Owner may require Consultant to refund any such payment made. Any excessive audit costs incurred by Owner due to Consultant's or any Subconsultant's failure to maintain adequate records shall be borne by Consultant.

15. Acceptance of Final Payment; Release and Discharge

The acceptance by Consultant of the final payment under this Agreement, or any final payment due on earlier termination of this Agreement under Section 6 hereof, shall constitute a full and complete waiver and release of Owner from any and all claims, demands and causes of action whatsoever which Consultant, and/or its successors and assigns have, or may have, against Owner under the provisions of this Agreement, unless a detailed and verified statement of claim is served upon Owner not later than the making of the final payment. It is expressly understood and agreed that Owner's or Consultant's termination of this Agreement pursuant to Sections 6 or 7 hereof shall not give rise to any claim against Owner for damages, compensation or otherwise as a result of such termination, and that under such circumstances Owner's liability to make payments to Consultant on account of any and all Work shall be limited to the payments set forth in Section 6 or Section 7, as the case may be.

16. Covenants, Representations and Warranties

(a) Consultant represents and warrants to Owner that:

(i) no public official is directly or indirectly interested in this Agreement, or in the supplies, materials, equipment, work, labor or services to which it relates or in any of the profits thereof;

(ii) except as set forth in this Agreement, Consultant has, and shall have, no interest, direct or indirect, in the project to which the Work relates; and

(iii) to the best of its knowledge, upon due inquiry, no officer, member, partner or employee of Consultant has, prior to the date of this Agreement, been called before a grand jury, head of a state agency, head of a city department or other city agency to testify in an investigation concerning any transaction or contract had with the State of New York, any political subdivision thereof, a public authority, or with any public department, agency or official of the State of New York or of any political subdivision thereof and refused to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

(b) Consultant covenants and agrees that:

(i) recognizing that time for completion of the Work is of the essence, Consultant shall perform all of its obligations hereunder in a prompt and

workmanlike manner and in accordance with the time periods for the Work set forth herein;

(ii) the personnel assigned and Subconsultants used by Consultant in the performance of its obligations hereunder shall be qualified in all respects for such assignment, employment and use;

(iii) Consultant, in the performance of its obligations hereunder, shall utilize the most efficient available methodology and technology for the purpose of reducing the cost and time of such performance;

(iv) Consultant shall comply with the provisions of all Federal, State and local statutes, laws, rules, ordinances and regulations that are applicable to the performance of this Agreement;

(v) should any claim be made or any action be brought against the Owner which is in any way related to the Work, Consultant shall diligently render to Owner any and all assistance which may be required by Owner as a result thereof; and

(vi) Consultant shall not commit its personnel to, nor engage in, any other projects during the term of this Agreement to the extent that such projects may adversely affect the quality or efficiency of the Work or would otherwise be detrimental to the conduct and completion of the Work and Consultant shall provide sufficient numbers of qualified personnel as shall be required to perform the Work in the time requested by Owner.

17. Indemnity

(a) To the fullest extent permitted by law, Consultant shall be liable to, and shall indemnify Owner, each Member, officer, agent and employee of Owner (the "Indemnitees") for, and shall hold each of the foregoing harmless from and against, any and all claims, losses, damages, expense, penalties, costs or other liabilities, including, without limitation, attorneys' fees and disbursements, arising out of the performance of the Work or the breach of any of the provisions set forth in Section 16 hereof, except to the extent caused by or resulting from the negligence of an Indemnatee, and Consultant shall defend any suit or action brought against Owner or any Indemnatee which is based on any loss or liability or alleged loss or liability indemnified herein, except that the CM shall not be required to indemnify or hold harmless the Indemnitees against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of an Indemnatee.

(b) Consultant shall be liable to, and shall indemnify Owner and each of the Members, officers, agents and employees of Owner for, and shall hold each of the foregoing harmless from and against, any and all claims made against any of the foregoing for infringement of any copyright, trademark or patent arising out of the use

of any plans, designs and specifications furnished by Consultant in the performance of this Agreement.

(c) Consultant shall include in each contract it enters into with a Subconsultant (as defined below) a provision whereby the Subconsultant shall be liable for and agree to indemnify, defend and hold harmless the Indemnitees in terms substantially similar to those pertaining to Consultant in the preceding subsections of this Section 17.

