

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
TWO MONTGOMERY STREET - 1st FLOOR
JERSEY CITY, NJ 07302**

December 16, 2022

ADDENDUM NO. 16

TO PROSPECTIVE BIDDERS ON CONTRACT **PN-654.001** – PORT NEWARK – PORT STREET CORRIDOR IMPROVEMENTS AND CONTRACT **PN-654.001M** – PORT NEWARK – PORT STREET CORRIDOR IMPROVEMENTS – AGREEMENT TO PERFORM LANDSCAPE MAINTENANCE

The following changes are hereby made in the Contract Documents for the subject Contract.

This communication should be physically annexed to back cover of the book and initialled by each bidder before submitting his bid.

In case any bidder fails to conform to these instructions, his Bid will nevertheless be construed as though this communication had been so physically annexed and initialled.

CHANGES IN THE CONTRACT BOOKLET FOR CONTRACT PN-654.001

- Page 36 – Delete the entire page and substitute therefor new page 36 which is attached hereto and made a part hereof.
- Page 91 – Delete the entire page and substitute therefor new page 91 which is attached hereto and made a part hereof.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

James Starace, P.E.
Chief Engineer/Director

INITIALLED BY THE BIDDER:

Pursuant to the policy, Performance Evaluations will be performed by the Authority for contractors, subcontractors and construction management firms on all Port Authority construction projects. Marginal or Unsatisfactory Performance Evaluations will be provided to the evaluated party as soon as practicable after completion of a Performance Evaluation, at which time the evaluated party will be notified that a Performance Evaluation is available for comment. The Contractor shall be afforded up to fourteen (14) days from the date of notification of availability to respond and submit comments or additional information. The Port Authority will update the Performance Evaluations with any contractor comments provided within fourteen (14) days, as well as any subsequent Port Authority review of comments received. The parties will use good faith efforts to resolve any dispute; however, the ultimate conclusion on the Performance Evaluation is a decision of the Authority.

The Contractor shall include the provisions of this clause in each subcontract entered into under this Contract. The full text of the Performance Evaluation for Construction Contractors/Construction Managers Policy is available at:

<https://www.panynj.gov/port-authority/en/business-opportunities/awards/construction.html>

20. CERTIFICATION OF PARTICIPATION IN A UNITED STATES DEPARTMENT OF LABOR-REGISTERED APPRENTICESHIP PROGRAM

By bidding on this Contract, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint Bid each party thereto certifies as to its own organization, that the bidder participates in an apprenticeship program registered by the United States Department of Labor. Participation in such an apprenticeship program shall mean that the bidder either (a) is a signatory to a collective bargaining agreement with a labor organization which sponsors an apprenticeship program registered with the United States Department of Labor, (b) individually sponsors an apprenticeship program registered by the United States Department of Labor or (c) has an application or request for reciprocal approval pending with the United States Department of Labor prior to the date of opening of Bids for this Contract and, in the case of (a), (b) and (c) above, such apprenticeship program shall be in the trade(s) in which Work is to be performed. This clause shall not apply to bidders who will perform all Work at the construction site through the use of subcontractors.

Apprentice Utilization: With respect to apprentices the Contractor shall make a good faith effort to provide 20% of the work hours on the project for performance by apprentices enrolled in a federally registered apprenticeship program.

The Contractor shall make a good faith effort to provide that 50% of those apprentices shall be residents of Newark and Elizabeth, New Jersey.

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

In any case where the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the signed Bid a signed statement which sets forth in detail the reasons therefor. If the bidder is uncertain as to whether it can make the foregoing certification, it shall so indicate in a signed statement furnished with its Bid, setting forth an explanation for its uncertainty.

Notwithstanding that the certification may be an accurate representation of the bidder's status with respect to the enumerated circumstances provided for in this clause as requiring disclosure at the time that the Bid is submitted, the bidder agrees to immediately notify the Authority in writing of any change in circumstances during the period of irrevocability, or any extension thereof.

56. ASSIGNMENTS AND SUBCONTRACTS

Any assignment or other transfer by the Contractor of this Contract or any part hereof or of any of his rights hereunder or of any monies due or to become due hereunder and any delegation of any of his duties hereunder without the express consent in writing of the Authority shall be void and of no effect as to the Authority, provided, however, that the Contractor may subcontract portions of the Work to such persons as the Engineer may, from time to time, expressly approve in writing. For each individual, partnership or corporation proposed by the Contractor as a subcontractor, the Contractor shall submit to the Authority a certification or, if a certification cannot be made, a statement by such person, partnership or corporation to the same effect as the certification or statement required from the Contractor pursuant to the clauses of the "Information For Bidders" entitled "Certification of No Investigation (Criminal or Civil Anti-Trust), Indictment, Conviction, Suspension, Debarment, Disqualification, Prequalification Denial or Termination, Etc; Disclosure of Other Required Information", "Non-Collusive Bidding and Code of Ethics Certification; Certification of No Solicitation Based on Commission, Percentage, Brokerage, Contingent Fee or Other Fee" and "Certification of Participation in a United States Department of Labor-Registered Apprenticeship Program". The Certification of Participation in a United States Department of Labor-Registered Apprenticeship Program shall only be applicable to each subcontractor whose total amount of subcontract under this Contract is greater than \$1 million.

Notwithstanding the aforementioned, for any subcontract or supply contract greater than \$25,000, the Contractor shall obtain certification and any necessary disclosure forms from all subcontractors and suppliers as set forth in the clause of Chapter VII entitled "Certification - Debarment and Suspension" and for any subcontract or supply contract greater than \$100,000, the Contractor shall obtain certifications and any necessary disclosure forms from all subcontractors and suppliers as set forth in the clause of Chapter VII entitled "Certification - Lobbying Restrictions - Contracts Exceeding \$100,000" and forward the originals to the Chief Procurement Officer, 4 World Trade Center, 150 Greenwich Street, 21st Floor, New York, NY 10007.

For each proposed subcontractor, where the value of such subcontract is anticipated to be equal to or greater than \$100,000, the Contractor shall ensure that the Background Qualification Questionnaire form ("BQQ"), available at <https://www.panynj.gov/port-authority/en/help-center/oig.html>, is completed.

All further subcontracting by any subcontractor shall also be subject to such approval of the Engineer. Subcontractors' performance on past Authority contracts will also be subject to the Performance Evaluations under the clause of the "Information for Bidders" entitled "Contractors Performance Evaluations". The Port Authority will consider Marginal or Unsatisfactory Performance Evaluation ratings for Work performed by a subcontractor within 3 years of the submission of a request for subcontractor approval in decisions as to whether to approve a firm being proposed for use as a subcontractor.

In the event that the Chief Engineer, or his or her designee, in his or her sole discretion, finds that the Contractor has not satisfactorily demonstrated that the circumstances surrounding a Marginal or Unsatisfactory Performance Evaluation rating have been successfully mitigated, the Chief Engineer, or his or her designee, may determine that approval of a subcontractor is not in the best interest of the Authority and will not, in his or her sole discretion, approve the subcontractor.

Approval of a subcontractor may be conditioned on (among other things) the furnishing, without expense to the Authority, of a surety bond guaranteeing payment by the subcontractor of claims of materialmen, subcontractors, workmen and other third persons arising out of the subcontractor's performance of any part of the Work. Approval of a subcontractor may be rescinded for, among other things, failure of the Contractor to furnish the subcontractor's certificate of insurance, as required by the Form of Contract clause entitled "Insurance Procured by Contractor", within the time set forth in said clause.