18. Confidentiality

Consultant hereby agrees that data, recommendations, reports and other materials developed in the course of the Work are strictly confidential between Consultant and Owner and except as specifically provided herein, Consultant may not at any time reveal or disclose such data, recommendations or reports in whole or in part to any third party without first obtaining written approval from Owner.

19. Modification

No change, termination or purported waiver of any of the provisions of this Agreement shall be binding unless in writing and signed by the party to be bound.

20. Waiver

No failure to enforce or exercise any right, remedy, privilege or recourse accorded to either party under this Agreement shall diminish or waive the right, remedy, privilege or recourse, or affect the entitlement of either party thereafter to enforce or exercise the same in the event of another situation, whether or not similar.

21. Severability

If any term or provision of this Agreement or the application thereof to any person or in any circumstance shall to any extent be determined to be invalid or unenforceable, the remaining provisions of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is found to be invalid or unenforceable, shall in no way be affected thereby, and each term and provision of this Agreement shall be valid and binding upon the parties, and enforced to the fullest extent permitted by law.

22. Applicable Law, Forum and Jurisdiction

(a) This Agreement shall be construed under, and be governed by, the laws of the State of New York.

(b) All actions or proceedings relating, directly or indirectly, to this Agreement shall be litigated only in courts located within the County of New York.

(c) Consultant, any guarantor of the performance of its obligations hereunder ("Guarantor") and their successors and assigns hereby subject themselves to the jurisdiction of any state or federal court located within such county, waive the personal service of any process upon them in any action or proceeding therein and consent that such process be served by certified or registered mail, return receipt requested, directed to the Consultant and any successor at Consultant's address hereinabove set forth, to Guarantor and any successor at the address set forth in the instrument of guaranty and to any assignee at the address set forth in the instrument of assignment. Such service shall be deemed made two days after such process is so mailed.

23. Provisions Required by Law

All provisions required by law to be included in this Agreement shall be deemed to be included herein with the same effect as if set forth in full herein.

24. Notices

Any notice, approval, consent, acceptance, request, bill, demand or statement required or permitted to be given hereunder (a "Notice") from either party to the other shall be in writing, and shall be deemed given: **(i) when delivered (if delivered by hand); (ii) one business day after the date when deposited with a reputable national overnight courier service; or (iii) three business days after the date when deposited with the United States Postal Service in a postage prepaid envelope, certified or registered mail.** If to Owner, Notices shall be sent to the attention of _____, with a copy to the General Counsel, and if to Consultant, Notices shall be sent to the attention of _____. **All Notices shall be addressed to the other party as set forth above; however,** either party may at any time change such address or add additional individuals to receive a Notice by mailing, as aforesaid, to the other party a Notice thereof.

25. Approval and Use of Subconsultants

(a) Except as specifically provided herein, Consultant shall not employ, contract with or use the services of any Subconsultants in connection with the performance of its obligations hereunder without the prior written consent of Owner to the use of each such Subconsultant, and, at Owner's option, to the agreement to be entered into between Consultant and any such Subconsultant. Consultant shall inform Owner in writing of any interest it may have in a proposed Subconsultant. No such

consent by Owner, or employment, contract, or use by Consultant, shall relieve Consultant of any of its obligations hereunder.

(b) Consultant shall be responsible for the performance of the Work of any Subconsultants engaged, including the maintenance of schedules, coordination of their Work and resolutions of all differences between or among Consultant and any Subconsultants. It is expressly understood and agreed that any and all Subconsultants engaged by Consultant hereunder shall at all times be deemed engaged by Consultant and not by Owner. However, the parties recognize, and any Subconsultants engaged by Consultant shall be advised, that Owner shall be a third-party beneficiary of any agreement between Consultant and a Subconsultant. At the request of Owner, Consultant shall provide Owner a copy of any such agreement between Consultant and a Subconsultant.

(c) Consultant shall cause any Subconsultant employed by the Consultant in connection with this Agreement to execute a copy of this Agreement wherein such Subconsultant shall acknowledge that it has read and is fully familiar with the terms and provisions hereof and agrees to be bound thereby as such terms and provisions are or may be applicable to such Subconsultants.

26. Employment And Affirmative Action

26.1 Definitions

The following terms shall have the meanings set forth below for the purposes of this Article 26:

(a) "Affirmative Action Program." The program by which Owner shall monitor Consultant's compliance with the requirements set forth in (i) the MBE/WBE Required Participation Plan and (ii) the Utilization Plan.

(b) "Certified Business." A business verified as a minority or women-owned business enterprise by the Division or such other New York State agency authorized to make such certification.

(c) "Division". The Division of Minority and Women's Business Development of the New York State Department of Economic Development.

(d) "Director." The Director or the Executive Director of the Division.

(e) "Directory." The directory of certified businesses prepared by the Director for use by Owner and consultants in complying with the provisions of the Executive Law of the State of New York, Article 15-A.

(f) "MBE/WBE Required Participation Plan." The plan previously submitted by a Consultant to Owner listing the certified MBEs and/or WBEs which the

Consultant intends to use in the performance of this agreement in order to ensure that MBEs and WBEs are awarded a fair share of the total dollar value that is to be paid for the Work.

(g) "Minority Group Member." A United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

- (i) Black persons having origins in any of the Black African racial groups;
- (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race;
- (iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (iv) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

(h) "Minority-owned Business Enterprise" ("MBE"). A business enterprise, including a sole proprietorship, partnership or corporation that is:

- (i) at least 51 percent owned by one or more Minority Group Members;
- (ii) an enterprise in which such minority ownership is real, substantial and continuing;
- (iii) an enterprise in which such minority ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
- (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated.

(i) "Subcontract". An agreement providing for a total expenditure in excess of \$25,000 for the performance of any portion of the Work between Consultant and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation is undertaken or assumed.

(j) "Utilization Plan." A plan previously submitted by Consultant to Owner which sets forth the proposed percentages of employees who are either Minority Group Members or women and who will be used by Consultant to perform the Work.

(k) "Women-owned Business Enterprise" ("WBE"). A business enterprise, including a sole proprietorship, partnership or corporation that is:

- (i) at least 51 percent owned by one or more United States citizens or permanent resident aliens who are women;
- (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing;
- (iii) an enterprise in which such women ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
- (iv) an enterprise authorized to do business in the State of New York and which is independently owned and operated.

26.2 Equal Employment Opportunities for Minority Group Members and Women

(a) During the performance of the Work, Consultant agrees as follows:

- (i) Consultant shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status; shall undertake or continue existing programs of affirmative action to ensure that Minority Group Members and women are afforded equal employment opportunities without discrimination; and shall make and document its good faith effort to achieve prompt and full utilization of Minority Group Members and women at all levels and in all segments of its work force where deficiencies exist.
- (ii) At the request of Owner, Consultant shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will

affirmatively cooperate in the implementation of Consultant's obligations herein.

- (iii) Consultant shall state in all solicitations or advertisements for employees that in the performance of the Work, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- (iv) Consultant and any Subconsultant shall be required to submit compliance reports in accordance with this Section 26 relating to their operations and the implementation of the Affirmative Action Program in effect as of the date of execution of this Agreement.

(b) Consultant shall include the provisions of subdivision (a) of this section in every Subcontract in such a manner that the provisions will be binding upon each Subconsultant as to the Work in connection with this contract's execution.

(c) Miscellaneous

- (i) The provisions of this section shall not be binding upon Consultant or its Subconsultants in the performance of Work or the providing of services, or any other activities that are unrelated, separate or distinct from this Agreement as expressed by its terms.
- (ii) The requirements of this section shall not apply to any employment outside New York State, or application for employment outside such state, or solicitations, or advertisements therefore, or any existing programs of affirmative action regarding employment outside New York State and the effect of contract provisions required by this section shall be so limited.

(d) Enforcement

The parties agree to be bound by provisions of Article 15-A, Section 317 of the Executive Law of the State of New York and by the regulations adopted pursuant thereunder.

26.3 Workforce Participation

(a) Consultant is required to make good faith efforts to achieve the participation of ___ % Minority Group Members and ___ % women in the personnel utilized by Consultant in the Work as set forth in the Utilization Plan.

(b) The participation for Minority Group Members and women employees must be substantially uniform throughout the work.

(c) Consultant shall not participate in the transfer of Minority Group Member employees or women employees from employer to employer or from project to project for the sole purpose of satisfying the participation goals above set forth.

(d) In achieving such participation, Consultant is required to make good faith efforts to find and employ qualified Minority Group Members and women supervisory personnel and staff.

(e) Consultant shall meet with Owner, and such other persons as Owner may invite, on a periodic basis as required by Owner to discuss issues relating to Minority Group Members and women workforce participation. At such meetings, Consultant shall report on the names of its Subconsultants then engaged on the project to which the Work relates or which within 60 days are scheduled to be engaged on such project, on the nature of the work and anticipated schedule of Consultant and Subconsultants, on the anticipated hiring needs of Consultant and Subconsultants, on the names of the responsible supervisors directly employed by Consultant, and such information requested by Owner that will then promote the employment of Minority Group Members and women. Consultant shall use its best efforts to obtain the above information and shall, upon Owner's request, cause its Subconsultants to attend said meetings and provide the above information.

(f) Compliance reports with respect to the Utilization Plan ("Utilization Compliance Reports") shall be submitted to Owner's Affirmative Action officer on a monthly basis and shall be in accordance with the following:

- (i) Owner may require that Consultant submit Utilization Compliance Reports for the duration of this contract to Owner regarding Consultant's operation and implementation of the Utilization Plan portion of the Affirmative Action Program in effect as of the date of execution of this Agreement.
- (ii) The Utilization Compliance Reports shall include information on any Subconsultant involved in the performance of the contract with regard to the Subconsultant's compliance with the Affirmative Action Program.

- (iii) The Utilization Compliance Reports shall include, but are not limited to the following:
 - (1) a breakdown of the Subconsultants by ethnic background, gender or such other categories as may be required by Owner;
 - (2) the actions the Consultant and Subconsultants have taken to meet the components of the Affirmative Action Program;
 - (3) how Consultant and Subconsultants intend to utilize participation of Minority Group Members and women in their workforce in connection with the performance of the Work and timetables therefor during the remainder of their performance of the Work.

(g) Any failure by Consultant to submit a required Utilization Compliance Report, including information on any of its Subconsultant's compliance, may be deemed a breach of contract with respect to this agreement.

26.4 Minority Business Enterprise (MBE) Participation and Women's Business Enterprise (WBE) Participation

(a) Consultant shall make good faith efforts to attain the participation of ____% MBEs and ____% WBEs in the total dollar value of the Work.

(b) The total dollar value of the Work for purposes of determining compliance with the MBE/WBE Required Participation Plan shall be calculated as follows:

- (i) if an MBE and WBE is not the Consultant -- the dollar value of the Work subcontracted to MBEs and WBEs; provided, however, that where materials are purchased from an MBE and WBE which acts merely as a conduit for goods manufactured or produced by a non-MBE and non-WBE, only that portion of the price paid for such materials which will accrue as profit to the MBE or WBE and/or the Fee received by the MBE and WBE shall be included;
- (ii) if Consultant is a joint venture including one or more MBEs and WBEs as joint venturers -- the Fee multiplied by the percentage of the joint venture's profits (or losses)

which are to accrue to the MBE and WBE joint venturer(s) under the joint venture agreement; and

- (iii) if an MBE and WBE is Consultant or where Consultant is a joint venture consisting entirely of MBEs and WBEs -- the Fee.

(c) Compliance reports with respect to the MBE/WBE Required Participation Plan ("MBE/WBE Compliance Reports") shall be required as follows:

- (i) MBE/WBE Compliance Reports shall be submitted to Owner and shall include information with respect to:

- (1) dividing the Work to be subcontracted into smaller portions, where economically and technically feasible;

- (2) actively and affirmatively making a good faith effort to solicit bids for subcontracts from qualified MBEs and WBEs identified in the directory of certified businesses available at the office of the Owner's Affirmative Action Officer, including the circulation of solicitations to minority contractor associations. Consultant shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the Work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venture or subcontractor, the reasons for such decision;

- (3) making plans and specifications for prospective work available to MBEs and WBEs in sufficient time for review;

- (4) utilizing the services and cooperating with those organizations providing technical assistance to Owner in connection with the participation of MBEs and WBEs in the project to which the Work relates;

- (5) encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors where appropriate;

- (6) ensuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis; and

- (7) not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs where appropriate, and/or assisting in obtaining bonds and insurance for MBEs and WBEs where feasible.

(ii) MBE/WBE Compliance Reports which shall be submitted to the Affirmative Action Officer on the monthly basis.

(iii) MBE/WBE Compliance Reports shall also include, but not be limited to, the following information:

- (1) the name, address and telephone number of each certified MBE and WBE which Consultant is using or intends to use to comply with the MBE/WBE Required Participation Plan.
- (2) a brief description of the contract scope of work to be performed for the Consultant by each certified MBE and WBE and the scheduled dates for performance;
- (3) a statement of whether Consultant has a written agreement with each certified MBE and WBE which Consultant is using or intends to use, and if requested, copies of such agreements;
- (4) the actual total cost of the contract scope of work to be performed by each certified MBE and WBE for this Agreement; and
- (5) The actual amounts of any payments made by Consultant to each certified MBE and WBE as of the date the MBE/WBE Compliance Report was submitted.

(d) Enforcement

The parties agree to be bound by provisions of Article 15-A, Section 317 of the Executive Law of the State of New York and by the regulations promulgated thereunder.

27. Interest of Others

Nothing in this Agreement shall be construed to give any person other than Owner and Consultant any legal or equitable right, remedy or claim. This Agreement shall be held to be for the sole and exclusive benefit of Owner and Consultant.

28. Executory Contract

It is understood by and between the parties hereto that this Agreement shall be deemed executory to the extent of the monies available to Owner and no liability on account thereof shall be incurred by Owner beyond monies available for the purpose

thereof. In no event shall any claim be asserted under this Agreement by Consultant or any Subconsultant against any member, officer, employee, lessee, consultant or agent of Owner, or the State of New York. By execution of this Agreement, Consultant agrees to look solely to Owner with respect to any claim which may arise.

29. Participation in International Boycott Prohibited

Consultant agrees, as a material condition of this Agreement, that neither Consultant nor any substantially owned or affiliated person, firm, partnership or corporation has participated or is participating or shall participate in an international boycott in violation of the provisions of the United States Export Administration Act of 1969, as amended, or the Export Administration Act of 1979, as amended or the Regulations of the United States Department of Commerce promulgated thereunder. This Agreement shall be rendered forfeit and void by the Comptroller of the State of New York if, subsequent to execution, such person, firm, partnership or corporation has been convicted of a violation of the provisions of either of such federal acts or such Regulations or has been found upon the final determination of the United States Commerce Department or any other appropriate agency of the United States to have violated the provisions of either of such federal acts or such Regulations.

30. MacBride Fair Employment Principles

If the amount payable to Consultant under this Agreement is greater than \$15,000, Consultant hereby certifies that it and/or any individual or legal entity in which it holds a 10% or greater ownership interest, and any individual or legal entity that holds a 10% or greater ownership in it, either have no business operations in Northern Ireland, or shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, as set forth in Section 165 (5.) of New York's State Finance Law, and shall permit independent monitoring of their compliance with such Principles.

31. Limitation Periods

Any legal action or proceeding against the Owner must be commenced no later than one (1) year from the time the Work is substantially performed by Consultant in conformity with the Contract Documents ("Substantial Completion") as reasonably determined by Owner's _____ Vice President of _____, or, if there has been no Substantial Completion, no later than six (6) months after the earlier of: (a) the termination of this Agreement, or (b) the last day the Consultant performed work physically at the site of the Project. Within 15 days of any such determination, Consultant may appeal the same in writing to the Owner's Vice President of Internal Audit, whose decision shall be final and binding.

32. Special Provisions

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

BATTERY PARK CITY AUTHORITY
(d/b/a Hugh L. Carey Battery Park City Authority)

By: _____
Name: _____
Title: _____

[CONSULTANT]

By: _____
Name: _____
Title: _____